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1. Amending and supplementing a number of articles of the decrees guiding the implementation of the Land Law

On 03 April 2023, the Government issued Decree 10/2023/ND-CP (“Decree 10/2023”) amending and supplementing a number of articles of the decrees guiding the implementation of the Land Law. Decree 10/2023 will take effect from 20 May, 2023 with some noteworthy novelties as follows:

1.1 Construction works used for tourist accommodation purposes can be recognized in terms of ownership

According to Decree 10/2023, construction works on commercial and service land used for the purpose of tourist accommodation as prescribed by the law on tourism (commonly known as condotels, officetels ...) can be recognised in terms of ownership with respect to construction works attached to land according to the purpose of commercial or service land use, if they fully meet the conditions prescribed by the law on land, the law on construction, and the law on real estate business.

The land use term of construction works used for tourist accommodation purposes will be governed by Articles 126.3 and 128.1 of the Law on Land. Accordingly, the land lease term for commercial and service purposes does not exceed 50 years. Upon expiry of the term, if the land user wishes to continue using it, the State will consider extending the land use term but not exceeding the time limit specified above. The land use term in case of receipt of transfer of land use rights, for types of land with definite use terms, will be the remainder of the land use term before the land is transferred.

1.2 Additional conditions for changing the land use purpose for implementing projects

Article 1.9 of Decree 10/2023 adds conditions and criteria for changing the use purpose of land for rice cultivation, land for protection forests and land for special-use forests to other purposes for implementing investment projects as follows:

- (i) Having an investment project for which the in-principle approval has been obtained, or the investment registration certificate has been granted.
- (ii) The investment project is consistent with the district-level land use plan or the project is listed in the district-level annual land use plan which has been approved.
- (iii) Having a plan on planting replacement forests, or a certificate on fulfillment of the payment obligation for planting replacement forests; having a plan to use the topsoil layer and a certificate on fulfillment of the payment obligation for protection and development of rice cultivation land.
- (iv) Conducting preliminary environmental impact assessment and environmental impact assessment in accordance with the law on environmental protection (if any).

1.3 Conditions for the entities to participate in the auction of land use rights

According to Article 1.3 of Decree 10/2023, in order to participate in the auction of the use rights of land allocated or leased by the State with land use levies or land rental, entities participating in the auction of land use rights must fully satisfy the following conditions:

- (i) Being eligible for land allocation or land lease by the State in accordance with Articles 55 and 56 of the Land Law; For an auction of a land parcel or a project involving one or more land parcels where there are two or more companies with cross-ownership relationship under the enterprise law, only one company is allowed to participate in the said auction of land use rights;
- (ii) Satisfying the conditions specified in Article 58.3 of the Land Law, Articles 14.2 and 14.3 of Decree 43/2014/ND-CP;
- (iii) Making an advance payment equal to 20% of the value of the land parcel calculated at the starting price in the auction;
- (iv) Not being banned from auction in accordance with law; and
- (v) Satisfying conditions of the housing law and the law on real estate business, for the case of auction of land use rights to implement housing projects or other real estate business projects.

1.4 Time to calculate and collect land rental in case of extension or adjustment of land use term

Article 2.2 of Decree 10/2023 stipulates the time for calculating and collecting land rental in case of eligible extension or adjustment of land use term as follows:

- (i) In case the land use term is extended by the competent state agency upon its expiry, the time for calculating and collecting land rental will be the first date of the following land lease term.
- (ii) In case the land use term is adjusted by the competent state agency, this time will be determined as follows:
 - If the land is leased by the State with one-off rental payment for the entire lease term, the time for calculating and collecting land rental shall be the date on which the State decides to adjust the land use term.
 - If the land is leased by the State with annual rental payment, the time for calculating and collecting land rental for the first stable cycle of land rental unit shall be the time the State decides to adjust the land use term to calculate the annual land rental.

