

LEGAL NEWSLETTER

No. 14 – March 2024 – Capable Counsel

I. Corporate Sector:

1.1. Decision 12/2024/QD-UBND of the People's Committee of Ho Chi Minh City annulling Decision 46/2011/QD-UBND on Regulation on coordination in state management of export processing zones and industrial parks in Ho Chi Minh City dated March 11, 2024.

To annul the entire Decision No. 46/2011/QD-UBND dated July 12, 2011 of the People's Committee of Ho Chi Minh City on promulgating the Regulation on coordination in state management of export processing zones and industrial parks in Ho Chi Minh City.

This decision takes effect from March 21, 2024.

1.2. Dispatch 11226/CTHN-TTHT on insurance enterprise agency expenses issued by the Hanoi Tax Department on March 8, 2024.

In case the employee is eligible to become an insurance agent of the Company in accordance with the law on insurance, the payment of insurance agent commission, bonus and support for the insurance agent shall be deducted when determining income subject to corporate income tax if it meets the conditions specified in Clause 1, Article 4 of Circular No. 96/2015/ TT-BTC.

1.3. Dispatch 13615/CT-TTHT on whether the cost of recovering and destroying old equipment is included in the cost when calculating corporate income tax was not issued by the Hanoi Tax Department on March 21, 2024.

If Company A incurs expenses for the repurchase of old medical equipment from customers for destruction if it meets the provisions of Article 4 of the Government's Circular No. 96/2015/TT-BTC dated June 22, 2015, the cost of purchasing and destroying these goods shall be included in the deductible expenses when calculating CIT as prescribed.

1.4. Dispatch 14112/CTHN-TTHT on expenses for members of the Board of Directors issued by the Hanoi Tax Department on March 22, 2024.

In principle, incomes from salaries and wages include salaries, wages, amounts of salary, wages in the form of equal, monetary or non-monetary amounts, remuneration received in all forms, monetary or non-monetary bonuses in any form, other benefits paid by the employer... according to the provisions of Clause 2, Article 2 of Circular No. 111/2013/TT-BTC of the Ministry of Finance.

In case the Company pays salaries, wages and benefits in cash or non-cash nature to members of the Board of Directors who do not directly participate in production and business administration, these expenses are not included in deductible expenses when determining income subject to CIT as prescribed in Clause 2.6, Article 4 Circular No. 96/2015/TT-BTC of the Ministry of Finance.

In case the Company pays salaries, wages and benefits in cash or non-cash nature to members of the Board of Directors directly participating in production and business administration, the expenses shall be specified in the conditions for entitlement. the level of entitlement in one of the dossiers such as the labor contract; Collective labor agreements; The Company's financial regulations... and meet the conditions specified in Article 4 of Circular No. 96/2015/TT-BTC, Clause 2, Article 3 of Circular No. 25/2018/TT-BTC shall be included in deductible expenses when determining CIT taxable income.

II. Commercial Sector:

2.1. Decree 26/2024/ND-CP on the management of international cooperation on law and judicial reform issued by the Government on March 1, 2024.

This Decree provides for the management of international cooperation in law and judicial reform, including the principles, contents, forms of cooperation, implementation and responsibilities of Vietnamese agencies and organizations in international cooperation in law and judicial reform.

This Decree applies to Vietnamese agencies and organizations participating in international cooperation activities on law and judicial reform.

This Decree takes effect from May 15, 2024 and replaces the Government's Decree No. 113/2014/ND-CP dated November 26, 2014 on the management of international cooperation in law.

Activities of international cooperation in law and judicial reform approved before the effective date of this Decree are not required to re-implement the process and procedures for soliciting opinions in this Decree. The organization of international cooperation activities shall comply with the provisions of this Decree.

Activities of international cooperation in law and judicial reform that have been submitted to competent authorities for approval before the effective date of this Decree but have not yet been approved shall continue to be approved in accordance with the provisions of the Government's Decree No. 113/2014/ND-CP dated November 26, 2014 on the management of international cooperation in law and the implementation of in accordance with the provisions of this Decree.

In case a legal document referred to in this Decree is amended, supplemented or replaced, the document amending, supplementing or replacing the cited document shall apply.

