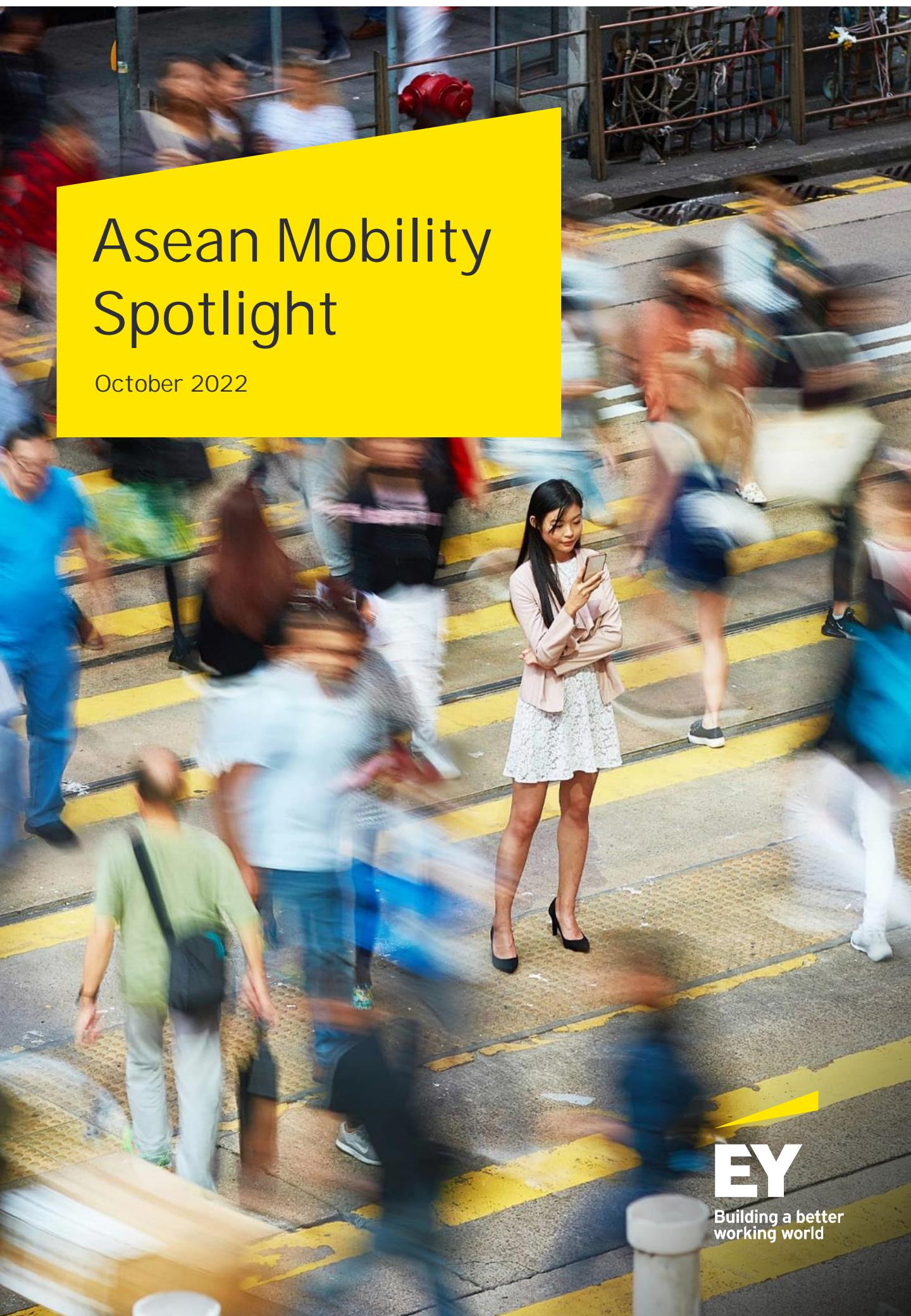


# Asean Mobility Spotlight

October 2022



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# Executive summary

In this edition of the *Asean Mobility Spotlight*, we address the immigration changes taking place across Southeast Asia as our countries continue to rebound from various measures taken to mitigate the spread of COVID-19 pandemic. This includes the following:

- a) Changes to immigration visas and passes
- b) Current trends or observations on audit and enforcement activities
- c) The consequences of non-compliance

In a nutshell, COVID-19-related immigration restrictions have been replaced by the introduction of more welcoming immigration programs to drive and create business and economic opportunities. These programs are tailored to attract corporates and (somewhat unconventionally from a historical perspective) foreign individuals as well. However, we observe that this “welcoming” policy has been balanced with continued (and in some cases increased) immigration enforcement activities.

