



LAC DUY & ASSOCIATES

March, 2024

NEWSLETTER

**KEY
INFORMATION
REGARDING
CIRCULAR NO.
02/2024/TT-
BLDTBXH FOR
CASE THAT
VIETNAMESE
EMPLOYEES
EMPLOYED
ABROAD UNDER
CONTRACTS**



**SOME NOTABLE
POINTS
STIPULATED IN
THE LAW ON LAND
AMENDED,
SUPPLEMENTED
IN 2024**


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Dear Clients,

Lac Duy & Associates would like to send you the legal newsletter of March 2024 with some notable updates and articles as follows:

- Key information regarding Circular No. 02/2024/TT-BLĐTBXH for case that Vietnamese employees employed abroad under contracts
- Some notable points stipulated in the Law on Land amended, supplemented in 2024
- Legal Document in 03/2024





KEY INFORMATION REGARDING CIRCULAR NO. 02/2024/TT-BLDTBXH FOR CASE THAT VIETNAMESE EMPLOYEES EMPLOYED ABROAD UNDER CONTRACTS



On the 23th, February, 2024, the Ministry of Labour, Invalids and Social Affairs issued Circular No. 02/2024/TT-BLDTBXH, amending and supplements some provisions of circular No. 21/2021/TT-BLDTBXH dated December 15th 2021 by the Minister of Labour, Invalids and Social Affairs, which provides detailed regulatory on certain provisions of Vietnamese labour law regarding Vietnamese employee working abroad under contract (**Circular No 02/2024/TT-BLDTBXH**). Accordingly, the content aims to adjust certain matters related to documents and procedures for sending Vietnamese employees to work abroad to be in line with the conditions and development context of Vietnam. Hereafter, we would like to provide you with the key information regarding Circular No. 02/2024/TT-BLDTBXH to timely grasp the changing legal landscape.

1. Amendment and supplementation of the labour supply preparation dossier (Section 1, Article 1)

According to Circular No. 02/2024/TT-BLDTBXH, the documentation required to demonstrate the authorization of the receiving country's authorities for recruiting foreign employees for the first time cooperation with Vietnamese enterprises is divided into 02 specific cases:

- (i) In case where the foreign party is the employers, documentation includes:



- A certified copy of enterprise registration certificate or equivalent documents issued by the competent authority to the employer indicating the appropriate business field related to the occupations that need to recruit foreign employees, along with a Vietnamese translation;
 - For the countries with regulations regarding the conditions for accepting foreign employees, a copy of certified documents demonstrates that employers meet these requirements, along with a Vietnamese translation.
- (ii) In case where the foreign party is labour service organization, documentation includes:
- A certified copy of enterprise registration certificate or equivalent documents issued or confirmed by competent authorities for labour service organization, indicating the business field that includes labour service, along with a Vietnamese translation;
 - A certified copy of cooperation agreement or proposal documents for preparing the labour source or recruiting Vietnamese employees by the employer for the labour service party, along with a Vietnamese translation;
 - Documentation proving compliance with the employer requirement specified in point (a) of this provision.

2. Amendment and supplementation of detailed content of the labour supply contract (Section 3, Article 1)

Regarding the detailed content of labour supply contracts according to the market, industry, and occupation specified in the Appendices issued together

with Circular 02/2024/TT-BLDTBXH. It is noteworthy that the Ministry of Labour, Invalids and Social





Affairs allows service enterprises and foreign parties receiving employees to negotiate the content of labour supply contracts. However, they must ensure the minimum conditions prescribed in Article 4, Clause 1 of Circular 21/2021/TT-BLDTBXH as amended and supplemented by Circular 02/2024/TT-BLDTBXH.

3. Amendment and supplementation documentation proving the sending of Vietnamese employees to work abroad in compliance with the labour laws of receiving country (Section 4, Article 1)

According to Circular 02/2024/TT-BLDTBXH, there are some notable changes regarding the documentation required to send Vietnamese employees to work abroad in compliance with the labour laws of the receiving country:

(i) Removal of the certified copy of the foreign labour recruitment license issued by the competent authority of the receiving country for the employer, along with a Vietnamese translation, for the markets of Malaysia and Taiwan (China). Instead, for these markets, the documentation includes 01 certified copy of the equivalent Vietnam Representative Office's Assessment Form for Vietnamese Labour Recruitment.

