

Global Tax Update

Vietnam

Deloitte Tohmatsu Tax Co.

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Decree regulating the implementation of the Law on Social insurance regarding compulsory application to foreigners working in Vietnam

Draft regulations on compulsory social insurance for foreigners working in Vietnam

The Government has been drafting a Decree detailing the implementation of the Law on social insurance (“SI”) regarding compulsory social insurance for foreign employees working in Vietnam. Currently, the Government is in the process to gather comments and recommendations from relevant authorities, whilst the Decree is planned to be issued in the coming months and come into effect from 01 January 2018.

In this Tax Alert, Deloitte Vietnam would like to summarize notable contents of the draft Decree regarding the compulsory SI regime for foreigners working in Vietnam.

(1) SUBJECTS OF APPLICATION

In accordance with the draft Decree, foreigners working in Vietnam under formal labor contracts with Vietnamese employers, including definite or seasonal terms, or even labor contracts for a specific jobs with a term of one (01) month or more; shall be subject to contribute compulsory SI, upon being granted either a work permit, practicing certificate, or practicing license issued by Vietnamese competent authorities.

(2) COMPULSORY SI REGIME

The Draft Decree proposes the same compulsory SI scheme for foreigners as applicable to Vietnamese employees, including:

- Sickness regime;
- Maternity regime;
- Occupational accident – Occupational disease regime;
- Retirement regime; and
- Death gratuity regime;

The conditions, time period and levels of the above benefits are applied as specified in the Law on Social insurance and the Law on Occupational safety and hygiene.

One notable content is the lump-sum SI settlement. Accordingly, in case the foreign employee terminates his/her labor contract or his/her work permit/practicing certificate/ practicing license is expired without renewal and no longer subject to compulsory SI contribution, he/she is eligible to apply for a lump-sum SI settlement allowance.

(3) SI CONTRIBUTION RATES

Employees and employers take responsibility for contributions to the SI fund as below:

	Employees	Employers
Contribution rate	8% on monthly salary and wage into retirement and death gratuity fund	SI contribution rates on monthly salaries and wages of foreign workers: <ul style="list-style-type: none">■ 3% into sickness and maternity fund■ 0.5% into labor accident and occupational disease fund■ 14% into retirement and death gratuity fund
Contribution method	Monthly	
Not applicable for SI contribution	Employees not working and earning income for 14 days or more	

In case the monthly salary and wage are 20 times higher than the base salary, the monthly income for the SI contribution calculation shall be capped at 20 times of the base salary (i.e. VND26 million per month from 01 July 2017).

(4) PROCESS AND PROCEDURE FOR SI CONTRIBUTION

The procedure for the participation, termination and settlement of the SI regime basically follows the Law on SI and the Law on Occupational Safety and Hygiene. Some notable points in the procedure are as follows:

Procedure for the lump-sum SI settlement:

- Application dossier:
 - Social insurance book
 - Application form for the lump-sum SI settlement
- Timeline for the lump-sum SI settlement:
 - Within 30 days from the expiration of the labor contract or work permit (whichever comes first) without renewal, the employee submits an application dossier to SI authorities to request for the lump-sum SI payment.
 - SI authorities have the responsibility to settle the lump-sum SI to the foreign individual within 05 working days from the receipt of the full dossier.

(5) IMPLEMENTATION EFFECT

Currently, the Government has proposed two (02) options regarding the Decree's effect.

■ Option 1:

The Decree will take effect from 01 January 2018.

Retirement, death gratuity regime and SI regime for foreigners who receive monthly retirement pension, monthly SI allowance and are no longer in Vietnam, will take effect from 01 January 2020.

■ Option 2:

The Decree will take effect from 01 January 2018.

Accordingly, Deloitte Vietnam will keep you updated of any further formal guidance from the authorities in this area.

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