



GLOBAL VIETNAM
LAWYERS

LEGAL NEWSLETTER

Issue No. 01 | January 2023

MAIN CONTENTS

LATEST LEGAL UPDATE

1. Instructions for organisations to remit foreign currencies abroad from Vietnam.
2. Amend and supplement regulations on debt purchase and sale by credit institutions.
3. Guidance on environmental risk management in credit extension activities.

LEGAL GUIDANCE

1. Authorising personal income tax finalisation.
2. Value-added tax rate for goods supply activities for enterprises in export processing zones.
3. Invoicing and declaring taxes on the amount of compensation under the Court's decision.
4. Contents on duty-free sales invoices.

GOOD READINGS FOR YOU

1. Enterprises propose maintenance of 2% VAT reduction.
2. HUBA proposes the State Bank's one-year extension for the loan and VAT reduction of 8%.

NEWLY ISSUED LEGAL DOCUMENTS

1. Instructions for organisations to remit foreign currencies abroad from Vietnam

On 30 December 2022, the State Bank of Vietnam issued Circular 20/2022/TT-NHNN (“Circular 20/2022”) guiding one-way remittance of foreign currencies abroad from Vietnam, payment and bank transfer for other current transactions of resident organisations and individuals; notably, the regulations on **buying, remitting and taking foreign currencies abroad**, applicable to resident organisations which need to remit money abroad, specifically as follows:

1.1 Buy, remit and take foreign currencies abroad

Buy foreign currency	Remit foreign currency	Take foreign currency
<input type="checkbox"/> The use of Vietnamese currency by a resident organisation to buy foreign currencies from an authorized bank and then remit money abroad for the purposes specified in Section 1.2 below.	<input type="checkbox"/> The overseas remittance of <i>foreign currencies</i> by a resident organisation via an authorized bank.	<input type="checkbox"/> An individual representing a resident organisation to take foreign currencies in cash abroad when he/she exits from Vietnam.

1.2 Purposes of buying, remitting and taking foreign currencies abroad and specific cases/levels for each purpose

According to Circular 20/2022, resident organisations may buy, remit and take foreign currencies abroad for the purposes of (a) financing and sponsorship or (b) otherwise.

Circular 20/2022 also stipulates the sources of money and the permitted amounts of foreign currency to be bought, remitted and taken abroad for each case.

Please see the summary table below.

LATEST LEGAL UPDATE



(a) Purposes of financing and sponsorship



- According to commitments and agreements between the State, the Government, and local governments at any levels with foreign countries. Sources of money for financing or shopsorship are funds from the budget or sources of the organisation itself. **The amount of foreign currency is based on the amount stated on relevant papers and documents.**

- To overcome the consequences of natural disasters, epidemics and wars. Sources of money for financing or shopsorship may include voluntary contributions from domestic organisations and individuals and/or the financing organisation. **The amount of foreign currency is based on the amount stated on relevant papers and documents.**

- To finance the programs, foundations and projects established by domestic and/or oversea organisations for the purpose of supporting and encouraging the growth of the following sectors: culture, education (scholarship funding), healthcare. The funding source is from the sponsoring organisation itself. The amount of foreign currency is based on the amount of money recorded in relevant papers and documents but must **not exceed USD 50,000** or other foreign currencies with an equivalent value in each remittance.

(b) Other purposes

- Paying rewards to non-residents being oversea organisations and individuals participating in programs and contests held in Vietnam in accordance with relevant laws. The source of money is from non-residents being oversea organisations and individuals. **The amount of foreign currency is based on the amount stated on relevant papers and documents.**

- Remitting money aboard, with the source of funding from non-residents being organisations and individuals abroad, for the following purposes: Allocation of funds to overseas members participating in scientific research projects and schemes in Vietnam and abroad; Repayment of the costs for implementation of projects in Vietnam according to commitments made with foreign parties. **The amount of foreign currency is based on the amount stated on relevant papers and documents.**

Circular 20/2022 will take effect from 15 February 2023.

2. Amend and supplement regulations on debt purchase and sale by credit institutions

On 26 December 2022, the State Bank of Vietnam issued Circular 18/2022/TT-NHNN (“Circular 18/2022”) amending and supplementing a number of articles of Circular 09/2015/TT-NHNN prescribing debt purchase and sale by credit institutions and foreign bank branches with some noteworthy key points as follows:

2.1 Cases where a credit institution does not have to meet a bad debt ratio of under 3% when purchasing debts

According to Article 1.3 of Circular 18/2022, credit institutions (CI) are not required to have a bad debt ratio of less than 3% when purchasing debts in the following cases:

CIs under special control to purchase qualified debts as prescribed in Article 146a.2 of the Law on CIs.