(ii) Additional documentation is required for European, American, and Oceanian markets, as well as for technical professional labour in the South Korean market. In cases where the foreign party receiving employees is the employer, the documentation includes:

- A certified copy of the business license or equivalent document issued by the competent authority for the employer, indicating the business field relevant to the recruitment of foreign employees, along with a Vietnamese translation.

- A certified copy of the document issued by the competent authority of the receiving country, permitting the employer to recruit foreign employees, or a certified copy of the document issued by the competent authority confirming that the employer meets the requirements/conditions for recruiting foreign employees or the list of industries, occupations, and jobs allowed to recruit foreign employees in the receiving country, along with a Vietnamese translation.

(iii) Unlike the previous legal provisions, Circular 02/2024/TT-BLDTBXH specifies the use of only



one type of document from Circular 21/2021/TT-BLDTBXH, as follows:

For other countries or territories, where the foreign party receiving employees is the employer, the documentation includes 01 certified copy of the document issued by the competent authority of the receiving country, permitting the employer to recruit foreign employees, along with a Vietnamese translation.

In cases where the receiving country does not have regulations on the above-mentioned documents: 01 certified copy of the business license or equivalent document of the employer, or other documents issued by the competent authority or relevant professional organization (for individual business households) indicating that the employer is engaged in a business field relevant to the recruitment of foreign employees and complies with the list of industries, occupations, and jobs allowed to recruit foreign employees in the receiving country, along with a Vietnamese translation.

(iv) Additionally, for the markets mentioned in (ii) and (iii) above, in cases where the foreign party receiving employees is a labour service organization, the documentation includes:

- 01 certified copy of the business license or equivalent document issued or confirmed by the competent authority for the labour service organization, indicating the business field that includes labour services, along with a Vietnamese translation.
- 01 certified copy of the cooperation agreement, request document, or authorization document for recruiting Vietnamese employees by the employer for the labour service organization, along with a Vietnamese translation.
- Documentation proving compliance with the employer requirements specified in Clause 2 or Clause 3 of Article 5 of Circular 21/2021/TT-BLDTBXH as amended and supplemented by Circular 02/2024/TT-BLDTBXH.



SOME NOTABLE POINTS STIPULATED IN THE LAW ON LAND AMENDED, SUPPLEMENTED IN 2024

On January 18th, 2024, in the 5th extraordinary session, the 15th National Assembly officially adopted the amended Law on Land (“**amended Law**”) which shall take effect on January 01st, 2025, except for two provisions including Article 190 and 248 coming into effect earlier from April 01st, 2024. This article hereby introduces some key points regulated in the amended Law.



1. Allowing subjects leasing land from the State with one-off payment of land rent for the entire lease term to be transferred to form of leasing land from the State with annual land rent payment (Article 30.2)

The amended Law promulgates new regulation that allows economic organizations, individuals, Vietnamese residing overseas and foreign invested economic organizations leasing land from the State with one-off payment of land rent for the entire term to convert to the form of land lease with payment of annual land rent.

In which, the paid land rent by subjects leasing land shall be deducted from the annual land rent payment according to Government’s regulations.

2. Allowing individuals not directly engaging

in agricultural production to receive transfer of agricultural land use rights (Articles 45.7)

One remarkable point related to transferring land use right stipulated in the amended Law is to allow individuals not directly engaging in agricultural production to receive gift or transfer land for rice cultivation use rights exceeding the limit permitted as prescribed in the amended Law. However, these individuals must establish an economic organization and have a rice cultivation land use plan approved by the District People’s Committee except for cases where the recipient of gift is an heir.

3. Adding forms of compensation for land due to land resumption by States in some cases (Articles 96, 98, 99)

In case the State resumes residential land from



family households, individuals, Vietnamese residing overseas or economic organizations in the category to use residential land, own residential housing attached to land use right in Vietnam, the amended Law supplements new form of compensation: land for different purposes, besides three forms of compensation as regulated previously including monetary, land for same use purpose or residential housing.

In case the State resumes agricultural land or non-residential non-agricultural land from family households or individuals, the amended Law supplements some forms of compensation being land for the different purpose with the resumed land or residential housing besides two forms of compensation: monetary and land for the same use purpose as specified in the Land Law No. 45/2013/QH13 (“**Law 2013**”).

4. Clarifying regulations on land allocation, land lease through auction, bidding (Articles 125, 126)

Compared to the Law 2013, the amended Law provides Article 125 and Article 126 detailing cases and conditions for land allocation, land lease by the State through auction or bidding to select investors to implement projects using land as well as conditions for subjects participating in auction or bidding to select investors to implement projects using land.

