

LEGAL NEWSLETTER

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REMARKABLE REGULATIONS

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□ Levels of administrative sanctions in the fields of judicial assistance, judicial administration and corporate bankruptcy

On 15 July 2020, the Government issued Decree 82/2020/ND-CP on sanctioning administrative violations in the fields of judicial assistance; judicial administration; marriage and family; civil judgment enforcement; enterprise and cooperative bankruptcy ("**Decree 82/2020**"). Decree 82/2020 takes effect from 01 September 2020 and replaces Decree 110/2013/ND-CP and Decree 67/2015/ND-CP amending and supplementing a number of articles of Decree 110/2013 /ND-CP.

Accordingly, Decree 82/2020 is issued in the direction of increasing monetary fines for administrative violations and features some new points as follows:

Field of violation	Level of fine	Acts of violation
Judicial administration, marriage and family	Maximum is VND 30 million	Individual
Civil judgment enforcement, enterprise and cooperative bankruptcy	Maximum is VND 40 million	Individual
Judicial assistance	Maximum is VND 50 million	Individual
<i>Note: the fine level for an organization that commits an administrative violation is 02 times higher than that for an individual.</i>		
Notarization of contracts	From VND 07 to 10 million <i>(The old rate is from VND 01 to 03 million)</i>	- Modifying, erasing or falsifying the contents of documents issued by the competent agencies, organizations or persons in order to have contracts notarized. - Using documents issued by competent agencies, organizations or persons, whose contents have been modified, erased or falsified in order to have contracts notarized.
	From VND 20 to 30 million <i>(The old rate is from VND 03 to 10 million)</i>	- Impersonating, hiring or asking others to impersonate the notarization requester; Impersonating, hiring or asking others to impersonate the person with interests and obligations related to the contract in order to notarize the contract; forging the signature of the notarization requester. - Requesting notarization of fake contracts. - Providing false information and documents to notarize contracts. - Impeding notarization activities.
Making bailiff certificates	From VND 07 to 10 million	- Making bailiff certificates related to the rights and interests of oneself and those who are close relatives. - Making bailiff certificates violating the regulations on ensuring security and national defense. - Making bailiff certificates violating personal privacy, personal secrets, and family secrets according to the Civil Code; contrary to social morality. - Making bailiff certificates certifying the contents or signatures in contracts or transactions within the scope of notarization and authentication; certifying the accuracy, legality and social ethics of the translations of Vietnamese documents into a foreign language or vice versa; certifying that signatures or copies are true. - Make bailiff certificates recording events or acts to transfer land use rights or property ownership without proof of the use or ownership rights. - Making bailiff certificates recording events or acts in order to conduct illegal transactions of the requester. - Making bailiff certificates recording events or acts of cadres, civil servants, public employees, officers, professional soldiers, defense workers and officers in agencies and units of the People's Army, officers, non-commissioned officers in agencies and units of the People's Public Security Forces who are on duty. - Making documents in attachment to bailiff certificates inconsistent with the authority and the preparation scope of bailiff-certified document.
	Revoke the right to use the bailiff's card from 09 to 12 months	- Making bailiff certificates recording facts or acts that the bailiff did not directly witness. - Colluding with the requester and related people to falsify the content of bailiff certificates or dossiers.
Authentication of contracts and transactions	From VND 01 to 03 million <i>(The old rate is from VND 300.000 to 05 million)</i>	Erasing, correcting or falsifying the content of documents issued by a competent agency, organization or person in order to authenticate contracts or transactions.
	From VND 07 to 10 million <i>(The old rate is from VND 01 to 03 million)</i>	Using fake personal papers to authenticate contracts or transactions.
	From VND 10 to 15 million <i>(The old rate is from VND 03 to 05 million)</i>	Impersonating a subject to have contracts or transactions authenticated.

Levels of administrative sanctions in the fields of judicial assistance, judicial administration and corporate bankruptcy

