U&I AUDITING COMPANY LIMITED

Head office: No. 9 Ngo Gia Tu, Thu Dau Mot City, Binh Duong Province

Tel: 0274 3816 289 Fax: 0274 3816 291 **HCMC Office:** 40 Ba Huyen Thanh Quan, District 3
Tel: 028 3526 0103 Fax: 028 3526 0104

Ha Noi Office: Hapro Building, 11B Cat Linh, Dong Da District

Tel: 024 3734 9363 Fax: 024 3734 9364

Website: www.uniaudit.vn



LEGAL UPDATES

October 2018

Offering gifts to employees is only accounted with the limit of one-month salary

Official letter No. 4003/TCT-CS

The enterprises must carry out the self-inspection of labor law observance every year

Circular No. 17/2018/TT-BLDTBXH

From November 01, 2018, the origin of goods is exempted from proving when using

Official letter No. 4049/TCT-CS

electronic invoices

3

Regulations on participation in social insurance of foreign employees

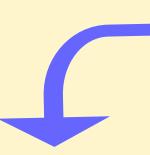
Decree No. 143/2018/ND-CP

Labor contracts with foreign employees must be signed before the date of expecting to work

Official letter No. 1073/CVL-QLLD

Offering gifts to employees is only accounted with the limit of one-month salary

Official letter No. 4003/TCT-CS dated October 17, 2018 of the General Department of Taxation provides the tax policies on purchasing goods as gifts/presents offered to officials and employees without use of welfare fund.





According to the guidance in Official letter No. 4005/TCT-CS dated September 29, 2015, for the cases where the Company purchases goods as gifts to offer to its employees on occasions of public holidays and Tet holidays, if not using welfare fund and this expenditure does not exceed the average salary of a month, then such expense is entitled to recognition and deduction of value added tax.

It should be noted that the Company must issue invoices in accordance with the regulations upon offering gifts to employees.

The enterprises must carry out the self-inspection of labor law observance every year

Circular No. 17/2018/TT-BLDTBXH dated October 17, 2018 of the Ministry of Labor, Invalids and Social Affairs stipulates the enterprise's self-inspection of implementation in compliance with the Law on Labor.

Accordingly, the enterprises themselves must organize inspection teams to assess the observance of labor law at least once a year in order to assess the level of compliance with the labor law and have proper solutions for improvement (Clause 1 Article 4).

The period of self-inspection starts from the first day of January of the calendar year of the prior year until the inspection time. The self-inspection time is specifically selected by the enterprises (Clause 2 and 3 Article 4).

The self-inspection is carried out including the recruitment and training of labor; engagement of labor contract; signing of collective labor agreements; working hours; pays; ensuring occupational safety and health; set-up of regulations; paying social insurance premiums and etc., disciplinary action, resolving disputes and complaints of the labors (Article 5).



The Ministry of Labor will design the self-inspection contents in a Form suitable for each sector of business and post on the website addressed at http://tukiemtraphapluatlaodong.gov.vn for the enterprise's selection.

The self-inspection dossiers including the self-inspection note, inspection results and conclusion, written document of establishment of the inspection team and other related documents must be kept in the enterprise management files as the basis for control, analysis and provision of policies to improve the level of observance.

The enterprises must coordinate with the local trade union to report the self-inspection online (via the aforesaid website) whenever being requested by the State's authorities of inspection (Article 7).



The Circular takes effect from January 01, 2019 onwards and replaces the Decision No. 02/2006/QD-BLDTBXH dated February 16, 2006.

From November 01, 2018, the origin of goods is exempted from proving when using electronic

Official letter No. 4049/TCT-CS dated October 18, 2018 of the General Department of Taxation provides regulations on electronic invoices.



As prescribed in Article 12 of Circular No. 32/2011/TT-BTC, the seller is allowed to convert electronic invoices into paper invoices to prove the origin of tangible goods in their circulation but for only once and paper invoices must contain the signatures of the representative at law and seal of the seller.



It should be noted that from November 01, 2018, new regulations at Decree No. 119/2018/ND-CP already removed the requirement on presenting paper invoices to prove the goods origin circulated on the market for those enterprises that use electronic invoices. Instead, the inspection authorities must self-look up information of electronic invoices on the website of the General Department of Taxation.

Regulations on participation in social insurance of foreign employees



Decree No. 143/2018/ND-CP dated October 15, 2018 of the Government elaborates on Law on Social insurance and Law on Occupation Safety and Hygiene regarding compulsory social insurance for employees who are foreign nationalities working in Vietnam.

According to Clause 1 Article 2 of this Decree, employees who are foreign nationalities working in Vietnam shall be required to participate in the compulsory social insurance program if they have employment contracts valid for at least one year with employers in Vietnam and obtain work permits, practicing certificates, or practicing licenses issued in Vietnam. It means that foreign employees having the employment contract under 01 year will be exempted from paying social insurance.

In addition, according to Clause 2 Article 2, foreign employees shall be excluded from participation in the compulsory social insurance if they are subject to the cases of "intra-company transferees" as stipulated in Clause 1 Article 3 of the Government's Decree No. 11/2016/ND-CP or "reaching retirement age".

The rate for paying and enjoying social insurance for foreign employees is basically the same with Vietnamese employees. However, firstly, the enterprises only need to withhold/pay 3% to the sickness and parental insurance benefit fund and 0.5% to the occupational accident and disease benefit fund.

In respect of 22% for the retirement and death insurance benefit fund (in which the enterprise pays 14% and foreign employee pays 8%) is compulsory to pay from January 1, 2022 (Article 13).

The employee who enters into multiple employment contracts is also required to pay social insurance in accordance with the first employment contract. If wishing to participate in the occupational accident and disease insurance fund, the employee shall be required to pay social insurance contributions per each employment contract (Clause 4 Article 13).



The foreign employees only need to pay for the retirement insurance benefit fund in 2022, so the retirement pensions will not benefit until 2022. The retirement pension conditions and levels are almost the same with those of Vietnamese employees. For one-off social insurance, the foreign employees are allowed to enjoy the benefit right after terminating the employment contract and getting back to their home country, and not being required to await for 01 year after quitting job (Article 9).

The Decree takes effect from December 01, 2018 onwards.

The social insurance benefits defined in Article 9 (Retirement benefit) and Article 10 (Death benefit) of this Decree come into force from January 01, 2022 onwards.

Labor contracts with foreign employees must be signed before the date of expecting to work

Official letter No. 1073/CVL-QLLD dated October 02, 2018 of the Ministry of Labor, Invalids and Social Affairs provides guidelines on the work permit of foreign employees.

According to Clause 3 Article 12 and Clause 3 Article 15 of Decree No. 11/2016/ND-CP, signing



a labor contract with the foreign employee may be implemented after the work permit is granted or re-granted, but it must be before the date of expecting to work for the employer.

In addition, within 05 working days as from the day of signing the labor contract, the enterprise has to send the copy of the labor contract already signed to the agency that has granted, re-granted such work permit.

Notice:

"The purpose of this news is to provide the clients with further information. Although we have focused much on the ensure of accuracy, the information that is given on this news is not absolutely thorough and the clients would better consult professional opinions before application".

