

LEGAL NEWSLETTER

No. 5 – June 2023 – Capable Counsel

I. Enterprise sector

1.1 The Cooperatives Law 2023 enacted by the National Assembly on June 20, 2023

This Law provides for the establishment, management, reorganization, dissolution, bankruptcy and related activities of cooperative groups, cooperatives and cooperative unions; State policies on development of cooperative groups, cooperatives and cooperative unions.

Subjects of application:

- Cooperative groups, cooperatives, cooperative unions.
- Members of cooperative groups, cooperatives, cooperative unions.
- Agencies, organizations and individuals involved in the establishment, management, reorganization, dissolution, bankruptcy and related activities of cooperative groups, cooperatives and cooperative unions.

Where other laws contain specific provisions on the establishment, organization of management, reorganization, dissolution, bankruptcy and related activities of cooperative groups, cooperatives or cooperative unions, the provisions of such law shall apply.

This Law takes effect from July 1, 2024, except for the provisions of Clauses 3 and 4, Article 115 of this Law which takes effect from September 1, 2023.

The Law on Cooperatives No. 23/2012/QH13 expires from the effective date of this Law, except for regulations on the State's policy towards cooperatives and cooperative unions promulgated under the provisions of the Law on Cooperatives No. 23/2012/QH13 which shall continue to be implemented until the time of application of the policy expires or there is a replacement document, abolish.

1.2 Decree 36/2023/ND-CP issued by the Government on June 21, 2023 extends the deadline for payment of excise tax on domestically manufactured or assembled cars

Extension of the tax payment deadline for the amount of excise duty payable incurred in the tax period of June, July, August and September 2023 for domestically manufactured or assembled cars. The grace period is from the end of the excise tax payment period in accordance with the law on tax administration until November 20, 2023.

In case a taxpayer makes an additional declaration of the tax return of the extended tax period, resulting in an increase in the amount of excise tax payable and sent to the tax authority before the expiry of the extended tax payment period, the extended tax amount includes the additional tax payable due to the additional declaration.

In case a taxpayer who is subject to an extension to declare and submit an excise tax declaration in accordance with current law, the amount of excise tax payable arising on the declared excise tax declaration during the extended period has not yet been paid.

In case an enterprise with branches or subordinate units makes separate excise tax declarations with the tax authority directly managing the branch or affiliated unit, the branches and subordinate units are also subject to the extension of payment of excise tax. In case a branch or subordinate unit of an enterprise does not have automobile manufacturing or assembly activities, the branch or affiliated unit is not subject to an extension of payment of excise tax.

This Decree is effective from the date of signing until December 31, 2023. After the extension period under this Decree, the payment of excise tax on domestically manufactured or assembled cars shall comply with current regulations.

1.3 Consolidated document No. 09/VBHN-BTC dated June 06, 2023 issued by the Ministry of Finance consolidates Circular No. 16/2023/TT-BTC dated March 17, 03, 2023 and Circular No. 36/2021/TT-BTC dated May 26, 05, 2021 of the Minister of Finance guiding a number of contents on state capital investment in enterprises and management and use of capital and assets at enterprises specified in Decree

No. 91/2015/ND-CP dated October 13, 2015; Decree No. 32/2018/ND-CP dated March 08, 2018, Decree No. 121/2020/ND-CP dated October 09, 2020 and Decree No. 140/2020/ND-CP dated November 30, 2020

Subjects of application include: Owner's representative agency; Enterprises in which the State holds 100% of charter capital; The representative of the state capital invested in joint-stock companies or limited liability companies with two or more members (hereinafter referred to as the representative of the state capital portion); Other agencies, organizations and individuals involved in investment, management and use of asset capital at enterprises in which the State holds 100% of charter capital.

Guide some content related to:

- Adjustment of charter capital;
- Capital transfer, share purchase rights, investment capital contribution rights of the State and enterprises in which the State holds 100% of charter capital;
- Manage capital and assets at enterprises in which the State holds 100% of charter capital;
- Develop a financial plan;
- Reporting mode and report aggregation.

Circular No. 16/2023/TT-BTC takes effect from May 08, 2023.

1.4 Decision 641/QD-TTg dated June 05, 2023 issued by the Prime Minister approving the plan to reduce and simplify regulations related to business activities within the scope of management functions of the Ministry of Public Security

The Prime Minister shall approve the plan to reduce and simplify regulations related to business activities within the scope of management functions of the Ministry of Public Security promulgated together with Decision 641/QD-TTg, in the following areas:

- Fields of management of investment and business lines subject to security and order conditions;



- Field of fire prevention and fighting.

Specifically, in the field of fire prevention and fighting: Group of procedures: Design approval for fire prevention and fighting (implemented at the central level) (TTHC code: 1.009887); Design approval for fire prevention and fighting (implemented at provincial level) (TTHC code: 1.009896).

Content of the simplified plan

- Contents 1: Abolition of the regulation on submission of the Certificate of eligibility for provision of fire prevention and fighting services by a design consultant on fire prevention and fighting.
- Contents 2: Abolition of the requirement to submit copies of design appraisal certificates, design appraisal documents, design dossiers previously stamped with fire prevention and fighting approval seals.

Reason: The Public Security Agency itself exploits management records.