CIs under special control to purchase debts meeting requirements of the supporting CIs according to the plan for restoration of the CIs under special control as prescribed in Article 148b.1 of the Law on CIs.

Commercial banks subject to compulsory transfer to purchase debts meeting requirements of the CIs receiving such transfer according to the compulsory transfer plan approved by the competent authorities.

Supporting CIs to repurchase the debts sold to specially controlled CIs according to the restoration plan for the specially controlled CIs as prescribed in Article 148đ.6 of the Law on CIs.

A CI as a compulsory transferee to repurchase the debts that have been sold to a commercial bank subject to compulsory transfer according to the above case.

2.2 Cases where a credit institution is allowed to sell debts to its subsidiaries

According to Article 1.3 of Circular 18/2022, a CI may sell debts to its own subsidiary in the following cases:

Selling debts to a debt management and asset exploitation company according to the restructuring plan approved by a competent authority.

A CI as a compulsory transferee to sell qualified debts to a commercial bank subject to compulsory transfer according to an approved restructuring plan.

Circular 18/2022 will take effect from 09 February 2023.

3. Guidance on environmental risk management in credit extension activities

On December 23, 2022, the State Bank of Vietnam issued Circular 17/2022/TT-NHNN (“Circular 17/2022”) providing guidance on environmental risk management in credit extension activities of credit institutions (CIs) and foreign bank branches with some noteworthy key points as follows:

3.1 Environmental risks in credit extension activities

Environmental risks in credit extension activities are the credit risks for a CI arising when a customer who receives the credit extension encounters environmental risks when implementing an investment project.

Environmental risks of an investment project (hereinafter referred to as environmental risks) mean the possibility of adverse impacts on the environment during the implementation of an investment project, leading to additional costs, reducing income or causing damage to capital and assets of customers who are the project owners.

3.2 Investment projects must be managed in terms of environmental risks when they are considered for credit extension

According to Circular 17/2022, investment projects that must have environmental risk management in credit extension activities are the investment projects specified in Appendices III, IV and V issued in attachment to Decree 08/2022/ND-CP, specifically as follows:

Group I investment projects which may have a high risk of adverse impacts on the environment as specified in Article 28.3 of the Law on Environmental Protection.

Group II investment projects which may have a risks of adverse impacts on the environment as specified in Article 28.4 of the Law on Environmental Protection, except for group I investment projects.

Group III investment projects which have little risk of adverse impacts on the environment as specified in Article 28.5 of the Law on Environmental Protection, except for investment projects of groups I and II.

3.3 Principles of environmental risk management in credit extension activities

Article 4 of Circular 17/2022 stipulates a number of principles for environmental risk management in credit extension activities, specifically:

(a) Purpose

CI's must carry out environmental risk assessment in credit extension activities for **investment projects to identify credit risks**, determine the conditions on credit extension and manage credit risks for the loans granted to their customers.

(b) How to assess environmental risks

CI's must by themselves conduct an environmental risk assessment for investment projects **or use the assessments of environmental risks provided by organisations providing** environmental risk assessment services or by other CI's as agreed in the service provision contract.

When assessing investment projects with environmental risks before granting any loans, CI's should negotiate with customers to include in the credit extension contract the measures that customers must apply to limit the environmental risks.

(c) Customer responsibilities

Customers are responsible for **providing information** for environmental risk management in credit extension activities at the request of the CI and are liable for the accuracy of the provided information.

The provided information includes but not limited to, the decision on approving the report on preliminary environmental impact assessment, the environmental impact assessment report as prescribed by law, the environmental permit, and environmental registrations (if any) (Article 5 of Circular 17/2022).

Circular 17/2022 will take effect from 01 June 2023.

1. Authorising personal income tax finalisation

In case an employee signs a separate labour contract with 2 companies and is entitled to deduction, declaration and payment of personal income tax on a monthly basis according to the partially progressive schedule, this employee is not a resident individual earning incomes from salaries and wages and must authorise organisations and individuals to make tax finalisation as prescribed in Article 8.6.d.2 of Decree 126/2020/ND-CP.

Ha Noi City Tax Department replies to the question of T&T Retail Co., Ltd. in Official Letter No. 289/CTHN-TTHT dated 04/01/2023.

