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Understanding Vietnam's Labor Market and Key HR Compliance in 2021

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Section 1
Vietnam at Glance

Vietnam's Economy and FDI Disbursement in 2020

2.91%
GDP Growth Rate

7%
Export Growth Rate

US\$19.98 billion
FDI Disbursement

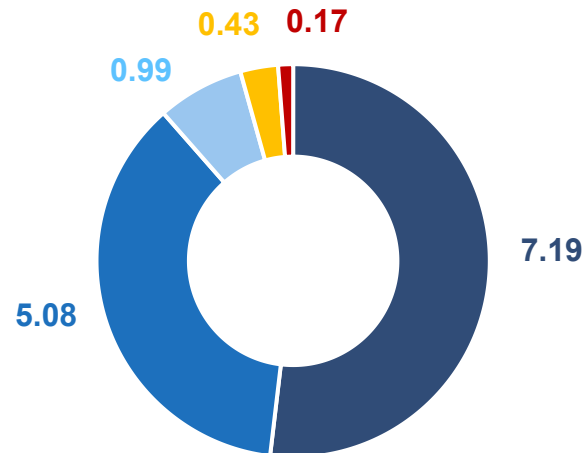
US\$545.35 billion
Import and Export Turnover

2,523
New Projects
granted investment
certificate

112
Investor Countries
and Territories

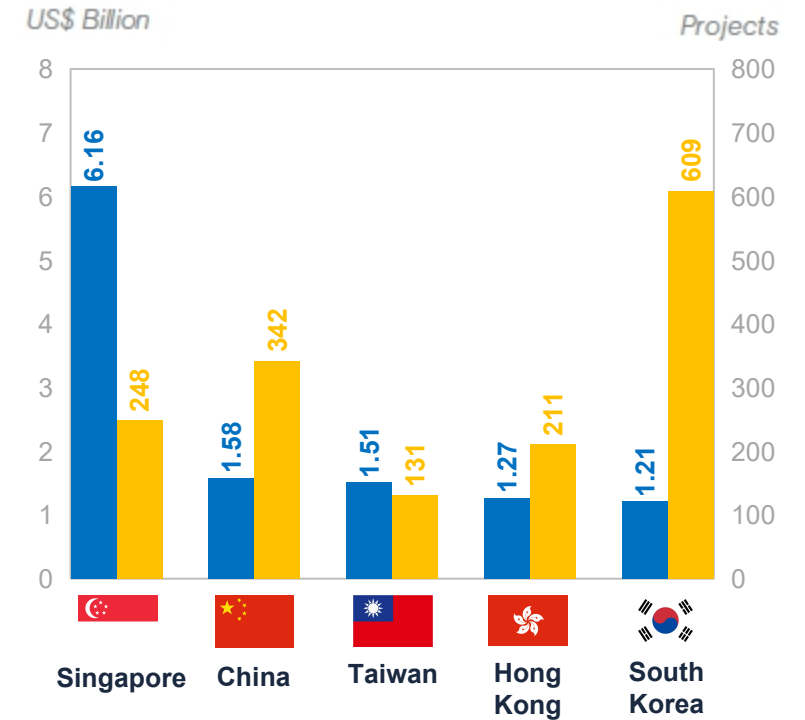
Top 5 Sectors Receiving Investment (US\$ Billion)

- Manufacturing and Processing
- Electricity, Gas, Steam and Air Conditioning Supply
- Real Estate Activities
- Wholesale and Retail Trade; Repair of Motor Vehicles
- Professional, Scientific and Technical Activities












Top 5 Countries Investing in Vietnam

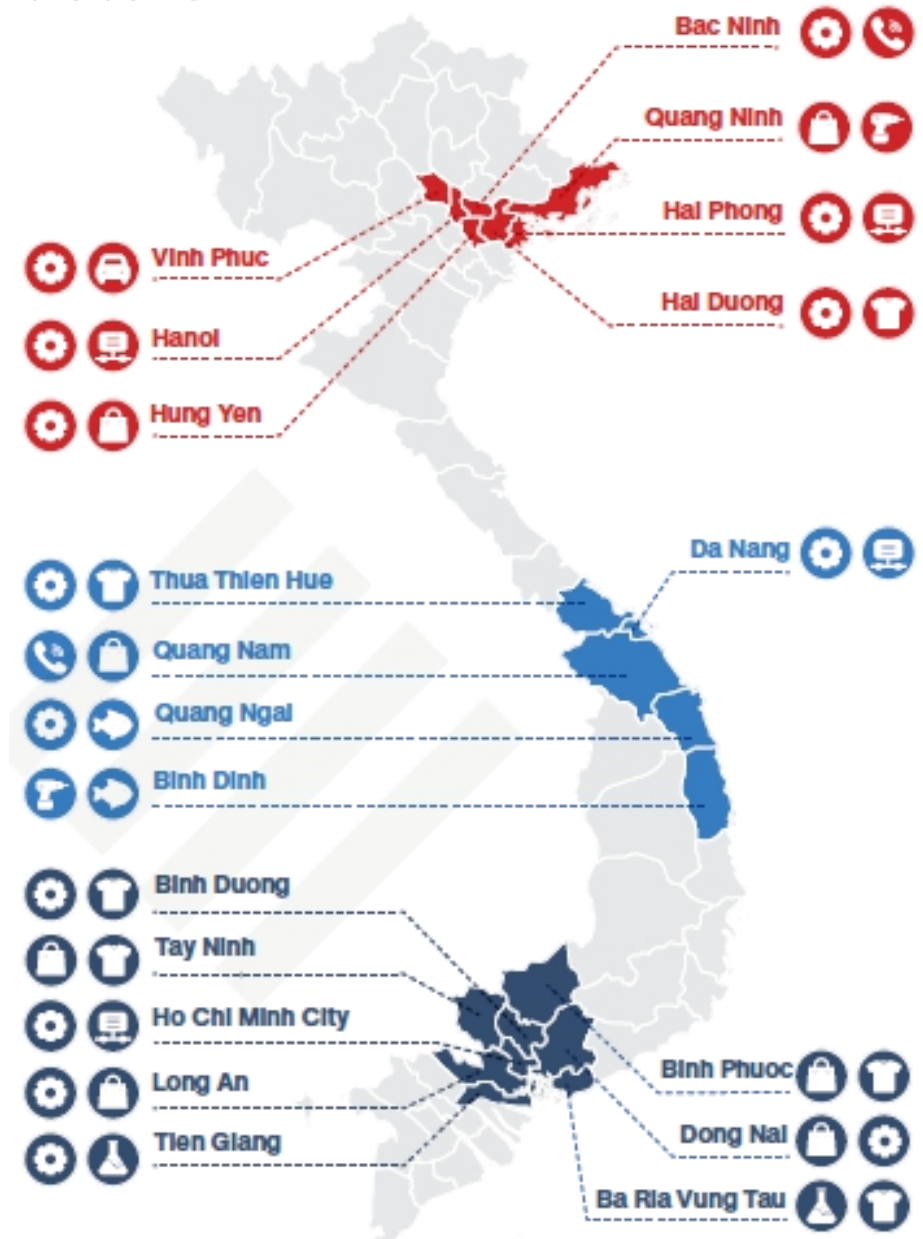
- Total registered capital (US\$ Billion)
- Newly granted projects



Source: Ministry of Planning and Investment


Vietnam's Key Industrial Clusters

-  Electronics and Mechanical engineering
-  IT
-  Automobile
-  Textile and Garment
-  Telecommunication
-  Consumer goods
-  Construction materials
-  Forestry and Fisheries
-  Chemical and Chemical products