1.5 DispatchNo. 2312/TCT-CS dated June 08, 2023 of the General Department of Taxation answers questions of some Tax Departments about the use of invoices of export processing enterprises. Dispatch

In case an export processing enterprise liquidates assets into the domestic market, it shall use sales invoices (types for organizations and individuals in the non-tariff zone) as prescribed in Clause 2, Article 8 of the Government's Decree No. 123/2020/ND-CP dated October 19, 2020.

II. Taxes, fees and charges sector:

2.1 Circular 37/2023/TT-BTC dated 07/06/2023 stipulating the collection rate, mode of collection, payment, management and use of driving test fees; fees for issuance of licenses and certificates to operate on vehicles and fees for registration and issuance of specialized motorcycle plates.

When this Circular takes effect, Circular 188/2016/TT-BTC dated 08/11/2016 will expire. Accordingly, the increase in driving test fees from August 1, 2023 is as follows:

(1) For classes A1, A2, A3, A4:



- Theoretical test: 60,000 VND/time, an increase of 20,000 VND compared to the old level of 40,000 VND/time.
- Practical test: 70,000 VND/time, an increase of 20,000 VND compared to the old level of 50,000 VND/time.

(2) For classes B1, B2, C, D, E, F:

- Theoretical test: 100,000 VND/time, an increase of 10,000 VND compared to the old level of 90,000 VND/time.
- Practical test in the picture: 350,000 VND/time, an increase of 50,000 VND compared to the old level of 300,000 VND/time.
- Practical test on the road: 80,000 VND/time, an increase of 20,000 VND compared to the old level of 60,000 VND/time.
- Car driving test by traffic simulation software: 100,000 VND/time (newly regulated).

Note:

The above-mentioned driving test fee is applied uniformly across the country (regardless of whether the agency is centrally managed or locally managed).

Those who take the test to be issued a road motor vehicle license partly pay the driving test fee for that part (calculated according to the test: first test, retest).

This circular takes effect from August 1, 2023.

2.2 Circular 38/2023/TT-BTC dated June 8, 2023 stipulates the collection rate, regime of collection, submission, management and use of fees for appraisal of environmental impact assessment reports appraised by central agencies.

This Circular stipulates the collection rate, regime of collection, payment, management and use of fees for appraisal of environmental impact assessment reports appraised by central agencies.

This Circular applies to: Fee payers and toll collection organizations are project owners who request central competent agencies to appraise environmental impact assessment reports; Other organizations and individuals involved in collecting and

paying fees for appraisal of environmental impact assessment reports shall be appraised by central agencies.

In addition, this Circular repeals:

- Circular No. 56/2018/TT-BTC dated June 25, 6 of the Minister of Finance stipulating the collection rate, regime of collection, payment, management and use of fees for appraisal of environmental impact assessment reports appraised by central agencies.
- Article 2 of Circular No. 91/2021/TT-BTC dated October 21, 10 of the Minister of Finance amending and supplementing a number of articles of Circular No. 191/2016/TT-BTC dated November 08, 11, 2016 stipulating the collection rate, regime of collection, payment, management and use of mineral reserve assessment appraisal fees and mineral operation license fees and Circular No. 56/2018/TT-BTC dated June 25, 2018 stipulating the collection rate, regime of collection, payment, management and use of fees for appraisal of environmental impact assessment reports appraised by central agencies

This circular takes effect from August 1, 2023

2.3 Circular 41/2023/TT-BTC dated 12/6/2023 on the collection rate, regime of collection, payment, management and use in the field of pharmaceuticals and cosmetics, which stipulates the fee for appraisal of cosmetic production conditions.

This Circular replaces Circular No. 277/2016/TT-BTC and Circular No. 114/2017/TT-BTC

This Circular stipulates the collection rate, regime of collection, payment, management and use of fees in the field of pharmaceuticals and cosmetics, including: Fees for appraisal of circulation license, import, certification and announcement in the field of pharmaceuticals and cosmetics; fees for appraisal of standards, conditions for practice and business in the field of pharmaceuticals and cosmetics. Applicable to fee payers, fee collecting organizations and other organizations and individuals involved in the collection, payment, management and use of fees in the field of pharmaceuticals and cosmetics, stipulating a number of main contents including:



- Increase the fee for appraisal of cosmetic production conditions at the grassroots level meeting CGMP – ASEAN standards
- The level of collection, regime of collection, payment, management and use of fees for appraisal of circulation license, import, certification and announcement in the field of pharmaceuticals and cosmetics; fees for appraisal of standards, conditions for practice and business in the field of pharmaceuticals and cosmetics.

This circular takes effect from August 1, 2023

2.4 Dispatch No. 2835/TCHQ-TXNK dated June 07, 2023 of the General Department of Vietnam Customs on import VAT

Accordingly: enterprises importing, producing and trading "Basic chemicals" and applying a tax rate of 10% are entitled to VAT reduction according to the provisions of Decree 15/2022/ND-CP; chemical products are not subject to VAT reduction.

2.5 Dispatch No. 2287/TCT-CS dated June 08, 2023 of the General Department of Taxation proposing a treatment plan for VAT sales of REC emission credits.

REC certificates are renewable energy certificates, not specific goods, belonging to the same group of goods as emission reduction certificates (CERs), however, the transfer of emission rights belongs to cases where VAT is not required to be declared and calculated according to the provisions of Clause 1 Article 5 of Circular No. 219/2013/TT-BTC of the Ministry of Finance.

