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Law on Social Insurance No. 41/2024/QH15

Legal Update | November 2024

Key points of focus under this Update:

- Adjustment and expansion of subjects covered by compulsory social insurance
- Enterprises are no longer required to periodically publicly disclose information on social insurance premiums
- Shortening timeframe for issuing the first social insurance book
- Changes to the minimum and maximum salary levels used as the basis for compulsory social insurance premiums
- Changes to the contribution and the entitlement under social insurance regime
- Specification of measures for addressing late payment/evasion of compulsory social insurance and unemployment insurance
- New policy on social retirement benefits
- Shortening the social insurance contribution period to qualify for pension benefits
- Adjustment of one-time allowance upon retirement
- Updates on lump-sum payment for social insurance allowances

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On 29 June 2024, the National Assembly promulgated the Law on Social Insurance No. 41/2024/QH15 (LSI 2024) which shall replace the Law on Social Insurance No. 58/2014/QH13 dated 20 November 2014 (LSI 2014) and Resolution No. 93/2015/QH13 dated 22 June 2015 of the National Assembly on the implementation of the policy of lump-sum social insurance entitlement for employees.

LSI 2024 shall take effect as of 1 July 2025. With various major changes, LSI 2024 aims to increase rights and benefits in the entitlement of social insurance (SI) policies for civilian and increase enterprises' responsibility to participate in SI, and create consistency with the Labor Code No. 45/2019/QH14 dated 20 November 2019 (Labor Code 2019).

In this Legal Update, we would like to highlight key changes and impacts of LSI 2024 compared to LSI 2014 on enterprises and employees.

A. Enterprises

1. Adjustment and expansion of subjects covered by compulsory SI

- Subjects covered by compulsory SI have been adjusted and expanded to include the following additional cases:
  - Case 1: Vietnamese citizens working under employment contracts (EC) with an indefinite term, EC with a term of at least one month in full, including cases where the agreement is signed under a different name but contains content reflecting paid employment, salary, and the management, operation and supervision of one party. This expansion to agreements with different names which have the nature of an EC aligns with the definition of "employment contract" in Labor Code 2019 and practical application.
  - Case 2: Vietnamese citizens working under ECs with a term of at least one month in full but receiving salary in the month equal to or higher than minimum salary used as a basis for compulsory SI premiums. Comparing to applicable regulations, according to LSI 2024, enterprises must make compulsory SI premiums for part-time employees receiving monthly salary equal to or higher than the reference level.
  - Case 3: Vietnamese citizens being enterprise managers/controllers/representatives of state capital/representatives of enterprises' capital who do not receive salaries. Monthly compulsory SI premiums of these subjects equal to 3% of salary used as a basis for compulsory SI premiums to the sickness and maternity fund, 22% of salary used as a basis for compulsory SI premiums to the retirement and survivorship fund.
  - Case 4: foreign citizens who are employees in Vietnam according to definite term ECs with a term of at least 12 months with employers in Vietnam, except cases of (i) intra-company transferee; or (ii) he/she has reached retirement age at the time of signing the ECs; or (iii) otherwise provided under an international treaty to which Vietnam is a contracting party. Hence, the participation of foreign citizens in compulsory SI has been specified in LSI 2024, rather than in decrees as is currently the case.

2. Enterprises are no longer required to periodically publicly disclose information on SI premiums

- The public disclosure responsibility of employers under LSI 2014 has been abolished, including:
  - Every 06 months, publicly disclosing information on SI premiums to employees; providing information on employees' SI premiums when requested by the employees or trade union organizations.
  - Annually, publicly disclosing information on employees' SI premiums as provided by the SI agencies according to the provisions of Clause 7 Article 23 of LSI 2014.

3. Shortening timeframe for issuing the first SI book

LSI 2024 requires SI agencies to issue the first SI book within 05 working days (currently it is 20 days) from the date of receipt of a full and complete dossier; if the SI book is not issued, a written response with specified reason must be provided.

4. Changes to the minimum and maximum salary levels used as the basis for compulsory SI premiums

- Under LSI 2014, for employees paying SI premiums based on the salary regime decided by employers, the minimum salary used as the basis for compulsory SI premiums is equal to the regional minimum salary and the maximum is 20 times of the base salary level.
- Under LSI 2024, the above content has been changed along with the introduction of a new term, called the "reference level". Specifically, the minimum salary used as the basis for compulsory SI premiums is equal to the reference level and the maximum is 20 times of the reference level at the time of contribution. The reference level is an amount decided by the Government to calculate the contribution and entitlement of certain SI regimes.

5. Changes to the contribution and the entitlement under SI regime

- For employees whose salaries are decided by employers, monthly salary is the basis for compulsory SI premiums, including position-based or title-based salary, salary allowances and other additional amounts agreed to be paid regularly and stably in each salary period. LSI 2024 has narrowed down the scope of other additional amounts to only the amounts agreed to be paid regularly and stably in each salary period, instead of all additional amounts as per the current regulations.
- Enterprises and employees can agree on SI premiums for the month in which the employee is not entitled salary for 14 working days or more, and based on the most recent SI premiums basis, instead of not being allowed to pay SI premiums in such case under LSI 2014. In cases where an employee takes sick leave for 14 working days or more in the first month of working or the first month returning to work, SI premiums for that month are still required.
- LSI 2024 has extended deadline for compulsory SI premiums in case of monthly payment, particularly, the employers can make payment at the latest by the last day of the following month, instead of the last day of the current month as per current regulations. In case of payment term of every 3 or 6 months, payment can be paid at the latest by the last day of the month following right after the payment cycle. Compared with LSI 2014, enterprises are now allowed to make SI premiums 1 month later than the current regulations, without being considered falling into the late SI contribution.

