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### **+ NEWLY ISSUED LEGAL DOCUMENTS IN MARCH**

## 1. Employees to get support for house rent

On 28/3/2022, the Prime Minister issued Decision 08/2022/QĐ-TTg (“**Decision 08/2022**”) stipulating the implementation of the house rent support policy for employees, specifically: From 28/3/2022, employees will get support for house rent when meeting the following conditions:

### 1.1 For employees working for enterprises 1.2 For workers returning to the labour market

Employees working for enterprises in industrial parks, export processing zones or key economic areas get support when fully meeting the following conditions:

- (i) Renting houses or rooms from 01/02/2022 to 30/6/2022.
- (ii) Having an indefinite-term labour contract or a definite-term labour contract of 01 month or more signed which commenced before 01/4/2022.
- (iii) Participating in compulsory social insurance (named on the list of compulsory social insurance of the social insurance agency) in the month immediately preceding the time the enterprise establishes the list of employees intended for house rent support. In case the employee does not participate in compulsory social insurance, his/her name must be included in the salary payment list of the month immediately preceding the time the enterprise prepares the list of employees intended for house rent support.

Employees working for enterprises that fully meet the said conditions will receive a support level of VND 500,000/person/month for a maximum period of 3 months and are paid monthly.

Employees working for enterprises, cooperatives, registered business households, doing business in industrial parks, export processing zones or key economic areas get support when fully meeting the following conditions:

- (i) Renting houses or rooms from 01/4/2022 to 30/6/2022.
- (ii) Having an indefinite-term labour contract or a definite-term labour contract of 01 month or more signed which is performed from 01/4/2022 to 30/6/2022, except for the labour contract concluded in the continuation of the labour contract signed and performed previously.
- (iii) Participating in compulsory social insurance (named on the list of compulsory social insurance of the social insurance agency) in the month immediately preceding the time the employer makes the list of employees intended for house rent support. In case the employee does not participate in compulsory social insurance, or the employee is newly recruited, has entered into a labour contract but has not yet been named on the list of compulsory social insurance of the social insurance agency, his/her name must be included in the employer's salary

list of the month immediately preceding the time the employer makes the list of employees intended for house rent support.

Employees returning to the labour market who fully meet the said conditions will receive a support level of VND 1,000,000/person/month for a maximum period of 3 months and are paid monthly.

*Note that*, in order to receive house rent support, employees who are working for enterprises or returning to the labour market must submit an application for house rent support to

the enterprise/employer who will prepare the dossiers for requesting support for employees.

In case the employee does not participate in compulsory social insurance, or the employee is newly recruited, has entered into a labour contract but has not yet been named on the list of compulsory social insurance of the social insurance agency, his/her name must be included in the employer's salary list of the month immediately preceding the time the employer makes the list of employees intended for house rent support.

## 2. Employees' overtime work may not exceed 300 hours/year and 60 hours/month

On 23/3/2022, the National Assembly Standing Committee approved Resolution 17/2022/UBTVQH15 ("**Resolution 17/2022**") on the number of overtime hours in a year and a month in the context of COVID-19 prevention and control and socio-economic recovery and development, specifically as follows:

### 2.1 Regarding the number of overtime hours in 01 year

Article 1.1 of Resolution 17/2022 stipulates that, if the employer has demand and gets the employee's consent, he/she may use the employee to work overtime for more than 200 hours but not over 300 hours in 01 year, except for the following 5 subjects:

- (1) Employees of full 15 years old to under 18 years old.
- (2) Employees who are mildly disabled with a working capacity impairment of 51% or more, and who are severely or especially severely disabled.

(3) Employees who do heavy, hazardous or dangerous occupations or jobs, or especially heavy, hazardous or dangerous jobs.

(4) Female employees who are pregnant from the 7th month or from the 6th month if working in highland, remote, border or island areas.

(5) Female employees who are raising children under 12 months old.

### 2.2 Regarding the number of overtime hours in 01 month

Article 2 of Resolution 17/2022 allows that for those employers who use the employee to work overtime for up to

300 hours in a year, if they have demand and get the employee's consent, they may use the employee to work overtime for over 40 hours but not more than 60 hours in 01 month.