2.6 Dispatch No. 2289/TCT-CS dated June 08, 2023 on problems when settling land rent exemption for public non-business units

Based on relevant legal provisions and implementation guiding documents, in case land for construction of maintenance and repair stations and parking lots for public passenger transport activities in accordance with the law on road transport is subject to annual or one-time rent payment by the State exemption from land and water surface rent as guided at Point h, Clause 1, Article 19 of the Government's Decree No. 46/2014/ND-CP mentioned above.

2.7 Dispatch No. 2330/TCT-CS dated June 09, 2023 of the General Department of Taxation and E-invoices.

In case the taxpayer has registered to use e-invoices and the tax authority has accepted the registration to use e-invoices, from 01/7/2022 Circular No. 39/2014/TT-BTC expires, there is no basis for the Tax Department to make a dossier of administrative sanction for the report on the use of invoices in 6/2022 and the second quarter of 2022 filed after 01/7/2022.

2.8 Dispatch No. 2331/TCT-CS dated June 09, 2023 of the General Department of Taxation on land rent policy

In case a land tenant is leased land by the State but does not put the land into use or lags behind the progress stated in the investment project, he must additionally pay to the State an amount equivalent to the annual land rent as prescribed in Clause 4 Article 2 of Circular No. 333/2016/TT-BTC dated December 26, 12 of the Ministry of Finance.

In addition, the land acquisition of enterprises subleasing land in industrial parks of industrial park infrastructure enterprises and the handling of related rights and obligations between investors trading industrial park infrastructure and land sublease have been specified in Decree No. 01/2017/ND-CP dated January 06, 01 of the Government.

2.9 Dispatch No. 2346/TCT-CS dated June 09, 6, 2023 of the General Department of Taxation on the policy of collecting land use levy in case of failure to put land into use or delay in land use progress compared to the progress stated in the investment project.

In case the land user fails to put the land into use or lags behind the progress stated in the investment project, the land user must pay an additional amount during the period of not putting the land into use as prescribed in Clauses 1 and 2, Article 1 of Circular No. 332/2016/TT-BTC dated 26/12/2016 of the Ministry of Finance.

2.10 Dispatch No. 2348/TCT-CS dated June 09, 2023 of the General Department of Taxation on registration fee policy



Regarding the registration fee policy for vehicles receiving inheritance: In case the spouse changes the name of the property to receive the inheritance (estate) which is the car or motorcycle of the deceased spouse whose name is on the vehicle registration certificate that this property was formed during the marriage, If it is determined that a family member re-registers the common property of the household when dividing the property in accordance with law, it is exempt from paying registration fees.

Regarding the registration fee policy for vehicles that change addresses or vehicles that transfer many times but have not yet registered ownership and use: In case organizations or individuals whose assets are subject to registration fees must pay registration fees when registering ownership rights, right of use with competent state agencies. Tax authorities shall base on taxpayers' tax return dossiers, information of competent state agencies and tax administration information to calculate the amount of tax payable and notify the amount of tax payable to taxpayers according to regulations. In case the tax return dossier is illegal, incomplete or not in accordance with the prescribed form, the tax authority shall notify the taxpayer as prescribed in Clause 2, Article 48 of the Law on Tax Administration or coordinate with a competent state agency to verify the information used as a basis for tax calculation and notify tax payment as prescribed.

2.11 Dispatch No. 2351/TCT-CS dated June 09, 2023 of the General Department of Taxation on license fees when suspending production and business activities.

In case the active fee payer sends a written statement to the directly managing tax authority about the suspension of production and business activities before January 30 of each year and has not yet paid the license fee of the year of application for suspension of production or business activities, he shall not be required to pay the license fee of the year in which production activities are suspended, business.

2.12 Dispatch No. 40818/CTHN-TTHT dated June 12, 2023 of Hanoi City Tax Department on PIT and CIT policies

In case Mr. A and a foreign expert do not meet the conditions as individuals residing in Vietnam as prescribed in Clause 1 Article 1 of Circular 111/2013/TT-BTC, they shall be identified as non-resident individuals and the scope of determination of income

subject to PIT in Vietnam is income arising in Vietnam regardless of where income is paid and received as prescribed in Article 2 of Circular 119/2014/TT-BTC. If the income paid by the individual in Japan is not related to the work the individual performs in Vietnam, this income shall not be included in the income from wages and wages subject to PIT in Vietnam.

In case Mr. A and a foreign expert meet the conditions as resident individuals as prescribed in Clause 1 Article 1 of Circular 111/2013/TT-BTC of the Ministry of Finance, the scope of determination of income subject to PIT is income arising inside and outside the territory of Vietnam, regardless of the place of income payment as guided in Article 2 of Circular 119/2014 / TT-BTC. The income received from abroad, individuals declare and pay PIT directly to Vietnamese tax authorities as prescribed in Clause 3 Article 19 of Circular 80/2021/TT-BTC dated September 29, 2021 of the Ministry of Finance.

In case the enterprise pays expenses on behalf of the employee, it shall be included in the deductible expenses when determining income subject to CIT if it satisfies the conditions specified in Clause 1 Article 4 and is not included in the non-deductible expenses specified in Clause 2 Article 4 of Circular No. 96/2015/TT-BTC dated 22/6/2015 of the Ministry of Finance, Clause 2 Article 3 of Circular No. 25/2018/TT-BTC dated 16/03/2018 of the Ministry of Finance and related amended and supplemented documents (if any).

