

LEGAL NEWSLETTER

No. 13 – February 2024 – Capable Counsel

I. Commercial sector

1.1. Decree No. 14/2024/ND-CP dated February 07, 2024 of The Government amending and supplementing a number of articles of the Government's Decree No. 28/2018/ND-CP dated March 01, 2018 detailing the Law on Foreign Trade Management on a number of measures to develop foreign trade

This Decree amends a number of main contents such as:

- Regulations on procedures for granting licenses for the establishment of representative offices in Vietnam of foreign trade promotion organizations
- The foreign trade promotion organization establishing a representative office in Vietnam shall send 01 dossiers to the Department of Industry and Trade of the province or centrally-run city where the representative office is expected to be located to apply for a license to establish a representative office in Vietnam.
- Supplementing the method of online submission of legally valid electronic dossier components through the National Public Service Portal or the Provincial Administrative Procedure Settlement Information System
- Amend the time limit for handling procedures to 20 days and 40 days for consolidated dossiers subject to consultation with the Ministry of Public Security and the Ministry of National Defense

This decree takes effect from March 25, 2024.

1.2. Decree 15/2024/ND-CP amending Decree 30/2013/ND-CP on air transport business and general aviation activities and Decree 92/2016/ND-CP regulating industries and professions Conditional business in the field of civil aviation on February 16, 2024

Replace Form No. 03, Form No. 06, Form No. 08, Form No. 09, Form No. 10 in the Appendix attached to Decree No. 30/2013/ND-CP dated April 8, 2013 of the Government on transportation business aviation and general aviation activities respectively using Form No. 03, Form No. 06, Form No. 08, Form No. 09, Form No. 10 in Appendix I attached to this Decree.

Replace Form No. 01 in the Appendix attached to Decree No. 92/2016/ND-CP dated July 1, 2016 of the Government regulating conditional business lines and trades in the field of civil aviation with Form No. 01 in Appendix II attached to this Decree.

Replace Form No. 03 in the Appendix attached to Decree No. 92/2016/ND-CP dated July 1, 2016 of the Government regulating conditional business lines and trades in the field of civil aviation (already replaced by Appendix II attached to Decree No. 64/2022/ND-CP dated September 15, 2022 of the Government amending and supplementing a number of articles of Decrees related to business activities in civil aviation sector) using Form No. 03 in Appendix II attached to this Decree.

This Decree takes effect from the date of signing.

The Certificate of registration of general aviation activities and the Certificate of registration of trademark use issued before the effective date of this Decree continue to be valid until the Certificate is canceled.

1.3. Circular No. 01/2024/TT-BCT dated January 15, 01, 2024 of the Ministry of Industry and Trade amending and supplementing a number of articles of Circular No. 21/2016/TT-BCT dated September 20, 2016 of the Minister of Industry and Trade stipulating the implementation of rules of origin in the Free Trade Agreement between Vietnam and the Eurasian Economic Union

This Circular amends and supplements the following contents:

- Replace Annex II - Item-specific rules (PSR) in Clause 2 Article 2 of Circular No. 21/2016/TT-BCT (replaced by Annex in Article 2 of Circular No. 11/2018/TT-BCT) with Annex issued together with Circular 01/2024/TT-BCT.
- Article 3 of Circular No. 21/2016/TT-BCT (amended and supplemented by Article 1 of Circular No. 11/2018/TT-BCT) is amended as follows:

"The process of certification and inspection of the Certificate of Origin (C/O) shall comply with the provisions of Appendix I issued together with Circular No. 21/2016/TT-BCT; The Government's Decree No. 31/2018/ND-CP dated March 08, 03, 2018 details the Law on Foreign Trade Management of Origin of Goods and the provisions of law on origin of goods."

This circular takes effect from March 1, 2024.