1.5 Time limit for payment when winning an auction of land use rights

Article 3.1 of Decree 10/2023 allows the auction winner of land use rights to fulfill financial obligations within 120 days of the decision recognising the auction winning result. If the above period expires, the auction winner fails to pay or fails to fully pay for the auction, the competent People's Committee will cancel the decision on recognising the auction winning result.

2. Guidelines for granting loans to buy social and worker housing according to Resolution 33/NQ-CP

On 01 April 2023, the State Bank of Vietnam (SBV) issued Official Letter 2308/NHNN-TD on implementation of the scheme to grant loans for purchasing social and worker housing, renovating and rebuilding old apartment buildings under the Government's Resolution 33/NQ-CP dated 11 March 2023 on a number of solutions to remove difficulties for, and to promote safe, healthy, sustainable development of, the real estate market. Particularly, the Government assigned the SBV to assume the prime responsibility for implementing the credit programme of about VND 120,000 billion ("VND 120,000 billion Programme") with specific instructions as follows:

2.1 Eligible borrowers

Eligible borrowers (hereinafter referred to as customers) include legal entities, individuals investing or buying houses in social and worker housing projects, projects to renovate and rebuild old apartment buildings in the list of projects announced by the Ministry of Construction, including:

- (i) Customers who are project owners; and
- (ii) Customers buying houses in a project.

2.2 Regarding lending principles

- Customers (including project owners and those who buy houses in projects) must satisfy the conditions for entitlement under supporting policies on social and worker housing projects, projects to renovate and rebuild old apartment buildings in accordance with laws and the Ministry of Construction's guiding documents; satisfy the conditions for borrowing as prescribed by laws.
- Each house buyer may get only one loan to buy an apartment in a project listed by the Ministry of Construction, and for each project, the owner may be granted one-off loan.

2.3 Implementation period

Time limit for disbursement of the VND 120,000 billion Programme is the time the disbursed amount reaches VND 120,000 billion, but **not later than 31 December 2030**.

2.4 Preferential period

- For project owners: will be entitled to a lending interest rate for the preferential period of 3 years from the disbursement date, but not later than the loan maturity date specified in the initial loan agreement.
- For apartment buyers: will be entitled to a lending interest rates for the preferential period of 5 years from the disbursement date, but not later than the loan maturity date specified in the initial loan agreement.

2.5 Lending interest rates in the preferential period

- For project owners: **8.7%/year**, applied until the end of 30 June 2023.
- For apartment buyers: **8.2%/year**, applied until the end of 30 June 2023.

From 10 July 2023, every 6 months, the SBV will announce the lending interest

rates in the preferential period for commercial banks participating in the VND 120,000 billion Programme.

2.6 Lending interest rates after the preferential period

Lending interest rates will be agreed upon between commercial banks and customers, ensuring compliance with law, and the interest rate determination method or the lending interest rates must be clearly specified in the loan agreements between customers and banks.

2.7 Lending banks

- Agribank, BIDV, Vietcombank and Vietinbank must urgently

3. Scheme “Investing in the construction of at least 01 million social housing units for low-income people and industrial park workers in the 2021-2030 period”

On 03 April 2023, the Prime Minister issued Decision 338/QĐ-TTg (“Decision 338”) approving the Scheme “Investing in the construction of at least 01 million social housing units for low-income people and industrial park workers in the 2021-2030 period” with the goal of developing social and worker housing with prices affordable to middle- and low-income households in urban areas and to employees and workers in industrial parks and export processing zones. Therefore, the Ministry of Construction has proposed a number of solutions, especially the solution to consolidate the institutions and laws on social housing for low-income people and industrial park workers, specifically as follows:

3.1 Regarding the land fund for social and worker housings

- Amending and supplementing regulations on the land reserved for social housing development in the direction that when making and approving a plan, the land area reserved for construction of social housing must be clearly defined within the boundaries of a province or district.
- Supplementing regulations on planning and arrangement of land fund for development of worker accommodation units in the

implement the VND 120,000 billion Programme from 01 April 2023.

