

# New regulations of Social Insurance Law 2024

On 29 June 2024, the National Assembly promulgated Social Insurance Law No. 41/2024/QH15 ("**SI Law 2024**"). The SI Law 2024 will take effect on 1 July 2025 and will replace Social Insurance Law No. 58/2014/QH13, with a number of articles amended by Law No. 84/2015/QH13, Law No.35/2018/QH14, Code No. 45/2019/QH14 ("**SI Law 2014**"), and Resolution No.93/2015/QH13 dated 22 June 2015 of the National Assembly, on implementation of the policy on one-time social insurance ("**SI**") benefits for employees. The SI Law 2024 has been promulgated to overcome the shortcomings of the SI Law 2014, to be consistent with the Labor Code 2019 and to concretize the goals set forth by Resolution No. 28-NQ/TW dated 23 May 2018 of the Central Executive Committee of the Communist Party of Vietnam on reforming social insurance policies ("**Resolution 28**") such as expanding the subjects participating in compulsory social insurance (SI); continuing to promote modernization of SI management; creating convenience and transparency for SI participants and beneficiaries; etc.

Within the scope of this article, we only introduce some new or amended regulations of the SI Law 2024 compared to the SI Law 2014, notably for enterprises and employees paying SI according to the remuneration decided by the employer as follows:

## 1. Entities participating in SI and enjoying SI benefits

SI Law 2024:

(a) Amends the regulations on Vietnamese employees who are subject to compulsory SI. Accordingly, those who work under indefinite-term employment contracts, fixed-term employment contracts with a term of 1 month in full or more, including the cases where employees and employers agree on a different

name of their contract (*instead of an employment contract under the Social Insurance Law 2014*) but with the content showing paid work, salary and management, direction and supervision by one party, are all subject to compulsory SI.

(b) Expands the entities participating in compulsory SI to Vietnamese citizens, including enterprise managers, supervisors, representatives of the State capital, representatives of enterprise capital as required by law; members of the Board of Directors, General Directors, Directors, members of the Board of Supervisors or supervisors who do not receive salaries and part-time employees whose monthly salary is equal to or higher than the lowest salary used as the basis for compulsory SI contributions.

(c) Add the cases where in the first month of work or in the first month of resuming to work after from 14 or more-day sick leave, employees are still required to pay SI premium for that month.

In addition, the SI Law 2024 also adds a number of cases that are not subject to compulsory SI, including:

(a) Foreign employees working in Vietnam are not subject to compulsory SI when working under a definite-term employment contract with a term of 12 months or more for an employer in Vietnam, unless otherwise provided for by an international treaty to which Vietnam is a member; and

(b) Enterprise managers, supervisors, representatives of the State capital, and representatives of enterprise capital as required by law who do not receive salaries, have reached retirement age; except in the cases where the remaining SI payment period is less than 6 months, then, their SI contribution must continue as entities participating in compulsory SI to receive pensions as prescribed.

## **2. Minimum number of years of SI contributions required to receive pension**

The SI Law 2024 stipulates that participants in compulsory or voluntary SI are entitled to pension when they reach retirement age as prescribed by the Labour Code and have paid SI for at least 15 years (*reduced from 20 years or more of SI contributions according to the Social Insurance Law 2014*).

This amendment aims to expand the SI participants, creating opportunities for late participants or those who participate intermittently, leading to the fact that when they reach retirement age they have not accumulated enough 20 years of SI contributions, to receive a monthly pension. This amendment also encourages employees to reserve and continue to contribute to SI to receive a monthly pension instead of receiving a lump sum of SI benefits.

### **3. Salary for compulsory social insurance contributions**

The SI Law 2024 clarifies that the salary taken as the basis for compulsory SI contributions for employees receiving salaries decided by the employer is the monthly salary, including: (a) salary according to the job or position, (b) salary allowances, and only (c) other additional amounts agreed to be paid regularly and stably in each salary payment period (*narrowed from all other additional amounts as provided by labour laws under the SI Law 2014*).

### **4. Compulsory SI payment period**

The SI Law 2024 extends the compulsory SI payment period for employers. Accordingly, for the monthly SI payment method, employers can pay compulsory SI (the employer's obligation part) no later than the last day of the following month (*instead of the last day of the current month according to the SI Law 2014*).

### **5. Monthly pension level**

The SI Law 2024 retains the provisions of the SI Law 2014, as follows:

(a) For female employees, the monthly pension is equal to 45% of the average salary used as the basis for SI contributions, corresponding to 15 years of SI contributions, then 2% is added for each additional year of contributions, up to a maximum of 75%.

(b) For male employees, the monthly pension is equal to 45% of the average salary used as the basis for SI contributions, corresponding to 20 years of SI contributions, then 2% is added for each additional year of contributions, up to a maximum of 75%.