Key Market Entry Options

Corporate vehicle	Common purpose	Estimated set up time	Pros	Cons
Representative Office	Non separate legal entity Market research	6-8 weeks	Simple registration procedure	Cannot do business Parent company bears liability
Branch Office	Non separate legal entity Commercial activity	6-8 weeks	Can remit profits abroad	Business is limited Parent company bears liability
Limited Liability Company	Separate legal entity	Time to find location + 2-4 months	No restrictions on business scope	Cannot issue shares Max 50 shareholders
Joint-Stock Company	Separate legal entity	Time to find location + 2-4 months	No restrictions on business scope	At least 3 shareholders Supervisory board
Public-Private Partnership	Access to infrastructure development projects	2-4 months + negotiation/bidding	Only way of accessing certain projects	Several PPP models Unsure returns



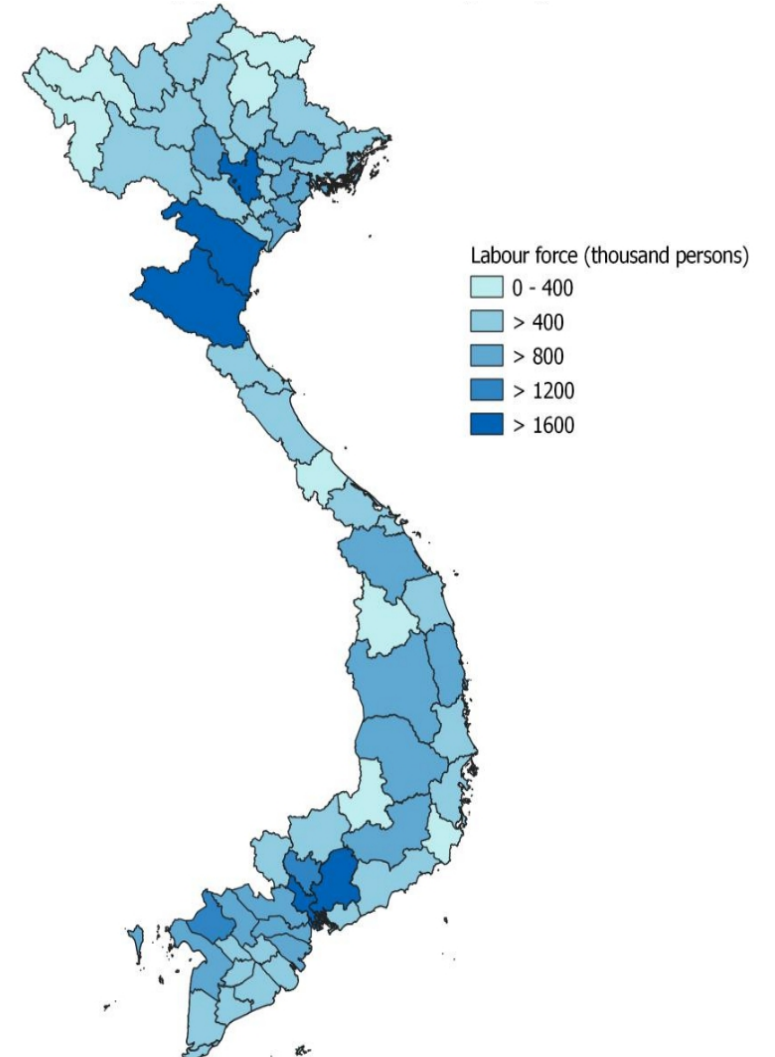
Section 2
**Vietnam's Labor
Market**



Vietnam

Capital	Hanoi
Population	96.5 million (2019)
Area (sq. km)	331,236
Political structure	Single party socialist republic (general secretary as de facto party and country leader; president as head of state)
Major language	Vietnamese
Major religions	No religion / atheism (74%); Mahayana Buddhism (13%), Christianity (8%)
Life expectancy	70 years (men); 79 years (women)
Currency	Vietnamese Dong
GDP Growth	7% (2019)
Exports	106.8% of GDP (2019)
Imports	103.6% of GDP (2019)
Main exports	Mobile phones (19%); Electronic parts & computers (14%); Textiles (12%)
Main imports	Motor vehicles (55%); Electronic parts & computers (20%); Plastics (6%)
Unemployment rate	2.1% (2019)
Labor force	57% (2019)
Main industries	Manufacturing (16% of GDP); Agriculture (14% of GDP); Services (51% of GDP)

Labor force by province in Vietnam (2019)



Targeted Locations



Hanoi Metro Area

Hanoi, Vinh Phuc, Phu Tho,
Bac Ninh, Bac Giang, Ha Nam, Hung Yen

18,495 sq.km

16.01 million people

US\$68 bn GDP

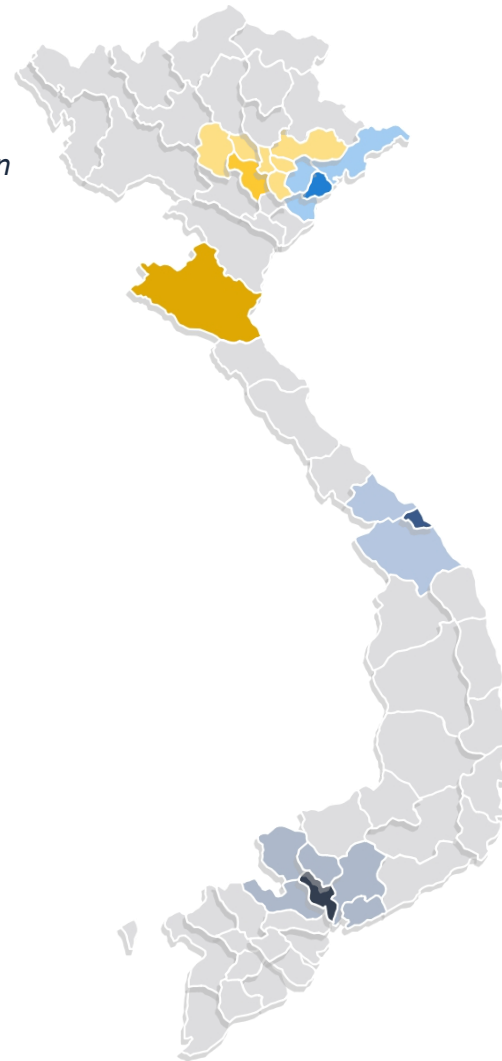


Nghe An Province

16,490 sq.km

3.34 million people

US\$5.4 bn GDP



Hai Phong Metro Area

Hai Phong, Hai Duong, Quang Ninh, Thai Binh

10,995 sq.km

7.12 million people

US\$26.9 bn GDP



Da Nang Metro Area

Da Nang, Thua Thien – Hue, Quang Nam

16,762 sq.km

3.77 million people

US\$12.5 bn GDP



Ho Chi Minh City Metro Area

HCMC, Binh Duong, Dong Nai, Ba Ria – Vung Tau,
Long An, Tay Ninh

21,137 sq.km

18.63 million people

US\$112 bn GDP

Hanoi – Hai Phong Metro Area

Labor Availability

Hanoi – Haiphong Metro Area has an **abundant labor force** with **young** labor structure. Labor concentrates mostly in **industrial clusters** such as Hanoi, Bac Ninh, Bac Giang, Hai Phong. The Metro Area is also home to one of the greatest **skilled labor supplies** in Vietnam.

However, labor shortage occurs frequently in manufacturing sector due to **high turnover** rate, especially in peak seasons. Factories generally employ a large number of migrant workers, both unskilled and skilled.

In short-term, labor demand will rise dramatically as more industrial parks will be opened in the next few years, particularly for unskilled labor. This will lead to higher competition in recruitment. Salary and other welfares are key factors to attract and retain workers.

In long-term, demand will gradually decline as factories apply more automation machinery and technology.

