

Article 23 gives expatriates working in an enterprise with foreign invested capital the right to repatriate their incomes after the Vietnamese personal income tax has been paid (see section on tax).

1.6 Labour

The Law on Foreign Investment in Vietnam and its accompanying 1993 Decree 18 do not address labour issues in any detail. Instead, article 65 of Decree 18 simply refers the reader to the separate Decree 233, which deals with all labour issues for enterprises with foreign invested capital.

Note that all of the legislation presented in this section regulates labour in enterprises with foreign invested capital only; BCCs are not explicitly addressed. Apparently, current government policy requires that the Vietnamese party to a BCC must handle all labour matters.

Name: Decree No. 233-HDBT Regulating Employment in Enterprises with Foreign Invested Capital.
Agency: Government.
Date: June 22, 1990.
Details:

Provisions in the Decree cover all important aspects of labour relations in foreign invested enterprises. Recruitment is addressed first. An enterprise is entitled to hire any Vietnamese citizen over 18 years old. Article 3 of the Decree outlines three acceptable methods of recruitment. First, enterprises may hire persons introduced by a local Labour Employment Agency. Second, the enterprise may contract a Labour Employment Agency to recruit persons that meet certain criteria. Third, if the first two methods fail, the enterprise may hire directly. Note that the first two methods must be completely exhausted before direct employment is allowed.

Wages must be mutually agreed upon and reflect skill levels and productivity. The minimum wage in 1990 was set at US\$50 per month, and had to be indexed (but see next entry).

Enterprises must create favourable conditions for unions to operate efficiently. As regards labour contracts, Employment Contracts are required between each employee and the employer. Collective agreements between the workers' representative and the employer are required after 6 months of operation.

Other topics addressed in the Decree include: working hours; holidays; annual leave; overtime; social insurance; and termination.

Finally, labour disputes are addressed. Conflicts are to be resolved through negotiation, under the auspices of the Local Labour Agency or an Arbitrator appointed by the Minister of Labour. Final recourse is the People's Court system.

Name: Decision No. 242 Concerning the Minimum Wage.
Agency: Ministry of Labour.
Date: May 5, 1992.
Details:

This Decision - which was prompted by the SCCI - lowered the minimum wage acceptable in foreign invested enterprises. The minimum monthly salary of US\$50 was lowered to US\$35 in Hanoi and Ho Chi Minh City, and US\$30 elsewhere.