Field of violation	Level of fine	Acts of violation
Registration of security measures	From VND 01 to 03 million	Erasing, correcting or falsifying the contents of a certificate or other certifying documents, informative documents issued by a registration body, or registration request forms certified by a registration body.
	From VND 03 to 05 million	Forging the signature of the requester in the registration request form or the signature in the written notice of property distraint or distraint release in order to enforce a civil judgment.
	From VND 05 to 10 million	<ul style="list-style-type: none"> - Illegally exploiting, using, falsifying information in the application for registration of security measures; destroying documents on registration of security measures. - Illegally accessing, modifying or deleting registration information in the database of security measures. - Distributing software programs that disrupt, alter or sabotage the online registration system of security measures or commit other acts to damage the technological infrastructure of the online registration system of security measures. - Fraud, impersonation, appropriation or unauthorized use of online accounts of individuals or organizations to commit acts in violation of the law on registration of security measures.
Bankruptcy of enterprises	From VND 01 to 03 million	Acts of erasing, correcting, falsifying the contents of documents issued by competent agencies, organizations or persons in the written application for the receiver's practicing certificate; register to practice the profession of property management and liquidation as individuals; register to practice the profession of management and liquidation of assets for the property management and liquidation enterprises.
	From VND 05 to 10 million	An enterprise going into solvency but failing to notify in writing the persons who have the right and obligation to file a petition for initiating bankruptcy proceedings as prescribed in Article 5 of the Law on Bankruptcy.
Property management and liquidation practice	From VND 01 to 03 million	<ul style="list-style-type: none"> - Failure to notify the Department of Justice of the practicing place when terminating operations or terminating the practice of asset management and liquidation. - Not timely notifying about the participation in a case of bankruptcy. - Failure to report to the executor of the selection of a price appraisal organization or an auction organizer to sign a property evaluation contract or a property auction contract when organizing the property evaluation or the sale of properties. - Failure to report to the executor of the change of the price appraisal organization or the auction organizer; Failure to select a price appraisal organization or auction organizer; Unsuccessful auction of properties.
	From VND 03 to 07 million	<ul style="list-style-type: none"> - Concurrently practicing asset management and liquidation at 02 or more asset management and liquidation enterprises. - Not requesting to change the transaction location; not buying professional liability insurance in the case of a receiver practicing as an individual. - Not keeping records of asset management and liquidation activities.
	From VND 07 to 10 million	Failure to report on the performance of duties and exercise of powers at the request of judges or civil judgment enforcement agencies.
Property management and liquidation enterprises	From VND 07 to 10 million	<ul style="list-style-type: none"> - Appointing people who are not receivers to participate in asset management and liquidation activities. - Operating incorrectly according to the registration content of the business. - Failing to buy professional liability insurance as required for receivers practicing in one's enterprise.

In addition, the act of forging documents or using forged documents of an agency or organization in the application dossier for: granting, re-granting, extending, or changing types of licenses; practicing certificates; cards; registering or re-registering activities; registering for apprenticeship; appointing; dismissing; Applying for establishment permits and other papers and documents in the fields of judicial assistance, judicial administration, marriage and family, civil judgment enforcement, corporate bankruptcy, will be administratively sanctioned with an amount from VND 10 to 30 million or be criminally prosecuted in accordance with Article 62 of the Law on Handling Administrative Violations.

❑ Detailed guidance on debt settlement dossiers pursuant to the National Assembly's Resolution No. 94/2019/QH14

On 15 July 2020, the Ministry of Finance issued Circular 69/2020/TT-BTC (“**Circular 69/2020**”) provides for the dossier and procedures for debt settlement pursuant to the National Assembly’s Resolution No. 94/2019/QH14 dated 26 November 2019 on freezing of tax arrears and write-off of late-payment fines and interests for taxpayers that are no longer able to pay these amounts to the state budget. Circular 69/2020 takes effect from the effective date of Resolution No. 94/2019/QH14, i.e. 01 July 2020 and shall be implemented for a period of 03 years.

Accordingly, Circular 69/2020 prescribes the dossiers and procedures for the freezing of tax arrears and write-off of late-payment fines and interests (below referred to as debt settlement) for taxpayers who owe debts arising before 10 July 2020 but are no longer able to pay these amounts to the state budget pursuant to Resolution No. 94/2019/QH14.

Circular 69/2020 provides 10 detailed guidelines on the dossiers for write-off of late-payment fines and interests, including: dossiers for taxpayers considered dead by law, taxpayers lost their civil act capacity, dissolution, bankruptcy, no longer conduct business operations... for example:

Subjects	Dossiers for write-off of late-payment fines and interests
Taxpayers in bankruptcy	<ul style="list-style-type: none"> - A written request in the prescribed form for debt write-off from the tax authority to which the taxpayer owes tax. - Notice of the competent court on accepting the petition for initiating bankruptcy procedures or the decision on initiating bankruptcy procedures or the decision on declaring enterprises' bankruptcy of the court but taxpayers have not had their debts written off in accordance with the Law on Tax Management - Request form for initiating bankruptcy proceedings (if any). - Notice of tax authorities of tax arrears, fines and late payment interests or a document confirming the amount of tax arrears, fines and late payment interests that taxpayers have not paid by 30 June 2020. - Written confirmations of the People's Committee of the commune, ward or town where the taxpayer registers the business address stating that the taxpayer no longer does business at the registered address, except that the taxpayer has had the court's decision to declare bankruptcy.
Taxpayers no longer conduct business operations	<ul style="list-style-type: none"> - A written request in the prescribed form for debt write-off from the tax authority to which the taxpayer owes tax. - Minutes of verification of the taxpayer's operation status between the tax authority and the People's Committee of the commune, ward or town stating that the taxpayer no longer does business at the registered address, or informing that the taxpayer is inactive at the registered address. - Minutes of verification of the taxpayer's operation status between the tax authority and the People's Committee of the commune, ward or town stating that the taxpayer no longer does business at the registered address, or informing that the taxpayer is inactive at the registered address, or the business has abandon the business address. - Notice of tax authorities of tax arrears, fines and late payment interests or a document confirming the amount of tax arrears, fines and late payment interests that taxpayers have not paid by 30 June 2020. - Written confirmations of the People's Committee of the commune, ward or town where the taxpayer registers the business address stating that the taxpayer no longer does business at the registered address. In case the taxpayer is a branch, affiliated unit, representative office or business point, the application must include a written confirmation of the People's Committee of the commune, ward or town where the head office has registered the operating address stating that the head office no longer have production and business activities at the registered address, or the head office's decision to write off debts. - Document in the prescribed form to publicize the list of taxpayers that are requested for debt write-off.