Labor Cost

Due to high living standards and good labor quality, **labor cost in the area is relatively high.**

Within the area, labor cost is the highest in Hanoi and Bac Ninh, followed by Bac Giang, Vinh Phuc, Hung Yen, Hai Phong. Hai Duong, Ha Nam, Phu Tho are provinces with lower labor cost. Minimum wage largely affects the regional wage disparity.

Annual salary increase is based on the economic situation, the adjustment of the government and enterprises' budgets and strategies, which is normally at 5 - 12%. Unskilled and semi-skilled labor generally get 5 - 7% wage increase. Meanwhile, skilled labor would be able to get a maximum increase of 12%. Besides, salary raise also depends on the business scale and origin of the enterprises. For instance, European companies have a higher wage increase rate, while the Korean and Japanese are lower.

Regulatory Environment

Using Provincial Competitiveness Index to evaluate regulatory environment, Quang Ninh province topped the list, followed by Bac Ninh, Hanoi and Hai Phong.

Tax incentives have been one of the key elements in Hanoi – Haiphong Metro Area's tax policy, making this Metro Area become an attractive investment destination for foreign direct investment.

Additionally, special incentives and subsidies are granted to projects on the list of fields with special investment incentives and great socio-economic impacts.

Labor Availability | Hanoi Metro Area

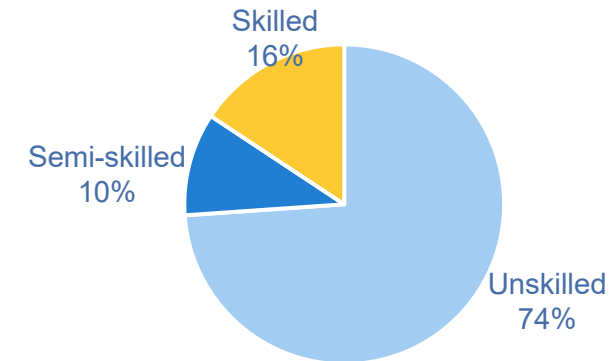
Over
8.7 million
Total labor force

Accounts for
15%
Of national labor force

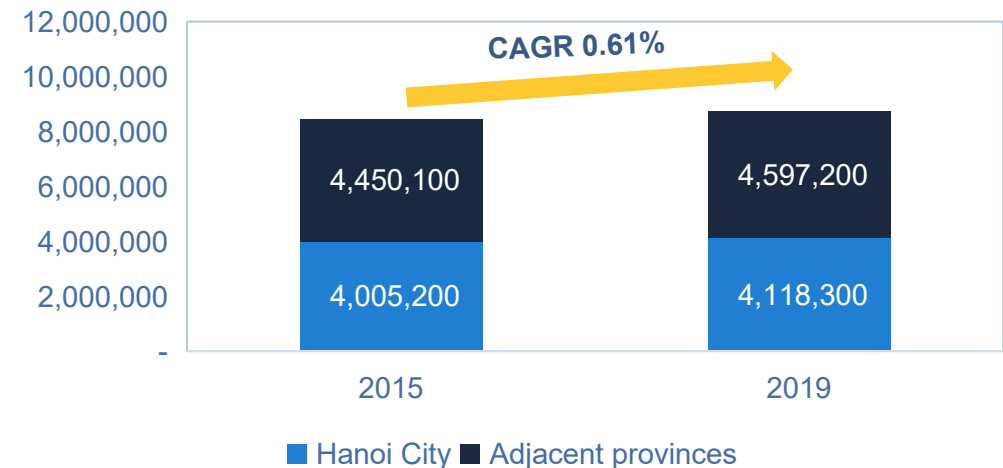
Approximately
2,156 labor/ sq. km
Labor density



Labor structure by qualification, 2019



Labor force by area, 2015 – 2019



Labor Availability | Hai Phong Metro Area

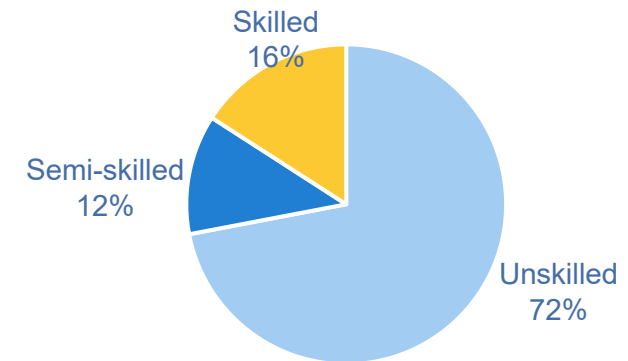
**Over
4 million**
Total labor force

**Accounts for
7.2%**
Of national labor force

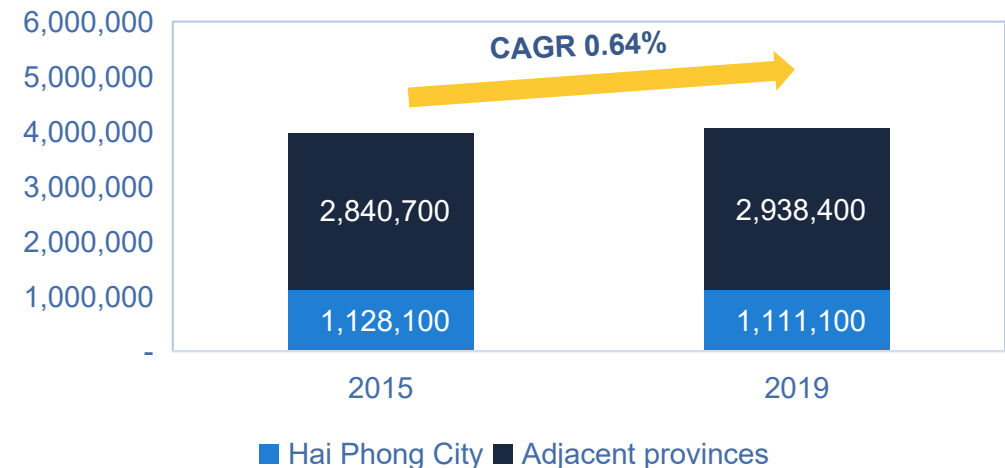
**Approximately
547 labor/ sq. km**
Labor density



Labor structure by qualification, 2019



Labor force by area, 2015 – 2019



Nghe An Province

Labor Availability

Nghe An is a densely populated province with one of the most abundant labor supply in Vietnam. Most of the labor force working in the province are still involved in agricultural, forestry, fishery. However, labor movement towards manufacturing sector has risen dramatically in recent years.

Recruiting skilled labor is a challenge in the province, especially for highly-skilled engineers and senior managers. Most of labor in such positions are migrant labor.

Previously, local people tend to migrate to other localities or other countries to seek job opportunities with the desire to have a higher income and a better life. Now as more foreign manufacturing companies relocate to Nghe An, the demand for workers, both unskilled and skilled, plus the market demand for technology products, is increasing

Labor Cost

Labor cost in Nghe An is considered as lowest among other provinces in Vietnam. Most towns and districts in the province still belong to areas with difficult/ very difficult socio-economic conditions. Cost of living in the area is significantly lower than those in Northern and Southern Metro Area.

Annual salary increase is based on the economic situation, the adjustment of the government and enterprises' budgets and strategies, which is normally at 5 - 12%. Unskilled and semi-skilled labor generally get 5 - 7% wage increase. Meanwhile, skilled labor would be able to get a maximum increase of 12%.

Regulatory Environment

Using Provincial Competitiveness Index to evaluate regulatory environment, Nghe An ranked 18th nationwide, leading the North Central Coast provinces.