2. Value-added tax rate for goods supply activities for enterprises in export processing zones

In case the Company supplies goods to enterprises in a non-tariff zone (export processing zone), if the goods consumed in a non-tariff zone do not fall into the cases specified in Article 1.2 of Circular 130/2016/TT-BTC and meet the conditions as prescribed in Article 9.2.a of Circular 219/2013/TT-BTC, they are eligible for the value-added tax rate of 0%.

After completing the procedures for exported goods, the Company will issue a value-added invoice for the exported goods as prescribed in Article 13.3.c of Decree 123/2020/ND-CP.

Ha Noi City Tax Department replies to the question of Koreagift Vietnam Co., Ltd. in Official Letter No. 386/CTHN-TTHT dated 04/01/2023.

3. Invoicing and declaring taxes on the amount of compensation under the Court's decision

In case the Company receives the amount of compensation under the Court's decision as prescribed in Article 5.1 of Circular 219/2013/TT-BTC, it is not required to declare, calculate and pay value added tax. The Company prepares payment receipts as prescribed (not required to issue invoices).

The Company declares and pays corporate income taxes on the above-mentioned compensation according to the guidance in Article 7.13 of Circular 78/2014/TT-BTC.

Ha Noi City Tax Department replies to the question of Van Dien Fused Magnesium Phosphate Fertilizer Joint Stock Company in Official Letter No. 377/CTHN-TTHT dated 04/01/2023.

4. Contents on duty-free sales invoices

In case the subject of a duty-free purchase is a person on exit, transit, or a passenger on an exiting aircraft, the salesperson must issue an invoice as prescribed in Article 13 of Decree 100/2020/ND-CP.

In case the duty-free purchaser is a passenger on an international flight to Vietnam, the salesperson must issue an invoice as prescribed in Article 15 of Decree 100/2020/ND-CP.

In case the duty-free purchaser is a person waiting for exit while buying goods at a domestic duty-free shop, the salesperson must issue an invoice as prescribed in Article 16 of Decree 100/2020/ND-CP.

Ha Noi City Tax Department replies to the question of Lotte Phu Khanh duty-free Co., Ltd. - Ha Noi Branch in Official Letter No. 392/CTHN-TTHT dated 04/01/2023.

1. Enterprises propose maintenance of 2% VAT reduction

In 2022, the National Assembly and the Government have timely support policies for enterprises and people to recover from the epidemic. In particular, the 2% VAT reduction policy applied from 01 February 2022 to 31 December 2022 has brought into effective play, resulting in quick and direct impact, stimulating production and consumption. At the same time, the tax reduction also contributes to reducing the cost of products and services and increasing demand for people in the context of limited income.

However, up to now, enterprises have still faced many difficulties after Covid-19 as well as other instabilities at home and abroad, so some industry associations and enterprises propose the National Assembly and the Government continue to extend the 2% VAT reduction policy for 2023.

According to the representative of the Vietnam Association of Seafood Exporters and Producers, the 2% VAT reduction is a form of indirect support for end consumers and he hopes that the policy will continue to be implemented.



The representative of the Vietnam Electronic Business Association also expressed his wish that the 2% VAT reduction policy will continue to be applied in 2023 so that consumers can enjoy it amid many political, economic fluctuations and ongoing inflation around the world.

The representative of the Association of Small and Medium Enterprises of Hanoi City believes that continuing to reduce the VAT rate of 2% will be an arrow hitting many targets: - helping consumers reduce spending burdens, control the price of goods, while assisting manufacturers in selling goods and stimulating consumption. Therefore, the Association has proposed an extension of the reduction of value added tax until at least June 2023 or preferably the end of 2023.

By daibieunhandan.vn

2. HUBA proposes the State Bank’s one-year extension for the loan and VAT reduction of 8%

In order to support enterprises to develop stably and sustainably in the context of the economic situation in 2023 both facing many challenges and grasping significant opportunities, the Ho Chi Minh City of Business

Associations (HUBA) recommends the State Bank activate a policy to free up resources for enterprises.

Specifically, the State Bank continues to implement the policy of extending the



Photo: Chi Tuong/TXVN

loan for one year (2023) for medium and long-term loans, applying a one-year grace period instead of compounding and paying the debt in the following year. The State provides loans to deal with work suspension/work quitting salaries and other loans to support enterprises that have shortages of orders, have to let workers quit, work alternately, etc., activating a policy to lower loan interest rates to support enterprises. In addition, the State Bank will strengthen the inspection of banks that implement policies to support enterprises, apply necessary sanctions, and until the end of 2023.