2.13 Dispatch No. 40821/CTHN-TTHT dated June 12, 2023 of Hanoi City Tax Department on input VAT declaration

In principle, input VAT of goods and services used for production and trading of goods and services subject to VAT is fully deductible if meeting the conditions for VAT deduction specified in Article 15 of Circular 219/2013/TT-BTC amended and supplemented in Clause 10 Article 1 of Circular No. 26/2015/TT-BTC, Article 1 of Circular No. 173/2016/TT-BTC .

2.14 Dispatch No. 2392/TCT-QLRR dated June 14, 2023 of the General Department of Taxation on checking electronic invoices



The General Department of Taxation has built a function on the e-invoice application to meet the requirements of controlling e-invoices, preventing the issuance of false invoices. Some of the main functions are as follows:

- The system automatically controls the total value of goods sold on the issued invoices against the threshold of input value calculated in K times the total inventory value and the total value of purchased goods.
- The warning system follows parameter K.

On that basis, cases where taxpayers exceed the threshold will be warned and put on the management list. Use the function of looking up the list of warning taxpayers to/review, identify cases subject to stop using invoices as prescribed. Tax authorities use the existing function when deploying e-contract software to notify the cessation/continuation of the use of invoices (meeting the provisions of Article 16, Decree No. 123/2020/ND-CP).

III. Commercial sector

3.1 Law on Electronic Transactions promulgated by the National Assembly on June 22, 2023

The law applicable to agencies, organizations and individuals directly participating in electronic transactions or related to electronic transactions, prescribes the implementation of transactions by electronic means.

Electronic media means hardware, software, information system or other medium operating on the basis of information technology, electrical, electronic, digital, magnetic, wireless transmission, optical, electromagnetic or other similar technology.

Prohibited acts in electronic transactions:

- Taking advantage of electronic transactions to infringe upon national interests, ethnic groups, national security, social order and safety, public interests, and lawful rights and interests of agencies, organizations and individuals.

- Illegally obstructing or preventing the process of creating, sending, receiving, storing data messages or engaging in other acts to sabotage the information system serving electronic transactions.
- Illegally collecting, providing, using, disclosing, displaying, distributing and trading data messages.
- Forging, falsifying or illegally deleting, destroying, copying or moving part or the whole data message.
- Creating data messages to commit illegal acts.
- Fraud, forgery, appropriation or illegal use of electronic transaction accounts, electronic certificates, electronic signature certificates, electronic signatures.
- Obstructing the choice of conducting electronic transactions.
- Other acts prohibited by law.

This Law takes effect from July 1, 2024.

The Law on Electronic Transactions No. 51/2005/QH11 shall cease to be effective from the effective date of this Law, except for the case specified in Article 53 of this Law.

3.2 Law on Bidding promulgated by the National Assembly on June 23, 2023

This Law provides for the state management of bidding activities; authority and responsibility of agencies, organizations and individuals in bidding activities; activities of selecting contractors to implement bidding packages, activities of selecting investors to implement business investment projects, applicable to agencies, organizations and individuals participating in or related to bidding activities.

The language used for domestic bidding is Vietnamese. Languages used for international bidding are English or Vietnamese and English. In case the language used in the request for expression of interest, dossier of invitation for pre-qualification, bidding dossier, dossier of requirements is Vietnamese and English, bidders and investors may choose Vietnamese or English to participate in bidding.

This Law takes effect from January 1, 2024.

Law on Bidding No. 43/2013/QH13, which has been amended and supplemented with a number of articles under Law No. 03/2016/QH14, Law No. 04/2017/QH14, Law No. 40/2019/QH14, Law No. 64/2020/QH14 and Law No. 03/2022/QH15 (hereinafter referred to as Law on Bidding No. 43/2013/QH13) expires from the effective date of this Law, except for the provisions of Article 96 of this Law.

3.3 Decree No. 32/2023/ND-CP dated June 09, 2023 of the Prime Minister promulgating amendments and supplements to the Government's Decree No. 53/2018/ND-CP dated April 16, 2018 amending and supplementing Decree No. 58/2016ND-CP July 01, 7, 2016 of the Government detailing trading in civil cryptographic products and services and the export and import of civil cryptographic products

According to the provisions of Article 1 of this Decree, Appendix II of the List of civil cryptographic products exported and imported under the license in the Government's Decree No. 53/2018/ND-CP dated April 16, 2018 will be replaced by the Appendix to the List of exported civil cryptographic products, imported under the license attached to this Decree.

3.4 Circular 12/2023/TT-BCT dated June 05, 2023 issued by the Ministry of Finance amending Circular 10/2018/TT-BCT guiding Decree 40/2018/ND-CP on management of business activities in a multi-level manner

The National Competition Commission shall organize or authorize in writing the training institution with legal knowledge on multi-level selling to examine the law on multi-level selling and knowledge for local focal points according to the process:

- Check the completeness and validity of the registration dossier for examination and certification of knowledge of the law on multi-level selling as prescribed in Clause 1 Article 39 of Decree No. 40/2018/ND-CP amended and supplemented in Clause 28 Article 1 of Decree No. 18/2023/ND-CP.
- Plan the time, place, method of inspection.
- Announce the inspection plan.
- Organization of inspections.



- Evaluate the test results.
- Notification of test results.

The examination of legal knowledge of multi-level selling and the knowledge test for local focal points can be held at the same batch or at different batches.

