10. Employment and Payment Terms

10.01 Name of Relevant Legislation

For more information on the following legislative sources for this chapter, please refer to Chapter 02 “List of Legislation”:

Expectation:

1. Please highlight the first line and start to write the information.
2. List the legislation in alphabetical order or in reverse chronological order if the law is numbered only and does not have an official name.
3. If there are no legislative sources for this chapter, please remove the bullets in the answer box and add the answer “There are no legislative sources for this chapter.” (without quotation marks)

* Circular No. 03/2007/TT-BLDTBXH
* Circular No. 08/2013/TT-BTC
* Circular No. 32/2013/TT-NHNN
* Circular No. 92/2015/TT-BTC
* Decree No. 05/2015/ND-CP
* Labor Code 2012
* Ordinance No. 06/2013/UBTVQH13

10.02 Employment Contract

10.02.01 Terms and Conditions

#### Employment Law Coverage

10.02.01-Q1

Please specify the persons who are covered under the employment law in the country.

Expectation:

1. Please highlight the first line and start to write the information.
2. Please include whether the employer can provide better terms and conditions than the law requires to employees.
3. For those people who are not covered under the employment law, please include where employment protection comes from.
4. Please include any exception rules such as regional requirements.
5. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.

According to *Clause 1, Article 3 of the Labor Code 2012*, an employee means a person who is 15 years of age or older, has the ability to work, works under a labor contract, is paid with wage, and is managed and controlled by an employer.

The working hours, holidays, annual leaves, salaries, over-time payment, and compulsory insurance benefits for employees are stipulated by the *Labor Code 2012* and its regulations:

* Salary *(Chapter VI)*
* Working time and rest time *(Chapter VII)*
* Social insurance *(Chapter XII)*

Part-time employees are entitled to a wage, have the same rights and obligations as full-time employees, are entitled to equal opportunities, and to non-discrimination and assured labor safety and hygiene *(Source: Article 34 of the Labor Code 2012)*.

Casual employees are regulated under *Articles 16 and 22 of the Labor Code 2012*.

The laws encourage employers to provide employees with more favourable conditions than those stipulated in the labor laws.

*(Sources: Labor Code 2012)*

#### Statutory Entitlements

10.02.01-Q2

Please state the statutory entitlements that are applicable to various types of employees.

Expectation:

1. Please highlight the first line and start to write the information.
2. Types of employees include full time, part time, permanent, temporary, different genders, different age categories, different ethnic groups, disabled status, and so on. It is suggested to state the statutory entitlement of a full time employee first and then list any variations to the other categories of employees.
3. Please only list the name of the statutory entitlement (such as females are entitled to maternity leave while males are entitled to paternity leave). Details of the statutory entitlements are not required in this chapter.
4. Please include any exception rules such as regional requirements.
5. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.

Content for this topic is not available at this time. Information is forthcoming.

*(Source: Not available)*

#### Individual Employment Contract Terms

10.02.01-Q3

Please list the contract terms that must be included in an employment contract and include any important information that the employer should be aware of such as fixed term contract renewal timelines (for example, the fixed term contract should be renewed three months or six months in advance).

Expectation:

1. Please highlight the first line and start to write the information.
2. Please include any exception rules such as regional requirements.
3. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.

Employment contract requirements are stipulated in *Chapter III of the Labor Code 2012*. There are three kinds of employment / labor contracts according to *Article 22 of the Labor Code 2012*:

* An indefinite-term employment contract is a contract in which the two parties do not determine the duration and the time of termination of the contract.
* A definite-term employment contract is a contract in which the two parties determine the duration and the time of termination of the contract within a period of between 12 months and 36 months.
* A seasonal or work-specific employment contract has a duration of less than 12 months.

The following terms and conditions are required by labor laws to be included in employment contracts:

* Name and address of the employer or the lawful representative of the employer
* Full name, date of birth, gender, residence addresses, identity card number, or other lawful documents of the employee
* Job and workplace
* Term of the labor contract
* Wage, form of wage payment, deadline for wage payment, wage-based allowances, and other additional payments
* Regimes for promotion and wage raises
* Working time and rest time
* Labor protection equipment for the employee
* Social insurance and health insurance
* Training, retraining, and occupational skill improvement

When an employee performs a job which is directly related to business or technology secrets as prescribed by law, the employer may reach a written agreement with the employee on the content and duration of protection of the business or technology secrets, and benefits and compensation in case of violation by the employee.

