Vietnam Employment Law Outlook for 2018

The beginning of 2018 marks the introduction of a number of changes to Vietnam’s labor regulations which will have an impact on employers this year.

1.  **Increases to Vietnam’s Minimum Wage**

Based on a National Salary Council decision of August 2017, Vietnam’s minimum wage is set to increase in 2018, following issuance of an anticipated Prime Ministerial Decree. Based on the National Salary Council’s decision, the regional minimum wage will likely increase by 6.5% in 2018, and will range from VND 2,760,000 (approximately USD 120) per person per month in remote areas of the country to VND 3,980,000 (approximately USD 175) per person per month in the country’s largest cities: Hanoi and Ho Minh City.

2.  **Scope of Vietnam’s Compulsory Social Insurance Scheme Expanded**

Two new categories of employee have been added to the scope of Vietnam’s compulsory social insurance scheme, as set out in Vietnam’s Law on Social Insurance. As of 1 January 2018, Vietnamese employees working under employment contracts with a term of between one and three months, and foreign employees working in Vietnam under work permits, practice certificates, or practice licenses, will be required to pay into Vietnam’s compulsory social insurance scheme. The social insurance contribution rates for employers and employees are 17.5% and 8% respectively.

3.  **Changes to Social Insurance Contributions Calculations**

Changes have just been introduced to the method for calculating the monthly social insurance contributions of persons working under employment contracts in Vietnam. As of 1 January 2018, the basis for calculating social insurance contributions now includes an employee’s salary, plus allowances, and any other additional amounts stated in the employment contract (the calculation was formerly restricted to an employee’s salary plus allowances). Other benefits to employees, such as meal, travel and accommodation allowances, child care allowances and financial assistance provided by an employer to an employee in the event of a work accident or occupational disease, are excluded from an employee’s social insurance calculations.

4.  **Enhanced Criminal Liability for Unlawful Dismissals**

An amendment to Vietnam’s Criminal Code, which took effect at the start of the year, introduces enhanced criminal liability for unlawful dismissals by employers. Such criminal liability can be imposed in addition to any civil liability that an employer might face under local labor laws.
The amended Criminal Code attempts to bring greater clarity to the previous language of the code by specifying that it is an offence to “unlawfully dismiss” an employee, or to “use of force or threats to cause an employee to resign”.

The criminal penalties for an unlawful dismissal now include a fine of up to VND 200 million (approx. USD 8,900) or a period of imprisonment of between one and three years per violation by an employer. An individual offender may also be prohibited from holding certain positions in an organization if he/she is found guilty of unlawfully dismissing two or more people or a pregnant woman whose pregnancy is known to the offender, or where the offence causes very serious consequences to the dismissed individual, such as suicide.

Given the possibility of criminal sanctions, it is advisable for all employers to seek legal advice before dismissing an employee in Vietnam.