Forms of testing and evaluation of results:

- The test of legal knowledge of multi-level sales, knowledge for local leads is carried out in the form of essay or multiple choice in a minimum time of 60 minutes.
- Test scores are scored on a 100-point scale, specific requirements are as follows:
 - + For the legal knowledge test on multi-level selling, the test below 80 points for the multiple-choice form or less than 65 points for the essay form is unsatisfactory.
 - + For the knowledge test for local leads, the test below 70 points for the multiple-choice format or less than 50 points for the essay form is unsatisfactory.

This circular takes effect from July 21, 2023

3.5 Circular 36/2023/TT-BTC dated June 06, 2023 stipulating the collection rate, regime of collection, payment, management and use of certificates of origin (C/O) fees

The subjects of application of the Circular are: Traders applying for certificates of origin specified in Clause 17 Article 3 of Decree No. 31/2018/ND-CP; Competent agencies and organizations shall issue certificates of origin of goods in accordance with the law on foreign trade management; Other organizations and individuals involved in the collection, submission, management and use of certificates of origin (C/O) fees.

Fee for certificate of origin (C/O):

- New certificate of origin: VND 60,000/set of C/O.

- Re-issuance of certificate of origin: VND 30,000/set of C/O.

Declare and pay the certificate of origin (C/O) fee:

- The fee payer (a trader applying for a certificate of origin of goods) shall pay the fee to the charging organization when submitting the dossier for issuance of the certificate of origin of goods.
- Not later than the 5th day of each month, the fee-collecting organization shall pay all fees collected in the previous month and interest incurred on the balance of the specialized fee-collecting account opened at the credit institution (if any) to the fee account pending payment of the budget of the Ministry of Industry and Trade opened at the State Treasury.

This circular takes effect from July 21, 2023.

3.6 Circular 15/2023/TT-BCT dated June 30, 6, 2023 amending and supplementing a number of circulars of the Minister of Industry and Trade guiding the functions, tasks and powers of the Department of Industry and Trade

In this Circular, there are two amended and supplemented Circulars:

- Circular No. 04/2022/TT-BCT dated January 28, 01, 2022
- Circular No. 25/2020/TT-BCT dated September 29, 2020

In addition, this Circular annuls Decision No. 612/QD-BCT dated April 04, 2022 of the Minister of Industry and Trade amending Circular No. 04/2022/TT-BCT dated January 28, 01, 2022

This circular takes effect from August 22, 2023.

3.7 Decision No. 2439/QD-UBND dated June 14, 6, 2023 of the People's Committee of Ho Chi Minh City announcing the list of administrative procedures in the chemical sector within the scope of management functions of the Department of Industry and Trade

Promulgate a list of 09 administrative procedures in the chemical sector within the scope of management functions of the Department of Industry and Trade, including:



03 new administrative procedures and 06 administrative procedures amended and supplemented.

03 newly issued chemical administrative procedures under the jurisdiction of the Department of Industry and Trade:

- Issuance of Certificate of eligibility for production and trading of chemicals for conditional production and business in the industrial sector
- Re-issuance of the Certificate of eligibility for production and trading of chemicals for conditional production and business in the industrial sector
- Issuance and adjustment of the Certificate of eligibility for conditional production and trading of chemicals in the industrial sector

06 amended chemical administrative procedures under the jurisdiction of the Department of Industry and Trade

- Issuance of Certificate of eligibility for conditional production and business of chemicals in the industrial sector
- Re-issuance of the Certificate of eligibility for conditional production and business of chemicals in the industrial sector
- Issuance and adjustment of the Certificate of eligibility for conditional production and business of chemicals in the industrial sector
- Issuance of Certificate of eligibility for conditional chemical trading in industrial production and business
- Re-issuance of the Certificate of eligibility for conditional chemical trading in industrial production and business
- Issuance of adjustment of the Certificate of eligibility for conditional chemical trading in industrial production and business

The list of administrative procedures is posted on the web portal of the Office of the City People's Committee at <http://vpub.hochiminhcity.gov.vn/portal/Home/danh-muc-tthc/default.aspx>.



3.8 Decision No. 3375/QĐ-UBND dated June 27, 6, 2023 on the announcement of internal administrative procedures in the field of industry and trade under the management of Hanoi People's Committee

This Decision announces 02 internal administrative procedures in the field of industry and trade under the management of the Hanoi People's Committee:

- Appraisal of establishment and expansion of industrial clusters
- Appraisal and adjustment of decisions on establishment and expansion of industrial clusters

Both of these procedures are in the field of Industrial Cluster Management and are directly implemented by the Department of Industry and Trade

IV. Currency-banking sector:

4.1 Circular 08/2023/TT-NHNN stipulating conditions for foreign loans not guaranteed by the Government issued by the Governor of the State Bank of Vietnam on June 30, 2023

Subjects of application of this Circular include:

- Residents being enterprises, cooperatives, unions of cooperatives, credit institutions and branches of foreign banks established and doing business in Vietnam are foreign borrowers (hereinafter collectively referred to as borrowers).
- Credit institutions, branches of foreign banks in Vietnam where borrowers open foreign loan and repayment accounts (hereinafter referred to as banks providing account services).

Foreign borrowed currencies are the exception.

Foreign loans denominated in Vietnamese dong may only be made in the following cases:

- The borrower is a microfinance institution;



- Borrower means a foreign direct investment enterprise that borrows from profits from direct investment activities in the Vietnamese territory of the lender being a foreign investor contributing capital at the borrower;
- The borrower withdraws capital, repays the debt in foreign currency and the debt obligation of the loan is determined in Vietnamese dong.

