

TAX & LEGAL ALERT

Decree No. 124/2024/ND-CP on amendments to Decree No. 86/2018/ND-CP on foreign cooperation and investment in education

December 2024



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On 05 October 2024, the Government officially issued the Decree No. 124/2024/ND-CP (“Decree 124”) taking effect from 20 November 2024 on amendments to Decree No. 86/2018/ND-CP dated 06 June 2018 of the Government on foreign cooperation and investment in education (“Decree 86”). Below are the notable amendments and supplements.

I. Supplementing the form of foreign branch campus of a foreign university in Vietnam (“FBC”)

Decree 124 supplements the form of FBC with detailed conditions and procedures as below:

- The foreign university has to meet with requirements on establishment, operation and quality assurance (i.e. facilities, educational program and teaching staffs). In particular, the foreign university must:
 - i. be in the top 500 higher education institutions in the world for 01 of the latest 03 years;
 - ii. have a valid quality accreditation document or a document issued by a foreign competent authority permitting training and granting a diploma.

The investment project for the FBC must have minimum investment capital of VND500bil (without land expenses) with investment implementation value of more than VND250bil at the time of appraisal for Decision on FBC Operation.

- The establishment of the FBC will go through different stages, including:
 - i. Investment Registration Certificate (by the local Department of Planning and Investment with appraisal process involved various Ministries before the investment in-principle approval by the Prime Minister)
 - ii. Decision on FBC Establishment (by the Prime Minister)
 - iii. Decision on FBC Operation (by the Ministry of Education and Training)

II. Supplementing the conditions on initial capital contribution and commitment on the duration of capital contribution for certain type of foreign-invested educational institution

Decree 86 only stipulates the minimum capital contribution applied to each type of foreign-invested establishment. Decree 124 now imposes a new minimum investment capital for establishment of branch of foreign higher education institutions in Vietnam to be at least **VND 500 billion** (excluding land use costs). Further, the investor of (a) investment projects on establishment of general education institutions and (b) foreign-invested educational institutions that do not build new facilities but only lease them or are contributed by the Vietnamese party with existing facilities, must now commit to invest the full amount of capital **within 05 years** from the date of issuance of the decision to permit operation.

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III. Amending and supplementing subjects of educational association

Currently, Decree 86 allows educational association between (a) private preschool education institutions and private general education institutions of Vietnam and (b) recognized foreign educational institutions. However, the lack of clear definitions of the local institution and foreign institution in such arrangement has caused some confusions to the authorities in practice. Accordingly, Decree 124 clarifies the definition of “Vietnamese Parties” and “Foreign Parties” as follows:

“Vietnamese Parties”

Private preschool education institutions and private general education institutions invested by domestic investors and ensuring operating conditions, established, and operating in Vietnam.

“Foreign Parties”

Foreign educational institutions must be legally established and operating overseas, have been operating overseas for at least 05 years as of the date of submission of the dossier and do not violate the laws of the host country during the operation period; have been teaching, have a valid certificate of education quality accreditation or being recognized for education quality by a foreign competent agency or organization in charge of education.

Educational program providing organizations must be legally established and operating overseas, have been providing preschool or general education programs for at least 05 years from the date of submission of dossiers of application for implementation of educational associations.

IV. Stricter conditions for organizing the foreign language exams

Decree 124 now strengthens more specifically the conditions for organizing foreign language exams which previously generally set out under Decree 86, including:

- Supervision teams must be well trained in fraud prevention in the process of organizing the exam. Note that no certificate is required to be obtained for such training.
- There must be plans & equipment to ensure fraud prevention in the process of organizing the exam. There is no further guidance on the criteria and quantity of such plans and equipment to be used during the exam. Therefore, there may be further guidance from the Ministry of Education and Training on this.

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V. More detailed regulations on conditions for application of foreign educational programs at preschool and general education institutions teaching foreign educational programs for Vietnamese students

Accordingly, Decree 124 sets clearer regulations on foreign curricula before being applied to Vietnamese students, especially:

Documents from the competent educational authority or organization in the host country recognizing the education quality or a valid quality accreditation certificate from an authorized educational accreditation organization in the host country for the foreign program intended to be taught to Vietnamese students

Documentation proving that the education program has been taught for at least 05 years in the host country as of the application submission date

Documents from the foreign educational institution or organization permitting the use of the foreign education program in Vietnam

VI. Updating on reporting regime

Lastly, Decree 124 changes the deadline for some reporting regime of foreign educational establishments as follows. The investors should take note for compliance purpose **from 20 November 2024 (effective date of Decree 124)**.

Name	Previous deadline	New deadline
Report on partnerships for administering foreign language certification exams	before 15 January every year	before 15 December every year
Report on comprehensive development of preschools and primary and secondary schools offering foreign education programs	before 30 November every year	before 31 October every year
Report on activities of foreign education representative office in Vietnam	before 30 November every year	before 15 December every year

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Deloitte's recommendation

- Decree 124 allows the establishment of foreign branch campus of a foreign university in Vietnam. Therefore, when considering on this new form, Valued Clients need to pay attention to the conditions, requirements, order, procedures, and necessary dossier components, as well as the conditions for minimum capital, capital contribution period according to Decree 124 and Decree 86.
- For Valued Clients who are subject to the regulation of Decree 86 and Decree 124, it is necessary to note that the deadline for submitting annual reports has been changed as stated above.
- For Valued Clients who have joint educational activities and organizing foreign language proficiency exams, as Decree 124 also stipulates significant changes in requirements and conditions related to activities, Valued Clients should comply appropriately.

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