In order to write off late-payment fines and interests, taxpayers who are eligible for debt write-off shall complete a debt write-off dossier as prescribed and send it to the tax administration agency to which the taxpayer owes tax.

In addition, the write-off of late-payment fines and interests will be canceled in the following three (03) cases:

- (i) The taxpayer has been given a debt write-off but the competent agency or the tax authority discovers that the debt freezing and write-off has not been conducted in line with Resolution 94/2019/QH14.
- (ii) The taxpayer has been given a debt write-off but returns to production and business, except that the taxpayer suffers material damage due to natural disaster, disaster, epidemic, fire, accident, or supplies goods and services which are directly paid for with the State budget funds.
- (iii) Individuals, businessmen or representatives of households, heads of business households, owners of private enterprises, owners of single-member limited liability companies owned by individuals have been given a debt write-off but then establish new enterprises or production and business establishments, except that the taxpayer suffers material damage due to natural disaster, disaster, epidemic, fire, accident, or supplies goods and services which are directly paid for with the State budget funds.



❑ To reduce 15% of land rental for those affected by the Covid-19 epidemic

On 10 August 2020, the Prime Minister issued Decision 22/2020/QĐ-TTg (“**Decision 22**”) on the reduction of land rental in 2020 for those affected by the Covid-19 epidemic pursuant to the Government’s Resolution No. 84/NQ-CP dated 29 May 2020. Decision 22 takes effect from the date of signing on 10 August 2020 and provides some basic information as follows:

❖ **The land rental reduction level:** 15% of land rental in 2020

❖ **Subjects and scope of application:**

- Enterprises, organizations, households and individuals that lease land directly from the State under the Decisions or Contracts of competent State agencies in the form of annual rental payment, who have to suspend production and business activities for 15 days or more due to the effect of Covid-19 epidemic (the “**land lessee**”).
- The land lessee has many different production and business activities but only suspends one production and business activity in the land parcel or land plot directly leased by the State.
- However, the 15% reduction does not apply to the outstanding land rental of the years prior to 2020 and late payment interests (if any) and also does not apply in the case where the dossier is submitted from 01 January 2021 onwards.

❖ **Dossier of land rental reduction** includes:

- A written request for reduction of land rental in 2020 prepared according to the Form in the Appendix to Decision 22. The land lessee shall be responsible to the law for the honesty and accuracy of his/her information and request for reduction of land rental, ensuring that the land rental reduction is applied to the correct subject.
- A land lease decision or a land lease contract of the competent State agency (copy).

❖ **Regarding the order and procedures for land rental reduction:**

- The land lessee shall submit 01 set of dossier requesting for land rental reduction (via electronic means or other methods) to the tax agency, the Management Board of Economic Zone, the Management Board of Hi-Tech Zone and other agencies in accordance with law from 10 August 2020 to the end of 31 December 2020.
- Based on the dossier requesting for land rental reduction, no later than 20 days from the date on which the valid and sufficient dossier is received, the competent agency shall determine the land rental to be reduced and issue a Decision on land rental reduction in accordance with the law on land rental collection.
- If, through inspection and examination, the authorities detect that the land lessee is not eligible for a reduction in land rental, such land lessee must refund the reduced amount of land rental and the late-payment interests calculated on the reduced amount to the state budget in accordance with the law on tax administration.
- If the land lessee has paid the land rental in 2020, the land rental reduction may be deducted from the land rental of the following period or the following year.
- If the next land rental period is no longer available, the overpaid amount shall be offset or refunded in accordance with law.



❑ Novelties on occupational accident and disease regime for employees

On 28 July, 2020, the Government issued Decree 88/2020 / ND-CP guiding the implementation of a number of articles of the Law on Occupational Safety and Health regarding compulsory occupational accident and disease insurance ("**Decree 88/2020**"). Decree 88/2020 takes effect from September 15, 2020 and replaces the Government Decree 37/2016 / ND-CP dated 15 May, 2026, detailing and guiding the implementation of a number of Articles of the law on occupational safety and health regarding compulsory occupational accident and disease insurance. Accordingly, Decree 88/2020 has the following notable novelties:

❖ Employees are given a support for 100% of occupational medical examination and treatment costs

- In Clause 3, Article 5 of Decree 88/2020, if any employee when retired or no longer working in the jobs or tasks at risk of occupational disease (work-related diseases), is found to have work-related diseases, such employee suffering from work-related diseases, and his relatives doing the same are entitled to the following benefits from the Social Insurance Fund for occupational accidents and diseases:
 - Expenses for assessment of injuries and diseases; one-off or monthly allowances; service allowance; supporting living aids, orthopedic tools; convalescence and recovery; allowances when employees die due to work-related diseases; paying health insurance premiums for people who take leave and enjoy monthly benefits of occupational disease insurance.
 - 100% support for the cost of occupational disease examination and treatment calculated according to the work-related examination and treatment price list issued by the Minister of Health at the time the employee experiences the work-related disease examination and treatment after being paid by health insurance; The maximum number of support times for each employee is 02 times and a year only receive support once. *(Currently, the level of support is 50%).*
- Employees are entitled to 100% of occupational disease examination and treatment expenses when fully meeting the following conditions:
 - Occupational disease is detected within a period of time prescribed by the Minister of Health.
 - Participating in compulsory social insurance while working in a profession or a job that causes occupational diseases.
 - Suffering from a working capacity decrease of 5% or more due to an occupational disease.