This Circular takes effect from August 15, 2023, except for the case stipulating the limit on short-term foreign loans specified in Article 15 of this Circular, which takes effect from January 1, 2024.

4.2 Decision No. 1059/QD-NHNN dated June 06, 2023 of the State Bank of Vietnam announcing new administrative procedures for promulgating the field of foreign exchange activities implemented at the one-stop department within the scope of management functions of the State Bank of Vietnam

The newly issued administrative procedures include:

- Issuance of certificates of registration of currency exchange agents of bordering countries;
- Reissuance of the Certificate of registration of a currency exchange agent of a bordering country;
- Adjustment of the Certificate of registration of a currency exchange agent of a bordering country;
- Renewal of the Certificate of Registration of a Money Exchange Agent of a country sharing the same margin

Specific contents of procedures, order, method of implementation, composition, number of dossiers, implementing agency, settlement time limit,... specified in Part II of the Decision.

4.3 Decision 1125/QD-NHNN on the maximum short-term lending interest rate in Vietnamese dong of credit institutions and branches of foreign banks for borrowers to meet capital needs serving a number of economic sectors and sectors as prescribed in Circular 39/2016/TT-NHNN issued by the Governor of the State Bank of Vietnam on June 16, 2023

The maximum short-term lending interest rate in Vietnamese dong as prescribed in Clause 2 Article 13 of Circular No. 39/2016/TT-NHNN dated December 30, 2016 is as follows:

- Credit institutions and branches of foreign banks (except People's Credit Funds and Microfinance Institutions) shall apply a maximum short-term lending interest rate in Vietnamese dong of 4.0%/year.
- The People's Credit Fund and Microfinance Institutions apply the maximum short-term lending interest rate in Vietnamese dong of 5.0%/year.

4.4 Decision 1124/QD-NHNN on the maximum interest rate for deposits in Vietnamese dong of organizations and individuals at credit institutions and branches of foreign banks as prescribed in Circular 07/2014/TT-NHNN issued by the Governor of the State Bank of Vietnam on June 16, 2023

The maximum interest rate for deposits in Vietnamese dong of organizations (except credit institutions, foreign bank branches) and individuals at credit institutions and branches of foreign banks as prescribed in Circular No. 07/2014/TT-NHNN dated March 17, 3, 2014 is as follows:

- The maximum interest rate applicable to demand deposits with terms of less than 1 month is 0.5%/year.
- The maximum interest rate applicable to term deposits from 1 month to less than 6 months is 4.75%/year; Particularly, the People's Credit Fund and Microfinance Institutions apply the maximum interest rate for term deposits from 1 month to less than 6 months at 5.25%/year.

4.5 Decision 1123/QD-NHNN dated June 16, 2023 on refinancing interest rates, re-discounting rates, overnight lending rates in interbank electronic payments and loans to cover capital shortfalls in clearing of the State Bank of Vietnam for credit institutions, Foreign Bank Branches

Regulations on interest rates of the State Bank of Vietnam are as follows:

- Refinancing interest rate: 4.5%/year.
- Rediscount interest rate: 3.0%/year.



- Overnight lending interest rate in interbank electronic payments and loans to cover capital shortfall in clearing of the State Bank of Vietnam for credit institutions and branches of foreign banks: 5.0%/year.

4.6 Official Dispatch No. 2737/TCHQ-TXNK dated June 02, 2023 of the General Department of Vietnam Customs responding to enterprises on the payment of export goods in Vietnam Dong.

In case if the foreign partner agrees that the payment currency is Vietnam Dong, shown in the contract or commercial invoice, the enterprise shall open the declaration and declare the currency code of the invoice as Vietnam Dong.

V. Import and export sector

5.1 Circular 13/2023/TT-BCT issued by the Ministry of Finance on June 09, 2023 stipulating tariff quotas for imports of salt and poultry eggs in 2023

Regarding the amount of tariff quotas for imports of salt and poultry eggs in 2023:

- Chicken eggs (commodity codes 0407.21.00 and 0407.90.10) in the amount of 67, 117 dozens.
- Duck eggs, geese (commodity codes 0407.29.10 and 0407.90.20) in the amount of 67,117 dozens.
- Other (commodity codes 0407.29.90 and 0407.90.90) in the amount of 67,117 dozens.

(Note: These eggs are commercial eggs without embryos.)

- Salt (cargo code 2501) in the amount of 84, 000 tons.

Regarding the method of administering import tariff quotas for salt and poultry eggs in 2023 as follows: tariff quotas for import of salt and poultry eggs in 2023 shall be implemented according to the allocation method as prescribed in Decree 69/2018/ND-CP and Circular 12/2018/TT-BCT.

Regarding the subjects of allocation of import tariff quotas for salt and poultry eggs in 2023, including:

- Salt import tariff quotas are allocated to traders directly for use as raw materials for the production of medicines and medical products and as raw materials for the production of chemicals.
- Tariff quotas for the import of poultry eggs are allocated to traders wishing to import.

This circular is effective from July 25, 2023 to December 31, 2023

5.2 Consolidated document No. 10/VBHN-BTC dated June 07, 2023 consolidating Circular No. 143/2015/TT-BTC dated September 11, 2015 of the Minister of Finance stipulating customs procedures and management of cars and motorcycles of subjects permitted for import, temporary import for non-commercial purposes, effective from October 26, 2015 and Circular No. 45/2022/TT-BTC dated July 27, 7, 2022 of the Minister of Finance amending and supplementing a number of articles in Circular No. 143/2015/TT-BTC effective from September 10, 2022.

