



LAC DUY & ASSOCIATES

NEWSLETTER

07/2021

**UPDATING THE LATEST POLICIES
TO SUPPORT EMPLOYEES AND
EMPLOYERS IN DIFFICULTY DUE
TO THE COVID-19 PANDEMIC**

**SALARY PAYMENT OPTIONS WHEN COMPANY
IMPLEMENTED "ISOLATION AND PRODUCTION"
INSTRUCTIONS DURING COVID-19**

Dear Clients,

Lac Duy & Associates would like to send you the newsletter of July 2021 with some outstanding new point and article as:

- Updating the latest policies to support Employees and Employers in difficulty due to the Covid-19 pandemic
- Salary payment options when company implemented “Isolation and Production” instructions during Covid-19



Cảm ơn Việt Nam
stay safe #stay home.

UPDATING THE LATEST POLICIES TO SUPPORT EMPLOYEES AND EMPLOYERS IN DIFFICULTY DUE TO THE COVID-19 PANDEMIC

The Covid-19 pandemic is complicatedly happening in many countries around the world in general and Vietnam in particular, negatively affecting the economy, trade activities, labour, jobs, and income of workers. In order to promptly implement support policies for those affected by the Covid-19 pandemic, on July 1, 2021, the Government issued Resolution No. 68/NQ-CP (“**Resolution 68**”) effective on the same day on a number of policies to support employees and employers facing difficulties due to the COVID-19 pandemic. Following that, on July 7, 2021, the Prime Minister issued Decision No. 23/2021/QĐ-TTg (“**Decision 23**”), effective on the same day on implementation of certain policies to support employees and employers in difficulty due to the COVID-19 pandemic, specifically as follows:

I. For the employer

1. *Reduced in insurance premiums for occupational accidents and diseases*

- Eligible entities:
 - Employers that pay premiums to the Insurance Fund for Occupational Accidents and Diseases for employees eligible for occupational accident and disease insurance as prescribed in law on social insurance and occupational safety and hygiene (except for officials, public employees, people in the people's armed forces, employees in the agencies of the Party, the State,

administrative agencies, public sector entities on the payroll of the state budget).

- The employers will provide the monetary support obtained from the reduction in premiums to the Insurance fund for occupational accidents and diseases for the employees in order to combat the COVID-19 pandemic.
 - Rate: 0% of the salary fund as the basis for paying social insurance premiums.
 - Duration: 12 months, from July 1, 2021 to the end of June 30, 2022.

CHÍNH PHỦ	CỘNG HÒA XÃ HỘI CHỦ NGHĨA VIỆT NAM Độc lập - Tự do - Hạnh phúc
Số: 68/NQ-CP	Hà Nội, ngày 01 tháng 7 năm 2021
NGHỊ QUYẾT	
Về một số chính sách hỗ trợ người lao động và người sử dụng lao động gặp khó khăn do đại dịch COVID-19	
CHÍNH PHỦ	
<small>Căn cứ Luật Tổ chức Chính phủ ngày 19 tháng 6 năm 2015; Luật sửa đổi, bổ sung một số điều của Luật Tổ chức Chính phủ và Luật Tổ chức chính quyền địa phương ngày 22 tháng 11 năm 2019;</small>	
<small>Căn cứ Nghị định số 138/2016/NĐ-CP ngày 01 tháng 10 năm 2016 của Chính phủ ban hành Quy chế làm việc của Chính phủ;</small>	

2. *To be suspended of contributions to the retirement and survivorship fund*

- Eligible entities: Employees and employers under compulsory social insurance as prescribed in Article 2 of the Law on Social Insurance 2014.
- Eligibility requirements: Regarding employers who have fully paid social insurance premiums or are temporarily suspending contributions to the retirement and survivorship fund until the end of

April 2021 but have been affected by the COVID-19 pandemic, resulting in a downsizing of at least 15% employees who have contributed to social insurance at the time of application submission compared to April 2021 (including the employees on furlough, suspension of employment contracts, and unpaid leave).

- Suspension period of contributions: 06 months from the date of application submission

3. Get support of training, retraining and skill enhancement for job retention for the employees

- Eligible entities: An employer prescribed clause 3 Article 43 of the Employment Law, upon submission of an application for support from July 1, 2021 to the end of June 30, 2022.
- Eligibility requirements:
 - It has fully paid unemployment insurance premiums for employees for full 12 months or more at the time of requesting support;
 - It has to change the technological structure as prescribed in Clause 1, Article 42 of the Labour Code;
 - Its revenue in the preceding quarter has decreased by 10% or more compared to the same period in 2019 or 2020;
 - It has a plan, or cooperates with a vocational education institution in developing a plan, for training, retraining and skill enhancement in order to secure the jobs for employees.

