



## **TAX ALERT**

*Updates on the draft amended Labor Code*

11 June 2019

As you may be aware, the draft amended Labor Code has been widely circulated to seek comments from relevant authorities and the business community.

In this Alert, we would like to update you on the notable proposals in the latest draft amended Labor Code, which could have significant business and social impacts as follows:

## Increasing threshold for retirement age

The current threshold for retirement age is 60 years-old for men and 55 years-old for women.

According to the draft amended Labor Code, effective from 01 January 2021, the threshold for retirement age is proposed to increase under one of the two options below:

**Option 1: 60 years & 03 months-old for men and 55 years & 04 months-old for women.** Each following year, the retirement age will increase by 03 months for men and 04 months for women. For instance, by 01 January 2022, retirement age for men will be 60 years & 06 months-old, and for women will be 55 years & 08 months-old. This increment will run until **men reach 62 years-old (from 01 January 2028)** and **women reach 60 years-old (from 01 January 2035)**.

**Option 2: 60 years & 04 months-old for men and 55 years & 06 months-old for women.** Each following year, the retirement age will increase by 04 months for men and 06 months for women. For instance, by 01 January 2022, retirement age for men will be 60 years & 8 months-old, and for women will be 56 years-old. This increment will run until **men reach 62 years-old (from 01 January 2026)** and **women reach 60 years-old (from 01 January 2030)**.

The above options are considered to be in line with international practices and ensure safety for the nationwide social insurance fund.

However, many enterprises in specific industries such as textiles/ manufacturing have expressed their concern with these proposals. This is because of the nature of work in these industries, most of female employees retire before the prescribed retirement age (55 years old) due to serious working pressure and bad health conditions. If the proposed retirement age increase to 60 years old for women, they anticipate this will create huge pressures on the labor workforce as well as productivity in these industries.

## Increasing maximum annual overtime hours allowed to 400 hours

The maximum overtime working hours in some special cases as regulated by the Government is now proposed to increase to up to 400 hours/year instead of 300 hours/year under the current regulations. For other normal cases, the maximum overtime working hours are still kept at 200 hours/year.

This proposal is expected to facilitate production during peak season for a number of specific industries (textiles, footwear, seafood processing, etc.).

## Amending several requirements for Labor contracts:

- ✓ Form of Labor contracts: Any agreements on the scope of work delivered, salary, management and supervision rights are all considered as labor contracts and relevant insurance regulations must be complied with accordingly.
- ✓ Probation period is included as a part of Labor contracts terms.

- ✓ Allow employees to terminate Labor contract unilaterally without any reason but need to inform within a required period of time in advance.
- ✓ Remove the seasonal contracts/ once- off contracts with terms of less than 12 months. Accordingly, Labor contracts with definite terms are those valid within 36 months (currently Labor contracts with definite terms are those valid from 12 months up to 36 months).

### Extending Work Permit exemption cases for foreign employees to:

- ✓ Owner or capital contribution member of a limited liability company, Chairman of the Board of Directors or a member of the Board of Directors of a joint stock company with minimum capital contribution from **01 billion Vietnamese dong** (about **USD 50,000**)
- ✓ Foreign employees getting married to a Vietnamese spouse and living in Vietnam.

### Deloitte Vietnam's comments

It is expected that the above proposals will have significant impacts on social security as well as working relationship between employers and employees, especially issues related to increasing the retirement age. Since these are considered important issues related to labor/ social security management, the Ministry of Labor, War Invalids and Social Affairs together with the National Assembly will consider comments from the relevant authorities and business community before finalizing appropriate amendments taking into account specific conditions of Vietnam industries and labor workforce as well as international practice.

We will continue to update you in this regard.

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Should you have any further inquiries, please contact us.

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