2.2. Decree 32/2024/ND-CP on management and development of industrial clusters issued by the Government on March 15, 2024.

This Decree provides for plans for the development of industrial clusters; establishment and expansion of industrial clusters; investment in the construction of technical infrastructure and production and business in industrial clusters; preferential policies and support for developing industrial clusters and state management of industrial clusters.

Subjects of application of this Decree:

- Enterprises, cooperatives, organizations investing in the construction of technical infrastructure of industrial clusters;
- Organizations and individuals engaged in production and business in industrial clusters;
- Other agencies, organizations and individuals related to the management, investment and operation of industrial clusters.

This Decree takes effect from May 1, 2024.

Decree No. 68/2017/ND-CP and Decree No. 66/2020/ND-CP shall cease to be effective from the effective date of this Decree.

2.3. Decree 34/2024/ND-CP regulating the list of dangerous goods, transportation of dangerous goods by road motor vehicles and inland waterway vehicles dated March 31, 2024

This Decree prescribes the list of dangerous goods, the transport of dangerous goods, the issuance of permits for the transport of dangerous goods by road motor vehicles and the transport of dangerous goods on inland waterways.

For the transportation of radioactive substances, in addition to the implementation of this Decree, it must also comply with the provisions of the law on atomic energy.

For the transportation of weapons, explosives, combat gears, explosive precursors and firecrackers, the law on weapons, explosives, combat gears, explosive precursors and firecrackers shall be complied with.

The transportation of dangerous goods for security and defense purposes of the armed forces shall comply with the provisions of this Decree and shall be organized by the Minister of Public Security and the Minister of National Defense.

For dangerous goods that are hazardous wastes, in addition to the provisions of this Decree, they must also comply with the provisions of the law on environmental protection.

In case there are different provisions between this Decree and the law on atomic energy, weapons, explosives, combat gears, explosive precursors, firecrackers, environmental protection, fire prevention and fighting, the provisions of the law on atomic energy shall be complied with. weapons, explosives, supporting tools, explosive precursors and firecrackers, environmental protection, fire prevention and fighting.

The list of dangerous goods shall be classified according to types and groups enclosed with the United Nations codes and dangerous numbers specified in Appendix I of this Decree.

The danger level of each substance in the list of dangerous goods is indicated by a dangerous number with a group of 2 to 3 digits specified in Appendix II of this Decree.

This Decree takes effect from May 15, 2024 and replaces the Government's Decree No. 42/2020/ND-CP dated April 8, 2020 regulating the list of dangerous goods, transportation of dangerous goods by road motor vehicles and transportation of dangerous goods on inland waterways.

Organizations and individuals that have been granted licenses to transport dangerous goods before the effective date of this Decree may continue to use them, without having to re-issue them until the expiration of their licenses or until they are re-issued.

2.4. Circular 02/2024/TT-BKHCN regulating the management of traceability of products and goods issued by the Minister of Science and Technology on March 28, 2024.

This Circular provides for the management of product and goods traceability, including: state management of product and goods traceability; stipulates a system for tracing the origin of products and goods to ensure data connection and sharing; managing the use of product tracking codes, location tracking codes, and data carriers; responsibilities of organizations and individuals performing traceability of products and goods; responsibilities of organizations and individuals providing services and solutions for tracing the origin of products and goods and organizing the implementation and implementation of traceability of products and goods.

This Circular applies to the following subjects:

- Organizations and individuals producing, trading and providing services shall trace the origin of products and goods.
- Organizations and individuals providing services and solutions related to the traceability of products and goods.
- State management agencies and relevant organizations and individuals.

Traceability is the activity of monitoring and identifying a product or service unit through each stage according to the time and place of the production, processing, storage, preservation, transportation, distribution and trading process.

This Circular takes effect from June 1, 2024.

2.5. Decision 469/QD-BCT announcing new administrative procedures, abolished in the field of trade promotion under the management of the Ministry of Industry and Trade on March 5, 2024.