## *Corporate: Attract and control*

Simplification and improvement of an expatriate’s work permit application processes are implemented (Indonesia and Singapore). On the other hand, more stringent requirements are imposed such as increases in salary thresholds (Singapore), in-person filing and longer processing times (Vietnam).

## *Individuals: Wealthy or talented*

Malaysia and Thailand governments have launched long-term (10-20 years) residence permits to attract wealthy foreigners. The Singapore government introduced a personal long-term (5 years) work pass intended for top talents, who need to be employed by an established company and meet certain salary thresholds, both current and prospective. Nomad visa and pass programs have been introduced in Malaysia (launched) and Indonesia (yet to be launched).

## *Immigration enforcement*

Singapore uses data analytics to identify suspicious cases of unfair employment practices for further investigations, which may result in the employers being barred from hiring or renewing foreign workers.

In view of the changing trends outlined in this edition of the Spotlight, employers need to undertake a holistic review of their current talent mobility policies and immigration compliance and reporting processes to fully capitalize on the potential opportunities that these changes present.

Where gaps are identified, our EY teams are here to review and make recommendations about any relevant immigration program available, advise on any relevant immigration programs available and assist with any remediation or corrective action required.

Please note that the information provided in this spotlight is updated as of October 2022.



# Indonesia

## Recent changes to the immigration visas and passes for foreigners in Asean countries

### ► New visas/passes introduced

The Tourism and Creative Economy Ministry has announced plans to implement a Digital Nomad Visa. A Digital Nomad Visa, which is valid for up to five years and be exempt from tax. However, until now, the regulation on this Digital Nomad Visa has not been issued and this seems still under discussion as it involves some relevant authorities, i.e., the Ministry of Tourism and Creative Economy, the Ministry of Law and Human Rights, and Directorate General of Taxation.

### ► Existing visas and passes, enhanced or changed

The Indonesian government is now simplifying the process for local companies to obtain work and stay permits for their foreign workers. This is in response to what has been raised by the President Joko Widodo. This simplification of the government procedure for obtaining work and stay permits is aimed at attracting foreign investment in Indonesia. For example, starting 20 September 2022, certain stay permit, which previously required approval from the Regional Immigration Office, the applications can now be approved only by the local immigration office, which cuts the processing times by approximately 4-5 working days. The other process simplification is on the work permit application process. During COVID-19 pandemic, there was a requirement to get a recommendation from the Ministry of Investment/BKPM prior to submitting work permit application. Starting 30 September 2022, such recommendation is no longer required, which cuts the processing times by approximately 10-15 working days.

## Update of Special Tourist Visa on Arrival (VoA) and Free Tourist Visa

The Indonesian government has gradually opened its borders for Visa on Arrival and Free Tourist Visa through certain entry points. Starting 15 September 2022, a Special Tourist Visa on Arrival (VoA) and free tourist visa are issued for the following criteria:

► Travelers for a Special Tourist Visa on Arrival (VoA) are nationals of the following 86 jurisdiction, e.g., South Africa, Albania, USA, Andorra, Saudi Arabia, Argentina, Australia, Austria, Bahrain, Netherlands, Belarus, Belgium, Brazil, Brunei, Bosnia, Bulgaria, Czech, Chile, Denmark, Ecuador, Estonia, Philippines, Finland, Hong Kong, Hungary, India, United Kingdom, Ireland, Italy, Iceland, Japan, Germany, Cambodia, Canada, Colombia, South Korea, Croatia, Kuwait, Laos, Latvia, Liechtenstein, Lithuania, Luxembourg, Maldives, Malaysia, Malta, Morocco, Mexico, Egypt, Monaco, Myanmar, Norway, Oman, Palestine, France, Peru, Poland, Portugal, Qatar, Romania, Russia, San Marino, New Zealand, Serbia, Seychelles, Singapore, Cyprus, Slovakia, Slovenia, Spain, Suriname, Sweden, Switzerland, Taiwan, Thailand, Timor Leste, China, Tunisia, Turkey, UAE, Uzbekistan, Ukraine, Vatican, Vietnam, Jordan and Greece.

► A tourist VoA is granted for a maximum of 30 days and can be extended once for another 30 days.

► A free tourist visa is granted for 9 jurisdictions: Brunei, Philippines, Cambodia, Laos, Malaysia, Myanmar, Singapore, Thailand and Vietnam. This visa is valid for maximum of 30 days of stay and cannot be extended.