❖ An employee is given a support of for 50% of the cost of occupational disease examination

- According to Article 17 of Decree 88/2020, the support for any employee's occupational disease examination is as follows:
 - Support level is equal to 50% of the cost of occupational disease examination calculated according to the occupational disease examination price list issued by the Minister of Health at the time the employee experiences an occupational disease examination after being paid by health insurance, but not more than VND800,000 / person / visit. *(Currently, the support level does not exceed 1/3 of base salary / person / visit).*
 - The maximum number of support times for each employee is 02 times and a year only receive support once.
- To be supported for the cost of occupational disease examination, an employee must satisfy the following conditions:
 - Having paid the occupational accident and disease insurance premium for 12 months or more and having been participating up to the month preceding the month in which the application for fund support for occupational disease examination is submitted.
 - Occupational diseases have been detected at occupational medical examination and treatment establishments.

❖ Maximum support level for the treatment of occupational diseases is VND 15 million

- Article 21 of Decree 88/2020 provides the following levels of financial support for treatment of work-related diseases:
 - Support level is equal to 50% of the cost of occupational disease treatment calculated according to the work-related disease treatment price list at the time the employee has the work-related diseases treated according to regulations of the Minister of Health after being paid by health insurance, but not exceeding VND 15 million / person. *(Currently, support level is not more than 10 times of base salary / person).*
 - The maximum number of support times for each employee is 02 times and a year only receive support once.
- To be supported for the cost of occupational treatment, employees must meet the following conditions:
 - Having been diagnosed with an occupational disease at an occupational medical examination and treatment establishment.
 - Having participated in occupational accident and disease insurance for 12 months or more and have been participating up to the month preceding the month in which the application for fund support for occupational treatment is submitted.
 - Participating in compulsory social insurance while working in occupations or jobs that cause occupational diseases.

❖ Any employee who does not leave his work is not entitled to convalescence and recovery regime

- According to Article 9 of Decree 88/2020, if any employee, after stable treatment of any injury due to an occupational accident or disease, within the first 30 days of returning to work, has not yet recovered his health, is entitled to convalescence and recovery from 05 to 10 days for one labor accident or occupational disease (including public holidays, New Year holidays, weekends).
- However, if the employee does not leave his work, he will not be entitled to convalescence and recovery regime after treatment of injuries and illnesses.



❑ Novelties on issuing corporate bonds

On 09 July, 2020, the Government issued Decree 81/2020/ND-CP amending and supplementing a number of articles of Decree 163/2018/ND-CP regulating the issuance of corporate bonds ("Decree 81/2020"). Accordingly, Decree 81/2020 will take effect from 01 September, 2020 and there are some notable amendments and supplements as follows:

❖ Amend regulations on bond transactions

Accordingly, Decree 81/2020 amends regulations on bond trading as follows:

- Corporate bonds issued in the domestic market are restricted from trading to less than 100 investors excluding professional securities investors, within 1 year of completion of the issuance, unless otherwise decided by a court or inherited in accordance with law.
- After the said period, corporate bonds can be traded without limitation in terms of the number of investors, unless otherwise decided by the issuing enterprise.
- Corporate bonds issued to the international market comply with regulations on transactions in the issuing market.

❖ Supplement bond issuance conditions

In addition to the conditions specified in Decree 163/2018/ND-CP, Decree 81/2020 also adds a number of conditions for bond issuance as follows:

- If enterprises that are not organizations permitted to provide bond issuance dossier consultancy services, once wanting to issue bonds, they must sign consultancy contracts on bond issuance dossiers.
- Ensure the outstanding balance of corporate bonds privately issued at the time of issuance (including expected issuance volume) does not exceed 5 times of equity according to the latest quarterly financial statement at the time of issuance approved by competent authorities (*except credit institutions*).
- Each issuance must be completed within 90 days of disclosure prior to the issuance; the following issuance must be at least 6 months apart from the previous one, bonds issued in one issuance must have the same terms and conditions (*except credit institutions*).

❖ Shorten the time for bond issuance disclosure

Decree 81/2020 stipulates that, at least 03 working days before the expected date of holding the bond issuance, the issuing enterprise will disclose information before the issuance to investors who subscribe bonds and send the content of the information disclosure to the Stock Exchange. (*The previous rule is at least 10 business days*).

Corporate bonds issued before 01 September, 2020, continue to comply with the terms and conditions of the issuance plan which have been disclosed to investors; perform periodical depository, reporting and information disclosure and comply with the responsibilities of bond issuers in accordance with Decree 81/2020 and guidance of the Ministry of Finance.