List of abolished administrative procedures under the jurisdiction of the Ministry of Industry and Trade (Trade Promotion Agency):

No.	Filing number	Name of administrative procedure	Field	Name of Document	Implementing agency
Central administrative procedures					
1	1.001399	Issuance of Licenses for Establishment of Representative Offices of Foreign Trade Promotion Organizations in Vietnam	Trade Promotion	Decree No. 14/2024/ND-CP dated February 07, 2024 of the Government amending	Ministry of Industry and Trade (Trade Promotion Agency)
2	1.001391	Amendment of the License to establish a representative office of a foreign trade promotion organization in Vietnam	Trade Promotion	Decree No. 28/2018/ND-CP dated March 01, 2018 detailing the Law on Foreign Trade Management on a number	Ministry of Industry and Trade (Trade Promotion Agency)
3	1.001384	Re-issuance of the License to establish a representative	Trade Promotion	of measures to develop foreign trade	Ministry of Industry and Trade (Trade



		office of a foreign trade promotion organization in Vietnam			Promotion Agency)
4	1.001076	Extension of the License to Establish a Representative Office of a Foreign Trade Promotion Organization in Vietnam	Trade Promotion		Ministry of Industry and Trade (Trade Promotion Agency)
5	1.001036	Termination of operation and revocation of the License to establish a representative office of a foreign trade promotion organization in Vietnam	Trade Promotion		Ministry of Industry and Trade (Trade Promotion Agency)

List of newly issued administrative procedures:

No.	Name of administrative procedure	Field	Name of Document promulgation of the Administrative Decree	Implementing agency
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Provincial administrative procedures				
1	Issuance of Licenses for Establishment of Representative Offices of Foreign Trade Promotion Organizations in Vietnam	Trade Promotion	Decree No. 14/2024/ND-CP dated February 07, 2024 of the Government	Departments of Industry and Trade of provinces and centrally-run cities
2	Amendment of the License to establish a representative office of a foreign trade promotion organization in Vietnam	Trade Promotion	amending and supplementing the Government's Decree No. 28/2018/ND-CP dated	Departments of Industry and Trade of provinces and centrally-run cities
3	Re-issuance of the License to establish a representative office of a foreign trade promotion organization in Vietnam	Trade Promotion	March 1, 2018 detailing the Law on Foreign Trade Management on a number of measures to	Departments of Industry and Trade of provinces and centrally-run cities
4	Extension of the License to Establish a Representative Office of a Foreign Trade Promotion Organization in Vietnam	Trade Promotion	develop foreign trade.	Departments of Industry and Trade of provinces and centrally-run cities
5	Termination of operation and revocation of the License to establish a representative office of a	Trade Promotion		Departments of Industry and Trade of provinces and

	foreign trade promotion organization in Vietnam			centrally-run cities
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III. Taxes, fees and charges Sector:

3.1. Consolidated document 10/VBHN-BTC in 2024 consolidating the Decree guiding the Law on Corporate Income Tax issued by the Ministry of Finance.

This Decree details and guides the implementation of a number of articles of the Law on Enterprise Income Tax and the Law amending and supplementing a number of articles of the Law on Enterprise Income Tax on: Taxpayers; taxable income, tax-exempt income; determination of taxable income, determination of losses and loss carry-on; turnover; deductible and non-deductible expenses when determining taxable income; tax rates; tax calculation method; tax incentives and conditions for application of tax incentives.

3.2. Decision 449/QD-BTC adjusting the price list for calculation of registration fees for automobiles and motorcycles issued by the Minister of Finance on March 15, 2024.

To promulgate together with this Decision the price list of adjustments and supplements to the price list for calculation of registration fee for automobiles and motorcycles issued together with Decision No. 2353/QD-BTC dated 31/10/2023.

This Decision takes effect from March 20, 2024.

3.3. Dispatch 10480/CTHN-TTHT guiding the content of invoices issued by the Hanoi Tax Department on March 4, 2024.

In case the company sells goods under a contract with a foreign partner without a presence in Vietnam and is appointed to deliver and receive goods with an enterprise in Vietnam in the case of on-the-spot export, if exporting goods for transportation to the border gate or to the place of carrying out export procedures, the enterprise shall use the ex-warehousing internal transportation bill according to the regulation. In the indicator of the buyer's name showing the consignee, the buyer's address showing the location of the warehouse to receive the goods; the seller's name shows the exporter, the seller's address shows the location of the

warehouse and the means of transport; failing to show the tax amount, tax rate, and total payment amount as prescribed in Clause 14, Article 10 of Decree No. 123/2020/ND-CP as prescribed in Article 8 of Decree No. 123/2020/ND-CP.