Note that, when allowing employees to work overtime for more than 200 hours but not exceeding 300 hours in 01 year, the employer must give a written notice to the labour agency under the provincial People's Committee. And in case of having demand in overtime

work, the employer shall implement welfare regimes to ensure that the employees have more favorable conditions than those prescribed by labour law.

Resolution 17/2022 takes effect from 01/4/2022. As for the regulation on the number of overtime hours in a year according to Article 1.1 of Resolution 17/2022, it will take effect from 01/1/2022.

### 3. Guidelines for implementing the transitional RCEP safeguard measures in the RCEP

On 23/3/2022, the Ministry of Industry and Trade issued Circular 07/2022/TT-BCT ("Circular 07/2022") guiding the implementation of trade remedies in the Regional Comprehensive Economic Partnership (RCEP.) Circular 07/2022 will take effect from 08/05/2022, including notable provisions on the application of transitional RCEP safeguard measures to imports originating from member countries of the RCEP.

According to Circular 07/2022, a transitional RCEP safeguard measure is a safeguard measure specified in Article 7.2 of the RCEP and Article 99 (Special safeguards) of the Law on Foreign Trade Management, in which the transitional period is 8 years from the date of entry into force of the RCEP to the time after the elimination or reduction of tariffs for each type of goods according to Vietnam's Schedule of Tariff Commitments in the RCEP.

The application of a transitional RCEP safeguard measure is provided for as follows:

#### 3.1 Principles of application

At the same time, the transitional RCEP safeguard measure and the safeguard measure specified in Article 91 (Safety Measures) of the Law on Foreign Trade

Management shall not be applied simultaneously to the same imported goods enjoying special preferential import tax rates under the RCEP, and are not applied beyond the transition period.

In case of necessity, on the basis of preliminary investigation conclusions, the Minister of Industry and Trade shall decide to apply interim transitional RCEP safeguard measures.

#### 3.2 Interim transitional RCEP safeguards and applied transitional RCEP safeguards

- (i) Suspending the continued reduction of import tax rates in accordance with the RCEP; or
- (ii) Applying safeguard tax rates in the form of additional import tax on the goods under investigation. The total

of the import tax rate according to the Vietnam's Special Preferential Import Tariff in implementation of the RCEP and the safeguard tax rate shall not exceed the lower of the preferential import tax rate in effect at the time of application of the measure and the preferential import tax rates applicable on the day immediately preceding the date of entry into force of the RCEP.

### 3.3 Duration of application of a transitional RCEP safeguard measure

- Not to exceed 3 years including the duration of the interim transitional RCEP safeguards.
- If the application is longer than 1 year, the transitional RCEP safeguard measure must be gradually reduced.
- To be allowed for extension for no more than 1 year on the basis of the final review results.
- After the time limit for applying the transitional RCEP safeguard measures, the import tax rates applicable to the related goods shall comply with the Vietnam's special preferential import tariff in implementation of the RCEP, which take effect upon termination of the transitional RCEP safeguard measure.

### 3.4 Cases where interim transitional RCEP safeguard measures and

### transitional RCEP safeguard measures are not applied

The interim RCEP transitional safeguard measures and the transitional RCEP safeguard measures shall not apply to the goods originating from a poorly-developed member country or from a member that meets the following conditions:

- (i) The market share of importation of the goods originating from that Member, in terms of volume or quantity, shall not exceed 3% of the total importation of that goods from all Member states.
- (ii) The total market share of importation of the goods originating from the Member states specified in item (i) above, in terms of volume or quantity, shall not exceed 9% of the total importation of that goods from all Member states.

In particular, transitional RCEP safeguard measures shall be neither applied for a period of one year from the date on which the first tariff reduction or elimination takes effect for the goods originating from Member countries as committed in the RCEP, nor applied to imports that have been subjected to a transitional RCEP safeguard measure for a period equal to the duration of the previous RCEP safeguard measure or within 1 year of the expiration of such measure, whichever is longer.