There are no regulations for specific terms and conditions of the employment contract based on the nature of the job or industry type, except for the special conditions required for minor employees, elderly employees, disabled employees, and employee who are working in heavy, toxic, and dangerous jobs.

According to *Article 50 of the Labor Code 2012*, an employment contract is wholly invalid or partially invalid in the following cases:

The whole contents of the labor contract are illegal

The job agreed upon in the labor contract is prohibited by law

The contents of the labor contract limits or prevent the employee from exercising the right to establish and join trade unions and participate in trade union activities

An employment contract is partially invalid when one of its contents is illegal, but does not affect the remaining contents of the contract.

*(Source: Labour Code 2012)*

#### Additional Employment Terms

10.02.01-Q4

Please state whether there are national standard terms and conditions and / or collective labor agreements available in the country in additional to the individual employment contract.

Expectation:

1. Please highlight the first line and start to write the information.
2. If there are no national standard terms and conditions or no collective labor agreements available in the country, please state in the answer “There are no national standard terms and conditions or collective labor agreements available in the country.” without quotation marks.
3. If there are national standard terms and conditions, please state the name of the standard terms and where (the name and website of the authority) the national standards can be found.
4. If there are collective labor agreements, please state where (the name and website of the authority) these collective labour agreements can be found.
5. Please explain the relationship between the national standard terms and conditions, the collective labor agreements, and the individual employment contract.
6. Please include any exception rules such as regional requirements.
7. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.

Content for this topic is not available at this time. Information is forthcoming.

*(Source: Not available)*

10.02.02 Wages

#### Definition of Wages

10.02.02-Q1

Please state the legislative definition of wages.

Expectation:

1. Please highlight the first line and start to write the information.
2. Please provide some examples of what payment components are treated as wages, and what payment components are not.
3. Please include any exception rules such as regional requirements.
4. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.
5. If there is no legislative definition of wages, please state in the answer “There is no legal definition of wages in the country.” without quotation marks.

According to *Article 90 of the Labor Code 2012*, “wage” is a monetary amount which is paid by an employer to an employee to do a job as agreed by the two parties. “Wage” includes a wage amount which is based on the work or title, wage allowances, and other additional payments. An employee’s wage must not be lower than the minimum wage set by the government.

The following are excluded from wages:

* Bonuses
* Meal-between- shift allowances
* Benefits
* Contributions of employers which are not related to job performance or position in the employment contract

*(Source: Labour Code 2012)*

#### Suspension of Wages

10.02.02-Q2

Please specify the circumstances that an employee’s wages could be suspended (or temporarily withheld) under the law.

Expectation:

1. Please highlight the first line and start to write the information.
2. Please state the timeline or circumstances where the suspended wages must be released to the employee.
3. Please include any exception rules such as regional requirements.
4. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.
5. If there is no legislative provision that allows the suspension of wages, please state in the answer “There is no legislative provision that allows the employer to suspend (or temporarily withhold) the payment of wages to employees in the country.” without quotation marks.

During a period of work suspension due to a discipline violation where the employer considers the violation to be complex, and any continued performance of the work by the employee can cause difficulties to verification work, the employee is still entitled to 50% of the wage they receive prior to the suspension (this refers to salary in the employment contracts of the preceding month before the employee is suspended from work) (*Source: Article 129 of the Labor Code 2012*).

The employee is not entitled to the payment of wages if the work suspension is due to the employee’s actions (*Source: Clause 2, Article 98 of the Labor Code 2012*).

If the employee is disciplined, the employee is not required to reimburse the above advanced wages according to *Clause 3, Article 129, of the Labor Code 2012*.

*(Source: Labour Code 2012)*

10.02.03 Pay Frequency and Timing

#### Pay Frequency and Timing

10.02.03-Q1

Please state the legislative requirements for payment frequency and the timing for payment of wages.