3.4. Dispatch 14116/CTHN-TTHT in 2024 declaring tax for dependent accounting branches issued by the Hanoi Tax Department on March 22, 2024.

In case Company A (head office in B) registers the establishment of a branch in C and accounts for dependency, the branch shall perform tax obligations as follows:

- License fee: Branch C must pay the license fee according to the provisions of Article 2 of Decree No. 139/2016/ND-CP of the Government. The place to submit the license fee declaration dossier shall comply with the provisions of Clause 1, Article 11 of Decree No. 126/2020/ND-CP dated October 19, 2020 of the Government.
- VAT:
 - In case a dependent unit (branch) has business activities and fails to fully monitor the accounting of output and input VAT, the head office shall declare and submit the VAT declaration dossier of the company and its branch in another province to the tax authority directly managing the head office as prescribed in Clause 1. Clause 2, Article 11 of Decree 126/2020/ND-CP of the Government.
 - In case the dependent unit (branch) directly sells goods and uses invoices registered by the dependent unit or is registered by the taxpayer with the tax authority managing the dependent unit, monitoring and fully accounting output and input VAT, the dependent unit shall declare tax and pay VAT to the tax authority directly managing the branch according to the provisions of Clause 4, Article 13 of Circular 80/2021/TT-BTC of the Ministry of Finance.

IV. Investment Sector:

4.1. Circular 03/2024/TT-BKHDT regulating the form of bidding dossier for selection of investors to implement projects in case of having to organize bidding in accordance

with the law on management of sectors and fields issued by the Minister of Planning and Investment on March 06, 2024.

This Circular stipulates the form of dossier for selection of investors to implement projects that are subject to bidding in accordance with the law on management of sectors and fields, including:

- Form of Notice of Invitation for Expressions of Interest, Dossiers of Invitation for Expressions of Interest.
- Form of single-stage bidding dossier, one dossier bag.
- Form of bidding dossier for one stage and two dossier bags.

This Circular takes effect from the date of signing for promulgation.

4.2. Decision 261/QD-BKHDT in 2024 announcing new administrative procedures in the field of bidding for investor selection under the management of the Ministry of Planning and Investment on March 5, 2024.

To announce together with this Decision new administrative procedures in the field of bidding and selection of investors under the management of the Ministry of Planning and Investment (according to Appendices I and II promulgated together).

The contents of the announcement of administrative procedures in this Decision are posted on the website of the Ministry of Planning and Investment, the column "Administrative procedures" at the following address:

<https://vbpl.mpi.gov.vn/ChiTiet/pdf.088f4262-7d25-454a-9e19-4c3893951df8>

This Decision takes effect from the date of signing.

No.	Name	Legal basis	Implementing agency	Notes
I. CENTRAL-LEVEL ADMINISTRATIVE PROCEDURES				
Bidding field for investor selection				
1	Announcement of business investment	Law on Bidding No. 22/2023/QH15	Ministries and ministerial-level agencies;	

	projects for projects not subject to investment policy approval proposed by investors.	dated June 23, 2023; Decree No. 23/2024/ND-CP dated February 27, 2024 of the Government.	Agencies and units assigned by ministers and heads of ministerial-level agencies to receive and consider project proposal dossiers of investors.	
II. PROVINCIAL-LEVEL ADMINISTRATIVE PROCEDURES				
Bidding field for investor selection				
1	Announcement of business investment projects for projects not subject to investment policy approval proposed by investors.	Law on Bidding No. 22/2023/QH15 dated June 23, 2023; Decree 23/2024/ND-CP dated February 27, 2024 of the Government.	<ul style="list-style-type: none"> - Provincial People's Committees; - Departments of Planning and Investment, specialized agencies under the provincial People's Committee (projects for which the provincial People's Committee is the competent authority); - Economic zone management boards; - Agencies and units assigned by the head of the economic zone management board to receive and consider the investor's project proposal dossier (for projects for which the economic zone management board is a competent agency). 	