02

ARTICLE INTRODUCTION

GV Lawyers would like to bring you an article written by Lawyer Le Quang Vy and Lawyer Hoang Thi Hoai Thu with the title: "**The right to use personal images under ethical and legal perspective**" was posted on the website Vietnam Online Lawyer on 07 May, 2020.

In this article, the authors presented and analyzed important issues of moral rights, image rights and other fundamental human rights that need to be respected and protected in accordance with Vietnamese laws and at the same time the author also made legal comments on a recent incident.



Lawyer Le Quang Vy



Lawyer Hoang Thi Hoai Thu

□ The right to use personal images under ethical and legal perspective

•Personal image of a person belongs to the moral rights of that person. In terms of personal status, moral rights include the rights to a surname and a first name; the right to birth and death registration; the right to marry, divorce, etc. In terms of spirit, moral rights include the rights to freedom of belief; freedom of research and creation; image rights; the right to protect honor, dignity, privacy, etc. And finally, in terms of social aspects, moral rights are the rights to work; freedom of business; freedom of movement, residence, etc.

In terms of personal status, moral rights include the rights to a surname and a first name; the right to birth and death registration; the right to marry, divorce, etc. Thus, every human individual has moral rights that are inseparable from his own, in other words, moral rights never change the subject, so moral rights always include two attributes:

(i) inalienable means that moral rights cannot be purchased, sold, donated, inherited (except in cases where heirs have the right to protect the deceased's reputation, honor or work integrity);

(ii) indispensable means that moral rights cannot be confiscated or requisitioned in any way.

Laws of most countries in the world have provisions to protect moral rights. As aforesaid, the right to image belongs to one's spirit. Accordingly, the individual has full rights to his or her image. No one has the right to disseminate an image of another individual by taking photo of, painting or any other means, without the consent of that individual. Therefore, any person or organization that uses the image of another individual is bound by ethical and legal obligations.

Status quo

Although the personal image is protected by the law, it is an eternal story "I know, what a pity on you talking over and over again!" that never gets outdated in newspapers, especially the electronic one when arbitrarily using personal images to illustrate the news/articles without the consent of the relevant person.

Indeed, just by surfing a series of electronic newspapers every day, you can come across countless articles that use personal images as an ingredient, to vividly spice up articles regardless of whether the "owner" of that photo consents or not.

For example, in recent times, many online newspapers have reported that a girl, alias hotgirl 98 was found to be positive for drugs, illustrated by an image of a haggard, ragged, objectionable person, which can negatively affect honor and work of the girl later. As we all know, information and data go viral over the internet is very fast, and the time to keep articles with those offensive images is also very long. So it is extremely easy to access and spread the said news / articles above. That also exert great pressure on the character in question, even lead to his depression due to the public opinion and online community which is already very complicated. While the girl is still at a very young age, the opportunity to correct, rectify, change people's look towards the character that is managing to make a headway is often hindered such images and posts. In many cases, the arbitrary use of photos of some journalists inadvertently not only harms the person taken photo, but also affects the entire family, family line of that person at present as well as in the future. Therefore, under no circumstances, you will be allowed to use an act that lacks ethical standards, professional conscience and at the same time goes against the law to justify and claim that you are doing for a cause.

On the commercial side, there are many cases of intentionally using images of celebrities to advertise their products regardless of the law and permission of the character in the photo or the author or the copyright owner of that photo.

From the provisions of the law

Article 32 of the Civil Code 2015 has the following main contents: "Individuals have the right to their own images. Use of an individual's photos is subject to that person's consent. Using another person's image for commercial purposes must pay remuneration to the person having the image, unless otherwise agreed by the parties". However, the law also specifies when it is allowed to use personal images without permission, in particular: (i) Images are used for the benefit of the nation, people and public interests; (ii) Images used from public activities, including conferences, seminars, sports competitions, arts performances and other public activities without damaging honor, dignity, reputation of the person with image.





□ The right to use personal images under ethical and legal perspective

In addition to the 2015 Civil Code, the Press Law 2016 also has provisions to protect moral rights through the prohibition of disclosing information about personal privacy, prohibiting false information, misrepresentation, slander, offending of the honor and dignity of individuals. In addition, regarding the use of personal images in the media and the press, Article 5 of Decree 51/2002 / ND-CP (still in effect) on things that are not communicated in the press stipulates that: "Do not post or publish photos of an individual without a clear caption or affect the reputation and honor of that individual (except photos of information on public meetings, collective activities, labor sessions, arts performances, sports, wanted people, public trials of the courts, offenders in serious criminal cases)".

With such clear legal provisions, the press posting of hotgirl 98 as the said evidence is a violation of civil law as well as press law (specialized law). This not only reflects the reporter's level of legal knowledge but in the ethical aspect, it is completely contrary to the conscience of a writer.

In addition, please also note from the perspective of Intellectual Property Law, any individual or organization before wishing to use a photo for commercial business, the most important thing is to learn the character in the photo, author or copyright owner of a photo to ask for permission, pay remuneration to the copyright owner.

Referring to the case law of the Court of Human Rights European Court, the Court states that: "The image of a person constitutes one of the main attributes of the person's personality, as it shows the person's unique characteristics and distinguish the person from his friends. Therefore, the right to protect one's image is one of the essential components of personal development and assumes control over its use. While in most cases, control over such use relates to an individual's ability to refuse to publish his or her images, that person also has the right to object to personal recording, preservation and re-creating images of others."