Expectation:

1. Please highlight the first line and start to write the information.
2. Please include any exception rules (for example, if overtime earned in the previous month can be paid at the end of the current month or regional requirements).
3. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.
4. If there is no legislative provision that specifies the pay frequency and pay date, please include in the answer “There is no legislative provision that specifies the pay frequency and pay date where employers have to pay wages to employees.” without quotation marks. Please insert any known market practice as to the common pay date in the country.

The law does not stipulated the exact date or frequency of payment required. The employer can arrange the payment rules based on the laws and company processes, and then needs to document the pay conditions in the company regulations and employment contract. Any change in the form of payment must be informed by the employer to the employee at least 10 days in advance.

There could be some particular wage payments that do not fall into the normal pay schedule, and the employer should arrange a suitable schedule to make all the payment at one time if it is monthly payment to save time and payment / bank fees.

*(Source: Not available)*

#### Non-Calendar Month Pay Periods

10.02.03-Q2

If withholding tax and statutory benefits need to be paid and reported to the authorities on a monthly basis, but the employer has a different pay period frequency, please state the implications.

Expectation:

1. Please highlight the first line and start to write the information.
2. Examples of non-calendar month pay periods include a pay period that spreads across two calendar months, a weekly pay period, a half-monthly pay period, or a two-week / biweekly pay period.
3. Please include in the answer how these non-calendar month pay periods affect withholding tax and statutory contributions calculations and reporting.
4. Please include any exception rules such as regional requirements.
5. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.

There is no requirement that a monthly payroll period correlate to the calendar month. A payroll period can span across two calendar months or calendar years.

The tax calculation is based on the payment date of the wages. For example, if the salary payment is made on the 27 January for the payroll period from 23 December to 22 January 2015, it will be considered as January salary for tax declaration and payment.

The compulsory Social, Health, and Unemployment Insurance (SHUI) is deducted based on the calendar month (even if the payroll period spans across two months), and will not be based on the payroll period or payment. For example, deductions for January are calculated from 1 to 31 January. If in a particular month the employee works less than 15 working days, they are not subject to the contribution.

*(Source: Not available)*

#### Off-Cycle Payments

10.02.03-Q3

Please state whether off-cycle processing is required under the law.

Expectation:

1. Please highlight the first line and start to write the information.
2. Off-cycle processing refers to an additional payroll run, other than the normal payroll run, that captures exception payments such as for new hires, terminations, any salary increase, or bonus pay that occurs after the normal payroll cut-off date.
3. Please include any exception rules such as regional requirements.
4. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.
5. If there is no legislative requirement to run off-cycle runs, please include in the answer “There is no legislative requirement to run off-cycle payroll runs that capture changes that occurred after the payroll cut-off date.” without quotation marks.

If an employee joins the company after the current payroll period cut-off date, it is acceptable that the employee’s first payment will be paid on the normal pay day of the next payroll period together with their next period’s wages (this is the common practice). This rule should be detailed in the company policy to avoid any concerns or questions from employees.

There is no legislation requiring the payment of interest for late payment in the case of new hires after the payroll cut-off time. In special cases of late payments of wages, the employer must settle the outstanding wage within one month, and pay the employee compensation equal to at least the interest earned on the amount due calculated by reference to the interest rate of saving deposits published by the State Bank at the time when the wage is paid (*Source: Article 24 of the Labor Code 2012*).

Employees must be paid regularly in accordance with the agreed upon pay period stipulated in the employment contract. In the case of any missing payments from the previous period, the employer can make the retro payment in the month that the missing payment is discovered. It is not acceptable if the company holds employee payments and pays them in the next period without reason, and doing so will be considered a violation of the agreement on the payment form in the employment contract, and late payment interest will be applied according to *Article 94 of the Labor Code 2012*.

**Example:**

Employee A has a basic salary of 10,000,000 VND, a meal allowance of 1,000,000 VND, and a transportation allowance of 5,000,000 VND

In the January monthly payroll, the payroll processor missed the transportation allowance, so this missing allowance will be added into the February monthly payroll as a retro payment. In practice, the payroll processor can make sure the tax deduction will not exceed the normal income in February due to the double payment of the transportation allowance.

Although retro pay is allowed, the law is not detailed regarding retro payments. In practice, the tax department will use the payment date for tax declaration and deduction.

