



# LEGAL UPDATE

November 2023

*Our monthly Legal Update is to provide the summary of key regulatory news that potentially impact your investment and business activities in Vietnam.*

*This Legal Update covers some key points of Decision 25/2023/QD-TTg on reduction of land rental in 2023 and Decree No. 70/2023/ND-CP amending several regulations on foreign workers working in Vietnam.*

## **1. Reduction of land rental in 2023**

On 03 October 2023, the Prime Minister issued Decision 25/2023/QĐ-TTg ("*Decision 25/2023*") on reduction of land rental in 2023 with the following highlights:

### **1.1 Applicable subjects**

Organizations, units, enterprises, households and individuals that are leasing land directly from the State under a decision or contract or certificate of land use rights, ownership of houses and other land-attached assets issued by competent state agencies in the form of annual land rental payments, including those not eligible for land rent exemption or reduction, or whose land rent exemption or reduction terms have expired, and those who are enjoying a reduction in land rental in accordance with the land law and other relevant laws (*hereinafter referred to as "Qualified Tenant"*).

### **1.2 Land rental reduction rate**

The reduction rate is 30% of land rental payable (receivables generated) in 2023 for Qualified Tenants. In case the Qualified Tenants enjoy a reduction in land rental or/and deduction of compensation for site clearance, the 30% reduction rate is calculated on the payable land rental (receivables generated) after being reduced or/and deducted as prescribed by law.

It is noted that the outstanding land rental of the years before 2023 and late payment interest (if any) will not be reduced.

### **1.3 Applying for reduction of land rental**

Qualified Tenants will submit a dossier requesting reduction of land rental (by one of the following methods: in person, electronic or postal service) to the tax authority, the Economic Zone Authority, the Hi-Tech Park Management Board, other agencies as prescribed by the law on tax administration.

Time for application submission is from 20 November 2023 to 31 March 2024. If the dossier is submitted after the mentioned deadline, Qualified Tenants will not be given a reduction in land rental.

## **2. Changes related to management of foreign workers working in Vietnam**

On 18 September 2023, the Government issued Decree No. 70/2023/ND-CP ("*Decree 70*") on amendments to the Decree No. 152/2020/ND-CP on foreign workers working in Vietnam, and recruitment and management of Vietnamese workers working for foreign employers in Vietnam with the below change:

## **2.1 Determining of demand for foreign labor**

Decree 70 has eliminated 04 cases where it is not required to perform the procedure for determining the need to use foreign workers, including:

- Foreigners entering Vietnam to provide professional and technical consulting services or perform other tasks serving the research, set-up, appraisal, supervision, evaluation, management and implementation of programmes or projects using ODA capital as prescribed or agreements signed between Vietnam and foreign parties;
- Foreigners licensed by the Ministry of Foreign Affairs to operate information and press activities in Vietnam;
- Foreigners entering Vietnam as volunteers working unpaid to implement international treaties to which Vietnam is a member and with confirmation from a foreign diplomatic mission or international organizations in Vietnam; and
- Foreigners certified by the Ministry of Education and Training to enter Vietnam to do teaching and research work; or to work as a manager, executive director, principal, or vice principal of an educational institution at the proposal on its establishment by a foreign diplomatic mission or intergovernmental organization.

From 18 September 2023, when using the above foreign workers, enterprises are required to carry out procedures to confirm the need to use foreign workers.

In addition, Decree 70 has amended the authority to approve the use of foreign employers by delegating this authority to the Ministry of Labor, War Invalids and Social Affairs or the Department of Labor, War Invalids and Social Affairs. Consequently, the Ministry of Labor, War Invalids and Social Affairs or the Department of Labor, War Invalids and Social Affairs is responsible for reviewing and approving or rejecting the employment of foreign worker for each specific job position. The review period is 10 working days from the date of receiving the explanatory report or the report on changes in the demand for foreign worker.

## **2.2 Requirements for foreign experts, executives and technical workers**

Decree 70 has adjusted the requirements for foreign workers who are experts, executives and technical workers, creating favorable conditions for foreigners to work in Vietnam.

Specifically, instead of regulating that foreign workers must have a university degree in the field they wish to work as before, now they only need to have a university degree or higher or equivalent and have at least 3 years of working experience suitable for the job position they expect to assume in Vietnam.

According to the new regulations, the managing director includes not only the head and manager of a unit under an agency, organization or enterprise, but also includes:

- The head of branch, representative office or business location of the enterprise.
- The person who leads and directly operates at least 1 business section of an agency, organization, or enterprise and works under the direction and management of the head of the agency, organization, enterprise.

Foreign technical workers are also exempted from the condition requiring them to work in the field they are trained, but instead they only need a training of at least 1 year and have at least 03 years of experience fit with the job position they wish to assume in Vietnam.

### **2.3 Timeframe for reporting the demand for foreign employers**

Decree 70 has shortened the reporting period for the explanation report to a minimum of 15 days before the date on which the foreign worker are expected to be employed. If there are any changes related to the job position, job title, work arrangement, quantity of workers, required qualifications and experience, salaries, working time and location of the foreign workers, the employer is required to report these changes at least 15 days in advance of the planned implementation.

### **2.4 Work permits**

#### **(a) Re-issuance of work permits**

Article 1.7 of Decree 70 adds the case where the enterprise name is changed without changing the enterprise code recorded in the valid work permits, then the work permits will be re-issued.

#### **(b) Not required to apply for a work permit**

Article 1.7 of Decree 70 adds cases where foreign workers entering Vietnam to work do not have to apply for a work permit, including:

- Foreigners sent to Vietnam by competent foreign agencies or organizations to teach or work as managers or managing director at educational establishments at the proposal on their establishment in Vietnam by foreign diplomatic missions or inter-governmental organizations; establishments and organizations established under international treaties in which Vietnam is a member; and
- Foreigners certified by the Ministry of Education and Training as foreign workers entering Vietnam to perform the following jobs: teachers, researchers; managers, managing directors, principals, or vice principals of educational institutions proposed for establishment in Vietnam by a foreign diplomatic mission or inter-governmental organization.

It is also noted that, same as previous regulations, foreign workers married to Vietnamese people is exempted from work permits, however, they must apply for confirmation letters on such exemption.

**(c) Accepting previous work permits to prove working experience**

Decree 70 allows foreign workers who are experts and technical workers to use previously issued work permits or confirmation letters on exemption from work permits to prove their working experience. This new regulation addresses many employer complaints and assists foreign workers with proving work experience.

**(d) Allowing issuance of electronic work permits**

In addition to paper permits in the current form, Decree 70 allows issuance of electronic work permits but requires compliance with relevant legal regulations and the content of the work permit form.

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