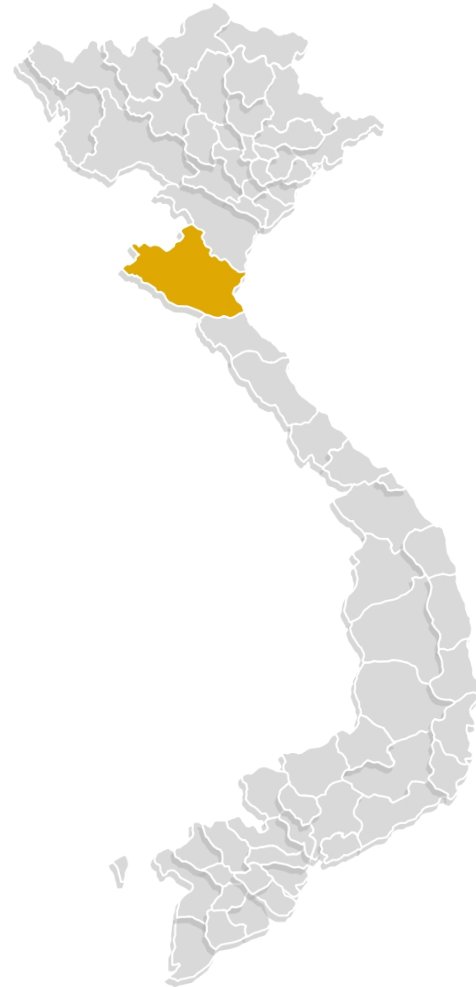
A wide range of tax incentives have been applied for projects in areas with difficult/very difficult socio-economic conditions, such as CIT reduction, exemption from import and export tax, land use tax reduction, exemption from land lease fee. Furthermore, the provincial government also offers an incentive for local labor recruiting and training. Special incentives and subsidies are granted to projects on the list of fields with special investment incentives and great socio-economic impacts.

Labor Availability | Nghe An Province

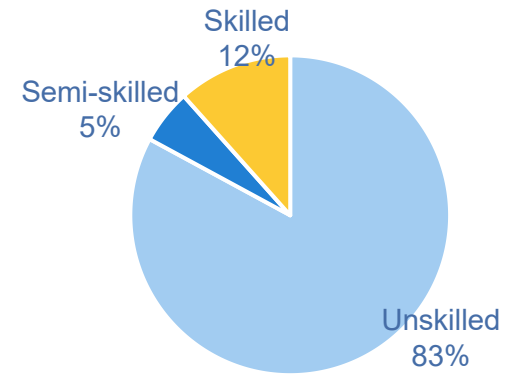
Over
1.9 million
Total labor force

Accounts for
3.5%
Of national labor force

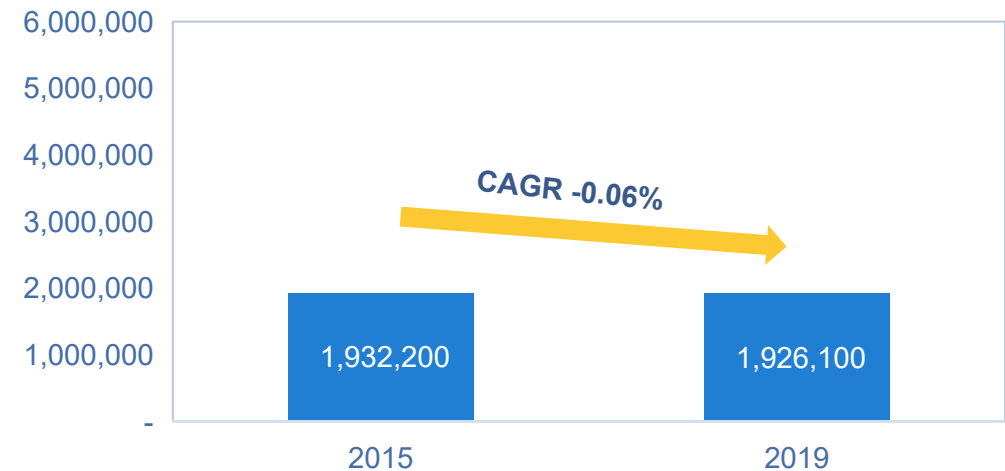
Approximately
117 labor/ sq. km
Labor density



Labor structure by qualification, 2019



Labor force by area, 2015 – 2019



Da Nang Metro Area

Labor Availability

Da Nang Metro Area's workforce accounts for 56% of the population. Its young and dynamic labor force has benefitted from the area's educational offerings. Employers find it comparatively easier to source qualified labor in Da Nang Metro Area due to well established universities and vocational school in the area. Training courses predominantly focus on science, engineering, IT, and economics.

Investment in Da Nang is creating more jobs – and competition for talent – in tourism, real estate, education, entertainment and IT. While this has helped attract workers to the area, some businesses find it difficult to hire and retain high-tech workers and senior managers.

In contrast to other areas where IPs are far removed from city centers, most of the IPs in Da Nang are situated within the city and nearby areas on the outskirts of the city. For IPs that are away, employees are willing to work there if investors arrange transportation.

Labor Cost

Labor cost in Da Nang Metro Area is even higher than Hanoi – Hai Phong Metro Area, but still lower than Ho Chi Minh Metro Area.

The high level of labor cost in the area may attribute to its great and stable supply of qualified labor, accompanied by increasing demand in the recent years.

Regulatory Environment

Using Provincial Competitiveness Index to evaluate regulatory environment, Da Nang and Quang Nam respectively ranked 5th and 6th nationwide, followed by Thua Thien – Hue.

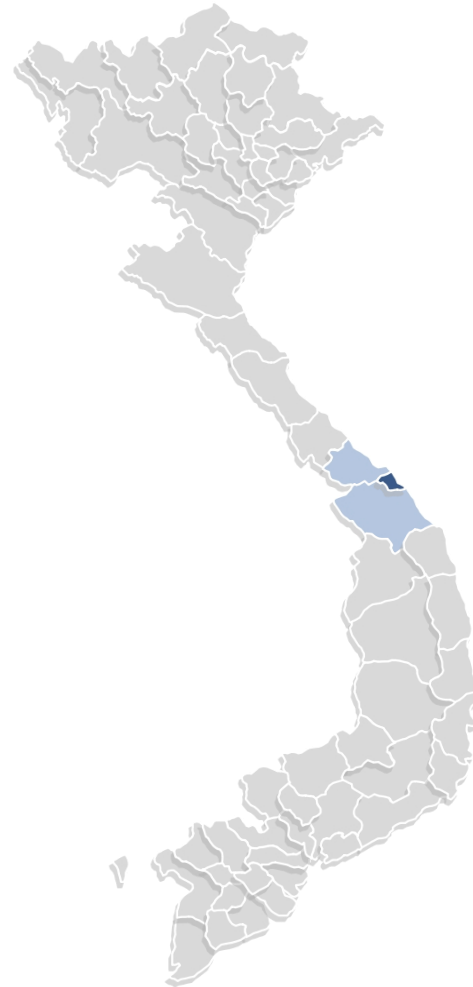
The local government's pro-business policies offer many incentives for investors in the fishing, manufacturing, infrastructure, service, and tourism industries. The government also provide favorable conditions for investors in specific geographical areas, such as the Da Nang High-tech Park.

