

LEGAL UPDATES

DECEMBER 2018

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2019's Public Holidays

Public and Tet holidays as stipulated in Article 115 of the Labor Code will correspond to the 2019's calendar as below.

• January – February (Lunar New Year)

For the Lunar New Year holidays, the enterprise is allowed to choose one of the following schedules, which is: one last day of the year and four first days of the new year (Lunar calendar); or two last days of the year and three first days of the new year.

The Lunar New Year holiday schedule must be notified before at least 30 days.

(Article 8 Decree No. 45/2013/ND-CP)

• March – April (Hung King's Death Anniversary)

March 10 (Lunar Calendar) is on April 14, 2019 (Sunday). If the enterprise's labor regulations define that Sunday is the weekly day off, then the employees are allowed to be off on April 15, 2019 as compensation.

(Clause 3 Article 115 Labor Code No. 10/2012/QH1)

• May – June (Country Reunification Ceremony (April 30) and International Workers' Day (May 01))

For those people who enjoy State's salaries, Ministry of Labor, Invalids and Social Affairs allows them to have 5 consecutive days leave from Saturday – April 27, 2019 to Wednesday – May 01, 2019 and make up on Saturday – May 04, 2019.

However, this holiday schedule is only applicable to State agencies and is not mandatory for the enterprises.

(Announcement No. 3238/TB-LDTBXH dated August 06, 2018)

• July – August: (having no holidays)

• September – October: (National Day – September 02)

Combined with 2 days off (weekend), the occasion of the National Day will have 3 consecutive days off.

• November – December (Having no holidays)



Increasing the region-based minimum wage from January 01, 2019

Decree No. 157/2018/ND-CP dated November 16, 2018 of the Government promulgates the region-based minimum wage levels for laborers working under labor contracts.

From January 01, 2019, the region-based minimum wage shall be adjusted to increase compared with the current wage.

The corresponding increase for each region is as follows (the amounts in brackets are the increased amount):

- Region I: from VND 3,980,000 per month up to VND 4,180,000 per month (VND 230,000);
- Region II: from VND 3,530,000 per month up to VND 3,710,000 per month (VND 180,000);
- Region III: from VND 3,090,000 per month up to VND 3,250,000 per month (VND 160,000);
- Region IV: from VND 2,760,000 per month up to VND 2,920,000 per month (VND 160,000);

Payment route of social insurance premiums of foreigners

Official letter No. 5251/BHXXH-QLT dated December 03, 2018 of the Social Insurance of Ha Noi City provides temporary guidelines on participation in mandatory social insurance as prescribed by Decree No. 143/2018/ND-CP of the Government.

According to Decree No. 143/2018/ND-CP, the enterprises must pay social insurance for foreign labors from December 2018. However, the enterprises are only required to pay social insurance for foreigners who sign labor contracts from 1 year and above.

The level of social insurance premiums and benefits is implemented as follows:

- From December 01, 2018 to December 31, 2021, the enterprise pays 3% to the sickness and maternity fund and 0,5% to the labor accident and occupational disease fund in advance in order for the foreigners to enjoy the sickness, maternity allowances and labor accident insurance. The foreigners themselves do not have to pay social insurance premium in this period.



Region areas applying the minimum wage levels of 2019 are also adjusted compared with the year 2018 as follows:

- Moving from region II to region I: Cat Hai District, Kien Thuy of Hai Phong City; Dau Tieng District, Phu Giao of Binh Duong Province; Phu My Town of Ba Ria - Vung Tau Province;
- Moving from region III to region II: Gia Binh District, Luong Tai of Bac Ninh Province; Chau Thanh District of Tien Giang Province.
- Moving from region IV to region III: Tan Phuoc District of Tien Giang Province.

It should be noted that these are the minimum wage levels towards laborers who perform simple jobs. Towards labors who have undergone vocational learning, vocational training, the minimum wage levels shall be added at least 7%.

The Decree takes effect from January 01, 2019, replacing Decree No. 141/2017/ND-CP dated December 07, 2017.

- From January 01, 2022 onwards, the enterprise shall pay additional 14% and foreigners start to pay 8% into the retirement and survivorship allowance fund in order to enjoy the retirement and survivorship allowance, one-off social insurance from 2022.

The rates of paying social insurance premiums mentioned above are calculated on the monthly salary fund for paying social insurance (for enterprises) and the monthly salary – including wage allowances, other additions (for foreigners).

Un-announced inspection on occupational safety at night

SAFETY AT THE WORKPLACE



The Circular regulates the organization of un-announced inspection on occupational safety and health occurred at night and outside working hours.

Accordingly, when having grounds to believe that the received information about the case of infringement of laborers' rights or the failure to ensure the occupational safety and health at workplace occurred at night, outside working hours is true and such case is let to be continuous with the possibility to affect rights, or cause danger to lives, of many laborers, the Ministry or the Department of Labor - Invalids and Social Affairs will implement un-announced inspection at the enterprise.

If the unannounced inspection is organized by the Ministry of Labor, there will be the participation and coordination of the Ministries and branches at the central level.

If it is organized by the Department of Labor, there will be the participation and coordination of provincial departments, sectors, branches, public security agencies and the People's Committee if necessary (Article 6, 7, 8).

The Circular takes effect from January 01, 2019.



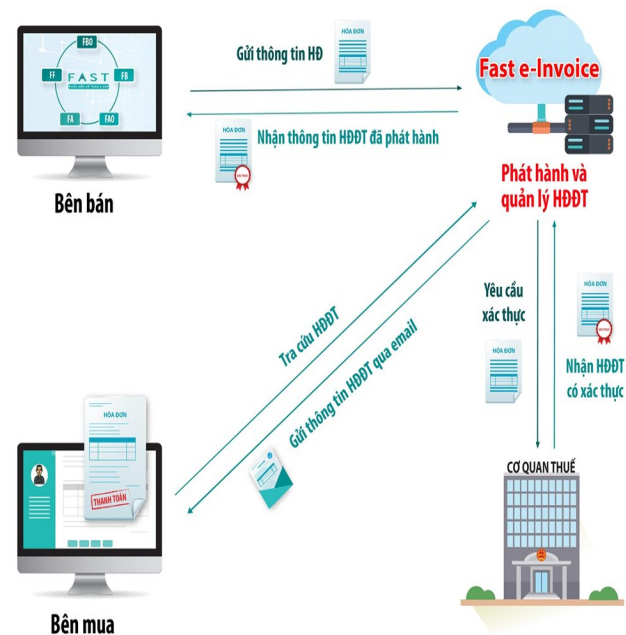
Circular No. 20/2018/TT-BLĐTBXH dated November 26, 2018 of the Ministry of Labor, War Invalids and Social Affairs provides the guidelines for coordination mechanism in implementation of specialized inspection in terms of labor, occupational safety and health at night, outside working hours.

Are enterprises newly established since November 01, 2018 onwards forced to use electronic invoices?

Official letter No. 4763/TCT-CS dated November 29, 2018 of the General Department of Taxation provides the guidelines on application of electronic invoices.

According to the transitional regulations at Clause 3 Article 36 of Decree No. 119/2018/ND-CP, for those enterprises newly established in the period from November 01, 2018 to October 31, 2020, if the tax authority does not inform to force using electronic invoices, then the enterprises are allowed to choose to use externally-printed, internally-printed or electronic invoices.

If the tax authority already informed to force using electronic invoices but the enterprise has yet to meet the conditions of the infrastructure of information technology, then the enterprise is allowed to register to use externally-printed, internally-printed invoices. In the process of using such invoices, the enterprise must send the invoice data with the submission of the value added tax.



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".