- Upon participating in the VND 120,000 billion Programme, other commercial banks must follow the instructions provided in Official Letter 2308/NHNN-TĐ, and report to the SBV in writing of their participation in the Programme (via the Department of Credit for Economic Sectors, the Monetary Policy Department and the Banking Inspection and Supervision Agency), and also send a written request for information of the VND 120,000 billion Programme to the Credit Information Center of Vietnam.

direction that when making and approving the plan on construction of industrial parks, a land area within the commercial and service land area of the industrial park must be reserved for building accommodation units, service facilities, public utilities to serve employees working in that industrial park.

3.2 Regarding credit sources for social housing development

- Determining that the investment in social housing development for low-income workers is an

investment item in the medium and long-term capital sources of the locality.

- Amending and supplementing the regulations on capital sources for housing development by stipulating new capital sources and optimising existing ones, adding the form of capital mobilisation from abroad for social housing development.
- Focus on coordinating with the SBV to implement the VND 120,000 billion Programme and specific credit packages to lend to owners and homebuyers of social housing and worker housing projects with lower interest rates at 1.5 - 2% compared to the average interest rate for medium and long-term loans in Vietnamese Dong provided by state-owned commercial banks (including Agribank, BIDV, Vietcombank and Vietinbank).

3.3 Regarding the selection of owners for social housing construction projects

- Amending and supplementing regulations on selection of owners for social housing construction projects so that they are consistent and synchronised with other relevant laws (investment, public investment, construction, land and bidding laws).
- Supplementing regulations on selection of owners for projects of construction of worker accommodation units in the direction that the enterprise investing in industrial park infrastructure is also assigned to construct the worker accommodation units. After completing construction of the worker housing area, the level I

owner can build the worker accommodation units by itself or hand it over to the provincial Industrial Park Management Board to transfer the land with infrastructure to the General Confederation of Vietnam or the enterprises operating in such industrial park, or enterprises conducting housing business (level II owners) to invest in the construction of worker accommodation units.

3.4 Regulations on incentives and responsibilities of owners for social housing projects

- Amending and supplementing regulations on incentives for owners in the direction that 20% of commercial land area in social housing projects shall be accounted separately, instead of being accounted altogether with the whole project; reasonable and valid expenses in the process of investment in social housing construction can be accounted into the cost.
- Supplementing incentives for worker accommodation units in the following direction: The investment cost of technical infrastructure of the accommodation area can be accounted into the investment cost of industrial park infrastructure; The construction cost of the worker housing area can be considered as reasonable costs (counted into the production cost) when calculating corporate income tax.
- Amending the laws on value-added tax and corporate income tax so that the project owners of social housing for rent are entitled to higher reduction rates of value-added tax and corporate income

tax than those who construct social housing for lease purchase and sale.

investment capital of social housing projects.

- Amending the regulation that social housing project owners must reserve at least 20% of the social housing area in the project for lease, and the owner may only sell it after 5 years of being put into use in the direction that the owner is not required to reserve a part of social housing area for lease, and the business plan (sale, lease, lease purchase) will be at the owner's discretion.
- Amending the guidelines on application for land use levies exemption for project owners specified in Article 8.3 of Circular 10/2018/TT-BTC in the direction that they do not have to pay back the exempted land use levies when the owners sell houses (with land use right transfer) to customers.

3.5 Regarding the appraisal of selling prices of social housing

- Amending and supplementing regulations related to the appraisal of selling prices, leasing prices, and lease-purchase prices of social housing in the direction that social housing project owners can determine the selling, leasing, or lease-purchase prices of social housing and must report to the housing management agency at the provincial level. Provincial People's Committees are responsible for appraising and approving the selling, leasing, or lease-purchase prices.
- Adding the regulation on principles of adjustment of selling, leasing, and leasing-purchase prices of social housing in case of increasing/decreasing the total

3.6 Regarding the subjects eligible to social housing policy

- Separating workers from other subjects, including: Workers, employees, experts working for enterprises in industrial parks, industrial clusters, export processing zones, high-tech zones (hereinafter referred to as industrial parks) and manufacturing enterprises in industrial parks; Building a separate policy to develop accommodation units for rent by workers.
- Adding eligible subjects which are enterprises that purchase, lease or lease-purchase social housing for their employees to rent.