1.4. Circular No. 09/2024/TT-BTC dated February 05 of the Ministry of Finance stipulating the collection rate, regime of collection, payment, management and use of fees for appraisal and issuance of certificates of registration of multi-level selling activities

Fee for appraisal and issuance of certificates of registration of multi-level selling activities:

- In case of new issuance or extension of the certificate of registration of multi-level selling activities: VND 5,000,000/01 appraisal.
- In case of amendment or supplementation of the certificate of registration of multi-level selling activities: VND 3,000,000/01 appraisal.

This circular takes effect from March 21, 2024.

II. Corporate sector

2.1. Decree No. 10/2024/ND-CP of The Government dated February 01, 2024 regulates high-tech parks.

This Decree stipulates construction orientations and plans for development of hi-tech parks; the establishment and expansion of hi-tech parks; operating in high-tech parks; mechanisms, policies and state management of hi-tech parks (including: hi-tech parks specified in Article 31 of the Law on High Technology and hi-tech applied agricultural zones specified in Article 32 of the Law on High Technology).

Subjects of application of this Decree include: State management agencies, organizations and individuals involved in planning, establishment, construction investment, management and operation in hi-tech parks.

This decree takes effect from March 25, 2024.

2.2. Circular No. 01/2024/TT-BTNMT dated February 02, 2024 of the Ministry of Natural Resources and Environment stipulating norms for strategic environmental assessment activities of the master plan

This Circular prescribes norms for the implementation of strategic environmental assessment through contractor selection activities of plannings (including adjustment of planning objectives) specified in Article 25 of the Law on Environmental Protection and Annex I promulgated together with Decree No. 08/2022/ND-CP January 10, 01, 2022 of the Government detailing a number of articles of the Law on Environmental Protection (hereinafter referred to as Decree No. 08/2022/ND-CP).

This Circular applies to agencies, organizations and individuals participating in strategic environmental assessment of plannings.

This circular takes effect from February 2, 2024.

III. Investment Sector

3.1. The Government's Decree No. 11/2024/ND-CP dated February 02, 2024 stipulates loan interest, reasonable profit, payment method and settlement of investment projects under BT contracts; corporate income tax exemption, personal income tax exemption in Ho Chi Minh City

This Decree details a number of articles of the National Assembly's Resolution No. 98/2023/QH15 dated June 24, 2023 on piloting a number of specific mechanisms and policies for the development of Ho Chi Minh City (hereinafter referred to as Resolution No. 98/2023/QH15), including:

- Loan interest after the construction period, reasonable profit, payment method and settlement of investment projects under BT contracts (hereinafter referred to as BT projects) in Ho Chi Minh City as prescribed at Point d, Clause 5, Article 4 of Resolution No. 98/2023/QH15;
- Corporate income tax exemption, personal income tax exemption as prescribed at Points a and b, Clause 1, Article 8 of Resolution No. 98/2023/QH15.



This Decree applies to the following subjects:

- The parties to the BT contract, agencies, organizations and individuals involved in BT project investment activities in Ho Chi Minh City.
- Enterprises, agencies, organizations and individuals involved in innovative start-up and creative start-up activities in Ho Chi Minh City.

This Decree takes effect from February 2, 2024.

IV. Taxes, fees, charges sector

4.1. Circular No. 07/2024/TT-BTC dated February 05, 02 of the Ministry of Finance stipulating the collection rate, regime of collection and payment of fees for appraisal of licenses or written approvals for foreign organizations and individuals conducting scientific research in Vietnamese waters

The fee for appraisal of licenses for foreign organizations and individuals conducting scientific research in Vietnamese waters shall be as follows:

No.	Licensing Due Diligence	Tolling rates (thousand VND/appraisal)			
		Level	Amendments & supplements	Renew	Reissue
1	Scientific research activities are located outside Vietnam's internal waters and territorial waters and do not use drilling methods on the seabed and subsoil	4.000	3.700	2.200	1.300
2	Scientific research activities have a scope in Vietnam's internal waters and territorial	5.300	4.000	3.400	2.200



	waters and do not use drilling methods on the seabed and subsoil on the seabed				
3	Scientific research activities using drilling methods on the seabed and subsoil on the seabed	6.000	4.500	3.700	2.500

This circular takes effect from March 21, 2024.