## Indonesia (con't)

- ▶ Special Tourist VoA and free tourist visa can be used for vacation, government duties, business meetings, purchase of goods and transit.
- ▶ A change of status application to a new onshore stay permit through a visa application is not allowed for Special Tourist VoA and free tourist visa. A change of status application from a visit visa to a new onshore stay permit can only be done for business visa via Single Entry Visa ( SEV).

### Current trends and observations on audit and enforcement activities

With the additional permissible activities using Special Tourist VoA and free tourist visa, the monitoring of the foreigners using this visa may be heightened by the immigration authorities. The monitoring is to ensure that the visa holders are using the visa only for the permissible activities.

### Consequences of non-compliance

Under Immigration Law No. 6/2011:

- ▶ A foreigner can be imprisoned for a maximum of five years and fined for up to IDR\$500 million (approx. US\$32,900) for using invalid immigration documents or performing activity not in accordance with the permit he/she holds or applying permit with invalid information.
- ▶ The employer can be imprisoned for a maximum of five years and fined up to IDR\$500 million (approx. US\$32,900) if such employer intentionally provides incorrect information about the foreign worker.

Under Manpower Law No. 13/2003: The employer can be imprisoned for a minimum of one year and maximum for four years; and/or fined between IDR\$100 million (approx. US\$6,600) and IDR\$400 million (approx. US\$26,300), if the employer does not have approval from the relevant authority in employing foreign worker.



# Malaysia

## Recent changes to the immigration visas and passes for foreigners in Malaysia

Malaysia has introduced two new programs that opened for applications on 1 October 2022.

### ► Premium Visa Program (PVIP)

- The PVIP is a "Residency Through Investment" program, aimed to attract wealthy foreigners to invest in Malaysia and reside in the country for a period of 20 years, issued in 5-year intervals.
- This program is opened to business tycoons from all countries except those which Malaysia does not have diplomatic ties with, such as Israel.
- Holders of the PVIP will be allowed to study, work and carry out legal business activities. Dependents such as spouse, children (up to 21 years old), parents and parents-in-laws are also allowed under this program in the application.
- No age restriction apply under this program. Proof of offshore income of at least RM40,000 per month or RM480,000 annually is required. Applicants will also be required to open a fixed deposit account of at least RM1 million, with no withdrawal amount allowed on the principal value for the first year.
- The processing fees for the application is RM200,000 for the main applicant and RM100,000 per dependent.

### ► DE Rantau Nomad Pass

- The issuance of the DE Rantau Nomad Pass to qualified foreign digital nomads is part of the DE Rantau program designed by the Malaysian government to welcome both foreign and local digital nomads.
- The foreign digital nomad will be able to enter the country with a DE Rantau Nomad Pass, travel and work remotely across various locations in Malaysia.

- A Professional Visit Pass (PVP) of up to 12 months will be issued whereby it is renewable for up to an additional 12 months. The foreign digital nomad is also permitted dependents such as spouse and children.
- To qualify for the DE Rantau Nomad Pass, the foreign digital nomad must be a digital freelancer (i.e., an independent contractor) or a remote employee of a foreign or non-Malaysian based company, either full-time or part-time, working in the digital domain and must have an annual income of at least US\$24,000 per year.
- The processing fees for the application is RM1,000 for the main applicant, and RM500 per dependent.

## Current trends or observations on audit and enforcement activities

The Malaysian Immigration authorities continue to carry out raids and enforcement activities to apprehend illegal immigrants in locations such as construction sites, commercial areas (provision shops, restaurants, barbershops, massage parlors, car wash etc.) and residential areas known to have large population of foreign residents. Similarly, activities to apprehend immigrants attempting to enter Malaysia illegally at the country's ports of entry via land and sea continues to be conducted.

## Consequences of non-compliance

Foreigners or host companies who are non-compliant with Malaysian immigration regulation will be subjected to penalties upon conviction such as imprisonment, fines, whipping and prohibiting of the host company to hire foreigners, and/or prohibiting of the individual to apply for any pass to enter Malaysia.

# Philippines



## Recent changes to the immigration visas and passes for foreigners in ASEAN

- ▶ New visas/ passes introduced

PEZA Visa (PV) is a new work visa for foreign nationals coming to the Philippines for long-term employment in companies registered with the Philippine Economic Zone Authority (PEZA).

The processing timeline for the PV application is 10 days and can be applied for a maximum period of two years, subject to renewal for the same period.

PEZA visa introduces the Understudy program which requires the PV applicants to identify and train Filipino nationals as understudy to effect transfer of appropriate technology on aspects of its operation for which non-resident alien is being hired.