## 4. Conditions for approving a change of land use purpose for implementation of investment projects

On 06/4/2022, the Prime Minister issued Decision 10/2022/QĐ-TTg (“**Decision 10/2022**”) stipulating the sequence and procedures for approving the change of land use purposes for wet rice cultivation from 02 or more crops with an area of less than 500 ha; land of special-use forests and watershed protection forests of less than 50 hectares.

Accordingly, the conditions for approving a change of land use purposes to implement investment projects in 4 provinces (Hai Phong, Nghe An, Thanh Hoa, Can Tho) include:

- (1) An investment project that needs to change the land use purpose falls into one of the following cases:
  - (i) Change of land use purposes for wet rice cultivation with two or more crops with an area of less than 500 hectares in the cities of Hai Phong and Can Tho;
  - (ii) Change of land use purposes for wet rice cultivation with 02 crops or more with an area of less than 500 ha; land of special-use forests and watershed protection forests of less than 50 hectares in the provinces of Nghe An and Thanh Hoa.
- (2) Consistent with the master plans and zoning plans on land use as decided and approved by competent authorities and other relevant plannings as prescribed by law.
- (3) The investment project has been approved as prescribed by law and the written approval is still valid until the time of proposal; for projects in which land must be reclaimed according to the Land Law, they must be approved by the provincial People's Council.

- (4) Having a plan for afforestation and ensuring that the funding for afforestation is included in the total investment costs of the projects in which forest use purposes must be changed according to the law on forestry, or a document certifying payment of afforestation costs or a plan to use the topsoil in accordance with the law on cultivation.

Investors or project owners wishing to convert land use purposes that meet the prescribed conditions shall register their land use needs at the People's Committee of the district where the project is implemented, which will then report to the Department of Natural Resources and Environment (DONRE) to carry out conversion procedures. For projects implemented across the area of 2 or more districts, the investor must register directly with the DONRE where the project is implemented.

Within 15 days of receipt of complete and valid dossiers, the DONRE shall coordinate with relevant agencies and organizations to collect opinions. Within no more than 15 days of completion of the consultation, the DONRE shall prepare a request for approval of the conversion and submit it to the provincial People's Committee for appraisal and to the provincial People's Council for consideration and approval.

Decision 10/2022 takes effect from the date of signing and promulgation, i.e. 06/04/2022.



GV Lawyers would like to introduce to readers an article by **Mr. Le Quang Vy**, Partner of GV Lawyers titled **“Network information under the moral and legal perspective”** published in Saigon Economic Times (No. 1,599) on 05 August 2021.

*Fake news rampant in the age of global social networks feel like duck in water. The situation of fake news causing social instability in Vietnam is evident in many forms, such as fabricating, defaming, cursing, insulting, slandering, bullying... They not only damage the reputation of organizations and the dignity of individuals, but also seriously affect public order and fine customs.*



Indeed, the scope of morality is broader than that

of law because it includes religious morality as well. Accordingly, the man's duty to his creator and personal morality is to have a duty to himself, to social morality and members of society.

Scholar Bentham (UK) compared the scopes of law and morality with two concentric circles of different diameters, in which the small circle is a symbol of the scope of application of the law and the large circle is a symbol of the scope of application of the morality. Thus, in terms of morality, from the individual and social aspects, people must have a responsibility for themselves and members of society. Ethics does not allow anyone to go beyond the moral standards, harm others and then harm themselves. That means that morality and ethics do not allow anyone to fabricate,

slander, insult, bully others whether through words or actions.

People always live before thinking and acting before considering why, so morality appears when people think and consider their actions to distinguish the right from the wrong in everything to set right any behavior, attitude. Although morality does not have sanctions like the law, the highest sanction of morality is the conscience, which is a human morality that no one will not perceive a pang of guilt once committed. Morality is aimed at radically directing humans to the good, it is obligatory and governs even their most secret thoughts. Therefore, before sharing any information, it is necessary to verify whether the information you give is complete and accurate and whether what you share has a negative impact on society and is ethica. Does morality allow you to do that? In a common sense, actions that go against morality are called demoralized, while those that do not consider morality are called amoral.

**Tuning in to social beats**

According to Article 2.3 of the 2018 Law on Cybersecurity, “Cyberspace is the connection network of information technology infrastructure, including telecommunications

network, Internet, computer network, information system, processing system, information control and database; is a place where people perform social behaviors that are not limited by space and time”.