6. Specification of measures for addressing late payment or evasion of compulsory SI and unemployment insurance

- With the aim of more stringent management of violations related to late payment/evasion of contributions of compulsory SI and unemployment insurance (UI), LSI 2024 adds detailed provisions explaining the behaviors of late payment/evasion, specifically:

<table>
<tr><th>Late payment of compulsory SI/UI</th><th>Evasion of compulsory SI/UI</th></tr>
<tr><td>Not pay or not fully pay the required amount according to the registered compulsory SI/UI dossiers after the payment deadline</td><td>Not pay or not fully pay the registered amount for compulsory SI/UI after 60 days as of the payment deadline and have been reminded by competent authority</td></tr>
<tr><td>Not register or not fully register the number of subjects covered by compulsory SI/UI within 60 days after the registration deadline</td><td>Not register or not fully register the number of subjects covered by compulsory SI/UI after 60 days as of the registration deadline</td></tr>
<tr><td rowspan="2">Fall into exceptions not considered as evasion of compulsory SI/UI, upon having legitimate reason(s) as specified by the Government.</td><td>Register salary for compulsory SI/UI premiums lower than required by regulations</td></tr>
<tr><td>The Government specifies other cases considered as evasion and some exceptions not considered as evasion of compulsory SI/UI, upon having legitimate reason(s).</td></tr>
</table>

- Furthermore, LSI 2024 mandates payment of the full amount of late payment/evasion; payment of 0.03% per day based on late/evaded amount and the number of late/evasion days.
- Additionally, breaching subjects shall be subject to administrative fines or criminal liability (in cases of evasion), and concurrently, not be considered for awards or any forms of commendation.

B. Employees

1. New policy on social retirement benefits

- "Social retirement benefits" is a new form of SI introduced in LSI 2024, provided by the state budget for eligible elderly individuals, including three regimes:
  - Monthly social retirement benefits
  - Funeral expense support
  - Health insurance
- Through social retirement benefits, Vietnamese citizens aged full 75 and above (or those from full 70 to under 75 years old belonging to poor households) who do not qualify for a

pension or monthly SI benefits, will also have the opportunity to entitle rights and benefits from the SI system.

2. **Shortening the SI contribution period to qualify for pension benefits**

LSI 2024 reduces the minimum number of years of SI contributions to at least full 15 years to qualify for entitlement of monthly pension, instead of full 20 years of SI contributions as under LSI 2014.

3. **Adjustment of one-time allowance upon retirement**

- LSI 2024 regulates that male employees with more than 35 years of SI contributions and female employees with more than 30 years of SI contributions will be entitled, upon retirement, a one-time allowance in addition to their pension. This allowance is equivalent to 0.5 times the average salary used as the basis for SI contributions for each year exceeding the number of years mentioned above until the employee reaches the statutory retirement age.
- Furthermore, to encourage employees to continue contributing to SI after reaching their retirement age, LSI 2024 stipulates that the aforementioned allowance will be equivalent to 2 times of the average salary used as the basis for SI contributions for each year exceeding the number of years mentioned above, from the time they reach retirement age until the time they actually retire.

4. **Updates on lump-sum payment for SI allowances**

- LSI 2024 has undergone several amendments and supplements aimed at increasing benefits, encouraging employees to pay SI premiums for entitlement of pension or monthly social retirement benefits, instead of opting for a lump-sum SI allowance. Notable changes include:
  - The conditions for pension eligibility have been made more accessible (reducing the minimum number of years required for SI contributions from full 20 years to full 15 years)
  - Monthly allowances are provided in cases where the SI contribution period does not meet the pension eligibility conditions and the individual is not yet of age to receive social retirement benefits, provided that they do not opt for a lump-sum SI allowance and do not preserve their contribution period
  - Health insurance benefits are available during the period of monthly allowances entitlement
- In addition, LSI 2024 also tightens the requirements to receive lump-sum SI allowance as follows:
  - For Vietnamese citizens covered by compulsory SI:
    - Those who participate in SI before 1 July 2025 will have the right to choose to receive lump-sum SI allowance if after 12 months of not being subject covered by

compulsory SI, they do not participate in voluntary SI and have contributed to SI for less than full 20 years.

  - Those who participated in SI from 1 July 2025 are entitled to lump-sum SI allowance, if belonging to any of the following cases:

    (i) They reach retirement age but have contributed to SI for less than full 15 years

    (ii) They move abroad for permanent residency

    (iii) They are suffering from one of the following diseases: cancer, polio, decompensated cirrhosis, severe tuberculosis, AIDS

    (iv) They have a working capacity decrease from 81% or more; severe disability

- Foreign citizens working in Vietnam who are covered by compulsory SI and have terminated their SI participation are entitled to lump-sum payment for SI allowance, if belonging to any of the following cases:

  (i) They reach retirement age but have contributed to SI for less than full 15 years

  (ii) They are suffering from one of the following diseases: cancer, polio, decompensated cirrhosis, severe tuberculosis, AIDS

  (iii) They have a working capacity decrease from 81% or more; severe disability

  (iv) They are eligible for pension as per law but do not continue to reside in Vietnam

  (v) Their EC is terminated, or their work permit, professional certificate, or practice license expires without renewal

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