Once the program or training has been completed, and the understudy shall be evaluated for the capacity to take the job. Additionally, there will be no minimum years/hours required for the training of the Filipino national.

- ▶ Existing visas/ passes enhanced/ changed

Beginning 1 April 2022, the Inter-Agency Task Force for the Management of Infectious Disease (IATF-MEID) has implemented the following guidelines:

- ▶ Foreign nationals may enter the Philippines without need of an Entry Exemption Document (EED).
- ▶ Foreign nationals with valid and subsisting EED issued prior to 1 April 2022 shall be allowed entry.

IATF Resolution 131-A providing guidelines for visa issuance of foreign nationals who intend to come to the Philippines to engage long-term employment (more than six months), allowing them to apply for 9(g) visa outside the Philippines shall no longer be applicable starting 1 April 2022.

## Current observations on audit and enforcement activities

There are no active after-application/post-audit enforcement activities in the recent six months. However, the Bureau of Immigration and the Department of Labor and Employment are currently focused on raiding/cracking down illegal aliens connected with entities engaged in offshore gaming operations.

## Consequences of non-compliance

Under Section 23 of the Department Order No. 221 Series of 2021, the Department of Labor and Employment (DoLE) shall impose a fine of PH10,000 to foreign nationals and PH10,000.00 to employers for every year or a fraction thereof for each count of violation of the following acts:

- ▶ Entering into an employment contract with an invalid and/or expired Alien Employment Permit (AEP).
- ▶ Employing and hiring foreign nationals without a valid AEP or possessing fraudulent or expired AEP.
- ▶ Application for AEP filed beyond 10 working days after the date of signing of contract or after commencement of employment.
- ▶ Other circumstances analogous to the foregoing.

# Singapore



## Recent changes to the immigration visas and passes for foreigners in Singapore

### Updates on Fair Consideration Framework (FCF) and Employment Pass (EP) processing time

To enable companies to be more responsive to business needs, the Singapore Ministry of Manpower (MOM) has:

- ▶ Restored the mandatory FCF job advertising duration to 14 calendar days (from 28 calendar days).
- ▶ Improved the processing time for all EP applications – EP applications will be processed, or an update will be given to employers within 10 business days.

### Increase in salary thresholds

MOM will raise the following from 1 September 2023:

- ▶ Exemption bar for the FCF job advertising requirement and upcoming Complementarity Assessment Framework (COMPASS) to a fixed monthly salary of S\$22,500 from current S\$20,000.
- ▶ Salary criterion for Personalized Employment Pass applications to S\$22,500 from S\$12,000 (PEP) and S\$18,000 (for overseas foreign professionals).

### Overseas Networks & Expertise (ONE) Pass

The MOM has introduced a new Overseas Networks & Expertise (ONE) Pass which is intended for top talent. The ONE Pass is a personal 5-year work pass that allows holders to concurrently start, operate and work for multiple companies in Singapore at any one time. The ONE Pass will be applicable across all sectors and spouses of ONE Pass holders will be able to work on a Letter of Consent (LOC).

Applicants will need to earn a fixed monthly salary of at least S\$30,000 within the last one year or show that they will earn a fixed monthly salary of at least S\$30,000 under their future employer based in Singapore.

Overseas candidates will need to demonstrate that they are working for an established company overseas or will be working for an established company in Singapore. To be considered established, a company should have a market capitalization of at least US\$500 million or an annual revenue of at least US\$200 million.

Individuals with outstanding achievements in the arts and culture, sports, science and technology, and research and academia, may also qualify even if they are not able to meet the salary criterion.

Unlike the Employment Pass (EP), ONE Pass holders will not be subject to the Fair Consideration Framework (FCF) job advertising requirement and the upcoming Complementarity Assessment Framework (COMPASS).

The ONE Pass is renewable for five years each time, subject to the candidate meeting eligibility criteria for renewal. The ONE Pass will be open for applications from 1 January 2023.



# Singapore (con't)

## Current observations on audit and enforcement activities

Tripartite Alliance on Fair Employment Practices (TAFEP) continues to look into all reports of workplace discrimination. Besides investigating complaints lodged with TAFEP, the Ministry of Manpower (MOM) also uses data analytics to identify suspicious cases for further investigation. Employers found to have hired a foreigner without considering similarly qualified local candidates or shortlisted candidates for reasons that are not related to job requirements such as age or race, are clearly in breach of Tripartite Guidelines on Fair Employment Practices. In such cases, TAFEP would refer these employers to the MOM for further investigation.