Labor Availability | Da Nang Metro Area

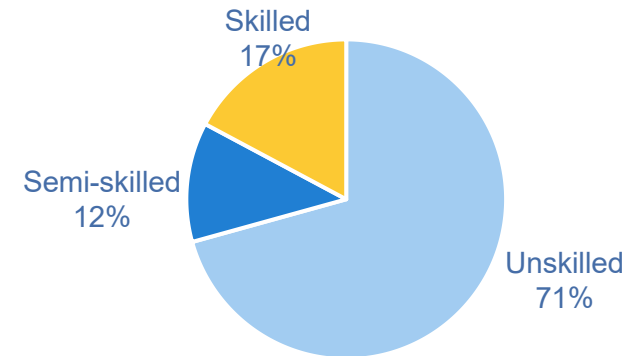
Over
2.1 million
Total labor force

Accounts for
3.8%
Of national labor force

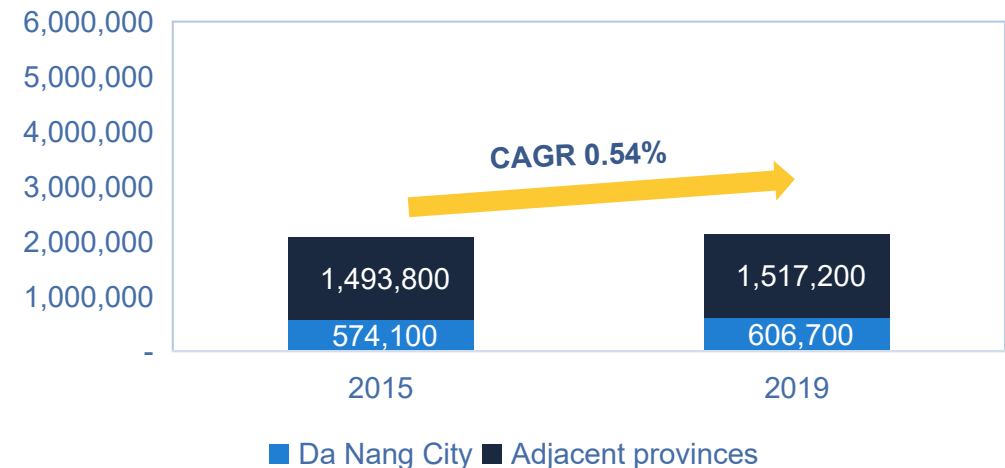
Approximately
127 labor/ sq. km
Labor density



Labor structure by qualification, 2019



Labor force by area, 2015 – 2019



Ho Chi Minh City Metro Area

Labor Availability

Labor supply in Ho Chi Minh City Metro Area is the most abundant in Vietnam, with a high share of migrant labor, since the Metro Area is known as the commercial hub of the country. Labor concentrates in large cities and industrial clusters in the region, such as Ho Chi Minh City, Binh Duong and Dong Nai.

Labor pools in the area are more diversified than its counterparts. Investment in services and a wider range of manufacturing provides access to more niche talents than in the central and the north. Professional services, IT, and hospitality are key labor pools that have seen significant growth in the last decade.

While talent is available and supported by numerous institutions within Ho Chi Minh City, competition is high between employers for talent in the area. Turnover, particularly during for immediately following the initial hiring process, can create significant delays for companies seeking for initiate production.

Labor Cost

Labor costs in Ho Chi Minh City Metro Area are some of the highest in Vietnam.

Within the area, labor cost is the highest in HCMC, followed by Binh Duong and Dong Nai Province.

Manufacturing operations have all but left the city center and those remaining are forced to pay a premium for workers to account for increased living costs within the city. The level of experience of an employee will play a large role in their expectations.

Regulatory Environment

Using Provincial Competitiveness Index to evaluate regulatory environment, Long An province led the group, currently ranks at 8th nationwide, followed by Binh Duong, Ho Chi Minh City and Tay Ninh.

According to government's planning, the area is dedicated to the development of commerce, exports, technology, services, and telecommunications. Investment incentives are designated accordingly and available in terms of financial and non-financial privileges.

Labor Availability | Ho Chi Minh City Metro Area

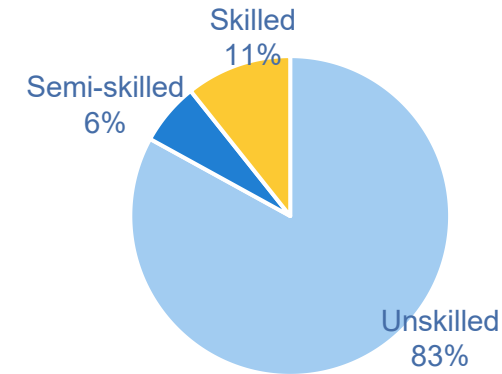
Over
10.6 million
Total labor force

Accounts for
19.1%
Of national labor force

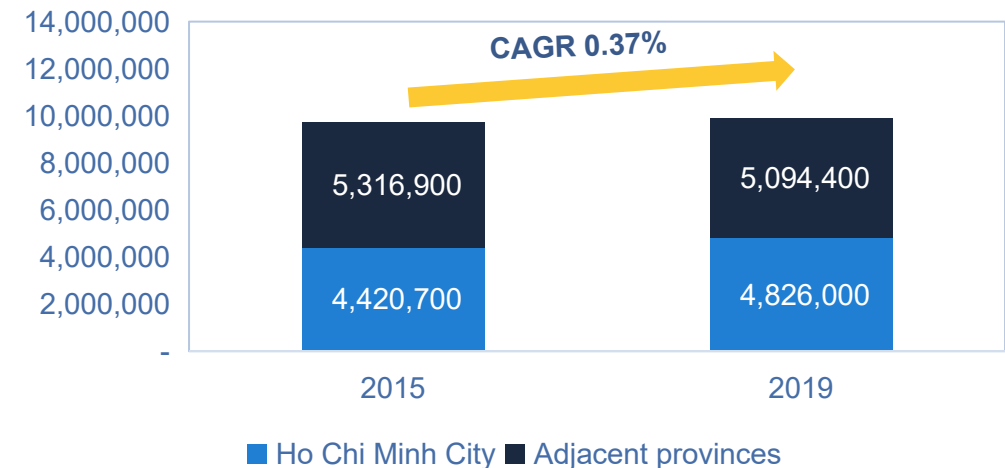
Approximately
503 labor/ sq. km
Labor density