- The maximum support: VND1,500,000/per employee/per month.
- Duration: Up to 06 months.

4. Get support with loan to pay furlough wages, wages for production recovery

- Loan eligibility requirements to pay furlough wages:
 - Its employees who have contributed to compulsory social insurance until the month preceding the furlough time have been put on furlough for 15 consecutive days or more as prescribed in Clause 3, Article 99 of the Labour Code, from May 1, 2021 to the end of March 31, 2022;
 - It has no bad debt at any credit institution and foreign bank branch at the time of applying for a loan.
- Loan eligibility requirements to pay wages for production recovery:
 - (i) Regarding the employer which has to suspend operation during the period from May 1, 2021 to March 31, 2022 by order of the competent authority to prevent and control the COVID-19 pandemic:
 - It has to suspend operation during the period from May 1, 2021 to March 31, 2022 by order of the competent authority to prevent and control the COVID-19 pandemic;
 - Its employees have contributed to compulsory social insurance until the time of applying for the loan;
 - It has a production/business recovery plan;
 - It has no bad debt at any credit institution and foreign bank branch at the time of applying for the loan.

(ii) Regarding the employer in the field of transportation, aviation, tourism, accommodation services and sending Vietnamese employees to work abroad under contracts to restore production and business:



- Its employees have contributed to compulsory social insurance until the time of applying for the loan;
 - It has a production/business recovery plan;
 - It has no bad debt at any credit institution and foreign bank branch, and has completed the tax finalization in 2020 at the time of applying for the loan.
- Loan amounts, loan terms:
- Loan to pay furlough wages: The maximum loan amount is equal to the regional minimum wage for the number of employees according to the actual

payment period of furlough wages but not exceeding 03 months; the loan term is less than 12 months.

- Loan to pay wages for production recovery: The maximum loan is equal to the regional minimum wage for the employees under employment contracts. The support duration is up to 3 months; the loan term is less than 12 months.

II. For the employee

1. *Get support on temporary suspension of employment contracts, unpaid leave*

- Eligible entities: Employees that have worked for enterprises, cooperatives, public sector entities that cover their own recurrent expenditures or investment and recurrent expenditures, people-founded and private preschools, kindergartens, primary schools, junior high schools, high schools and vocational schools (hereinafter referred to as enterprises, cooperatives, public sector entities, education institutions) that temporarily cease operations at the request of competent authorities for the prevention and control of the COVID-19 pandemic.
- Eligibility requirements:
 - Their period of temporary suspension of employment contracts or unpaid leave within the term of the employment contracts is from 15 consecutive days or more from May 1, 2021 to the end of December 31, 2021, with a start date of temporary suspension of employment contracts or unpaid leave between May 1, 2021 and December 31, 2021;

- They have contributed to compulsory social insurance up to the month preceding the time of suspension of employment contracts or unpaid leave.
 - Support amounts: VND1,855,000 per person for 15 consecutive days or more but less than 1 month, and VND3,710,000 per person for 1 month or more.
- 2. *Get support when be put on furlough***
- Eligibility requirements:
 - They have worked under an employment contract and have been put on furlough under Clause 3, Article 99 of the Labour Code and are subject to quarantine or in a locked down area as required by the competent authority for 14 days or more during the period from May 1, 2021 to the end of December 31, 2021;
 - They have contributed to compulsory social insurance up to the month preceding the furlough time.
 - Support amounts: VND1,000,000/person.
 - Pregnant employees are supported with an extra amount of VND1,000,000 per person;
 - Those who are raising biological or adoptive children or taking care of children under 6 years old on behalf of their parents are supported with an extra amount of VND1,000,000 per child under 6 years old, and either mother or father or caregiver is supported.
- 3. *Get support when the labour contract is terminated but ineligible for unemployment benefits***
- Eligible entities: Employees that have worked for enterprises, cooperatives, public sector entities that cover their own recurrent expenditures or investment and recurrent expenditures, people-founded and private preschools, kindergartens, primary schools, junior high schools, high schools and vocational schools which temporarily cease operations at the request of competent authorities for the prevention and control of the COVID-19 pandemic from May 1, 2021 to the end of December 31, 2021.
 - Eligibility requirements:
 - They have contributed to compulsory social insurance up to the month preceding the time of suspension of employment contracts;
 - Their employment contract is terminated in the period from May 1, 2021 to December 31, 2021 inclusive but they are ineligible for unemployment benefit (except The employee unilaterally terminates the employment contract against the law; The employee is on monthly pension or work-capacity loss allowance)
 - Support amounts: VND3,710,000/person.
 - Pregnant employees are supported with an extra amount of VND1,000,000 per person;
 - Those who are raising biological or adoptive children or taking care of children under 6 years old on behalf of their parents are supported with an extra amount of VND1,000,000 per child under 6 years old, and only support for 1 person who is the mother or father or substitute carer of the child.

