

Issued by: Council of Labor Affairs, Executive Yuan

Doc. No.: Lao-Zhi-Guan-Zi No. 1000502517

Date: July 11, 2011

Topic: To interpret if any foreign worker is proven to have provided labor services for his/her employer before his/her whereabouts are untraceable, the employer shall pay the salary deserved by the worker; if the foreign worker's whereabouts are found untraceable afterward, the employer shall still return him/her the salary deserved by him/her and be prohibited from withholding the salary to offset against liquidated damages; once the foreign worker's whereabouts appear to be untraceable and the foreign worker is found engaged in any job in violation of laws, he/she shall be fined and sentenced, and be prohibited from engaging in any related jobs in Taiwan in next 3~5 years.

Subject: Whether it is appropriate to claim the salary due to a foreign worker against the employer after the foreign employer's whereabouts are found untraceable and whether the foreign worker shall be punished for his/her untraceable whereabouts. Please take notice of this matter accordingly.

Descriptions: 1. This matter is handled in accordance with the suggestions provided by the business seminar, namely "2011 Foreigner Consultation and Inspection Affairs Conference Business Review Meeting," organized by us on May 4, 2010.

2. If any foreign worker is proven to have provided labor services for his/her employer before his/her whereabouts are untraceable, the employer shall pay the salary pursuant to the employment contract. If the foreign worker's whereabouts are found untraceable afterward, the employer shall still return him/her the salary deserved by him/her and be prohibited from withholding the salary to offset against liquidated damages.

3. Meanwhile, once the foreign worker's whereabouts appear to be untraceable and the foreign worker is found engaged in any job in violation of laws, he/she shall be fined and sentenced, and ordered by the Immigration Agency, Ministry of Interior to return his/her home country. According to the "Operational Directions for the

Entry Ban on Foreign Nationals,” he/she shall also be prohibited from engaging in any related jobs in Taiwan for 3~5 years. According to subparagraph 2, Article 6 of the “Qualifications and Criteria Standards for Foreigners Undertaking the Jobs Specified under the Subparagraphs 8 to 11, Paragraph 1 of Article 46 of the Employment Service Act,” he/she shall be prohibited from engaging in any blue-collar jobs in Taiwan. According to subparagraph 4, Article 2-1 of the “Qualifications and Criteria Standards for Foreigners Undertaking the Jobs Specified under the Subparagraphs 1 to 6, Paragraph 1 of Article 46 of the Employment Service Act,” he/she shall also be prohibited from engaging in any “white-collar” jobs in Taiwan for three years.