US law will impose heavy sanctions on people who arbitrarily place a celebrity's photo next to their own, creating the impression that their product is trusted by that celebrity for the purpose of promoting sales.

Current mechanism to protect the right to personal image

To limit the arbitrary illegal use of personal images, Article 32.3 of the 2015 Civil Code stipulates: "If the use of images violates the regulations, the person having the image has the right to request the Court to decide to force the violator, related agencies, organizations and individuals to recall, destroy, terminate the use of the image, compensate for damage and apply other handling measures as regulated by law. Accordingly, users of illegal personal images that affect the honor, dignity or prestige of others will have to compensate for any damage including reasonable costs to limit and overcome the damage, actual lost or reduced income and other damage as prescribed by law and another amount to compensate for the mental loss suffered by the aggrieved person under Article 592 of the Civil Code 2015.

In addition to compensation, users of information, images without consent or with wrong purpose, offending the honor, dignity or reputation of others on social networks will be subject to a fine from VND 10,000,000 to VND 20,000,000 according to Article 66.3. (e) Decree 174/2013/ND-CP.

Not only be protected by the Civil Code 2015 and the Press Law 2016, the moral rights of individuals are also protected by the 2015 Penal Code on charges of humiliating others as follows: If serious offenses of the dignity and honor of other persons are committed, a warning will be imposed with a fine of between VND 10,000,000 and 30,000,000 or a non-custodial reform or an imprisonment depending on the seriousness of the offense". Accordingly, when an individual's image is used illegally, seriously offending the dignity and honor of the person taken photo, the offender is likely to be subject to the said sanctions according to Article 155 of the 2015 Penal Code.

Law already exists, needing to push for its enforcement

As we can see, although lawmakers have built many legal bases to protect the right to an individual's image, the use of personal images without his permission is still rampant on social networking sites and in some other newspapers. In order to avoid possible consequences, each individual should practice a healthy and active lifestyle, avoid sharing sensitive and unauthorized images on social networks, at the same time, raise awareness of his own image protection and strongly condemn the misconduct of social networking sites as well as media outlets and press agencies. In parallel with the provisions of the law, ethical standards are also a guideline for the conscience of each journalist, every single person before his own actions.

For the state management agencies over the press, it is necessary to intensify the inspection and handling of violations of the press agencies, especially the electronic newspapers and other violating organizations and individuals. Given all constituent factors, it will be criminalized against those who illegally use another person's image, seriously affecting the honor and dignity of that person.

Eventually, for acts that infringe the image rights of individuals, the Court should consider bringing to the trial according to summary procedures under Article 317 of the 2015 Civil Procedure Code, in order to resolve the case quickly and promptly protect the legitimate rights and interests of the infringed image holders.



❑ The employer has difficulty because Covid-19 stops paying social insurance until December 2020

The Ministry of Labor, Invalids and Social Affairs has just agreed to the Vietnam Social Security proposal that the employer encounters difficulties as Covid-19 epidemic further suspends payment to the retirement and survivorship allowance fund until end of December 2020.

The basis of this proposal is the direction of the Government in Resolution 15/NQ-CP dated 14 July, 2020, specifically: Assign the Vietnam Social Security to study and report to competent authorities for consideration and settlement; to suspend payment to the retirement and survivorship allowance fund for a maximum of 12 months for units and employees facing difficulties due to the prevailing Covid-19 pandemic until end of December 2020.

According to the draft submitted for consultation from the Ministry of Labor, Invalids and Social Affairs for comments, Vietnam Social Security proposed that against the backdrop of woes triggered by the Covid-19 pandemic, the aggrieved enterprises that have temporarily stopped paying to the retirement and survivorship allowance fund will further suspend payment to this fund until end of December 2020.

In case an enterprise faces difficulties due to the recent Covid-19 pandemic and only now it can meet the conditions to suspend payment to the retirement and survivorship allowance fund (for the first time), it will comply with the documents guiding the termination of payment to the said fund issued by the Vietnam Social Insurance Agency. However, the period of temporary suspension of payment to the retirement and survivorship allowance fund reaches the end of December 2020.

During the period of suspending payment to the said funds, the enterprise will not suffer any interest charge.

In its written reply to the first week of August 2020, in addition to agreeing to the proposal, the Ministry of Labor, War Invalids and Social Affairs cautions that Vietnam Social Security uses the word "employer" instead of "enterprise", in order to avoid narrowing the subject and scope of application of the policy of suspending payment to the retirement and survivorship allowance fund.

Reportedly, the social insurance fund consists of the following 3 components: the retirement and survivorship allowance fund, the sickness and maternity fund; occupational accident and disease fund. In which, the retirement and survivorship allowance fund accounts for more than 70% of the social insurance fund.

By Hoang Manh, dantri.com.vn

More than 1,500 units have stopped paying social insurance due to Covid-19

According to the report of the Vietnam Social Security, as of 01 July 2020, the number of units that have submitted their dossiers for approval on suspension of payment to the retirement and survivorship allowance fund due to the Covid-19 impact is 1,519 units, equivalent to 130,794 employees and an estimated amount of about VND475 billion.