However, the SI Law 2024:

(a) Amends the regulations on monthly pensions for pensioners due to reduced working capacity; accordingly, in the cases where less than 6 months before the full retirement age, the pension percentage will not be reduced, from 6 months to less than 12 months, the pension will be reduced by 1% (*in contrast to the regulations of the SI Law 2014, where less than 6 months up to the full retirement age, the reduction rate is 1%, from more than 06 months, the percentage due to early retirement will not be reduced*); and

(b) Adds regulations on:

(i) In the cases where male employees have paid social insurance for 15 years to less than 20 years, the monthly pension will be equal to 40% of the average salary used as the basis for social insurance payment, corresponding to 15 years of social insurance payment, then each additional year of payment will be calculated by adding 1%.

(ii) Calculating the monthly pension of employees working in different countries; accordingly, if an employee is eligible for a pension under the provisions of an international treaty to which Vietnam is a member but has paid SI in Vietnam for less than 15 years, each year of SI payment under the provisions of the international treaty shall be calculated at

2.25% of the average income taken as the basis for SI payment (i.e. equal to the benefit level of a male employee working in Vietnam with 20 years of SI payment as mentioned above). This provision aims to promote implementation of SI agreements with countries such as Republic of Korea, including an agreement on calculating the total time of SI participation under the laws of the two signing countries to determine the conditions for SI benefits under the laws of each party for employees working in both countries.

## **6. One-time pension upon retirement**

The SI Law 2024 retains the provisions of the SI Law 2014, allowing male employees with a SI premium payment period of more than 35 years and female employees with a SI premium payment period of more than 30 years upon retirement, in addition to their pension, to receive a one-time allowance equal to 0.5 times the average salary taken as the basis for SI premium payment for each year of payment exceeding the retirement age as prescribed by law. However, the SI Law 2024 adds the provisions on one-time allowances after meeting retirement conditions to encourage employees to continue paying SI after retirement age. Specifically, regarding employees who have met the conditions for a pension as prescribed and continue to pay SI, the one-time allowance before retirement will be equal to 2 times the average salary taken as the basis for SI payment for each year of payment exceeding 35 years for male employees and 30 years for female employees from the time after reaching retirement age as prescribed by law until the time of retirement.

## **7. One-time SI benefits payment**

The SI Law 2024 adds several cases where SI participation has been ended but upon request, the SI participants are entitled to one-time SI benefits payment, such as:

(a) Employees who are old enough to receive pension but have

not paid SI for 15 years. In this case, employees who do not receive one-time SI benefits payment can choose to receive monthly allowances;

(b) People with a working capacity reduction of 81% or more; people with extremely severe disabilities;

(c) Employees who have paid SI before the effective date of the SI Law 2024, after 12 months are not subject to compulsory SI participation but also do not participate in voluntary SI and have paid SI for less than 20 years;

(d) Employees who are eligible to receive pension according to the regulations but do not continue to reside in Vietnam; and

(e) Employees whose employment contracts are terminated or whose work permits, practice certificates, or practice licenses expire without renewal.

#### **8. Management of SI collection and payment, and measures to deal with SI participation evasion**

In order to minimize late payment of SI and evasion of SI participation, especially in the case of long-term late payment and evasion leading to the inability to recover SI, helping to ensure the employees' right to participate in SI and enjoy SI benefits, the SI Law 2024 clearly explains what late payment of SI and evasion of SI and unemployment insurance ("**UI**") are and adds:

(a) Regulations on management of SI collection and payment, which stipulate the responsibilities of agencies in identifying and managing entities eligible to participate in SI; and

(b) Measures to handle and strengthen sanctions to ensure the enforcement of SI laws as follows:

(c) Compulsory payment of the full amount of late payment and payment of an amount equal to 0.03%/day (similar to late

payment of tax) calculated on the amount of late payment of SI and UI and the number of days of late payment to the SI and UI funds for all cases of late payment of SI and UI or evasion of compulsory SI and UI participation; and

(d) Administrative penalties according to the provisions of law for acts of late payment of compulsory SI and UI; Administrative penalties or criminal prosecution according to the provisions of law for acts of evasion of compulsory SI and UI participation.

## **9. SI book**

In addition to the paper SI book, for the first time, the SI Law 2024 has new regulations on SI books formulated on an electronic environment and issued to each employee. SI book issued in electronic format and paper one have the same legal value. However, to suit practical conditions, the SI Law 2014 has transitional regulations, according to which (a) no later than 1 January 2026, SI books will be issued in electronic format, (b) from that point of time, paper SI book will only be issued when requested by SI participants, and (c) from now until that point of time, paper SI book will continue to be used.

The SI Law 2024 also shortens the time limit for issuing compulsory SI books to 5 working days from the date of receiving complete documents as prescribed (*according to the SI Law 2014, this time limit is 20 days*).