Beyond space and time, the operating environment of cyberspace is very large, so it is considered a public environment where each subject has an address on a social network is considered to be present in the public environment, all acts and behaviors of each subject are recognized by everyone. Therefore, each subject must be responsible for its actions if it causes damage to other individuals and organizations.

Society is always alive, so laws must also be adjusted to keep up with the pulse of society. Currently, in order to promptly adjust

behaviors on social networks, Vietnam has promulgated the Law on Cyber Information Security in 2015, the Law on Cyber Security 2018.

The right to protect the honor, reputation and dignity of the human being is a constitutional principle, and these rights have been concretized in the Civil Code. Accordingly, each individual is protected by law with his or her moral rights from full name, image, honor, reputation and dignity, no one has the right to offend the moral rights of others in any form.

In the cyberspace environment, the Law on Cybersecurity prohibits (i) Untrue information triggering confusion among people, causing damage to socio-economic activities, causing difficulties for the operation of state agencies or officials on duty, infringing upon the lawful rights and interests of other agencies, organizations or individuals; (ii) Prostitution, social evils, human trafficking; posting lewd,

depraved, criminal information; undermining the national fine customs and social morality and the health of the community (Articles 8.1.d and 8.1.đ).

These violations will be administratively sanctioned with a fine of between VND 10-20 million according to Article 101.1 of Decree 15/2020/ND-CP dated 03 February 2020 of the Government. In case the violator causes damage to his/her spiritual and material interests, he/she must also compensate the infringed person according to the Civil Code. In addition, the acts of sharing on social networks to insult, curse, fabricate or spread things that are known to be untrue in order to seriously offend the honor and dignity of others, will be prosecuted for the count of “humiliating others” or “slandering” according to articles 155 and 156 of the 2015 Penal Code.

### Respecting the right and the law

A Vietnamese proverb saying “it is hard to know the morality and heaven, to know how to behave oneself bring in a better life than the rich”, has fully contained the outlook on life, teaching people how to behave themselves in life: knowing

**ETHICS DOESN'T ALLOW ANYONE TO EXCEED ITS ORIGINAL STANDARD: HARMING PEOPLE EVENTUALLY RESULTS IN HARMING YOURSELF. THAT MEANS THAT ETHICS AND MORALITY DO NOT ALLOW ANYONE TO FABRICATE AGAINST, SLANDER, INSULT, BULLY OTHERS, WHETHER BY WORDS OR BY ACTIONS.**



what is right to do, know how to live to be adored by everyone. Even in Vietnamese ancient law, although at that time there was no concept of “public order” and “fine customs”, there was a similar concept: “inadvisabilities” – meaning things that should not be done. Article 642 of the National Court of Penal Law of the Le Dynasty stipulates that “if you do things you shouldn’t do, then you must suffer from being a convict or an expulsion for serious violations and must suffer from a demotion or punishment for small violations”. Or in the Gia Long Law of the Nguyen Dynasty, Article 354 provides for: “If you do something inadvisable, you must be punished with 40 lashes, if you commit serious violations, you must suffer 80 staves.” In tandem with the good cultural traditions of the Vietnamese people such as mutual affection, love and care, the morality or ethics has pointed out the way of behaving in life and the law has deterred and sanctioned any breach. So more than anyone else, it is each subject in the online community who must know how to adapt oneself, fail to do anything contrary to morality and the law to avoid falling into a conscience pang and being carried away into the vortex of the the law.

## 1. Addressing the problems from the reduction of VAT to 8%

On 28/01/2022, the Government issued Decree No. 15/2022/ND-CP stipulating the policy of tax exemption and reduction.

Accordingly, the value-added tax (VAT) rate will be reduced by 2% from 01 February 2022 to the end of 31 December 2022

for the goods and services currently subject to the 10% VAT rate (down to 8%) except some goods and services.