Normally, if a retro calculation on salary occurs for a particular month, the tax for the retro payment will be allocated to this specific month accordingly. However, a re-filing might be involved if the retro includes more than one full month of salary. For instance, if the employee is hired in March, and due to a processing issue, the salary for this employee is not calculated and paid until the month of May, a re-filing for the tax for the months of March and April might be required.

The calculation for Social, Health, and Unemployment Insurance (SHUI) must follow the retro period. The report should be made and submitted in the current period, but under the rules of the retro period.

In practice, any retro payment should be shown clearly on the pay slip.

Normally, off cycle payroll payments are required in the case of employee terminations. *Clause 2, Article 47 of the Labor Code 2012*, states that within seven working days after the termination of a labor contract, the two parties shall make all payments related to the interests of each party (in special cases, this time limit may be extended but must not exceed 30 days).

*(Source: Labor Code 2012)*

10.02.04 Daily Rate

#### Determining the Daily Rate

10.02.04-Q1

Please state the legislative formula to calculate the daily rate from a given periodic amount such as a monthly or annual salary.

Expectation:

1. Please highlight the first line and start to write the information.
2. Please explain whether the number of calendar days or number of working days should be used in the formula.
3. Please include any exception rules such as regional requirements.
4. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.
5. If there is no legislative provision that specifies the daily rate formula, please include in the answer “There is no legislative provision that defines the formula to determine the daily rate from a given periodic amount such as a monthly or annual salary.” without quotation marks. Please include any known market practice.

The daily rate is based on the company policy (*Source: Article 104 of the Labor Code 2012*).

The formula to calculate the daily rate is as follows:

Daily rate = contract salary / number of working day in the month

The number of working day in the month is based on the company policy. In practice, the company can apply either of the following:

* A fixed number of days per month (22, 23, 24, 25, or 26)
* Actual working day (calendar working day) of each month

**Example:**

For working time from Monday to Friday

Actual working days in January 2011: 21 days

Actual working days in February 2011: 20 days

Actual working days in December 2011: 22 days

For the fixed days per month in, based on the principle of standard working day for salaries, allowances, and benefits:

Daily salary = Monthly salary / Fixed standard working day

**Example:**

Daily salary = Monthly salary / 22

Calendar working days of February is 20 days, company fixed standard working day is 22 days, and the employee takes two days of unpaid leave, so the February salary of this employee shall be the following:

Deducted for 2 days \* daily salary

18 days \* daily rate

Daily salary = Monthly salary / calendar working day

**Example:**

The calendar working day of February is 20 days. Company standard working day is the calendar day, and the employee take two days unpaid leave, so February salary of this employee to be deducted for two days \* daily salary

Daily salary = Monthly salary / 20

*(Source: Labor Code 2012)*

10.02.05 Hourly Rate

#### Determining the Hourly Rate

10.02.05-Q1

Please state the legislative formula to calculate the hourly rate from a given periodic amount such as a monthly or annual salary.

Expectation:

1. Please highlight the first line and start to write the information.
2. Please explain whether the number of calendar days or number of working days should be used in the formula.
3. Please explain whether the number of hours in the formula refers to the actual number of working hours ignoring any work breaks or meal breaks.
4. Please include any exception rules such as regional requirements.
5. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.
6. If there is no legislative provision that specifies the hourly rate formula, please include in the answer “There is no legislative provision that defines the formula to determine the hourly rate from a given periodic amount such as a monthly or annual salary.” without quotation marks. Please include any known market practice.

The hourly rate is based on the company (*Source: Article 104 of the Labor Code 2012*).

The same with daily rate, hourly rate = contract salary / number of working day of month / number of working hour of day

**Example:**

The company policy provides that the number of working day per month is a fixed 22 days per month

Working time is from Monday to Friday, eight hours a day

The hourly rate = contract salary / (22\*8)

The best practice is the following:

* Working day per month: based on the actual working day of month
* Working time: from Monday to Friday for office staff, and Monday to Friday for factory workers
* Working hour per day: Eight hours per day (40 hour per week) or 44 hour per week for office staff and, 48 hours per week for factory worker

*(Source: Labor Code 2012)*

10.02.06 Piece Rate

#### Piece Rate

10.02.06-Q1

When employees are compensated according to piece rate, please state whether it is acceptable that the total gross pay is less than the statutory minimum wage rate.