3.7 Regarding the type of investment project to construct social housing

- Adding the regulation on types of social housing project, including social housing areas and social housing urban areas.
- Adding the regulation on the forms of developing worker accommodation units.

3.8 Regarding administrative procedures in investment and management activities

Decentralisation and review of administrative procedures provided in legal documents on social housing to absolutely remove unnecessary procedures, reduce the time to carry out the procedures in construction investment, management and use of social housing.

Decision 338 will take effect from the date of signing, i.e. 03 April 2023.

GV Lawyers would like to introduce you an article by **Ms. Pham Thanh Mai**, Paralegal of GV Lawyers titled **“How Vietnam compensation rules ruin the rights of consumers in e-commerce transactions?”** posted on the In-House Community website on 29 March 2023.

1. Background and context of e-commerce in Vietnam

Online transactions are usually trivial, and dispute settlement, e.g., through mediation, arbitration, civil court, etc., costs time and money. This would prompt consumers to let it go, or spread warnings over the web as widely as possible, expecting this to serve as a deterrence to dishonest vendors. After all, who would give up a whole working day just to seek justice for, let's say, a damage worth VND30,000 (USD1,2)?

But supposing a thousand consumers, instead of just one, become victims, the dishonest vendor will in this case acquire an illicit gain of VND30,000,000 (~USD1,200) without moving a finger. Bearing in mind that the revenue generated by the Vietnamese retailer e-commerce was predicted to reach USD16.4 billion in 2022^[1], and will grow exponentially in the following years, such illicit gain would increase tremendously if the customers persist in reacting passively.

And this is where consumer protection laws are supposed to come forward.

2. A glance at claimable damages under Vietnamese consumer protection laws

First of all, consumer protection laws come forward with damage compensation regimes.

From the standpoint of Vietnamese legislatures, compensation for damages resulting from violation of consumers' interests is based on both contractual and non-contractual obligations. The relationship between consumers and vendors is contractual and reciprocal at the very essence. Vendors accordingly must ensure that the goods are delivered in the quantities and quality as promised to the consumers under a sale of goods contract. Where the vendors fail to do so, they are deemed to have breached the contract and thus are obligated to compensate for damages as *per contract* and perform remedial measures to the

consumers, the aggrieved party.

In addition to contractual compensation, non-contractual one, or tortious liability, is to be taken into account when the vendors' failure to ensure the quality of goods causes actual damage to the consumers as stated in Article 608 of the Civil Code 2015. Tortious liability arises when three elements are met: tort, actual damage, and causal link between the tort and the actual damage^[2]. It is noteworthy that, unlike under the contractual compensation regime, the fault factor is taken into consideration when it comes to calculating compensable damages, not to determining whether the tortious liability arises. Put in simple words, the vendors cannot argue that they are not liable to their customers for the damage caused by defective goods because it is not in their intention to cause damage or that damage-causing is beyond their awareness. The involvement of tort liabilities provides a wider range of

¹ Vietnam E-commerce and Digital Economy Agency of Ministry of Industry and Trade, 'Report of E-commerce in Vietnam 2022' (Publishing House for Industry and Trade 2022).

² Article 2 of Resolution 02/2022.

compensation claims by consumers.

Article 13 of the 2015 Civil Code sets out a cornerstone for civil compensation regime, in which those whose civil rights are violated are eligible for compensation for *total damage*. In line therewith, in section 1, Article 585 of the same Code, we will find the notion of *damage compensated in full* which means, according to Resolution 02/2022 of the Council of Judges of the People's Supreme Court ("**Resolution 02/2022**"), *all actual damage that must be compensated*^[3]. Damages caused to consumers can relate to their assets, health, and life, each of which the laws provide different calculation methods with detailed formulations^[4]. However, the relevant wording in the 2015 Civil Code and Resolution 02/2022 on "all actual damage" seem to exclude consequential damage, or also commonly known as indirect damage.

