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2018 Updates in the Law

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Agenda

- What's in the mix for 2018?
 - Enterprise Law and Investment Law Amendments
 - Trading Rights
 - Labour
 - Environmental Protection
 - Criminal Code
 - Competition Law
 - Tax
- Working with the Legal Committee
- Q&A

Amendments to the Enterprise Law

- Legal representative details dropped from ERC
- Timeline for capital contribution extended

Amendments to the Investment Law

- Grandfathering Clause
- Clarification on approval for capital contribution or share purchase by foreign investor
- Outbound investment certificate eliminated
- Updated list of conditional sectors

Decree on Trading & Distribution Rights

Decree No. 09/2018/ND-CP ("**Decree No. 09**") (15 January 2018)

- Scope of the Business (Trading) License
- List of goods which FIEs may distribute
- ENT

Online Portal for Work Permit Applications

| Type of Application | Application Submission Deadline | Processing Time |
|---|---|---|
| Foreign Labor Demand (Job Position Approval) | If submitted online, at least 20 business days prior to anticipated start date; if submitted in paper format, at least 30 business days. | 12 business days. |
| Renewal of Foreign Labor Demand (Job Position Approval) | If submitted online, at least 10 business days prior to work authorization expiration; if submitted in paper format, at least 30 business days. | 12 business days. |
| New Work Permit Application | If submitted online, at least 7 business days prior to anticipated start date; if submitted in paper format, at least 15 business days. | 5 business days if submitted electronically. 7 business days if submitted in paper format. |
| Renewal of Work Permit Application | At least 5 business days prior to expiration of current work permit and no more than 45 days prior. | 3 business days. |
| Work Permit Exemption | If submitted online, at least 5 business days prior to anticipated start date; if submitted in paper format, at least 7 business days. | 3 business days |

Minimum Wage Increases

| Region | 2017 Minimum Salary | 2018 Minimum Salary |
|--------|---------------------|---------------------|
| I | VND3,750,000 | VND3,980,000 |
| II | VND3,320,000 | VND3,530,000 |
| III | VND2,900,000 | VND3,090,000 |
| IV | VND2,580,000 | VND2,760,000 |

Social Insurance

- Compulsory social insurance will apply to foreign employees in Vietnam.
- Salary used as the basis to calculate social insurance contributions will be base salary plus allowances plus supplemental payments directly related to the performance of the work or the employee's title.
 - What is excluded? Performance bonus, shift meals, support payments (illness or marriage) or other payments not related to job performance.

Environmental Protection

Draft Decree amending and supplementing Decree 18/2015 on environmental protection planning and environmental impact assessment, Decree 19/2015 implementing the Law on Environmental Protection, Decree 38/2015 on waste management, and Decree 127/2014 on organizations providing environmental monitoring services

- Environmental Impact Assessment Reports
- Environmental Protection Plans
- Waste Management and Wastewater Management
- Environmental Monitoring certifications

Revised Criminal Code

- Private sector bribery
- Corporate criminal liability

Tax

- Proposed law to replace the Law on Tax Administration
- Transfer pricing Circular published
- Audits?

Proposed law to replace the Law on Tax Administration

- Guidance on tax management for certain industries.
- Provisions to facilitate international cooperation.
- Use of electronic methods to collect and manage taxpayer data and introduction of e-invoicing.
- Guidance on related party transactions.
- Simplified administrative procedures for individuals.

Transfer Pricing Circular

Circular 41/2017/TT-BTC (22 June 2017) (“**Circular 41**”) provides guidance on the Transfer Pricing Decree 20/2017/ND-CP (“**Decree 20**”)

- Formula for computing arm’s length range
- Guidance on transfer pricing methods
- Country by country report requirements
- Safe Harbor Rule for documentation

Tax Audits

- Trends in investigations
- Possible introduction of tax on indirect sales of Vietnamese companies

Working with the Legal Committee

- Working with the AmCham Legal Committee
- What are your common pain points?
 - ACAPR and proposed meeting with HCMC People’s Committee

| 2018 MARCH | | | | | | |
|------------|-----|-----|-----|-----|-----|-----------|
| SUN | MON | TUE | WED | THU | FRI | SAT |
| | | | | 1 | 2 | <u>3</u> |
| 4 | 5 | 6 | 7 | 8 | 9 | <u>10</u> |
| 11 | 12 | 13 | 14 | 15 | 16 | <u>17</u> |
| 18 | 19 | 20 | 21 | 22 | 23 | <u>24</u> |
| 25 | 26 | 27 | 28 | 29 | 30 | <u>31</u> |

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Questions?