

Global BRIEF Immigration Alert | November 22, 2011



VIETNAM | New Work Permit Filing and Labor Reporting Requirements

On November 3, 2011, the Ministry of Labor and Social Affairs (MOL) issued Circular No 31/2011/TT-BLDTBXH implementing Government Decree Nos. 34/2008/ND-CP and 46/2011/ND-CP clarifying the MOL's position on certain foreign national hire scenarios. Circular No. 31 implements new labor reporting requirements for all Vietnamese companies sponsoring foreign workers. In addition, the circular clarifies the work permit requirements for commercial and NGO representative offices sponsoring foreign national representatives. The new requirements are scheduled to take effect on December 18, 2011.

What's Changed?

On December 18, the MOL will require that all Vietnamese companies report the personal and work details of those foreign workers accepting new positions of employment, renewing immigration status or accepting transfer to another employer.

Circular 31 was also issued to clarify for regional labor offices an important distinction on the hiring of foreign nationals sponsored by Non-Governmental Office (NGO) representative offices and commercial representative offices. Any foreign national sponsored by a commercial representative office will be required to obtain a work permit. The only exemption available are for those foreign nationals assuming the Chief Representative role heading an NGO representative office located in Vietnam.

New Labor Reporting Requirements

In addition to clarifying the foreign representative work permit requirements, the MOL has issued new foreign national reporting requirements as follows:

- Vietnamese companies hosting a foreigner working in Vietnam for less than three months shall report the foreign worker's passport and activity details to the MOL and must also provide a non-criminal record on behalf of the foreign worker.
- New document requirements for the renewal of ICT work permits.
- Foreign workers providing services in a province (other than where originally employed) that exceeds 10 consecutive business days or thirty calendar days

within a given 12-month period will be required to register his or her presence with the labor department in the new province.

- Within 30 days after annulment or expiration of a work permit, a foreign worker can apply to transfer to another Vietnamese sponsor provided the transfer is in a like position. Ability to file an amended status application will not be accepted after 30 days.
- The Vietnamese company sponsor must formally cancel a work permit within 15 days of termination or following the natural expiration of the work permit.
- Prior to December 15 of each year, Vietnamese companies intending to recruit or sponsor foreign talent must submit to the MOL a foreign labor forecast for the upcoming calendar year. Any change of the recruitment or sponsorship plan during that plan year shall also be reported to the MOL.
- All Vietnamese commercial and NGO enterprises will be required to submit biannual reports to the MOL confirming the employment status of all sponsored foreign workers. Biannual reporting forms are available from the MOL and all reports must be submitted on the correct forms.

ACTION ITEMS FOR EMPLOYERS

Companies considering assignments sponsored by Vietnamese representative offices are reminded that all foreign workers must have the appropriate work permits prior to commencing any representative duties.

Companies should inform their Vietnamese HR representatives of the new labor reporting requirements and should review these requirements with their Vietnamese immigration and labor advisors to ensure compliance after December 18, 2011.

This news alert was provided in coordination with our Vietnamese KGNM, Resident Vietnam.

Caveat Lector | Warning to Reader

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