Labor structure by qualification, 2019

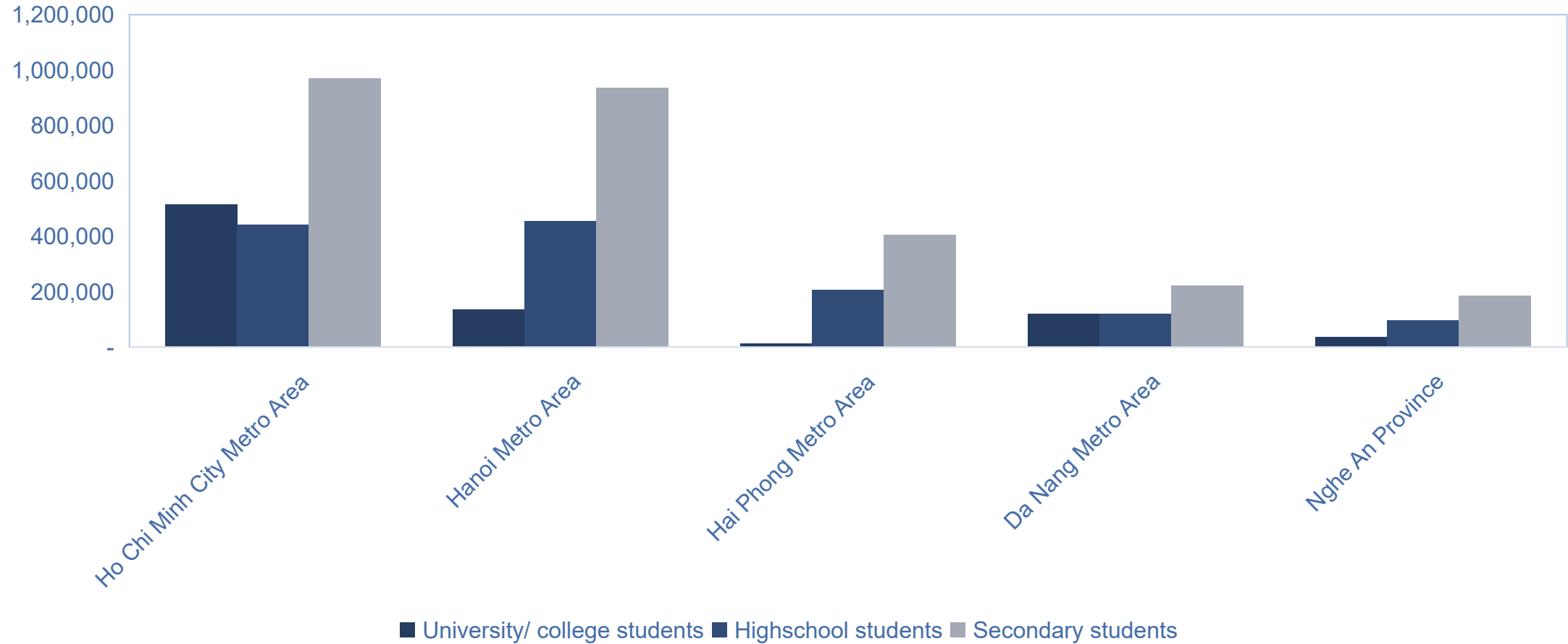


Labor force by area, 2015 – 2019



Labor Supply

Labor supply, 2019



Future development of labor market and availability

Education trends

- Declining percentage of high school students taking Graduation Exam to apply for higher education because:
 - COVID-19 has affected both economic conditions and academic performance of candidates.
 - Candidates are more sensitive to increasing tuition fee at tertiary education institutions when deciding to study higher or participate in the labor market upon graduation.
 - Career guidance increasingly focus on technical and vocational occupations.
- Top occupations regarding vocational enrollment:



Automotive



Electronics



Mechanical Engineering



Textile and Garment



Hospitality

Skill shortage rate

- 50% of fresher graduates is weak in terms of foreign language skills and adaptability to working environment.
- Specific positions in the manufacturing sector that current labor force is lacking include:
 - Technical lab, in accordance with industry standard
 - Pattern development/ Design in the garment industry
 - Technical worker, CNC operator, automation machine operator

Future labor trends

- Salary and other welfares remain key factors to attract labor.
- More automation leads to job cut. Labor needs to improve skills, otherwise machines will replace workers.
- Higher specialization is shaped by concentrated industrial sector-specific clusters, such as for textiles or electronics, to avoid labor shift to other industries.
- Trade unions may have a greater influence.



Section 3
Personal Income Tax

Tax Residency Basic concepts



Law 04/2007/QH12 on Personal Income Tax

All foreigners working in Vietnam or not being present in Vietnam but earning taxable incomes in Vietnam are responsible to pay Personal Income Tax (PIT)

➤ Taxpayers are distinguished between tax resident and non-resident individuals

- **Tax residents** pay PIT in Vietnam on their **global income**
- **Non-residents** pay PIT in Vietnam on their **Vietnam's sourced incomes** and on **incomes paid by a local employer**

Tax resident

Being present in Vietnam for at least 183 days in a calendar year or 12 consecutive months counting from the date of his/her presence in Vietnam

Having a place of habitual residence in Vietnam: either having a place of permanent residence or a rented house for dwelling in Vietnam under a rent contract with a term of 183 days or more



Gov't Decree 65/2013/ND-CP

In case an individual has a place of permanent residence in Vietnam but is present in Vietnam for less than 183 days and fails to prove he/she is resident in another country, this individual will be considered tax resident in Vietnam

PIT Calculation

Tax Resident

PIT = Assessable Income x Progressive Tax Rate

Assessable Income = Gross Taxable Income – Basic Deductions

Gross Taxable Income = Gross Income – Tax Exemption and Non-Taxable Income

Non-Resident

➤ *PIT rates for incomes from business activities:*

- *1% for **trading** of goods*
- *5% for **service** provision*
- *2% for production, construction, transportation and other business activities*

➤ *PIT rate for employment incomes: **20% flat** rate*

PIT Calculation Formulas for Non-Residents

Where the non-resident is not present in Vietnam

$$\text{Total income earned in Vietnam} = \frac{\text{Number of working days in Vietnam}}{\text{Number of working days in the year}} \times \text{Pre-tax global income from wages} + \text{Other pre-tax taxable income earned in Vietnam}$$

Where the non-resident is present in Vietnam

$$\text{Total income earned in Vietnam} = \frac{\text{Number of days in Vietnam}}{365 \text{ days}} \times \text{Pre-tax global income from wages} + \text{Other pre-tax taxable income earned in Vietnam}$$

PIT Rates for Employment Income Tax resident

Tax Bracket	Monthly Taxable Income (MTI) in VND	MTI in USD (1 USD = 23,150 VND)	Tax Rate
1	MTI ≤ 5,000,000	MTI ≤ 216	5 %
2	5,000,001 to 10,000,000	Between over 216 and 432	10 %
3	10,000,001 to 18,000,000	Between over 432 and 776	15 %
4	18,000,001 to 32,000,000	Between over 776 and 1,382	20 %
5	32,000,001 to 52,000,000	Between over 1,382 and 2,246	25 %
6	52,000,001 to 82,000,000	Between over 2,246 and 3,456	30 %
7	MTI > 82,000,000	Over 3,456	35 %



Monthly Basic Deductions Tax resident

Personal Deductions

- VND 11 million per month for each taxpayer
- VND 4.4 million per month for each dependent of the taxpayer

Deductions for insurance premiums

- Include premiums for social insurance, health insurance, unemployment insurance and professional liability insurance, which is compulsory for some professions

Deductions for the contribution to charitable, humanitarian and study encouragement funds

PIT Rates for Other Incomes

Type of incomes	Tax rate (%)	
	For residents	For non-residents
Capital investment	5	5
Capital transfer	20 on net gain	0.1 on gross sale proceeds
Transfer of real estate	25 on net gain or 2 on gross sale proceeds	25 on net gain or 2 on gross sale proceeds
Commercial franchising	5	5
Royalties	5	5
Gifts or inheritance	10	10
Rewards or won prizes	10	10

Tax-Exempt Incomes

➤ General Tax-Exempt Incomes

- Lunch (\leq VND 730,000/month) and uniform allowances (\leq VND 5 million/year)
- Per diem allowances (in line with companies' internal regulations)
- Stationery and telephone allowances (in line with companies' internal regulations)
- Wage amounts for night shifts and overtime exceeding the standard wage

➤ Expatriate Concessions

- One-off relocation allowance for moving to Vietnam – based on the labor contract
- School fees for children from kindergarten up to high school – must be paid in Vietnam directly to the school, only for tuition
- Airfares for 1 roundtrip home leave per year – not applicable for family members
- Compulsory insurance contributions in accordance with the expatriate's home country
- Accommodation – taxable based on the actual rent amount but not exceeding 15% of the total gross assessable income (excluding the accommodation cost)

Annual Bonus

- Bonuses are **subject to PIT** in Vietnam
- Bonuses are **subject to SHUI** withholdings if both the following conditions are verified:
 - Paid on a **monthly** basis
 - Have a **fixed** amount

Inspections Supporting documents



Prime Minister's Decision 41/2018/QĐ-TTg on Regulations, tasks, powers and organizational structure of the General Department of Taxation under the Ministry of Finance

- The General Department of Taxation has the right to ask for supporting documents relevant to tax calculation and payment from individuals and organizations (Art. 2)
- In general, officials will review the supporting documents, including:
 - Labor contract
 - Staff handbook (reimbursements' policy and guidance)
 - Leasing contracts, rent payment official tax invoices, travel expenses official tax invoices
 - Original tax receipts



Section 4
Social Insurance

Social, Health & Unemployment Insurance (SHUI)

There are 3 types of compulsory insurances applicable to employees in Vietnam:

- **Health Insurance (HI)**
- **Social Insurance (SI)** – compensation for sickness and maternity leave, occupational diseases, accidents, retirement, death
- **Unemployment Insurance (UI)**

