

Obligations and Risks for Foreign Employees Working in Vietnam under the “Intra-Company Transfer” Scheme

(Updated in accordance with Decree No. 219/2025/NĐ-CP – effective from August 7, 2025)

1. Overview of the “Intra-Corporate Transferee” (ICT) Scheme

“Intra-Corporate Transferee” is one of the forms under which foreign nationals may work in Vietnam, as stipulated at Point b, Clause 1, Article 2 and Point b, Clause 13, Article 7 of Decree No. 219/2025/NĐ-CP.

Accordingly, a foreign employee (“Foreign Employee” or “FE”) must have worked for an enterprise overseas for **at least 12 consecutive months** before being assigned to work in Vietnam at a **commercial presence** of the same enterprise in Vietnam (for example, a subsidiary, branch, or representative office). The essence of this form of employment is that the **employment relationship remains with the foreign enterprise**, while the Vietnamese entity merely acts as the **receiving unit** rather than the direct employer. Consequently, the Vietnamese entity **is not permitted to enter into a labor contract** with the ICT employee.

2. Obligations in Applying for a Work Permit (WP)

For an employee under the Intra-Corporate Transferee (ICT) scheme, the work permit (WP) must clearly specify the form of employment as “**Intra-Corporate Transferee**”, rather than “**performance of a labor contract**.”

In this case, the Vietnamese company is **not required to sign a labor contract** with the foreign employee but must submit the following documents:

- A **dispatch letter or written assignment** from the foreign company indicating that the foreign employee is sent to work in Vietnam for a fixed term;
- A **confirmation from the foreign company** certifying that the employee has been employed by it for **at least 12 consecutive months** immediately prior to the assignment to Vietnam;
- **Documents proving the relationship** between the parent company and the subsidiary (such as the **Investment Registration Certificate** and the **Enterprise Registration Certificate**).

These documents serve as the legal basis for applying for a work permit under the “**Intra-Corporate Transferee**” form.

After **August 7, 2025**, when **Decree No. 219/2025/NĐ-CP** takes effect, if the Vietnamese company **signs a labor contract** with a foreign employee whose work permit specifies the form of employment as “Intra-Corporate Transferee,” such an act would be **inconsistent with the content of the work permit**. In this case, the **labor authority** may require the **reissuance of the work permit** or impose **administrative penalties** for employing a foreign worker in a form inconsistent with the approved type of employment.

Before **August 7, 2025**, since there was **no regulation restricting** foreign employees to **only one form of employment**, there was **no clear legal basis** to conclude that applying for a work permit under the ICT form while simultaneously signing a labor contract with the Vietnamese company for salary payment purposes was **non-compliant**.

3. Implications of Decree No. 219/2025/NĐ-CP

From **August 7, 2025**, when **Decree No. 219/2025/NĐ-CP** takes effect, the **tax authorities** and **labor authorities** have shown a clear trend of strengthening coordination to determine **tax and social insurance obligations** based on the **form of employment stated on the Work Permit (WP)**.

Below is a summary table of **tax and social insurance obligations** corresponding to each form of employment, based on practices observed among most corporate clients of **KMC**:

Form of Employment Stated on WP	Social Insurance, Health Insurance, and Trade Union	Corporate Income Tax (CIT)	Foreign Contractor Tax (FCT)
Performance of Labor Contract (Vietnamese company signs a labor contract and pays salary)	Applicable	No risk regarding salary expense deductibility	Not applicable
Intra-Corporate Transferee , but Vietnamese company signs a labor contract and pays salary	Potentially applicable (risk of liability arising)	Risk that salary expense may not be recognized as deductible	Not applicable
Economic/Service Contract with Parent Company (Vietnamese company does not sign a labor contract, does not pay salary, but pays service fees)	Not applicable	No risk	Applicable – 10% (comprising 5% CIT and 5% VAT)

4. Detailed Analysis of Obligations and Risks

(1) If the Vietnamese Company does **not** sign a labor contract:

- This is the approach that **accurately reflects the nature** of the *Intra-Corporate Transferee (ICT)* scheme.
- However, if the Vietnamese company incurs **living or operational expenses** related to the ICT employee, such expenses must be **carefully assessed** to ensure their **legitimacy and deductibility** for accounting and corporate income tax purposes.

(2) If the Vietnamese Company **does** sign a labor contract:

- From a **legal perspective**, entering into a labor contract means that the ICT employee is **no longer considered an intra-corporate transferee**, but rather a **direct employee** of the Vietnamese company.
- In this case, the Vietnamese company is obligated to **contribute to Social Insurance (SI), Health Insurance (HI), and Trade Union**, as well as to withhold and declare Personal Income Tax (PIT) for the employee.
- Furthermore, the **tax authority** may **disallow salary expenses as deductible business expenses**, since the work permit specifies the form of employment as “Intra-Corporate Transferee.” This inconsistency between the legal substance and the recorded form may lead to **non-recognition of the expense** for tax purposes.

5. Expenses Related to Intra-Corporate Transferee (ICT) Employees

Even without a labor contract, in practice, the Vietnamese company may still incur various expenses related to ICT employees, such as:

- Accommodation, transportation, and living allowances;
- Reimbursements to the parent company for salaries or benefits paid on behalf of the Vietnamese entity (**cost recharge**);
- Fees for obtaining work permits and visas;
- Service or management fees (**management fee / cost sharing**) under group agreements.

(a) In the case of living, transportation, or housing support:

Such expenses **may be treated as deductible expenses** for Corporate Income Tax (CIT) purposes, provided that:

- Valid supporting documents are available (invoices and payment vouchers);
- There is a clear personnel assignment decision or internal regulation on expense support;
- Personal Income Tax (PIT) is properly withheld and declared, where applicable;
- The expenses directly serve the company’s business operations in Vietnam.

However, if such allowances are **regular, fixed in nature, or exceed** the salary amount paid by the parent company, the tax authority may **reclassify them as salary income**, which could lead to **non-recognition as deductible business expenses**.

(b) In the case of salary reimbursements to the parent company (cost recharge):

These payments are regarded as **salary expenses of the Vietnamese company**, and therefore may involve the **same risks** as discussed in **Section 4, Item (2)** above.

6. Recommendations for Vietnamese Companies

- (1) Accurately **determine the form of employment** for foreign employees **at the time of applying for the Work Permit (WP)**.
 - (2) **Avoid signing a labor contract** with ICT employees to prevent **legal inconsistencies** with the “Intra-Corporate Transferee” status indicated on the WP.
 - (3) In cases where expenses arise, the company should:
 - Establish a **written policy** on support and allowances for foreign personnel;
 - Prepare **cost-sharing agreements, service confirmation records, and valid accounting documents**;
 - Assess the **potential Foreign Contractor Tax (FCT)** implications if salary reimbursements or service fees are paid to the parent company.
 - (4) Regularly review all records of foreign employees and related expenses, especially **after Decree No. 219/2025/NĐ-CP takes effect**.
 - (5) When there is any **uncertainty regarding the legitimacy of expenses**, it is advisable to **consult independent tax and accounting experts** to ensure compliance and minimize risks during tax finalization.
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7. Important Notes

⚠ The above content has been compiled and analyzed based on current legal regulations (including Decree No. 219/2025/NĐ-CP) and practical implementation trends.

This article is intended for general informational and reference purposes only and does not constitute specific legal advice for any particular case.

In situations involving unique circumstances or where detailed guidance is required, your company is advised to consult with KMC’s team of experts for tailored advice, risk assessment, and the development of compliance solutions suited to your actual business operations.