The consolidated circulars in this consolidated document stipulate customs procedures and management of automobiles and motorcycles of subjects permitted to be imported or temporarily imported for non-commercial purposes.

Subjects of application:

- Overseas Vietnamese are intellectuals, experts and skilled workers who return home to work for a period of one year or more at the invitation of Vietnamese State agencies.
- Foreign experts participating in the management and implementation of OD A programs and projects in Vietnam must meet the conditions for temporary import of cars and motorcycles specified in Decision No. 119/2009/QĐ-TTg dated 01/10/2009 of the Prime Minister.
- Organizations and individuals may import or temporarily import automobiles and motorcycles according to the provisions of international treaties to which Vietnam has signed or acceded.
- Other entities may import cars and motorcycles for non-commercial purposes in accordance with relevant laws.

- Customs authorities and customs officials shall carry out customs procedures and manage automobiles and motorcycles of subjects permitted to be imported or temporarily imported for non-commercial purposes.

Vietnamese organizations and individuals shall receive the transfer of temporarily imported or duty-free cars and motorcycles of the subjects specified in Clauses 1, 2 and 3 of this Article and duty-free imported cars of the subjects specified in Clause 4 (hereinafter referred to as vehicle buyers).

5.3 Consolidated document 11/VBHN-BTC in 2023 consolidating the Decree guiding the Law on Export and Import Taxes issued by the Ministry of Finance on June 16, 2023

This document consolidates the following Decrees: Decree No. 134/2016/ND-CP amended and supplemented by: Decree No. 18/2021/ND-CP and Decree No. 104/2022/ND-CP

Regulations on taxable objects; application of export tax rates, import duties, tax payment deadlines for imported and exported goods; tax exemption, tax reduction, export tax refund, import tax.

Applicable to the following target groups:

- Taxpayers in accordance with the Law on Export and Import Duties;
- Customs authorities, customs officials;
- Organizations and individuals have rights and obligations related to imported and exported goods;
- Agencies and organizations involved in the implementation of the provisions of the Law on Export and Import Duties.

5.4 Decision 1338/QD-BTC issued by the Ministry of Finance on June 23, 2023 announcing that administrative procedures are replaced in the field of customs within the scope of management functions of the Ministry of Finance

The 11 administrative procedures to be replaced in the field of customs under the scope of management functions of the Ministry of Finance include:



Central-level administrative procedures:

- Procedures for certification of imported goods for the new construction, repair and maintenance of locomotives and rolling stock as prescribed in Decree No. 122/2016/ND-CP
- Procedures for certifying the type of enterprise producing key mechanical products as prescribed in Decree No. 122/2016/ND-CP
- Procedures for certification of imported materials and equipment serving the project of manufacturing equipment for the production of light non-baked materials and the production of aggregate cement bricks with a capacity of 7 million standard pellets / year or more as prescribed in Decree No. 122/2016/ND-CP
- Procedures for certification of assurance of standards of money-carrying design vehicles as prescribed in Decree No. 122/2016/ND-CP
- Procedures for certifying the list of raw materials, supplies, components and auxiliary parts for production and assembly of information technology products as prescribed in Decree No. 122/2016/ND-CP

District-level administrative procedures: Procedures for certifying imported materials and equipment for the project of manufacturing equipment for the production of light non-baked materials and the production of aggregate cement bricks with a capacity of 07 million standard pellets / year or more as prescribed in Decree No. 122/2016 / ND-CP

Administrative procedures at the level of Departments and Branches:

- Procedures for tax refund of specialized cars manufactured and assembled from cars are specified in Decree No. 122/2016/ND-CP
- Procedures for registration for participation in the Tax Incentive Program for manufacturing and assembling automobiles
- Procedure for applying the tax rate of group 98.49
- Procedures for registration to participate in the Automobile Supporting Industry (CNHT) Tax Incentive Program.

- Procedures for applying the 0% tax rate of the Automobile CNHT Incentive Program.

5.5 DispatchNo. 2865/TCHQ-TXNK dated June 08, 2023 of the General Department of Vietnam Customs responding to the proposal on import duties for books, newspapers and research materials.

Based on the legal provisions and information on the Declaration of Imported Goods No. 105475022000, goods sent via courier service of Mr. Nguyen Van Tan have a customs value exceeding the duty-free norm, so import tax and VAT must be paid according to regulations. Mr. A's imported book items are classified according to HS code 4901.99.10 and apply a preferential import tax rate of 0% and VAT rate of 5%. Accordingly, the amount of tax payable on the above shipment is calculated on the VAT rate of 5% and the taxable value for imported goods (there is no import tax because the import tax rate is 0%).

5.6 Dispatch No. 2894/TCHQ-TXNK dated June 12, 2023 of the General Department of Vietnam Customs responding to enterprises on import VAT

In case imported CNC processing center machines, CNC wire cutting machines, CNC medium machines, if determined to be specialized electronic equipment, they fall under Section IV Part B Appendix III promulgated together with Decree 15/2022/ND-CP and apply 10% VAT.

VI. Labor sector:

6.1 Decree 29/2023/ND-CP issued by the Government on June 03, 2023 stipulating downsizing

This Decree stipulates objects, principles and policies on downsizing and responsibilities for downsizing in public agencies, organizations and non-business units of the Party, State and socio-political organizations from the central to commune levels.

Specify each case of the target group to implement the payroll reduction policy and the principle of downsizing.