However, during the implementation of Decree 15/2022/ND-CP, the Ministry of Finance received a number of complaints from businesses related to Article 1.4 of Decree 15/2022/ND-CP on making separate invoices for goods and services subject to VAT reduction. Accordingly, the regulation that requires businesses to issue invoices separately for the goods and services subject to VAT reduction when applying the tax rate of 8% causes the



cost of the business to increase (increase the cost of accounting time and invoice usage cost) because for the same customer, instead of making 1 invoice with different tax rates (5%, 8%, 10%), the enterprise must make 2 invoices: 01 invoice with the tax rate of 8% and 01 invoice with other tax rates (5%, 10%).

Therefore, in order to remove the problems in making invoices for goods and services subject to VAT reduction to 8%, the Ministry of Finance is collecting comments on the draft Decree amending Article 1.4 of Decree No. 15/2022/ND-CP as follows: *"In case a business selling goods or providing services subject to different tax rates, the invoice must clearly state the tax rate or the reduced percentage of VAT for each good or service as prescribed in Article 1.3."*

*By baochinphu.vn*

## 2. Finalizing the plan to increase the regional minimum wage by 6% from 01/7/2022

After two meetings and negotiations, on the morning of 12/04/2022, with a majority of votes in favour, the National Wage Council agreed and finalized the proposal to increase the regional minimum wage from 01/07/2022 with an increase of 6%, from 180,000- VND 260,000, depending on the region.

According to the recently agreed salary increase plan, the minimum wage in region 1 is increased by VND 260,000/month, to VND 4.68 million/person/month; region 2 by

VND 240,000/month, to VND 4.16 million/person/month; region 3 by VND 210,000/month, to VND 3.64 million/person/month; region 4 by VND 180,000, to VND 3.25 million/person/month.

The National Wage Council will soon submit the plan for increasing the regional minimum wage to the Government for its decision as soon as possible.

*By vietnamplus.vn*

## 1. Tax policy guidelines for investment projects

- For the case where the Company is an enterprise granted an enterprise registration certificate for the first time, and has an investment project granted an investment certificate for the first time in an industrial park that is not located in an area with favorable socio-economic conditions:
- ✓ In case this investment project meets one of the three criteria of an expansion investment project specified in Article 10.4 of Circular 96/2015/TT-BTC, the Company may be selected to enjoy corporate income tax (CIT) under the active project for the remaining time (including tax rate, exemption and reduction period, if any) or eligible for tax exemption or reduction period for the additional income brought by the expansion investment equal to the tax exemption or reduction period applicable to new investment projects in the same geographical area or field eligible for corporate income tax incentives.
- ✓ In case the Company chooses to apply the tax exemption or reduction period for the additional income brought by the expansion investment which is equal to the tax exemption or reduction period applicable to the new investment project in the same geographical area eligible for corporate income tax incentives, the Company is exempted from CIT for 2 years and a 50% reduction in the payable CIT amount for the next 4 years for the income from the implementation

of an expansion investment project.

- In case this investment project satisfies the new investment project as prescribed in Article 10.3 of Circular 96/2015/TT-BTC, the Company is entitled to CIT incentives, CIT exemption for 2 years and a 50% reduction of CIT payable for the next 4 years.

*Ha Noi City Tax Department replies to the question of SJ Thermal Vina Co. Ltd. in Official Letter No. 10577/CTHN-TTHT dated 28/3/2022.*

## 2. Value-added tax policy according to Decree No. 15/2022/ND-CP

In case the Company calculates value-added tax (VAT) under the credit method, supplies the goods that are applying the VAT rate of 10% and not on the list of goods and services specified in Appendix I, II and III promulgated under Decree 15/2022/ND-CP, the VAT rate of 8% as prescribed in Article 1.2 of Decree 15/2022/ND-CP will be applied from 01 February 2022 to the end of 31 December 2022.

In case the Company provides chemical products on the list of goods and services specified in Appendix I issued under Decree 15/2022/ND-CP, it is not eligible to apply the VAT rate 8%.

The VAT rate of 10% and the reduction of VAT are uniformly applied to each type of goods and services at the stages of import, production, processing or commercial business as prescribed in Article 11 of this Circular 219/2013/TT-

BTC and Article 1.1.d of Decree 15/2022/ND-CP.