Since no definition of indirect damage is provided in the

Vietnamese laws, it may be useful to refer to a classic precedent, i.e., the *Hadley v Baxendale (1854)* Case where the court found that breaches of contract are recoverable if they either "*may fairly and reasonably be considered either arising naturally, i.e., according to the usual course of things, from such breach of contract itself*", or "*may reasonably be supposed to have been in the contemplation of both parties, at the time they made the contract, as the probable result of the breach of it*". As you may see, the former quotation is a general description of direct damage while the latter one is of indirect damage.^[5]

Let's explore a scenario where a consumer buys a shirt from a vendor, having thereby entered into a verbal contract, to speak in law words. The consumer quickly becomes disappointed at the new shirt because its quality is poorer than the one described in the vendor's advertisement. The consumer thereby requires compensation from the vendor for the

shirt, which is worth VND300,000, because the shirt fails to "*match the technical standards or norms, quality, quantity, features, usage, pricing or other contents that organizations or individuals trading goods and/or services already declared, posted, advertised or committed*" pursuant to section 6 Article 8 of the 2010 Law on Protection Of Consumers' Rights^[6] ^[7]. But the vendor rejects the consumer's claim and argues that he is innocent. The consumer then decides to exercise her rights under section 7 Article 8 of the said Law^[8], by submitting the dispute to a competent court to have her own interests recognized and vindicated.

In the best-case scenario, after lengthy civil proceedings, the consumer is declared entitled to claim VND300,000 which is the only quantum *ramifactus* she can prove in court. Such a damage compensation is purely contract-based because she has not suffered any

³ Item (b) section 1 Resolution 02/2022.

⁴ Articles 580, 589, and 590 of the 2015 Civil Code.

⁵ The recoverable indirect loss should not be too remote as well, but due to the scope of our article, we could not discuss this matter this time.

⁶ Please note that, as of the date of our article, a new version of the Law on Protection Of Consumers' Rights has been under discussion by the National Assembly and expectedly to be adopted soon.

⁷ "to require compensation if the provided goods or services do not match technical standards or norms, quality, quantity, features, usage, pricing or

other contents that organizations or individuals trading goods and/or services already declared, posted, advertised or committed".

⁸ "7. Being entitled to complain, denounce and take a lawsuit or propose social organization to take a lawsuit in order to protect their rights under the provisions of this Law and other provisions of law involved."

other damages related to her health, asset, or life from that poor-quality shirt, and hence no legal grounds for raising tortious liability, and the court excludes indirect damages.

3. What to expect?

Evidently, VND300,000 can barely cover the lawsuit costs, including the time and resources the consumer has to spend on preparing the litigation dossier, participating in a mediation with the vendor and the judge, transportation, lawyer fees, and other types of sundry expenses, which altogether may be regarded as indirect damage. But, as the laws stand, indirect damage is not accounted as “all actual damage”, such expenses cannot be acknowledged by the court, unless the consumer and the vendor accept by mutual consent, in the contract or elsewhere, that the case-losing party would bear such costs. Rejection of indirect damage may, at least in cases similar to the

mentioned, turn out to be unfair to consumers who very often are the vulnerable party due to lack of proper information^[9].

The disadvantage of consumers as opposed to vendors acted as a motivation for adoption of the Law on Protection of Consumers’ Rights, and is still raised as a reason for supporting the new version of the said Law during recent debates at the National Assembly^[10]. Supposing the Vietnamese legislators truly acknowledge such weaker legal position of the consumers, they should, in our opinion, also let the consequential damages be borne by vendors in case their contract breach is declared to be the origin of the damage caused to the consumers.

Take the lawyer fees as an example. The prevailing Vietnamese laws generally prescribe that refunding of the case-winning party’s lawyer fees by the case-losing party is only accepted if

as *per parties’* mutual consent,^[11] except otherwise prescribed by law, e.g., in the laws on intellectual property.^[12] In both doctrine and practice, Vietnamese scholars and legal practitioners are divided on this lawyer fees topic as well. The judicial practice delivers various yet contradictory opinions in this regard: while the courts insist that lawyer fees must be excluded from compensation claims because the absence of lawyers does not obstruct civil proceedings and therefore lawyer fees are “add-on” expenses in essence^[13], arbitration, on the other hand, tends to recognize lawyer fees as a reasonable cost to a certain extent and approve their reimbursement if requested.