4.3. Decision 321/QD-BKHDT in 2024 announcing new administrative procedures in the field of bidding for contractor selection and investor selection under the management of the Ministry of Planning and Investment on March 18, 2024.

To announce together with this Decision new administrative procedures in the field of bidding for contractor selection and investor selection under the management of the Ministry of Planning and Investment (according to Appendices I and II promulgated together).

The contents of the announcement of administrative procedures in this Decision are posted on the website of the Ministry of Planning and Investment, the column "Administrative procedures" at the address:

<https://vbpl.mpi.gov.vn/ChiTiet/pdf.4985d000-25a7-4d7e-ac4e-d31f1e26ff39>.

This Decision takes effect from the date of signing.

No.	Name	Legal basis	Implementing agency	Notes
ADMINISTRATIVE PROCEDURES AT THE CENTRAL LEVEL				
Bidding field for contractor selection				
1	Registration for participation in the National Procurement Network System (for contractors and investors)	Law on Bidding No. 22/2023/QH15 dated June 23, 2023; Decree No. 24/2024/ND-CP dated February 27, 2024 detailing a number of articles and measures to implement the Law on Bidding on contractor selection	National Cyber Procurement Center - Procurement Management Department - Ministry of Planning and Investment	

2	Updating account information of organizations and individuals on the National Procurement Network System	Law on Bidding No. 22/2023/QH15 dated June 23, 2023; Decree No. 24/2024/ND-CP dated February 27, 2024 detailing a number of articles and measures to implement the Law on Bidding on contractor selection	- National Online Bidding Center - Procurement Management Department - Ministry of Planning and Investment	
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4.4. Dispatch 14113/CTHN-TTHT in 2024 declaring and paying contractor tax issued by the Hanoi Tax Department on March 22, 2024.

In case the foreign supplier Facebook, Google, Tiktok has registered, declared and paid tax directly in Vietnam according to the provisions of Articles 76, 77, 78 and 79 of Circular No. 80/2021/TT-BTC dated September 29, 2021, Company A is not required to declare, deduct and pay tax on behalf of the overseas supplier the payable tax amount as prescribed in Circular No. 103/2014/TT-BTC dated 06/08/2014 of the Ministry of Finance.

In principle, input VAT on goods and services used for the production and trading of goods and services subject to VAT shall be fully deducted if the conditions for VAT deduction specified in Article 15 of Circular No. 219/2013/TT-BTC dated December 31, 2013 of the Ministry of Finance are amended. supplemented in Clause 1, Article 15 of Circular No. 26/2015/TT-BTC, Article 1 of Circular No. 173/2016/TT-BTC.

V. Labor and employment Sector:

5.1. Decision No. 225/QD-BLDTBXH on announcing the results of systematization of legal documents in the field of state management of the Ministry of Labor, War Invalids and Social Affairs for the systematization period 2019 - 2023 dated March 05, 2024.

Announcement of the results of the systematization of legal documents in the field of state management of the Ministry of Labor, Invalids and Social Affairs for the 2019-2023 period, promulgated together with this Decision is:

- The list of valid legal documents in the field of state management of the Ministry of Labor, War Invalids and Social Affairs in the 2019-2023 systematization period.
- The list of legal documents that have expired or ceased to be effective in the field of state management of the Ministry of Labor, War Invalids and Social Affairs in the 2019-2023 systematization period.
- The list of legal documents that have expired or partially ceased to be effective in the field of state management of the Ministry of Labor, War Invalids and Social Affairs in the 2019-2023 systematization period.
- The list of legal documents that need to be suspended, invalidated, amended, supplemented, replaced, abolished or newly promulgated in the field of state management of the Ministry of Labor, War Invalids and Social Affairs in the 2019-2023 systematization period.

This Decision takes effect from the date of signing.

5.2. Consolidated Document No. 834/VBHN-BLDTBXH stipulating the level of allowances, allowances and preferential regimes for people with meritorious services to the revolution issued by the Ministry of Labor, War Invalids and Social Affairs on March 5, 2024.

Consolidating Decree No. 75/2021/ND-CP dated July 24, 2021 and Decree No. 55/2023/ND-CP dated July 21, 2023.