Expectation:

1. Please highlight the first line and start to write the information.
2. Please include any exception rules such as regional requirements.
3. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.

Employees enjoying wages based on products or piecework must be paid as agreed by the two parties. If the work is to be performed in a number of months, each month, the employee must be given an advanced wage according to the volume of work completed in the month (*Source: Clause 3, Article 95 of the Labor Code 2012*).

There is no legislation regarding income that it is lower than the monthly deduction for statutory (Social, Health, and Unemployment Insurance (SHUI) contributions by the employee.)

10.02.06-Q2

Please state the formula to determine the average daily rate or average hourly rate for an employee who is compensated according to piece rate.

Expectation:

1. Please highlight the first line and start to write the information.
2. Please include any exception rules such as regional requirements.
3. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.

Employee compensated according to piece rate cannot convert to a daily or hourly payment.

If an employees is paid a product-based salary, if they work overtime to increase the product quantity, volume, and their overtime work helps to increase product quantity and volume, they shall be paid for their overtime work according to the requirements agreed with the employer.

*(Source: Labor Code 2012)*

10.02.07 Yearly Salary Indexation / Annual Increment

#### Statutory Annual Increment

10.02.07-Q1

Please state whether it is a legislative requirement to grant employees an annual increment / increase.

Expectation:

1. Please highlight the first line and start to write the information.
2. Please include any exception rules such as regional requirements.
3. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.
4. If there is no legislative requirement to grant an annual increment, please state “There is no legislative requirement to grant employees an annual increment.” without quotation marks.

There is no legislative requirement to grant employees an annual increment.

The annual increment for employees must be agreed in the employment contracts and the collective labor agreement, or stipulated in the company regulations.

*(Source: Article 102 of the Labor Code 2012)*

10.02.08 Gender Pay Equity

#### Gender Pay Equity

10.02.08-Q1

Please state whether gender pay equity is legislatively required.

Expectation:

1. Please highlight the first line and start to write the information.
2. Please include any exception rules such as regional requirements.
3. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.
4. If there is no legislative requirement for gender pay equity, please state “There is no legislative requirement for gender pay equity.” without quotation marks.

There is no legislative requirement for gender pay equity.

*(Source: Not available)*

10.02.09 Probation or Qualifying Period

#### Statutory Probation Period

10.02.09-Q1

Please state whether a statutory probation period for employment is legislatively required.

Expectation:

1. Please highlight the first line and start to write the information.
2. Please include the duration of the statutory probation period for each type of employees.
3. Please include situations where the duration of the statutory probation period could be extended.
4. Please include whether employees would get a salary increase after passing the statutory probation period.
5. Please include any exception rules such as regional requirements.
6. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.
7. If there is no legislative requirement regarding a mandatory probation period, please state “There is no legislative requirement regarding a mandatory probation period in the country.” without quotation marks.

It is not a compulsory requirement to have a probation period. Probation time is provided in *Article 27 of the Labor Code 2012*.

The probation period must be based on the nature and complexity of the job, but probation is applied only once for each job under the following conditions:

* It does not exceed 60 days for posts which require professional and technical qualifications at the collegiate or higher level
* It does not exceed 30 days for posts which require professional and technical qualifications of an intermediate vocational level, professional secondary level, or for technical workers and skilled employees
* It does not exceed six working days for other types of jobs

Employees working under seasonal employment contracts are not subject to probation.

A probation salary is defined in *Article 27 of the Labor Code 2012*. as the wage for an employee during the probation period, which must be agreed upon by the two parties, but must be at least equal to 85% of the wage for the job. However, the employer can pay the full salary.

During the probation period, each party may cancel the probation agreement without prior notice and compensation if the job fails to meet the requirements that have been agreed by the two parties.

The entitlements due to an employee during their probation period are subject to company policy and / or the agreement between the employer and employee.