❑ Proposal on preventing developers from misappropriating apartment building maintenance fees

The Ministry of Construction proposes that the investor's account to receive maintenance fees must be "closed" until it is handed over to the apartment management board.

The current regulations relating to the maintenance fee of the apartment building (2% of the value of an apartment) are not tied to the account receiving the funds; form of payment (the buyer pays directly to the account recorded in the sale contract or pays to the investor to transfer into the account) ...

In order to prevent investors from abusing maintenance fees, in the statement for consultation on amending the Decree guiding the Law on Housing, the Ministry of Construction proposes investors to set up specialized capital accounts for buyers, tenants and investors to pay maintenance fees.

"Specialized capital account" is the currency the enterprise deposits in the bank, which can only be used for a certain number of purposes. This amendment is to ensure that the account that receives the maintenance fees is in the form of "closed", the investor is not allowed to use it for other purposes. Account information must be consistently recorded in the sale contract.

In addition, the Ministry of Construction also proposes removing the rule that buyers directly pay maintenance fees in cash to investors.

If the investor uses in excess of 2% of the maintenance fees, the Ministry of Construction proposes to auction the investor's property to serve as a basis for the local authorities to recover the funding and hand it over to the management board of the apartment building. The investor's property-handling measure was previously given by the provincial-level People's Committee through the enforcement decision.

Currently, each customer who buys a house, in addition to the cost of buying an apartment, has to pay an additional 2% of the maintenance fee of the apartment building and normally, this fee is collected by the investor. These amounts are not small, according to representatives of the Department of Construction of Ho Chi Minh City, in some apartment buildings, standing up to VND60-70 billion. During the process of keeping the fund, many investors have arbitrarily used this money for their own purposes. In some cases, the money transfer to the apartment building management board is not carried out, or slow, or not enough, so this causes complicated disputes between the two parties, affecting residents. According to statistics of the Ministry of Construction, in big cities such as Ha Noi and Ho Chi Minh City, this dispute accounts for 36% thereof in apartment buildings.

By Phuong Anh, vnexpress.net

❑ **Seller's seal on converted e-invoice (into paper invoice)**

For the cases of applying electronic invoices (e-invoices) according to Decree No. 51/2010/ND-CP dated 14 May 2010, Decree No. 04/2014/ND-CP dated 17 January 2014 and Circular No. 32/2011/TT-BTC dated 14 November 2011 of the Ministry of Finance on guiding the creation, issuance and use of e-invoices in selling goods and providing services:

- In case where the e-invoice needs to be converted to a paper invoice to prove the origin of tangible goods in circulation and can only be converted once (01), then the e-invoice must meet the provisions of Clauses 2, 3, 4 of Article 12 of Circular 32/2011/TT-BTC and must bear the signature of the legal representative of the seller and the seller's seal.
- In case where the e-invoice needs to be converted to paper invoice to serve the archival purpose in accounting according to the Law on Accounting, then the e-invoice must satisfy the provisions of Clause 2, 3, 4 of Article 12 of Circular 32/2011/TT-BTC.

Ha Noi City Tax Department replies to the National Pediatric Hospital in Official Letter 70286 /CT-TTHT dated 29 July 2020.

❑ **Value added tax for medical equipment**

- In the case where the Company imports medical equipment (feeding bags; swab sticks; wristbands for adult patients; wristbands for children patients; sample containing tubes) to enjoy the VAT rate of 5%, the Company must have a certification from the Ministry of Health that these are specialized medical equipment according to Circular No. 26/2015/TT-BTC dated 27 February 2015, Circular No. 83/2014/TT-BTC dated 26 June 2014 of the Ministry of Finance and Official Letter No. 743/BTC-TCHQ dated 17 January 2017 of the Ministry of Finance.
- If there is no certification from the Ministry of Health, the 10% VAT rate will apply.

General Department of Customs replies to Hoang Quan Vietnam Development Joint Stock Company in Official Letter 4956/TCHQ-TXNK dated 27 July 2020.

❑ **Corporate income tax, value added tax for revenues from technology transfer**

- *Regarding VAT:* Technology transfer activities under the Law on Technology Transfer are not subject to VAT. If the contract on technology transfer or transfer of intellectual property rights is accompanied by the transfer of machinery and equipment, the subject not subject to VAT will be calculated based on the value of the transferred technology or intellectual property rights; If it is not possible to separate this value, VAT shall be calculated based on the value of both the transferred technology or intellectual property rights and the machinery and equipment according to the guidance in Article 4.11 of Circular 219/2013 /TT-BTC.
- *Regarding corporate income tax:* Income arising from technology transfer under the Law on Technology Transfer is the income subject to corporate income tax according to the guidance in Article 7 of Circular 78/2014/TT- BTC and Article 2 of Circular No. 96/2015/TT-BTC.

Ha Noi City Tax Department replies to National Institute for Control of Vaccine and Biologicals in Official Letter 68699/CT-TTHT dated 23 July 2020.