In addition, the Decree also stipulates 02 cases in which downsizing has not been implemented:

- Those who are pregnant, on maternity leave, nursing a child under 36 months old, unless the individual voluntarily reduces payroll.
- Those who are under disciplinary review or criminal prosecution or are inspected or examined due to signs of violations.

This decree takes effect from July 20, 2023. The regimes and policies specified in this Decree shall apply until December 31, 2030.

6.2 Decree 42/2023/ND-CP on adjustment of pensions, social insurance allowances and monthly allowances issued by the Government on June 29, 2023

From July 1, 2023, adjustments are as follows:

- An additional 12.5% increase on the pension, social insurance allowance and monthly allowance of June 2023 for the subjects specified in Clause 1 Article 1 of this Decree has been adjusted according to the Government's Decree No. 108/2021/ND-CP dated December 07, 2021 adjusting pensions, social insurance allowance and monthly allowance.
- An additional 20.8% increase on the pension, social insurance allowance and monthly allowance of June 2023 for the beneficiaries specified in Clause 1 Article 1 of this Decree that has not been adjusted according to the Government's Decree No. 108/2021/ND-CP dated December 07, 2021 adjusting pensions, social insurance allowance and monthly allowance.

From July 1, 2023, persons who are currently receiving pensions, social insurance allowances and monthly allowances as prescribed in Clause 2, Article 1 of this Decree, after adjusting according to the provisions of Clause 1 of this Article, have a benefit level lower than VND 3,000,000/month, shall be adjusted to increase as follows: Increase by 300,000 VND/person/month for those who enjoy less than 2,700,000 VND/person/month; increase to 3,000,000 VND/person/month for those who enjoy from 2,700,000 VND/person/month to less than 3,000,000 VND/person/month.



The level of pension, social insurance allowance and monthly allowance after adjustment according to the provisions of this Article is the basis for calculating the adjustment of pension, social insurance allowance and monthly allowance in subsequent adjustments.

This decree takes effect from August 14, 2023. The provisions of this Decree shall be implemented from July 1, 2023.

6.3 Circular 06/2023/TT-BLDTBXH issued by the Ministry of Labor, War Invalids and Social Affairs on June 29, 2023 guiding the adjustment of pensions, social insurance allowances and monthly allowances

From July 1, 2023, the pension, social insurance allowance and monthly allowance of the beneficiaries specified in Clause 1 Article 1 of Circular 06/2023 will be adjusted as follows:

- An additional 12.5% increase on the pension, social insurance allowance and monthly allowance of June 2023 for the beneficiaries specified in Clause 1 Article 1 of this Circular has been adjusted according to the Government's Decree No. 108/2021/ND-CP dated December 07, 2021 adjusting pensions, social insurance allowance and monthly allowance.
- An additional 20.8% increase on the pension, social insurance allowance and monthly allowance of June 2023 for the beneficiaries specified in Clause 1 Article 1 of this Circular that have not been adjusted according to the Government's Decree No. 108/2021/ND-CP dated December 07, 2021 adjusting pensions, social insurance allowance and monthly allowance

From July 1, 2023, the pension, social insurance allowance and monthly allowance of the beneficiaries specified in Clause 2 Article 1 of Circular 06/2023 after being adjusted according to the provisions of Clause 1 Article 2 of Circular 06/2023 will be adjusted as follows:

- For people with pension, social insurance allowance, monthly allowance below VND 2,700,000/month:

$$\text{Pension, social insurance allowance,} = \text{The level of pension, social insurance allowance and} + 300,000 \text{ VND/month}$$

monthly allowance after
adjustment

monthly allowance after being
adjusted according to the
provisions of Clause 1, Article 2
of this Circular

- For people with pension, social insurance allowance, monthly allowance from 2,700,000 VND/month to less than 3,000,000 VND/month:

$$\begin{array}{lcl} \text{Pension, social insurance allowance, monthly} & & 3,000,000 \\ \text{allowance after adjustment} & = & \text{VND/month} \end{array}$$

This circular takes effect from August 14, 2023. The provisions of this Circular shall be implemented from July 1, 2023.

6.4 Decision 2273/QD-UBND in 2023 announcing the list of administrative procedures in the field of management of foreign labor; jobs within the scope of management functions of the Department of Labor, War Invalids and Social Affairs of Ho Chi Minh City on June 2, 2023.

The People's Committee of Ho Chi Minh City has decided on 05 administrative procedures in the field of management of foreign labor; jobs fall within the scope of management functions of the Department of Labor, War Invalids and Social Affairs of Ho Chi Minh City, including 03 administrative procedures amended and supplemented; 02 administrative procedures are abolished.

Administrative procedures are amended and supplemented under the jurisdiction of the Department of Labor, War Invalids and Social Affairs of Ho Chi Minh City:

- Field of overseas labor management: Registration of labor contracts directly entered into
- Field of Employment: Confirmation that the foreign worker is not eligible for a work permit

Administrative procedures are amended and supplemented under the jurisdiction of the Ho Chi Minh City Department of Labor, War Invalids and Social Affairs, the management board of export processing and industrial zones, the management



board of the city's hi-tech park: Extension of work permits for foreign workers working in Vietnam

Abolished administrative procedures under the jurisdiction of the Department of Labor, War Invalids and Social Affairs of Ho Chi Minh City:

- Registration of individual contracts
- Request to settle the escrow account of the enterprise to send the employee to practice to improve skills for less than 90 days