Key changes to the compulsory state social insurance ("SI") scheme from 2016

The Ministry of Labour, Invalids and Social Affairs issued Circular 59/2015/TT-BLDTBXH on 29 December providing guidance on the implementation of the compulsory SI scheme in the SI Law and Decree 115/2015/ND-CP.

Some of the key changes, most of which take effect from 1 January, are outlined below.

1. Changes to the salary subject to SI contributions

Consistent with Decree 115, from 1 January 2016 to 31 December 2017, SI salary will be the salary plus allowances stated in the labour contract. These allowances include regular fixed payments offered to cover working conditions, complexity of the job and living conditions which are not fully reflected in the contractual salary.
Below is a list of some key allowances now considered subject to / not subject to SI contributions.

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<th>Allowances subject to SI contributions</th>
<th>Allowances not subject to SI contributions</th>
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<td>Bonus paid based on annual business results and performance of employees</td>
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<td>Responsibility allowance, seniority allowance</td>
<td>Reward for initiative</td>
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<td>Hardship, hazardous and toxic allowance</td>
<td>Payment for mid-shift meals</td>
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<td>Area allowance</td>
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<td>Mobility allowance</td>
<td>Payments to support employees on special occasions such as wedding, funeral, birthday</td>
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<td>Attraction allowance</td>
<td>Allowances paid to employees in difficult situations such as suffering from work accidents, occupational diseases</td>
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<td>Other allowances having similar nature as above</td>
<td>Other allowances stated in labour contract</td>
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Effective from 1 January 2018, as well as the SI salary mentioned above, additional payments of specific amounts stated in labour contracts, and paid regularly together with salary, will also be subject to SI contributions.

The SI salary continues to be capped at 20 times “basic salary” (as set by the Government). Currently, the cap is VND23,000,000 per month.
2. **Paternity leave**

Male employees contributing to the SI fund are entitled to paternity leave ranging from 5 to 14 working days within the first 30 days from the birth, as follows:

a) 5 working days for normal birth delivery;

b) 7 working days in case their wives undergo a surgical birth or give birth under 32 weeks;

c) 10 working days in case their wives give birth to twins, and an additional 3 working days for each infant from the third; and

d) 14 working days in case their wives undergo a surgical birth of twins or more infants.

In cases where the mother gives birth but only the father makes social insurance contributions, the father is entitled to a lump-sum allowance equal to two month’s “basic salary” (as set by the Government) in the month of childbirth for each child.

3. **Increase of sickness benefits**

The sickness benefit per day is calculated by taking the sickness benefit per month divided by 24 days (instead of 26 days as previously).

The benefit level for convalescence and rehabilitation after sickness per day equals 30% of the “basic salary” (instead of 25% if at home or 40% if at a centre as previously).

If employees still need treatment after 180 days in respect of diseases requiring long-term treatment, employees are then entitled to benefits of 50% of the salary subject to SI contributions of the month preceding their leave if they have paid SI contributions for under 15 years (instead of 45% as previously). However, the maximum period during which the employees are entitled to sickness benefit after 180 days equals the period during which the employees have made SI contributions.
4. Pension benefits reduced

Although the general conditions for employees to enjoy a monthly pension remain unchanged (i.e. 55-year-old for female/60-year-old for male employees and having twenty years or more of SI contributions), the monthly pension benefits will be reduced from 1 January 2018. In order to receive a maximum pension equivalent to 75% of the average SI salary, both female and male employees must now have made SI contributions for 30 and 35 years, respectively.

5. Extension of compulsory SI scheme to cover other types of employees

Effective 1 January 2018, employees working under labour contracts with a term of between 1 and 3 months are also subject to SI contributions. In addition, expatriates working in Vietnam under a work permit, practicing licence, or practicing certificate issued by a competent body of Vietnam will be allowed to participate in the SI scheme.

6. Roles of employers and the social insurance agency

Employers are required to present information about SI contributions to employees once every 6 months, and provide such information to employees upon their or the trade union’s request.

The new regulations assign inspection roles for social insurance, health insurance and unemployment insurance to the SI agency. This point is intended to tackle the evasion of SI contributions and the mounting SI debts of businesses.

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Please contact us if you would like to discuss these changes.