We believe that reimbursement of lawyer fees should be extended to consumer protection. As consumers are in a disadvantaged position right from outset as compared to vendors, and

⁹ Claudia Lima Marques, ‘Relations Between International Law and Consumer Law in the Globalized World: Challenges and Prospects’, in Dan Wei and Claudia Lima Marques (eds), *Consumer Law and Socioeconomic Development* (Springer International Publishing 2017).

¹⁰ See Thao Nguyen, Chien Thang, ‘Quy định những vấn đề mới, đặc

thù để bảo vệ vị trí yếu thế của người tiêu dùng’ Quan Doi Nhan Dan (Ha Noi, 25 October 2022) <<https://www.qdnd.vn/chinh-tri/tin-tuc/quy-dinh-nhung-van-de-moi-dac-thu-de-bao-ve-vi-tri-yeu-the-cua-nguoi-tieu-dung-709089>> accessed on 20 March 2023.

¹¹ Article 168, clause 2, 2015 Civil Procedure Code.

¹² Sections 4 and 5 Article 198, of the Intellectual Property Law.

¹³ Phan Thuong, ‘Đòi bồi hoàn tiền thuê luật sư, được không?’, Pháp Luật (Ho Chi Minh City, 29 July 2011) <<https://plo.vn/doi-boi-hoan-tien-thue-luat-su-duoc-khong-post85035.html>> accessed on 20 March 2023.

particularly to enterprise-vendors, it would be fair to assume that they are in need of legal aid from professional and experienced counsels. Given that professional legal services are relatively high compared to the average income in Vietnam (roughly VND 7,500,000 (~USD 275) per month in 2022)[¹⁴], consumers with average or low income would find lawyer fees to be out of reach. They should be relieved of such a burden for the sake of due justice process for everyone. Back to the Shirt Case, the consumer would be entitled to not only compensation for the value of the defective shirt of VND300,000 but also refunding of the lawyer fees incurred during the court proceedings. As a result, the dishonest vendor will be liable for disbursing much more than VND 300,000 for his defaulting on his responsibility. To a certain extent, such sanctioning would serve as a warning to the other vendors and deter them from such illicit business practices.

On the macro level, it encourages transparent and fair consumption, reduces petty dispute cases and reduces the workload of the administrative authorities, inspectorates, and dispute settlement bodies.

Legislators nevertheless should not fully give vendors the same right as consumers in terms of indirect damage as discussed above, and set a limit on which type of indirect damage is claimable by vendors. This may seem unfair from the vendors' side at first, but if vendors are fully granted such right, it will discourage consumers from seeking indemnity because of their limited resources, and the legislation then fails to redress the asymmetrical legal positions of vendors and consumers. Instead, vendors may claim non-contractual compensation for the consumers' defamatory statements, and other fees if stated in the sale contract. At the end of the day, it is crucial

to balance interests and rights between consumers and vendors, so that protection of consumers' rights is not at the expense of the vendors' legitimate rights and interests.

As the main theme of the Vietnamese Consumer Day this year is "Transparent Information – Safe Consumption", making transparency in the provision of information to consumers the main target,^[15] the legislation for protection of consumers' rights should develop in the way of motivating the vendors to fulfill their statutory obligations and deter any intention of wrongdoings. When writing this article, we do not expect to see a mechanism that enables a consumer to return a newly-bought hat simply because the hat does not match the color of his/her hair^[16]; we are just advocating for a set of measures that grant proper protection to e-commerce consumers and be more constructive and efficient than spreading complaints over the media and the web^[17].

¹⁴ See General Statistics Office, 'Infographic social-economic situation 4th quarter and 2022' (29 December 2022) <<https://www.gso.gov.vn/en/data-and-statistics/2022/12/infographic-social-economic-situation-4th-quarter-and-2022>> accessed on 20 March 2023.