For Social, Health, and Unemployment Insurance (SHUI) , an employee under a probation period will not be a SHUI participant if under the separate probation agreement with a maximum length of two months. However, company policy can provide that the probation time will be included in the employment contract (definite or indefinite contract terms). The employee will be entitled to SHUI contributions according to the laws.

An assessment of performance prior to the end of the probation period will follow the company regulations, however the employer needs to inform to employee about the result of the probation period as follows:

* Within three days before the end of the probation period, the employer must notify the employee of the probation results. If the results meet the requirements, the employer shall immediately conclude the employment contract with the employee at the end of the probation period.

It is not necessary that the employer grants salary increments to the employee upon passing of the probation period. Whether an increment will occur shall depends on the company policy and employee performance.

*(Source: Labor Code 2012)*

10.03 Legal Denomination

#### Legal Denomination

10.03-Q1

Please state the legal denomination for currency in the country.

Expectation:

1. Please highlight the first line and start to write the information.
2. Please provide the currency symbol and the [ISO 4217 code](http://www.xe.com/iso4217.php) (3 characters) for the currency.
3. Please state the number of decimal places required in payroll calculations.
4. Please include any exception rules such as regional requirements.
5. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.

According to the *Article 7 of Circular No. 08/2013/TT-BTC* , the currency used in accounting is the Vietnam Dong (the national symbol is "d", and the ISO currency code is VND).

Foreign currency accounting should be converted into Vietnam Dongs by using the rates prescribed by the Finance Ministry at the time of accounting. In specific cases, if any other prescribed rate of state agencies is authorized, it shall comply with accounting regulations.

According to the *Article 8 of Circular No. 08/2013/TT-BTC* about the writing, numbers and methods of rounding:

*“2. The numerals used in accounting is the Arabian digits: 0, 1, 2, 3, 4, 5, 6, 7, 8, 9; after the thousand, million, billion, trillion, trillion, trillion to put a dot (.); while record numbers after ones' must put a comma (,) after the unit number.*

*3. When preparing the financial statements or publicizing financial statements using abbreviated monetary unit, accounting unit rounded by:*

*- For Vietnam dong: Digits digits after currency shortened if using five (5) or more, it is increased by one (1) unit; if less than five (5) are not counted.*

*- For foreign currency: Signature thousandth decimal (3 digits after the decimal point), if using five (5) or more will be increased by one percent (1%) units; if less than five (5) are not counted.*

*In case of foreign currency exchange rates, for the Vietnam dong amounts already converted, rounding method is also carried out as above.*

*(Source: Circular No. 08/2013/TT-BTC;* [*XE ISO 4217 Currency Codes*](http://www.xe.com/iso4217.php)*)*

10.04 Currency in Payments and Reporting

#### Currency in Payments

10.04-Q1

Please state the currency required in paying wages to local and foreign workers.

Expectation:

1. Please highlight the first line and start to write the information.
2. Please include any exception rules such as regional requirements.
3. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.

According to *Article 22 of Ordinance No. 06/2013/UBTVQH13*, within the territory of Vietnam, all transactions, payments, listings, advertisements, quotations, pricing, writing price on contracts, agreements and other similar forms of residents and non- residents, must not be effected in foreign exchange except for cases permitted in accordance with the regulations of the State bank of Vietnam.

According to *Clause 14, Article 4 of Circular No. 32/2013/TT-NHNN,* resident and non-resident organizations are allowed to make agreements and pay salaries, bonuses, and allowances in labor contracts in foreign currency, by transfer or cash to non-resident and residents who are foreigners working in such an organization.

According to *Article 21, Decree no. of 05/2015/ND-CP*, the salary in the employment contract and the salary paid to employees shall be specified in Vietnam Dong, except for salaries and allowances paid to non-residents, and foreign residents under the provisions of the law on foreign exchange.

10.04-Q2

Please state whether in practice, instead of paying in local currency, local or foreign workers can be paid completely or partially in foreign currency.

Expectation:

1. Please highlight the first line and start to write the information.
2. Please include any exception rules such as regional requirements.
3. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.

In practice, the employer can pay a foreign employee’s salary partially in Dongs and partially in a foreign currency.

It is only expatriates or foreign employees that can receive wages in a foreign currency, which means that locals can only be paid in the local currency.