*Ha Noi City Tax Department replies to the question of Absortech Vietnam Co. Ltd. in Official Letter No. 10517/CTHN-TTHT dated 28/3/2022.*

### 3. Value-added tax policy for insurance agent commissions

In case the Company signs a contract to act as an insurance agent for insurance companies:

- For the commission revenue earned from insurance agency activities selling at the correct price according to the principal's regulations and the agency commission revenue from life insurance agency activities (belonging to objects are not subject to VAT), the Company is not required to declare and pay VAT as prescribed in Article 5.7.dd and Article 5.7.8 of Circular 219/2013/TT-BTC.
- For input VAT on goods and services (including fixed assets) used simultaneously for the production and trading of VATable and non-VATable goods and services, the tax amount may subtract only such input VAT of goods and services used for the production and trading of the goods and services subject to VAT. The Company must separately account

the deductible and non-deductible input VAT; if it is not possible to do separate accounting, the deductible input VAT shall be calculated according to the ratio (%) between the VATable revenue; the revenue that is not required to declare, calculate and pay VAT compared to the total revenue of sold goods and services, including the revenue that is not required to declare, calculate and pay tax, which cannot be separately accounted as prescribed in Article 1.9 of Circular 26/2015/TT-BTC.

*Ha Noi City Tax Department replies to the question of MB Shinsei Finance Limited Liability Company in Official Letter No. 10286/CTHN-TTHT dated 25/3/2022.*

### 4. Allocation of personal income tax

In case a Representative Office (RO) has neither a dependent unit, nor a business location in another province, and does not pay income from salaries or wages to employees working at a dependent unit or business location in another province, such RO is not subject to personal income tax allocation under the guidance in Article 19.9 of Circular No. 80/2021/TT-BTC.

*Ha Noi City Tax Department replies to the question of Representative office of Binnies UK Limited in Ha Noi in Official Letter No. 9281/CTHN-TTHT dated 21/03/2022.*

No.	Document title	Issuance date	Effective date
<b>NATIONAL ASSEMBLY STANDING COMMITTEE</b>			
1	Resolution 18/2022/UBTVQH15 on the environmental protection tax rates imposed on petrol, oil and grease	23/3/2022	01/4/2022
2	Resolution 17/2022/UBTVQH15 on employees' monthly, annual overtime hours in the context of prevention and control of the COVID-19 pandemic and socio-economic recovery and development.	23/3/2022	01/4/2022
<b>GOVERNMENT</b>			
1	Decree 22/2022/ND-CP amending and supplementing a number of articles of Decree 32/2012/ND-CP on management of the export and import of cultural products for non-commercial purposes.	25/3/2022	10/5/2022
2	Decree 21/2022/ND-CP amending and supplementing a number of articles of Decree 57/2019/ND-CP on the Preferential Export Tariffs and Special Preferential Import Tariffs for implementation of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership during 2019-2022.	10/3/2022	10/3/2022
3	Decree 20/2022/ND-CP amending and supplementing a number of articles of Decree 119/2015/ND-CP regulating compulsory insurance in construction investment activities.	10/3/2022	01/7/2022
<b>PRIME MINISTER</b>			
1	Decision 08/2022/QD-TTg on implementation of housing rental assistance policy for employees.	28/3/2022	28/3/2022
<b>MINISTRY OF INDUSTRY AND TRADE</b>			
1	Circular 07/2022/TT-BCT guiding the implementation of trade remedies in the Regional Comprehensive Economic Partnership.	23/3/2022	08/5/2022
<b>MINISTRY OF FINANCE</b>			
1	Circular 18/2022/TT-BTC amending and supplementing a number of articles of Circular 36/2019/TT-BTC guiding lottery business activities of self-selecting computer number.	15/3/2022	28/4/2022
<b>STATE BANK OF VIETNAM</b>			
1	Circular 02/2022/TT-NHNN amending and supplementing a number of articles of Circular 08/2021/TT-NHNN on granting special loans to credit institutions placed under special control.	31/3/2022	24/5/2022
<b>GENERAL DEPARTMENT OF TAXATION</b>			
1	Official Letter 883/TCT-DNNCN guiding the final payment of personal income tax	24/3/2022	24/3/2022





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