¹⁵ Articles 12 and 13 of the Law on Protection of Consumers' Rights.

¹⁶ Indeed, consumers in Europe may cancel and return goods bought online within 14 days, for any reason and without a justification, but not applied for any type of goods or services. <<https://europa.eu/youreurope/citizens/consumers/shopping/guarante>

es-returns/index_en.htm#:~:text=In%20the%20EU%20you%20have,you%20simply%20changed%20your%20mind> accessed on 20 March 2023.

¹⁷ Pham An, Duc Hoang, and Ha Quang Minh, 'Bảo vệ người tiêu dùng như thế nào?' Cong An Nhan Dan (14 October 2022) <https://cand.com.vn/Chuyen-de/bao-ve-nguoi-tieu-dung-nhu->

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1. Personal income tax policy for redundancy allowances

If the Company pays redundancy allowances to eligible redundant employees at the allowance rates prescribed by the Labor Code, this income will not be counted into the taxable income subject to personal income tax (PIT) imposed on salaries and wages as guided in Article 2.2.b.6 of Circular 111/2013/TT-BTC. For redundancy allowances higher than the rates specified in Labour Code, the Company will add them to the wages and salaries in order to deduct PIT according to the partially cumulative tariff before making such allowances.

In case the Company makes additional support payments to employees (not provided for by the Labour Code and the Law on Social Insurance) upon termination of the labour contract, if this payment is from VND 2 million or more, the Company will deduct PIT at the rate of 10% of total income before making the payment in accordance with Article 25.1(i) of Circular 111/2013/TT-BTC.

Ha Noi City Tax Department replies to the question of the Branch of NET Detergent Joint Stock Company in Official Letter No. 13510/CTHN-TTHT dated 22/3/2023.

2. Guidelines on tax rates for dried persimmons

If the Company pays value-added tax (VAT) by the method of tax deduction and sells dried persimmon products that have not been processed into other products or are only preliminarily processed to enterprises and cooperatives, then the products are not

subject to VAT declaration and payment as prescribed in Article 5.5 of Circular 219/2013/TT-BTC.

If the Company sells dried persimmon products that have not been processed into other products or are only preliminarily processed to other subjects such as business households, individuals and other organizations and individuals, they must declare, calculate and pay VAT at the VAT rate 5% as prescribed in Article 10.5 of Circular 219/2013/TT-BTC.

Ha Noi City Tax Department replies to the question of Viet Nam VSL Services and Trading Co., Ltd. in Official Letter No. 17834/CTHN-TTHT dated 04/4/2023.

3. License fees for business points located in a different province

If the Company's business point in Hanoi conducts production and trading in goods and services, it must pay license fee; If the business point is not engaged in the production and trading of goods and services, then it does not have to pay the license fee.

Regarding the location, deadline for submitting declaration forms and paying license fees, the Company should refer to Articles 10.1, 11.1 and 18.9 of Decree 126/2020/ND-CP.

Ha Noi City Tax Department replies to the question of Bonfiglioli Vietnam Co., Ltd. in Official Letter No. 19299/CTHN-TTHT dated 06/4/2023.

4. Making electronic invoices per Decree 123/2020/ND-CP

If the Company sells goods, it must issue an invoice to the buyer as prescribed in Article 4 of Decree 123/2020/ND-CP and the content of the invoice must be consistent with Article 10 of Decree 123/2020/ND-CP.

If the Company issues an export invoice on the spot as prescribed by law, the Company will specify the name of the foreign buyer, the name of the consignee company and the delivery location in Vietnam as prescribed in

Article 17.2(c) of Circular 219/2013/TT-BTC.

In case the Company discovers that the issued invoice has errors and it is necessary to issue an adjustment or replacement invoice, the Company will handle the incorrect invoice in accordance with Article 19 of Decree 123/2020/ND-CP and Article 12.6 of Circular 78/2021/TT-BTC.