Foreign employees contributes for:

- **Health Insurance (HI)**
- **Social Insurance (SI)**, if they meet the following conditions:
 - Working in Vietnam with a Work Permit
 - Employed under a valid labor contract with an indefinite term or with a fixed term of at least 12 months
 - Under 60 years of age (men) or under 55 years of age (women)
 - Not an intra-company transferee – i.e. must be managers, executives, experts, technicians employed by the overseas entity for at least 12 months before being assigned to the company's operations in Vietnam

Foreign employees would also get a one-time payment of pension upon leaving Vietnam

Social Insurance Contribution Current Local vs. Expat

Social Security (SI/HI/UI) Contributions for Vietnamese Employees (as of 2020)

Employer's Contributions					Employee's Contributions				
SI			UI	HI	SI			UI	HI
retirement, death	sickness, maternity leave	occupational diseases, accidents			retirement, death	sickness, maternity leave	occupational diseases, accidents		
14%	3%	0.5%	1%	3%	8%	-	-	1%	1.5%
21.5%					10.5%				
Total = 32%									

Social Security (SI/HI/UI) Contributions for Foreign Nationals Working in Vietnam (as of 2020)

Employer's Contributions					Employee's Contributions				
SI			UI	HI	SI			UI	HI
retirement, death	sickness, maternity leave	occupational diseases, accidents			retirement, death	sickness, maternity leave	occupational diseases, accidents		
-	3%	0.5%	-	3%	-	-	-	-	1.5%
6.5%					1.5%				
Total = 8%									

Social Insurance Contribution Expat from 01.01.2022

Social Security (SI/HI/UI) Contributions for Foreign Nationals Working in Vietnam (starting 2022)

Employer's Contributions			Employee's Contributions	
Social Insurance	Health Insurance	Trade Union Fee	Social Insurance	Health Insurance
17.5%	3%	2%	8%	1.5%

Death and retirement benefits for foreign employees will also come into force at the beginning of January of 2022

Thresholds

➤ Social Insurance and Health Insurance

- Lowest monthly wage = Regional minimum wage
- Highest monthly wage = 20 x Base wage (applied from July 2019) = 20 x VND 1,490,000 = VND 29,800,000

➤ Unemployment Insurance

- Lowest monthly wage = Regional minimum wage
- Highest monthly wage = 20 x Regional minimum wage = VND 83,600,000 (for Region I)

Regional Monthly Minimum Wage (2018 – 2020)

Region	2018	2018/2019 hike	2019	2019/2020 hike	2020
Region I	VND 3,980,000 (USD 171)	VND 200,000 (USD 8.6)	VND 4,180,000 (USD 180)	VND 240,000 (USD 10)	VND 4,420,000 (USD 190)
Region II	VND 3,530,000 (USD 152)	VND 180,000 (USD 7.8)	VND 3,170,000 (USD 159)	VND 210,000 (USD 9)	VND 3,920,000 (USD 169)
Region III	VND 3,090,000 (USD 133)	VND 160,000 (USD 6.9)	VND 3,250,000 (USD 140)	VND 180,000 (USD 8)	VND 3,430,000 (USD 148)
Region IV	VND 2,760,000 (USD 118)	VND 160,000 (USD 6.9)	VND 2,920,000 (USD 125)	VND 150,000 (USD 6)	VND 3,070,000 (USD 132)



Section 5
Labor Law

Labor Contracts



Labor Contract

- A labor contract must be established **in writing** in **Vietnamese language** and made in **2 copies**
- **Types**
 - Indefinite-term (no fixed duration)
 - Definite-term (duration between 12 and 36 months)
 - Definite-term (duration less than 12 months)
- **Content**
 - Name and address of the employer
 - Full name, date of birth, gender, residence address, ID/passport number of the employee
 - Job and workplace
 - Term
 - Wage, form/deadline for payment, allowances and additional payments
 - Regime for promotion and wage raise
 - Working time, rest time
 - Labor protection equipment
 - Social and health insurance
 - Training
- Takes **effect** on the date it is entered into by the parties, unless otherwise agreed

Probation

➤ **Period** must not exceed

- 60 days for posts requiring professional and technical qualification of collegial or higher level
- 30 days for posts requiring professional and technical qualification of intermediate vocational level, professional secondary level, or for technical workers and skilled employees
- 6 days for other types of job
- No probation for contracts with duration of less than 12 months

➤ **Wage** must be equal to **at least 85%** of the wage for the job

➤ **Content**

- Name and address of the employer
 - Full name, date of birth, gender, residence address, ID/passport number of the employee
 - Job and workplace
 - Term
 - Wage, form/deadline for payment, allowances and additional payments
 - Working time, rest time
 - Labor protection equipment
- If the probation period is satisfactory, the employer shall sign a labor contract with the employee

Working Time

- Normal working time must not exceed **8 hours per day or 48 hours per week**
 - For certain heavy, hazardous or dangerous jobs, the working hours must not exceed 6 hours per day
- Working hours at night are counted from 22.00 to 6.00
- Employers may request an employee to work **overtime** upon fully meeting certain conditions:
 - Employee's consent
 - Overtime working hours do not exceed **50% of the normal working hours per day** (with a limit of 12 hours per day)
 - Overtime working hours do not exceed **30 hours per month and 200 hours per year** (with exceptions up to 300 hours)
- Employers may request an employee to work overtime, and the **employee cannot refuse** if:
 - Implementing tasks to protect human lives and assets in the **prevention and remediation** of consequences of natural calamity, fire, **epidemic** or disaster



New Labor Code

- Overtime working hours do not exceed **40 hours per month**

Wage

- Includes a wage amount based on the work or title, wage allowances and other payments
- Must not be lower than the minimum wage set by the Gov't
- Paid by cash or via the employee's personal bank account
- Wage written in the contract and paid shall be in VND, unless the employee is a foreigner working in Vietnam



Work Suspension Wage (article 98, 2012 Labor Code)

- If an employee must temporarily stop working due to an objective reason (e.g. due to Covid-19 epidemic), the employer can negotiate a work suspension wage
- In such case, according to Article 98.3 of 2012 Labour Code, both parties can agree on a salary during the work stoppage, but the salary paid must not be lower than the applicable regional minimum wage
- Upon the expiry period of work suspension, the employer must receive the employee back to work



New Labor Code

- In case where an employee is not able to directly receive his/her salary, the employer may **pay through a person legally authorized by the employee**

Overtime Compensation

Time of Work	Percentage of Hourly Salary
Extra Hours Worked on Weekdays	At least 150%
Hours Worked on Weekends	At least 200%
Hours Worked on Holidays	At least 300%

- Night work (no overtime): additional amount equal to at least 30% of the wage
- Overtime at night: additional amount equal to 20% of the wage

Annual Leave

- After 12 months of work, employees are entitled a fully paid annual leave as follows:
 - **12 working days** (for employees working in normal conditions)
 - 14 working days (for employees doing heavy, hazardous or dangerous job, or working in a place with harsh living conditions)
 - 16 working days (for employees doing extremely heavy, hazardous or dangerous job, or working in a place with extremely harsh living conditions)
- Annual leaves will be increased by **1 day for every 5 years** working for an employer
- When taking annual leaves, employees are entitled to an **advance payment** at least equal to the wage to be paid for the leave days
- Employees not taking or not fully taking annual leaves are entitled to a **cash payment for untaken leave days**