SALARY PAYMENT OPTIONS WHEN COMPANY IMPLEMENTED “ISOLATION AND PRODUCTION” INSTRUCTIONS DURING COVID-19

On 13th July, 2021, in order to best implement the “dual goal” – to both prevent and control the pandemics, while promoting and developing the economy, and the goal of ensuring the people’s health is first and foremost, the People’s Committee of Ho Chi Minh City issued the following directives: Allowing the resumption of production activities for enterprises that ensure one of two cases: (i) The enterprise ensures both production and isolation of workers on the spot with the motto “3 on the spot”: production on the spot - eat on the spot - rest on the spot; or (ii) The enterprise ensures the implementation of the motto “1 road - 2 locations”: there is only one route to transport workers from the place of production to the place of residence of the workers (can choose dormitories, hotels and concentrated accommodation for workers). In case the enterprise fails to meet the above requirements, it will stop operating until new instructions are issued. After that, the People’s Committees of the Southern provinces also in turn required local businesses that want to continue operating must implement the plan “isolation and production” according to the motto “3 on the spot” or the motto “1 road – 2 places”. Long An Province requires application from 13th July, 2021, Dong Thap Province requires application from 14th July, 2021, Tien Giang Province requires application from 15th July, 2021.

- 1. Rights and obligations of enterprises and employees regarding the directive "isolation and production"**

Directive “isolation and production” is a directive temporarily applied to improve the implementation of measures to prevent and control the COVID-19 pandemic at enterprises. When the pandemic situation is controlled and stabilized, this option should not be implemented. In principle, both businesses, as employers and employees, are obligated to comply with the Government’s direction to implement the “isolation and production” plan. Accordingly, the employer is responsible for ensuring the conditions of food, accommodation and sanitation for the employee during the effective period of the directive, while the employee must temporarily stay away from home or family to work and live in the enterprise. However, in fact, it also happens that the employer fully meets the conditions to implement the plan of “isolation and production” but for some reason the employee cannot meet the performance conditions and apply for unpaid leave. Therefore, it is necessary for businesses at this time to come up with suitable salary payment plans for both groups of employees, one is a group of employees who agree to continue working. According to the motto of “3 on the spot” of the directive and one is a group

of employees who, for some reason (both objective and subjective) cannot meet the performance conditions and apply for unpaid leave.



2. Salary payment options when enterprises implement the directive “isolation and production” during the COVID-19 pandemic

- (i) For the group of employees who agree to continue working according to the motto “3 on the spot” of the directive

In this case, because the employee continues to work after being provided with a place to eat, a place to stay, and a toilet by the enterprise, the employee will still receive wages and other allowances as agreed in the signed employment contract. On the other hand, to encourage the spirit and dedication of employees during the COVID-19 pandemic, businesses should also consider adding a bonus or allowance for this group of workers. This has actually been applied by some

businesses and received a lot of positive support from employees.

- (ii) For a group of employees who for some reason (both objective and subjective) cannot meet the performance conditions and apply for unpaid leave

Currently, the Government has no specific regulations and no specific instructions on how to handle the above case. Therefore, in the event that some employees cannot comply with the above instructions and voluntarily resign without pay, the employer will not have to pay salary or other allowance to the employees.

However, in the difficult pandemic situation, the employer may consider supporting the employee by considering whether the employee’s reason is a legitimate reason and taking suitable measures to support the employee. For example, in the case of an employee’s family with small children, the husband must go to concentrated isolation, if the wife stays at the company to work within 14 (fourteen) working days or more, there will be no one who takes care of the children. In this case, the employer can first facilitate the employee is entitled to annual leave. If the employee has used up his/her annual leave, he/she will take unpaid leave. This is a method that is being implemented quite commonly today.