*(Sources: Article 22 of Ordinance No. 06/2013/UBTVQH13; Clause 14, Article 4 of Circular No. 32/2013/TT-NHNN; Article 21, Decree no. of 05/2015/ND-CP)*

#### Currency in Statutory Calculations and Reporting

10.04-Q3

Please state the currency that is used in all statutory (including tax and statutory contributions) calculations and reporting.

Expectation:

1. Please highlight the first line and start to write the information.
2. Please state the impact to statutory calculation and reporting if the employee is receiving foreign currency. If the foreign currency needs to be converted to local currency, please provide the website where the exchange rate can be found.
3. Please include any exception rules such as regional requirements.
4. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.

All statutory tax and contributions need to be calculated and report in Dongs.

The best practice is that the employer should use the exchange rate as of the calculation date for payment, and then it will be revised for the Personal Income Tax (PIT) report (on the 20th of the following month), and the balance of any changes to the exchange rate on the payment date will be added into the payroll calculation of following month.

*(Sources: Article 13 of Circular No. 92/2015/TT-BTC; Point a, Clause 7, Item D of Circular No. 03/2007-TT-BLDTBXH)*

10.05 Rounding

#### Rounding Requirements

10.05-Q1

Please state the legislative requirement regarding rounding on gross pay, net pay, tax deductions, and statutory contributions deductions.

Expectation:

1. Please highlight the first line and start to write the information.
2. Please include any exception rules such as regional requirements.
3. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.
4. If there is no legislative requirement regarding rounding requirements, please state “There is no legislative requirement regarding rounding of gross pay, net pay, tax deductions, and statutory contributions deductions.” without quotation marks.

When preparing financial statements, or publicizing financial statements using abbreviated monetary units, accounting units are rounded as follows:

* For Vietnam Dong: Digits are shortened as follows: If five or more, it is increased by one unit; if less than five are not counted
* For foreign currency: Signature thousandth decimal (three digits after the decimal point), if using five or more will be increased by 1% units; if less than five are not counted.

In the case of foreign currency exchange rates for the Vietnam Dong amounts already converted, the rounding method is also carried out as above.

10.05-Q2

Please provide examples showing the common practice for rounding.

Expectation:

1. Please highlight the first line and start to write the information.
2. Please state how many decimal places are required and whether the calculated figures are rounded down (for example 10.39 becomes 10.3 or 10.0), or rounded up (for example, 10.39 becomes 10.4 or 11).
3. Please include any exception rules such as regional requirements.

*Article 8 of Circular No. 08/2013/TT-BTC* about the writing, numbers, and methods of rounding provides rounding information.

* VND round to no decimal and use the formula round(xxx,0)
* Foreign currency round to 2 decimals and use the formula round(xxx,2)
* Other rounding rules belong to company policy such as round(xxx,-1), round(xxx,-2); round(xxx,-3) but should not apply for government contributions (i.e. PIT, insurances).
* Even though the current smallest of VND is 200 VND, the bank can do the payment of 1 VND and 0.1 USD, it is only the beneficiary cannot take it.

*(Source: Article 8 of Circular No. 08/2013/TT-BTC* *)*

10.06 Payment Methods

#### Payment Methods

10.06-Q1

Please state the legislative requirements on the payment method (for example, by check, direct deposit, or bank draft).

Expectation:

1. Please highlight the first line and start to write the information.
2. Please include any exception rules such as regional requirements.
3. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.
4. If there is no legislative requirement regarding payment method, please state “There is no legislative requirement regarding the method for payment of wages in the country.” without quotation marks.

According to *Article 94 of the Labor Code 2012*, salary may be paid by cash or to the employee’s personal account opened at a bank.

*(Source: Article 94 of the Labor Code 2012)*

#### Payment through Banks

10.06-Q2

Please provide the website link that contains the list of applicable bank codes, branch codes, or the mandatory bank file format (or specification) that all employers must follow.