Regarding fiscal policy, HUBA proposes continuing the

implementation of personal income tax exemption and reduction until the end of June 2023; at the same time, continuing the applicable value-added tax rate of 8% to all economic sectors until the end of 2024 as well as drastically direct the timely settlement of tax refunds for enterprises.

Along with that, the State develops a package of policies to stabilise the real estate market and corporate bonds; accelerate the disbursement of public investment to support domestic enterprises to maintain operations and create jobs for workers; strengthen solutions to stabilise the market to keep prices and stabilise people's lives.

In addition, the State also facilitates the management mechanism so that agricultural land can be used for the right purposes for agricultural development at all levels of technology from low to high in order to make full use of land resources in the general economic development of the City.

By bnews.vn

No.	Document title	Issuance date	Effective date
NATIONAL ASSEMBLY			
1	Law No. 13/2022/QH15 on domestic violence prevention and control.	14/11/2022	01/07/2023
2	Law No. 12/2022/QH15 on petroleum.	14/11/2022	01/07/2023
3	Law No. 10/2022/QH15 on Implementing Democracy at the grassroots.	10/11/2022	01/07/2023
4	Law No. 09/2022/QH15 amending and supplementing a number of articles of Law on Radio Frequency.	09/11/2022	01/07/2023
NATIONAL ASSEMBLY STANDING COMMITTEE			
1	Ordinance No. 03/2022/UBTVQH15 on the sequence and procedures for considering and deciding to apply administrative measures at the People's Court.	13/12/2022	01/02/2023
GOVERNMENT			
1	Decree 131/2022/NĐ-CP detailing a number of articles of the Law on Cinematography.	31/12/2022	01/01/2023
2	Decree 129/2022/ND-CP on Vietnam's Special Preferential Import Tariffs for the implementation of the Regional Comprehensive Economic Partnership Agreement for the period 2022-2027	30/12/2022	15/02/2023
3	Decree 115/2022/ND-CP on Vietnam's Preferential Export Tariff and Special Preferential Import Tariff for the implementation of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership for the period 2022-2027.	30/12/2022	30/12/2022
4	Decree 111/2022/ND-CP on contracts for certain types of work in administrative agencies and public non-business units.	30/12/2022	22/02/2023
MINISTRY OF INDUSTRY AND TRADE			
1	Circular 42/2022/TT-BCT on inspection of electrical activities and consumption of electricity, settlement of disputes concerning power purchase agreements.	30/12/2022	16/02/2023
2	Circular 37/2022/TT-BCT stipulating the Rules of Origin of goods in the ASEAN-Japan Comprehensive Economic Partnership Agreement	23/12/2022	01/03/2023
STATE BANK OF VIETNAM			
1	Circular 20/2022/TT-NHNN guiding the one-way money transfer from Vietnam to abroad and payment and money transfer for other current transactions of residents being organisations and individuals.	30/12/2022	15/02/2023
2	Circular 18/2022/TT-NHNN amending and supplementing a number of articles of Circular 09/2015/TT-NHNN prescribing debt purchase and sale by credit institutions and foreign bank branches.	26/12/2022	09/02/2023
3	Circular 17/2022/TT-NHNN providing guidance on environmental risk management in credit extension activities of credit institutions and foreign bank branches.	23/12/2022	01/06/2023



**GLOBAL VIETNAM
LAWYERS**

CONTACT US

info@gvlawyers.com.vn

HCMC - Head Office

8/F, Centec Tower,
72 – 74 Nguyen Thi Minh Khai,
Vo Thi Sau Ward, District 3
Ho Chi Minh City, Vietnam
Tel: +84 (28) 3622 3555

Ha Noi - Branch

10A/F, CDC Building,
25 Le Dai Hanh
Hai Ba Trung District
Ha Noi, Vietnam
Tel: +84 (24) 3208 3555

Da Nang - Branch

3/F, Indochina Riverside
Tower, 74 Bach Dang
Hai Chau District
Da Nang City, Vietnam
Tel: +84 (28) 3622 3555

The contents of the newsletter neither constitute legal advice nor necessarily reflect the opinions of our firm or any of our attorneys or consultants. The newsletter provides general information, which may or may not be complete or up to date at the time of reading. The content is not intended to be used as a substitute for specific legal advice or opinions. Please seek appropriate legal advice or other professional counselling for any specific issues you may have. We, GV Lawyers, expressly disclaim all liabilities relating to actions whether taken or untaken based on any or all contents of the newsletter.

www.gvlawyers.com.vn