No.	Document title	Issuance date	Effective date
NATIONAL ASSEMBLY'S STANDING COMMITTEE			
1	Resolution 979/2020/UBTVQH14 on amending and supplementing Sub-section 2, Section I of the Environmental Protection Tariff prescribed in Article 1.1 of Resolution No. 579/2018/UBTVQH14 dated September 26, 2018 of the National Assembly's Standing Committee on the Environmental Protection Tariff	27/07/2020	01/08/2020
GOVERNMENT			
1	Decree 89/2020/NĐ-CP providing for the functions, duties, power and organizational structure of the Viet Nam Social Insurance Agency	04/08/2020	20/09/2020
2	Decree 88/2020/ND-CP detailing and guiding the implementation of a number of articles of the Law on Occupational Safety and Hygiene regarding compulsory occupational accident and disease insurance	28/07/2020	15/09/2020
3	Decree 87/2020/ND-CP regarding the Electronic civil status database and online civil status registration	28/07/2020	15/09/2020
4	Decree 86/2020/ND-CP on amending and supplementing a number of articles of the Government's Decree 171/2016/ND-CP dated 27 December 2016 on registration, deregistration, purchase, sale and construction of ships	23/07/2020	15/09/2020
5	Decree 85/2020/ND-CP detailing a number of articles of the Law on Architecture.	17/07/2020	07/09/2020
6	Decree 84/2020/ND-CP detailing a number of articles of the Law on Education	17/07/2020	01/09/2020
7	Decree 83/2020/ND-CP on amending and supplementing a number of articles of the Government's Decree No. 156/2018/ND-CP dated 16 November 2018 detailing the implementation of the Law on Forestry	15/07/2020	15/07/2020
8	Decree 82/2020/ND-CP on sanctioning administrative violations in the field of judicial assistance, judicial administration, marriage and family, civil judgment enforcement, enterprise and cooperative bankruptcy	15/07/2020	01/09/2020
9	Decree 81/2020/ND-CP on amending and supplementing a number of articles of the Government's Decree No. 163/2018/ND-CP dated 04 December 2018 on the issuance of corporate bonds	09/07/2020	01/09/2020
10	Decree 80/2020/ND-CP on managing and using non-ODA Grant Aid provided by foreign agencies, organizations, individuals for Vietnam	08/07/2020	17/09/2020
11	Decree 77/2020/ND-CP providing for management, exploitation of information in the national database on immigration; online public services for the grant, management and control of Vietnamese citizens' passports; immigration control by automated control gates	01/07/2020	01/07/2020
12	Decree 76/2020/ND-CP detailing the subjects, order, procedures, competence for issuance, revocation and invalidation of international travel documents	01/07/2020	01/07/2020
13	Decree 75/2020/ND-CP detailing a number of articles of the Law on amending and supplementing a number of articles of the Law on Foreigners' Entry into, Exit from, Transit through and Residence in Vietnam	01/07/2020	01/07/2020
14	Decree 74 /2020/ND-CP on amending and supplementing a number of articles of the Government's Decree 121/2016/ND-CP dated 24 August 2016 on pilot implementation of labor and salary management with Military Telecom Corporation in the period of 2016 - 2020	01/07/2020	15/08/2020

No.	Document title	Issuance date	Effective date
MINISTRY OF HEALTH			
1	Circular 14/2020/TT-BYT regulating a number of contents in medical equipment bidding at public health facilities	10/07/2020	01/09/2020
MINISTRY OF PUBLIC SECURITY			
1	Circular 74/2020/TT-BCA regulating the immigration control of Vietnamese citizens at border gates	01/07/2020	15/08/2020
MINISTRY OF FINANCE			
1	Circular 70/2020/TT-BTC on extending the validity period of Circular No. 14/2020/TT-BTC dated 18 March 2020 on amending and supplementing a number of articles of Circular 127/2018/TT-BTC dated 27 December 2018 of the Minister of Finance prescribing service prices in the securities sector to be applied at the Stock Exchanges and the Vietnam Securities Depository in order to support the organizations and individuals affected by COVID-19 pandemic.	17/07/2020	31/08/2020
2	Circular 69/2020/TT-BTC prescribing the dossier, order and procedures for handling debts under the National Assembly's Resolution No. 94/2019/QH14	15/07/2020	26/11/2019
3	Circular 67/2020/TT-BTC on promulgating the model regulation on internal audit applied to state agencies, and public non-business units	10/07/2020	01/09/2020
4	Circular 66/2020/TT-BTC on promulgating the model Regulation on internal audit applied to enterprises.	10/07/2020	01/09/2020
5	Circular 65/2020/TT-BTC on amending and supplementing a number of articles of Circular 302/2016/TT-BTC dated 15 November 2016 guiding license fees.	09/07/2020	23/08/2020
6	Circular 64/2020/TT-BTC prescribing the rates of collection and submission of charges in the health sector.	08/07/2020	08/07/2020
MINISTRY OF CONSTRUCTION			
1	Circular 03/2020/TT-BXD providing for architectural design dossiers and the form of architecture practicing certificate	28/07/2020	15/09/2020
2	Circular 02/2020/TT-BXD on amending and supplementing a number of articles of 04 Circulars related to the management of construction investment expenses.	20/07/2020	05/09/2020



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