Or another option that the employer can use is to refer to the provisions of Article 99.3 of the Labour Code 2019 on the payment of stoppage pay to apply

in the above case:

“Article 99. Suspension pay

In case of a suspension of work, the employee shall receive a suspension pay as follows:

3. In case the suspension is caused by an electricity or water supply issue that is not at the employer’s fault, or by a natural disaster, fire, major epidemic, hostility, relocation requested by a competent authority, or for economic reasons, both parties shall negotiate the salary as follows:

a) If the suspension does not exceed 14 working days, the salary shall not fall below the statutory minimum wages;

b) If the suspension is longer than 14 working days, the salary shall be negotiated by both parties and the salary for the first 14 days must not fall below the statutory minimum wages. Accordingly, in case an employee takes unpaid leave of 14 working days or less, the salary shall be agreed upon by both parties and the salary shall not be lower than the regional minimum wage. If the employee’s period of unpaid leave is more than 14 working days, the salary shall be agreed upon by the two parties but still must ensure that the salary in the first 14 days is not lower than the regional minimum wage.”

Accordingly, in case an employee takes unpaid leave of 14 working days or less, the salary shall be agreed upon by both parties and the salary shall not be lower than the regional minimum wage. If the employee’s period of unpaid leave is more than 14 working days, the salary shall be agreed upon by

both parties, but the salary in the first 14 days must not be lower than the regional minimum wage.

*Note on compulsory social insurance payments for employees when employees apply for unpaid leave of 14 working days or more

In addition, employers should also pay attention to the payment of compulsory social insurance contributions for employees. According to Article 42.4 of Decision No. 595/QĐ-BHXH: “An employee who does not work or receive salary for at least 14 working days in a month is not required to pay social insurance contributions in this month. This period shall not be included in the payment period of social insurance contributions.” Therefore, if the employee applies for unpaid leave of at least 14 working days in a month, the employer will report the reduction of labour in the month to the social insurance agency and not have to pay social insurance in that month. For unemployment insurance and health insurance, although there is no specific regulation on this issue, according to the actual experience of enterprises when working with social insurance agencies, employers and employees will not have to pay unemployment insurance and health insurance for that month, however, it should be noted that for health insurance, the reduction must be timely reported before entering that month and then enterprises and employees do not have to pay according to regulations.

LEGAL DOCUMENTS 07/2021

NO.	EFFECTIVE DATE	NAME
BUSINESS - GOVERNMENT FINANCE		
1.	28/07/2021	Official Letter 2512/UBND-VX in 2021 implementing a number of policies to support employees and employers facing difficulties due to the Covid-19 pandemic in accordance with Resolution 68/NQ-CP and Decision 23/2021/QD-TTg issued by Ho Chi Minh City
2.	28/07/2021	Decision 2135/QD-UBND in 2021 approving the operation plan of Thanh Hoa Investment and Development Fund for the period of 2021-2025
INFORMATION TECHNOLOGY		
3.	29/07/2021	Decision 245/QD-VKSTC in 2021 on the Regulation on ensuring network information safety and security of the People's Procuracy issued by the Supreme People's Procuracy
TRANSPORT		
4.	10/09/2021	Decree 76/2021/ND-CP stipulating criteria for classification of seaports
TRADE		
5.	27/07/2021	Official Dispatch 4482/BCT-TTTN 2021 on goods circulation when implementing distance according to Directive 16/CT-TTg issued by the Ministry of Industry and Trade
CRIMINAL LIABILITY, CULTURE - SOCIETY		
6.	16/07/2021	Guideline 253/TANDTC-V1 amending Instruction 248/TANDTC-V1 on implementing Decision 1161/2021/QD-CTN on amnesty in 2021 for the person who is temporarily suspended from serving a prison sentence issued by the Court promulgated by the supreme people

NATURAL RESOURCES - ENVIRONMENT

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| 7. | 27/07/2021 | Directive 43/CT-BTTTT on natural disaster prevention and control and search and rescue in 2021 issued by the Ministry of Information and Communications |
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SPORT - HEALTH

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| 8. | 30/07/2021 | Official Letter 4580/BCT-CN 2021 on the proposal to prioritize vaccination for certain subjects issued by the Ministry of Industry and Trade |
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| 9. | 30/07/2021 | Official Letter 6158/BYT-DP in 2021 guiding the conditions of vaccination facilities issued by the Ministry of Health |
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LEGAL SERVICES

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| 10. | 14/07/2021 | Official Dispatch 92/TANDTC-TH in 2021 implementing the Law amending and supplementing a number of articles of the Law on judicial expertise promulgated by the Supreme People's Court |
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