## Consequences of non-compliance

Where employers are found to be discriminatory, MOM will not hesitate to act against such employers. From 2017 to 2021, MOM took enforcement actions against approximately 300 companies. The regulatory actions included issuance of warning and being barred from hiring or renewing foreign workers.



# Thailand

## Recent changes to the immigration visas and passes for foreigners in Asean

### New visas and passes introduced

Thailand officially launched the long-term resident visa (LTR) visa in September this year. The visa program mainly aims to attract high-potential foreigners from four categories, namely wealthy global citizens, wealthy pensioners, work-from-Thailand professionals and highly-skilled professionals, to reside in Thailand on a long-term basis to draw investment and specialized workers into the country. Some of the key benefits are:

- ▶ 10-year renewable visa with multiple re-entry permit
- ▶ 1-year reporting requirement to the immigration bureau (instead of every 90 days)
- ▶ Fast track service at international airports
- ▶ Eligibility to certain personal income tax reductions or exemptions
- ▶ Exemption from four Thais to one foreigner employment requirement ratio
- ▶ Permission to work in Thailand, such as Digital Work Permit (D-WP)
- ▶ Spouse and children will also be eligible to apply for the visa for a maximum of four persons per visa holder

### Existing visas/ passes enhanced/changed

The cabinet approved the extension of period of stay to 45 days from 30 days for tourists from countries or territories entitled for visa exemption, and to 30 days (from 15 days) for those eligible for a Visa on Arrival (VOA).

This will be in effect from 1 October 2022 until 31 March 2023 to provide stimulus to tourism industry post COVID-19 pandemic.

### ▶ Travel requirements/restrictions

Thailand's COVID-19 emergency decree which had been in place since 25 March 2020 was revoked on 1 October 2022 including all the regulations, announcements and orders issued under the decree.

From 1 October 2022, international travellers to Thailand are no longer required to show proof of vaccination or Atigen Test Kit (ATK) test results upon arrival.

### Current observations on audit and enforcement activities

The Immigration Bureau continues to carry out enforcement activities to apprehend illegal migrant workers from Myanmar, Laos, Cambodia in locations such as construction sites, commercial area and country's ports of entry. Legalization programs were made available to these workers during COVID-19 pandemic where cross-border travels are restricted.

### Consequences of non-compliance

Foreigners who are non-compliant with Thai immigration regulation will be subjected to penalties upon conviction such as fines, imprisonment, deportation and prohibiting.

Foreigners who work without work permit or perform prohibited work is subject to fine between THB5,000 and THB50,000.

Employer (i.e., host or sponsoring companies in Thailand) who employs foreigners without a work permit is subject to a fine from THB10,000 and THB100,000 for each foreigner employed.



# Vietnam

## Recent changes to the immigration visas and passes for foreigners in Asean

Vietnam recently implemented stringent changes to control more on entry visa, especially for business travelers:

- ▶ Sponsoring entity in Vietnam is required for business visa application.
- ▶ Hardcopy of the application is required to be submitted.
- ▶ Sponsoring entity's staff must be physically presented at the local immigration department for submission purpose. Third-party appearance is no longer accepted for visa submission.
- ▶ Longer time for the business visa to be approved for special nationalities such as Iran, Bangladesh, Sri Lanka, Pakistan, China, Middle East and Africa (3-4 weeks from application submission date).
- ▶ Longer time for business visa to be approved for business travelers of newly set up sponsoring entity in Vietnam (additional documents include business certificate, tax declaration dossiers).
- ▶ Upon approval of the visa letter is ready, the traveler is required to visit the Vietnam embassy/consulate in his/her living country to get the physical business visa stamped into the original passport and use the visa to enter Vietnam.
- ▶ Visa on Arrival (VoA) is strictly granted to foreigners who living in countries where Vietnam has neither an Embassy or a Consulate.

## Current observations on audit and enforcement activities

In the last three months, the local authorities conducted many immigration and labour audits to foreign invested enterprises, especially to the enterprises with high volume of foreigners. The purpose of audit is to strengthen the immigration compliance of foreigner working in Vietnam.

## Consequences of non-compliance

In case there is an audit by the labor authority, below are the penalties for working in Vietnam without the required work permit (WP) or the WP exemption certificate:

### Foreign employee

Fines ranging from VND15mil to VND25mil if

- ▶ Accepting job offers without holding WP/WP exemption certificate.
- ▶ Using WP/WP exemption certificate that have already become null and void

The foreign employee can be also deported from Vietnam for the mentioned violation.

### Employer

A sponsoring Vietnamese entity who employs foreign workers without valid WP/WP exemption certificates can be fined for up to VND75 million and exposed to negative publicity.

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