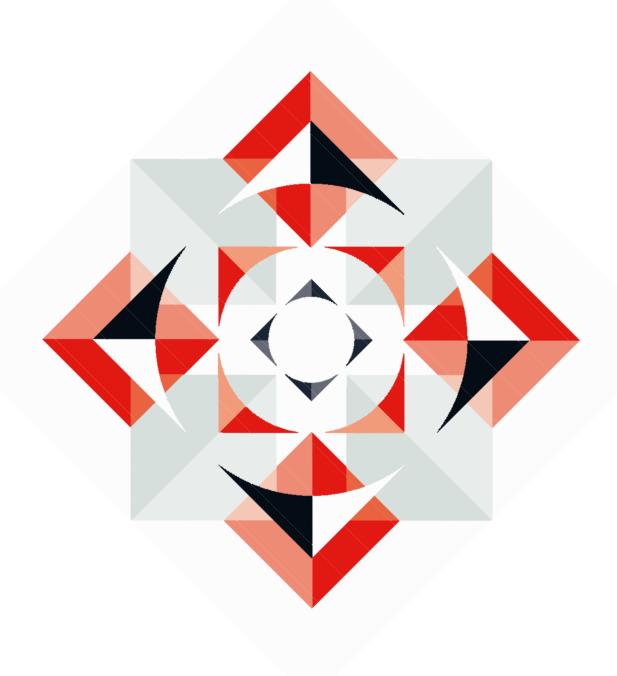


Immigration law in Vietnam – an overview



Inside

Business visitors
Permitted activities
Visa categories
Employment authorisation

inbrief



Introduction

This inbrief is designed to provide a general overview about business visits and employment authorisation requirements for Vietnam. As with all countries the immigration laws may be amended with little or no notice and this guide is designed to be general in nature.

This publication provides general guidance only: expert advice should be sought in relation to particular circumstances. Our Hong Kong office can source Vietnamese law advice through its links with local firms in Vietnam.

Business visitors

What constitutes a business visit?

A business visit is generally a short term trip in order to undertake business related activities for which the Immigration Authorities in the destination country would not require the individual to have employment or work authorisation.

It is important to note that the activities conducted will define the nature of the trip to Vietnam and not the length of the trip. For example, a short visit may require the individual to hold employment or work authorisation because the activities amount to substantive, productive work.

Permitted activities

What constitutes a permitted activity?

Business visitors must generally limit their activities in Vietnam to the following:

- Attending business meetings or discussions
- Attending exhibitions or trade exhibitions
- Attending seminars or "fact-finding" meetings
- Making sales calls to potential clients provided that the visitor represents a commercial entity outside of Vietnam

Individuals should note that even in circumstances where activities are limited to the above, employment or work authorisation may be required if the visitor will generate profit for the host entity, receive compensation or take direction from the host entity in Vietnam. For specific advice on legally permitted activities, please contact our immigration lawyers.

Visa categories

In most cases (unless visa-exempt), foreign nationals will require a business (HN) visa. This visa should be obtained from the Vietnamese embassy or consulate in the foreign national's country of origin or legal residence.

Basic requirements

The following are general requirements for

business visitors and are subject to change by the Vietnamese immigration authorities:

- The foreign national must show a genuine intention to visit for business purpose
- The foreign national must provide business visa authorisation from the Vietnam sponsor (issued by the Vietnamese Immigration Department, Ministry of Public Security)
- The foreign national must provide evidence that there are no restrictions for traveling to Vietnam

Please note that documentary requirements and processing times vary by diplomatic post and country. Please contact our immigration lawyers for specific advice.

Maximum period of stay

This visa allows business visitors to make a singleentry visit to Vietnam for up to three months during the visa validity period. The visa may be renewed only after the visitor has left Vietnam.

Employment authorisation

Permission for foreign nationals to take employment and work in Vietnam is more complex than entry as a business visitor. Unless exempt, foreign nationals who intend to work in Vietnam must have a Work Permit. In addition, a visa or temporary resident card is also required. This section provides the basic requirements for some of the most commonly work visa categories: DN visas (for foreign nationals who will work with a Vietnamese entity) and LD visas (for other foreign workers). Please contact our immigration lawyers for specific advice on other visa categories.

Work permit and visa validity periods

A Work Permit for foreign employees will be valid for a maximum of two years and may be renewed for another two years at the discretion of the Vietnamese immigration authorities.

The validity periods of the work visas vary depending on the purpose of entry. The DN visa is generally issued for up to 12 months, while the LD visa is generally issued for 2 years.

Basic Requirements

Employers have to comply with strict application





requirements to recruit foreign nationals. For the foreign national to be issued a Work Permit, an employer must prepare and file a plan within 30 calendar days with the provincial People's Committee, indicating the recruitment of foreign nationals for each job for which Vietnamese citizens do not qualify.

Depending on the type of visa applied for:

- The foreign national must be at least 18 years of age
- The foreign national must hold the position of a manager, executive, expert or technician role
- The foreign national must not have a criminal record that involves a national security offence in Vietnam or overseas
- The employer must receive approval to recruit a foreign national
- The foreign national must provide the evidence of the intra-company transfer decision
- The foreign national must prove that he or she has been employed by the foreign entity for at least 12 consecutive months prior to coming to Vietnam to work (e.g. by way of the employment contract, confirmation from parent company, decision on employment recruitment or receipt of tax or insurance payments)

Submission Process

The process for obtaining employment and work authorisation involves four steps, summarised below:

- 1. Applicants can apply for a Work Permit in person or by post to a Vietnamese embassy or consulate.
- 2. Applicants must receive the authorisation letter from the Vietnamese Immigration Department to obtain a work visa at the Vietnamese embassy or consulate.
- 3. Once in Vietnam, the foreign national must obtain residence registration from the local police.
- 4. A foreigner national who has stayed in Vietnam for more than one year may apply for a temporary residence card ("TRC") from the Vietnamese Immigration Department which would permit the foreign national to stay in Vietnam without a visa during the validity period of the TRC.

Documents issued by a foreign country and used for the submission process must be legalised. If the document is written in a foreign language, a notarised Vietnamese translation of the legalised document will be required. This can take several weeks and significantly delay the application process.

Please note that documentary requirements and processing times may vary. Additionally there are financial and custodial penalties for non-compliance with immigration requirements in Vietnam. Please contact our immigration lawyers for specific advice.

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