4.2. Circular No. 08/2024/TT-BTC dated February 05, 02 of the Ministry of Finance stipulating the collection rate, the regime of collection, and payment of fees for granting submersible permits at sea

This Circular stipulates the fee for issuance, re-issuance, renewal, modification and supplementation of submersible permits at sea specified in the following Schedule:

No.	Licensing activities	Fee rates (thousand VND/license)
1	Licensing	22.500
2	Re-issuance of licenses	7.000
3	License Renewal	17.500
4	License modification and supplementation	12.500

This Circular applies to fee payers; fee collection organizations; other organizations and individuals involved in the collection and payment of fees for granting submersible permits at sea.

This circular takes effect from March 21, 2024.

4.3. Circular No. 10/2024/TT-BTC dated February 05, 02 of the Ministry of Finance stipulating the collection rate, the regime of collection, payment, management and use of fees for appraisal and assessment of mineral reserves and fees for granting mineral activity licenses

This Circular prescribes the collection rate, regime of collection, payment, management and use of fees for appraisal and assessment of mineral reserves and fees for granting licenses for mineral activities.

This Circular applies to persons paying fees and charges; organization of collection of fees and charges; other organizations and individuals involved in the collection, submission, management and use of fees for appraisal and assessment of mineral reserves and fees for granting licenses for mineral activities.

This circular takes effect from March 21, 2024.

4.4. Circular No. 11/2024/TT-BTC dated February 05, 02 of the Ministry of Finance stipulating the collection rate, regime of collection, payment, management and use of fees for exploitation and use of geological and mineral documents

This Circular prescribes the collection rate, regime of collection, payment, management and use of fees for exploitation and use of geological and mineral documents.

This Circular applies to fee payers; toll collection organization; other organizations and individuals involved in the collection, payment, management and use of fees for exploitation and use of geological and mineral documents.

This circular takes effect from March 21, 2024.

4.5. Circular No. 12/2024/TT-BTC dated February 05, 02 of the Ministry of Finance stipulating the collection rate, regime of collection, payment, management and use of fees for appraisal of dossiers for issuance of genetically modified biosafety certificates

The fee for appraisal and issuance of biosafety certificates for genetically modified crops is 70,000,000 VND/01 appraisal

The fee payer shall pay the fee no later than 05 days from the date of receipt of the written notice as prescribed in Circular No. 74/2022/TT-BTC dated December 22, 2022.

This circular takes effect from March 21, 2024.

4.6. Dispatch No. 462/TCT-CS dated February 05, 02, 2024 of the General Department of Taxation guiding invoices

In case an export processing enterprise (DNCX) sells products manufactured by the DNCX into the domestic market, goods imported from the DNCX into the domestic market are subject to tax in accordance with the law on value-added tax, the law on export tax and import tax as prescribed, The enterprise shall implement invoices as prescribed in Clause 2 Article 8 of Decree No. 123/2020/ND-CP.

In case the enterprise receives processing for domestic enterprises in accordance with the law, the invoice shall be made according to the provisions of Clause 2, Article 8 of Decree No. 123/2020/ND-CP.

In case the enterprise liquidates fixed assets for domestic enterprises, the General Department of Taxation has issued Official Letter 2312/TCT-CS dated June 8, 2023 responding to some Tax Departments (copy of attached dispatch).

For problems about the use of invoices when enterprises have other business activities, because this business has not arisen in the area, the Tax Department is requested to comply with the direction of the General Department of Taxation in Official Letter 5029/TCT-PC dated 09/11/2023.

