

Vietnam News Brief

An update from PwC Legal

15 November 2011

New Guidance On Foreigners Working In Vietnam

Circular No. 31 was issued on 3 November 2011 to guide the implementation of Decree 34 and Decree 46 on Employment and Administration of Foreigners Working in Vietnam. Please see our News Brief dated 29 June 2011.

Key points of Circular 31 include:

- Chief representatives of commercial representative offices are required to have a work permit.
- No guidance has yet been issued by the Ministry of Trade and Industry regarding the work permit exemptions for foreigners transferring internally within companies that operate in sectors in which Vietnam gave commitments to the WTO.
- Circular 31 puts in place general procedures for extending (instead of applying afresh) work permits of employees who transfer internally within companies.
- Article 132 of the Labour Code contains a general requirement that companies employing foreign employees have in place a training plan to train Vietnamese employees to replace foreigners. Circular 31 sets out the details of what the training plan must contain e.g. training methods and timelines.
- Foreigners working in Vietnam for less than three months are still exempt from a work permit. Circular 31 attempts to clarify how to determine the three month period, but leaves unclear whether for example several one-month periods within a calendar year would be accumulated.
- Co-operation by authorities has been formalised so that local departments of labour need to send details monthly to the local immigration departments regarding foreigners who have applied for or renewed work permits.
- Decree 46 placed a requirement on foreign contractors to include an employment plan specifying details of Vietnamese and foreign employees in their tenders bids. Circular 31 contains several standard forms, including a form for such employment plans.
- Reporting procedures are also required for foreign contractors whose contracts were awarded before Decree 46 came into effect on 1 August 2011. The People's Committee need to be informed of the foreign workers including their number, nationality, qualifications, positions and work permit status.

If you would like to discuss the implications of the above, please contact your usual lawyer at PwC Legal or Veera Mäenpää.