5. Regulating land fund to implement

commercial housing projects (Article 127)

In addition to two forms of selecting investors to implement urban area investment construction projects or commercial housing projects through bidding or auction, the amended Law stipulates that investors not through two aforesaid mechanisms can only implement commercial housing projects through agreement on the receipt of “residential land” use rights (Article 127.1(b) of the amended Law).

However, if investors have owned land funds regardless of being entire or part of residential land, they are permitted to carry out commercial housing projects but must meet conditions: (a) having commercial housing projects suitable to land use zoning; (b) having request for transfer of land use purpose and approval of investment plan as well as approval of investor by the competent authority as prescribed in investment law (Article 127.6).



6. Clarifying regulations on issuance of



certificates of land use right and ownership of assets attached to land in special situations (Articles 143 – 150)

The amended Law stipulates many new regulations on issuance of certificates of land use right and ownership of assets attached to land in specific situations such as issuance of certificates of land use right and ownership of assets attached to land for land for construction of urban areas or rural residential zones, production and business projects with multipurpose using land; issuance of certificates of land use right and ownership of assets attached to land for land containing historical-cultural and scenic beauty sites... These are stipulated from Article 143 to Article 150 of the amended Law.

In which, there are two notable matters as follows: first, regulating new term “multipurpose construction” and allowing issuance of certificates of land use right and ownership of assets attached to land for assets being items of construction or entire construction in case the mutipurpose construction is constructed on land in accordance with law and its land use period is stable and long-term (Article 148.6); and second, allowing issuance of certificates of land use right and ownership of assets attached to land for each item of construction or each area of construction in case project has many items (Article 149.6).

7. Abolishing price framework for land and changing principles, methods for fixing land

prices (Article 158)

The amended Law abolishes the price framework for land and requires making an annual land price list instead. Besides, principles and methods of fixing land prices are also changed, especially new regulation on fixing land prices based on principles of market and clarifying 04 methods of fixing land prices including: comparative method, income approach, surplus method and land price coefficient method.

8. Expanding quota on receipt of transfer of agricultural land use right applicable to individuals (Article 177.1)

The amended Law expands the quota on receipt of transfer of agricultural land use rights applicable to individuals exceeding 15 times (instead of ten times as specified in the Land Law 2013) the quota on allocation of agricultural land to individuals in respect of each type of land as prescribed in Article 176.1,2,3 of the amended Law.





9. Regulating the authority of Arbitral Tribunal over disputes arising from commercial activities related to land (Article 236.5)

One of breakthrough points as stipulated in the amended Law is to entitle the authority of Arbitral Tribunal to resolve disputes arising from commercial activities related to land based on law on commercial arbitration, whereas the Land Law 2013 only allows the authority of competent people's court and the competent people's committee to resolve land disputes.

**LEGAL DOCUMENTS IN 03/2024**

NO.	EFFECTIVE DATE	NAME
BANKING		
1.	01/03/2024	Circular 24/2023/TT-NHNN amending Circulars related to submission, presentation and provision of information and papers on population when carrying out administrative procedures in the field of establishment and operation of banks issued by the State Bank of Vietnam
BUSINESS		
1.	02/03/2024	Circular 04/2024/TT-BQP amending Circular 155/2019/TT-BQP guiding the transformation of state-owned enterprises and one-member limited liability companies invested by 100% of charter capital under the Ministry of Defense into Joint-stock companies and Circular 156/2019/TT-BQP guiding the transfer of state capital invested in Joint-stock company with the Ministry of National Defense as the owner's representative agency
INVESTMENT		
1.	25/03/2024	Decree 10/2024/ND-CP regulating High-tech Parks
2.	03/03/2024	Resolution 112/2024/QH15 on the use of general provision and central budget reserve of the Medium-term Public Investment Plan for the period 2021-2025 for ministries, central agencies, localities and Vietnam Electricity issued by the National Assembly
LABOUR - SALARY		
1.	01/03/2024	Circular 17/2023/TT-BLDTBXH guiding the authorization to perform the tasks of State management of labor in public parks
2.	20/03/2024	Circular 02/2024/TT-BGTVT amending the Circular stipulating standards, duties and powers of leaders, registered and professional staff of inland waterway vehicle registration units issued by the Minister of Transport