This Decree prescribes the level of preferential allowances and allowances for persons with meritorious services to the revolution and relatives of persons with meritorious services to the revolution and preferential regimes for persons with meritorious services to the revolution from the central budget for the implementation of the Ordinance on Preferences for Persons with Meritorious Services to the Revolution which shall be allocated in the state budget estimates for regular expenditures of the Ministry of Labor, War Invalids and Social Affairs, the Ministry of National Defense and the Ministry of Public Security.



Subjects of application comply with the provisions of Article 2 of Ordinance No. 02/2020/UBTVQH14 dated December 09, 2020 of the Standing Committee of the XIV National Assembly on incentives for people with meritorious services to the revolution.

VI. Monetary – Banking Sector:

6.1. Consolidated document No. 05/VBHN-NHNN regulating the capital adequacy ratio for banks and foreign bank branches dated March 1, 2024.

Consolidation of Circular No. 41/2016/TT-NHNN dated December 30, 2016; Circular No. 22/2019/TT-NHNN dated November 15, 2019 and Circular No. 22/2023/TT-NHNN dated December 29, 2023.

This Circular prescribes the capital adequacy ratio for banks and foreign bank branches in Vietnam.

Subjects of application include:

- Banks: State-owned commercial banks, joint-stock commercial banks, joint-venture banks, banks with 100% foreign capital;
- Foreign bank branches.

This Circular does not apply to banks placed under special control.

6.2. Circular 17/2024/TT-BTC guiding the control and payment of recurrent expenditures through the State Treasury issued by the Minister of Finance on March 14, 2024

This Circular guides the mechanism for controlling and paying recurrent expenditures through the State Treasury from the following sources:

- State Budget;
- Fee sources shall be retained according to the prescribed regime and other lawful revenues of state agencies;
- Revenues from medical examination and treatment services, preventive medicine services, tuition fees of public non-business units that self-finance part of recurrent expenditures (group 3 units) and public non-business units

that are covered by the state for recurrent expenditures (group 4 units) and charge revenues according to the law on charges, fees of public non-business units as prescribed in Clauses 2 and 3, Article 23 of the Government's Decree No. 60/2021/ND-CP dated June 21, 2021 regulating the mechanism of financial autonomy of public non-business units (Decree No. 60/2021/ND-CP).

This Circular does not provide guidance on expenses of overseas Vietnamese representative missions; expenditures shall have their own guiding mechanism according to the regulations of competent authorities.

This Circular applies to agencies, units, organizations and individuals transacting with the State Treasury system; State Treasury; financial agencies at all levels.

This Circular takes effect from May 1, 2024.

In the course of implementation, if the legal documents referred to for application in this Circular are amended, supplemented or replaced by new documents, such amended, supplemented or replaced documents shall apply.

This Circular replaces Circular No. 62/2020/TT-BTC dated June 22, 2020 of the Ministry of Finance guiding the control and payment of recurrent expenditures from the State budget through the State Treasury.

VII. Food hygiene and safety:

7.1. Decision 782/QĐ-UBND in 2024 announcing the list of administrative procedures in the field of food safety, food safety and nutrition under the management of the Department of Food Safety, Ho Chi Minh City on March 14, 2024.

Announcing together with this Decision a list of 06 administrative procedures in the field of Food Safety, Food Safety and Nutrition under the management of the Department of Food Safety, including 03 amended and supplemented administrative procedures, 02 alternative administrative procedures, 01 administrative procedure is abolished due to replacement.

The list of administrative procedures is posted on the website of the City People's Committee at <https://hochiminhcity.gov.vn/> (Standardized Administrative Procedure Set).

This Decision takes effect from the date of signing.



To annul the contents of the announcement for administrative procedures:

- Procedures are in order B1 and B8 issued together with Decision No. 3449/QD-UBND dated August 17, 2018 of the Chairman of the City People's Committee on the announcement of standardized administrative procedures under the management of the Food Safety Management Board.
- Procedures are in the order A1 and A2 in the list of administrative procedures issued together with Decision No. 3358/QD-UBND dated September 17, 2021 of the Chairman of the City People's Committee on the publication of the list of administrative procedures in the field of food safety of the industry and trade sector under the management of the Food Safety Management Board.