Public Holidays, Personal Leave and Unpaid Leave

- Fully paid days on public holidays:
 - Calendar New Year (January 1st)
 - Lunar New Year Holidays (5 days)
 - Victory Day (April 30th)
 - International Labor Day (May 1st)
 - National Day (September 2nd)
 - Celebration of Kings Hung (March 10th of the Lunar New Year)
- Expatriates are entitled also to 1 traditional new year holiday and 1 national day of their countries
- Employees can take fully paid leave for personal reasons in case of:
 - Marriage: 3 days
 - Marriage of his/her child: 1 day
 - Death of parents/spouse parents, spouse or child: 3 days
- Employees may discuss and agree with an employer on unpaid leave in addition to the personal leave specified above



New Labor Code

- Added one day to National Day, i.e. the previous or next day of September 2nd

Staff Handbook



Staff Handbook

- Mandatory for employers with **10 or more employees**
- **Content:**
 - **Work time and rest time** – *regulations on normal working hours in 01 day, 01 week; shift; starting and ending time of the work shift; overtime (if any); overtime in special cases; short breaks beside break time; shift exchange breaks; weekly leave; annual leave, personal leave, unpaid leave*
 - **Order at workplace** – *regulations on work scope, moving around in work time; behavioral culture, costumes; compliance with assignment, appointment of the employers (unless obvious risk of occupational accidents, occupational diseases, serious threat the lives and health of the employees)*
 - **Occupational safety and hygiene at workplace** – *responsibilities for mastering the labor hygiene and safety, fire prevention; compliance with measures to ensure labor hygiene and safety, prevention against occupational accidents and occupational diseases; compliance with rules, procedures, regulations and standards of labor hygiene and safety; use and maintenance of personal safety equipment; hygiene, decontamination, sterilization at work*
 - **Protection of assets, technological and business secrets, intellectual property** – *List of assets, documents, technological and business secrets and intellectual property that must be protected within the scope of the assigned responsibilities*
 - **Employees' violations, form of dealing with violations and material responsibilities** – *shall include: List of violations, the degree of violation in proportion to the form of handling the labor discipline; extent of the damage, liability for indemnity of damages*
- Must be **notified to employees** and key **content must be displayed** at necessary places in the workplace

Registration & Validity

- Staff handbook must be registered with the **provincial-level** state management agency of labor
- Employers shall **submit a dossier** for registering the staff handbook **within 10 days** for the date of its issuance
- **Within 7 working days** from the receipt of the dossier, the competent authority shall **notify** the employer to make necessary **amendments and supplements** → staff handbook must be **re-submitted**
- Staff handbook is effective 15 days after the date the competent authority receives the dossier

Termination



Cases of Termination

- Labor contract expires
- The work stated in the labor contract has been completed
- Agreement by both parties
- Employee meets requirements on the time of payment of social insurance premiums and the age of retirement
- Employee is imprisoned, dies, is missing, is prohibited from performing the job, or has lost civil act capacity
- Employee is dismissed for disciplinary reasons
- Employee unilaterally terminate the labor contract
- Employer unilaterally terminate the labor contract
- Employer lays off the employee due to structural or technological changes or because of economic reasons, merger, consolidation or division of the company

Responsibilities of the parties



Law 10/2012/QH13 – 2012 Labor Code *Old rules*

- Written notice of the time of termination at least 15 days in advance (expiration of fixed term contracts)
- Within 7 working days after 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
- The employer shall complete the confirmation procedure and return the social insurance book and other papers of the employee which are kept by the employer

VS



Law 45/2019/QH14 – New Labor Code *Effective from 1.1.2021*

- Within 14 working days after termination of a labor contract, the two parties shall make all payments related to the interests of each party
- The period can be extended up to 30 days if:
 - Shutdown of business (no natural person)
 - Changes in organization (structure, technology)
 - Changes due to economic reasons
 - Merger, division, split, separation
 - Natural disaster, fire, hostility or major epidemics
- The employer shall complete the confirmation procedure and return the social insurance book and other papers of the employee which are kept by the employer

Unilateral Termination by the employee



Law 10/2012/QH13 – 2012 Labor Code *Old rules*

- Fixed-term and seasonal labor contracts:
 - 3 days notice, if the employee is:
 - Not assigned to the job/workplace
 - Not given working conditions
 - Maltreated, harassed, subject to force labor
 - Sick or has accident and unable to work for 90 consecutive days (fixed-term) or ¼ of the term (seasonal) after receiving medical treatment
 - 30 days notice, in case of fixed-term, if the employee is unable to perform the job due to personal/family difficulties
- Indefinite term labor contracts: 45 days notice

VS



Law 45/2019/QH14 – New Labor Code *Effective from 1.1.2021*

- 45 days notice for indefinite-term labor contracts
- 30 days notice for fixed-term labor contracts of 12-36 months
- 3 days notice for fixed-term labor contracts of less than 12 months
- No prior notice if the employee is:
 - Not assigned to the job/workplace
 - Not paid adequately or on schedule
 - Maltreated, harassed, subject to force labor
 - Others

Unilateral Termination by the employer



Law 10/2012/QH13 – 2012 Labor Code
Still effective

+



Law 45/2019/QH14 – New Labor Code
Effective from 1.1.2021

- Employer can unilaterally terminate if:
 - Employee fails to perform the job
 - Employee is sick or has an accident and is unable to work – after receiving medical treatment – for 12 consecutive months (indefinite term), 6 consecutive months (fixed term), or ½ of the term (seasonal)
 - Employer has to scale down production and cut jobs as result of natural disaster, fire or another force majeure event and though having applied every remedial measure
- Prior notice of 45 days (indefinite term), 30 days (fixed term), 3 days (seasonal)

- Employer can unilaterally terminate without prior notice if:
 - Employee fails to go to work without acceptable excuses for at least 5 consecutive working days

Illegal Unilateral Termination

By the employee (Art. 43, 2012 Labor Code)

- Not entitled to severance allowance
- Compensate the employer half of a month's wage
- *(if violating the provision on prior notice)* compensate the employer an amount equivalent to the wage for working days without prior notice
- To reimburse the training costs to the employer

By the employer (Art. 44, 2012 Labor Code)

- Reinstate the employee in accordance to the original labor contract, and pay wage, social and health insurance premiums for the period during which the employee was not allowed to work, plus at least 2 months of wage
- *(if the employee does not want to come back)* all the above plus a severance allowance
- *(if the employer does not want to reinstate the employee, and the latter agrees)* all the above plus the parties shall negotiate an additional compensation equal to at least 2 months' wage
- *(if violating the provision on prior notice)* shall compensate the employee an amount equivalent to the wage for the working days without prior notice

Severance Allowance

Defined (Art. 48, 2012 Labor Code)

- With the exceptions of employees being dismissed for disciplinary reasons or meeting retirement age, in case a labor contract is terminated, the employer shall pay a severance allowance to the employee who has worked regularly for full 12 months or longer at the rate of **half of a month's wage for each working year**
- **Period** used to calculate severance allowance is the total time during which the employee actually works for the employer minus the time during which the employee benefits from unemployment insurance in accordance with the Law of Social Insurance and the working period for which the employer has paid a severance allowance to the employee
- **Wage** used for the calculation of severance allowance is the average wage in accordance with the labor contract during 6 months preceding the time the employee loses his/her job

Job-Loss Allowance

Defined (Art. 49, 2012 Labor Code)

- Employer shall pay a job-loss allowance to an employee who:
 - loses his/her job due to a change of structure or technology, or due to economic reasons, or in case of merger, consolidation, split or separation; and
 - has worked regularly for the employer for 12 months or longer
- The job-loss allowance is equal to 1 month's wage for each working year, but must not be lower than 2 months' wage
- **Period** used to calculate severance allowance is the total time during which the employee actually works for the employer minus the time during which the employee benefits from unemployment insurance in accordance with the Law of Social Insurance and the working period for which the employer has paid a severance allowance to the employee
- **Wage** used for the calculation of job-loss allowance is the average wage in accordance with the labor contract during 6 months preceding the time the employee loses his/her job

Thank You!

Got any questions?

Please contact:



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