4.7. Dispatch No. 495/TCT-CS dated February 06, 02, 2024 of the General Department of Taxation guiding invoices

Based on tax regulations, in case ship technical supervision services are performed in the territory of Vietnam and consumed at a new ship construction company in Vietnam, the conditions for consumption outside Vietnam are not met to be applied the tax rate of 0% as prescribed.

V. Real estate sector

5.1. The Government's Decree No. 12/2024/ND-CP dated February 05, 2024 amending and supplementing a number of articles of the Government's Decree No. 44/2014/ND-CP dated May 15, 2014 regulating land prices and the Government's Decree No. 10/2023/ND-CP dated April 03, 2023 amending and supplementing a number of articles of Decrees guiding the implementation of the Land Law

This Decree governs a number of main contents on:

- Land valuation methods
- Conditions for application of land valuation method
- Information for applying land valuation methods
- Order and contents of land price determination according to methods

This Decree takes effect from February 5, 2024.

VI. Labor - salary sector

6.1. Decree 21/2024/ND-CP amending Decree 51/2016/ND-CP regulating labor management, salaries and bonuses for employees working in single-member limited liability companies 100% of charter capital is held by the State and Decree 52/2016/ND-CP regulates salaries, remunerations, and bonuses for managers of single-member limited liability companies held by the State 100% charter capital

Amending and supplementing a number of articles of Decree No. 51/2016/ND-CP

- Article 4 on salary scale, salary table, salary allowances;
- Amend and supplement points a and b, Clause 3, Article 5

Amending and supplementing Article 3 on salary rankings for managers and full-time controllers of Decree No. 52/2016/ND-CP

- The phrase “manager” in the name and the phrases “manager” or “company manager” in the articles, clauses, and Appendixes of the Decree are replaced by the phrase “manager, Surveyor

- Amend and supplement Article 3 on salary rankings for managers and full-time controllers
- Add Clause 8 to Article 4
- Amend and supplement Clause 2, Article 5, remove the content "or the company operates for non-profit purposes" in Clause 4, Article 5
- Add Clause 4a after Clause 4, Article 5 as follows: "4a. The company operates not for profit, when determining wages according to the provisions of Clauses 2 and 3 of this Article, the profit target is replaced by the target of total revenue minus total costs.
- Amend Clause 6, Article 5
- Remove the content "For financial controllers at state-owned economic corporations, submit to the Ministry of Finance for evaluation and payment" in Clause 7, Article 4 and the content "receiving, managing and paying money Salaries, remunerations, bonuses for Financial Controllers are deducted by state economic corporations" at Point a, Clause 5, Article 9.
- Abolish Clause 3, Article 10.
- Amend and supplement a number of contents of Appendix I according to the Appendix issued with this Decree

This Decree takes effect from April 10, 2024.

The regimes on salary funds, salary payments, remunerations and bonuses specified in Clause 2, Article 1, Clauses 3, Clause 4, Clause 6, Clause 7 and Clause 10, Article 2 of this Decree are implemented from January 1. January 2024.

VII. Others sector

7.1. Circular No. 01/2024/TT-BTP dated February 01, 2024 of the Ministry of Justice annulling a number of circulars of the Minister of Justice on registration of security measures

This circular repeals all circulars:



- Circular No. 01/2019/TT-BTP dated January 17, 01 of the Minister of Justice guiding a number of contents on registration of security measures by aircraft and ships.
- Circular No. 07/2019/TT-BTP dated November 02, 11 of the Minister of Justice guiding a number of contents on mortgage registration of land use rights and land-attached assets.

This circular takes effect from February 1, 2024.

7.2. Circular No. 01/2024/TT-BGDĐT dated February 05, 02 of the Ministry of Education and Training promulgating higher education institution standards

Promulgate together with this Circular Standards of higher education institutions, including standards and criteria which are minimum requirements on quality assurance conditions and performance indicators of a higher education institution.

Applicable to higher education institutions and related organizations and individuals.

This circular takes effect from March 22, 2024.