Expectation:

1. Please highlight the first line and start to write the information.
2. If the website link containing the bank codes and branch codes is not available, please state “There is no website link where the list of bank codes and branch codes can be found.” without quotation marks.
3. If there is no single mandatory bank file format (or specification) that all employers must follow, please state “There is no mandatory bank file format (or specification) that all employers must follow. Each commercial bank has its own requirements.” without quotation marks.
4. Please include any exception rules such as regional requirements.
5. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.
6. If payment through banks is not applicable for the country, please state “Payment through banks is not applicable for the country. Therefore, there is no list of bank codes, branch codes, or bank file specifications available.” without quotation marks.

There is no mandatory bank file format (or specification) that all employers must follow. Each commercial bank has its own requirements.

*(Source: Not available)*

#### Payment to a Person Who is Not an Employee

10.06-Q3

Please state whether it is acceptable that wage payments be paid to the bank account of another person who is not the employee (for example, if a deceased person’s wages need to be released to a third party, if an employee requests that the wages are paid to another person such as the employee’s friend or relative, or the employer is ordered by the court to pay part of the wages to a third party).

Expectation:

1. Please highlight the first line and start to write the information.
2. Please include any exception rules such as regional requirements.
3. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.

It is not legally forbidden that the payment of wages be paid to the bank account of another person who is not the employee. In practice, payment wages to the bank account of another person who is not the employee should only be done when the employer has an authorization letter from the employee designating the beneficiary for evidence of the payment in order to show to the government in the case of any questions.

*(Source: Not available)*

10.07 Pay Slip

#### Pay Slip Requirements

10.07-Q1

Please state whether the distribution of pay slips to employees is legislatively required.

Expectation:

1. Please highlight the first line and start to write the information.
2. If distribution of a pay slip is required, please state the following:
   1. The due date for distributing a pay slip
   2. The information required to appear on a pay slip such as accumulated earning, accumulated tax deductions, accumulated statutory contributions, and so on
   3. Whether the language used on the pay slip must be the local language, or can the pay slip be in English
   4. The method a pay slip is delivered to employee, such as by hard copy, or by electronic means such as email, or an employee self-service portal
   5. Whether the employee should acknowledge receipt of the pay slip
3. Please include any exception rules such as regional requirements.
4. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.
5. If there is no legislative requirement regarding payment method, please state “There is no legislative requirement regarding the distribution of pay slip.” without quotation marks.

It is not specifically regulated by the labor law that the employer must provide a pay slip to employee. However, in practice, the employer will provide the pay slip to each employee for their information so that they may update the employer if there are any errors in the calculation of salary, number of working days, or leaves.

Although there are no specific requirements regulated by law, in practice, the elements shown on the pay slip will be same as the payroll elements for each employee, such as the following:

* Contract salary
* Actual working days
* Salary for the month
* Allowances
* Bonuses and other payments
* Statutory deductions
  + Personal income tax
  + Health insurance contributions

Social insurance contributions It is not regulated whether pay slips must be in the local language.

Employers can provide pay slips on paper, or in an electronic or other format, as long as they are clearly presented so that the employee can understand their salary details.

*(Source: Not available)*

#### Pay Slip Special Requirements

10.07-Q2

Please state any special requirements such as using asterisks (\*\*\*\*) to represent part of the employee’s national identification number if the employer uses an employee self-service system to display the pay slip.

Expectation:

1. Please highlight the first line and start to write the information.
2. Please include any exception rules such as regional requirements.
3. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.
4. If there is no legislative requirement regarding payment method, please state “There is no legislative requirement regarding data masking on the pay slip.” without quotation marks.

There is no legislative requirement regarding data masking on the pay slip.

*(Source: Not available)*

10.07-Q3

Please state the legislative provision that governs the access of pay slips by visually impaired employees.

Expectation:

1. Please highlight the first line and start to write the information.
2. Please include any exception rules such as regional requirements.
3. Please quote the source of information such as the name and article number of the law, or the website link where the information can be validated.
4. If there is no legislative requirement regarding distributing pay slip to visually impaired employees, please state “There is no legislative requirement regarding access of pay slips by visually impaired employees” without quotation marks. Please state any known practice.

There is no legislative requirement regarding access of pay slips by visually impaired employees.

*(Source: Not available)*

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You need to stop protecting the document before you can remove the expectations and questions:

* Shortcut keys for removing expectations in green: Ctrl + R + E
* Shortcut keys for removing questions in blue: Ctrl + R + Q