Ha Noi City Tax Department replies to the question of Everpia JSC in Official Letter No. 17831/CTHN-TTHT dated 04/4/2023.



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LAWYERS

1. Proposal to tighten the deposit for selling land formed in the future

The Ho Chi Minh City Real Estate Association (HoREA) has just sent a document to the National Assembly Standing Committee, the National Assembly's Economic Committee and the Ministry of Construction to comment on the Draft of the Law on Real Estate Business (amended).

According to HoREA, Article 24.4.d of the Draft Law on Real Estate Business (amended) is unnecessary when it stipulates that sellers can only receive deposits from customers when houses and construction works have fully met the conditions to be put into business and transactions on these products have been conducted in accordance with this Law.

Because if it is a housing project or a construction work that has met all the conditions to be put into business and the transaction has been conducted in accordance with the Law on Real Estate Business, that is, the sales contract has been signed. The investor already has the right to collect the first payment of no more than 30% of the contract value, so the deposit to secure the contract performance is rarely risky and can be safely governed by the Civil Code 2015.

Therefore, HoREA proposes that the Law on Real Estate Business should stipulate the behavior of depositing for houses, construction works, and housing land on paper sold by real estate project investors and those who sell housing land. This provision is to avoid collecting too large amounts of deposit, which may potentially be a fraudulent act causing damage to the depositor.

HoREA proposes that real estate project investors, when raising capital, selling houses and construction works formed in the future, can only receive deposits after the competent state agency has granted in-principle approval for the project and accepted the investor. Deposit value must not exceed 5% of the value of houses or construction works formed in the future.

For the sellers of housing land (subdividing lots, separating parcels) formed in the future that are not part of the real estate project, they can only receive a deposit after receiving permission from the competent state agency to separate the land parcel. The deposit is not more than 5% of the value of the housing land sold on paper.

By cafeland.vn

2. The Government agrees to reduce value added tax from 10% to 8%

On 17 April 2023, the Government Office issued Document No. 2614 signed by Deputy Prime Minister Le Minh Khai giving opinions on exemption and reduction of tax, fee and charge for 2023. Accordingly, the Government agreed to the proposal of the Ministry of Finance on reducing value added tax (VAT), and also instructed the Ministry of Finance to promptly draft a proposal to the National Assembly for approval and issuance of a Resolution in accordance with simplified procedures.

Previously, the Ministry of Finance had submitted to the Government a proposal to reduce the VAT rate by 2% for all goods and services subject to 10% tax rate (down to 8%) and reduce the tax calculation

percentage by 20% for business establishments (including business households and individuals) when issuing invoices for all goods and services subject to VAT 10%.

It is expected that the term of the VAT reduction policy will be calculated from the time the policy is issued until end of 31 December 2023.

According to the Ministry of Finance, this tax reduction will reduce budget revenue by about VND 5,800 billion/month, equivalent to about VND 35,000 billion for the last 6 months of the year.

By thanhnien.vn

No.	Document title	Issuance date	Effective date
GOVERNMENT			
1	Decree 10/2023/ND-CP amending and supplementing a number of articles of the decrees guiding the implementation of the Land Law.	03/4/2023	20/5/2023
PRIME MINISTER			
1	Decision 09/2023/QD-TTg stipulating the order, procedures, and competence for granting and management of APEC business travel cards.	12/4/2023	10/7/2023
2	Decision 338/QD-TTg approving the Scheme "Investing in the construction of at least 01 million social housing units for low-income people and industrial park workers in the 2021-2030 period "	03/4/2023	03/4/2023
3	Decision 319/QD-TTg approving the Scheme on anti-counterfeiting and consumer protection in e-commerce up to 2025.	29/3/2023	29/3/2023
MINISTRY OF INDUSTRY AND TRADE			
1	Circular 08/2023/TT-BCT amending and supplementing a number of articles stipulating the detailed list as per HS codes of exported and imported goods, issued in attachment to some Circulars of the Ministry of Industry and Trade.	31/3/2023	16/5/2023
MINISTRY OF FINANCE			
1	Circular 16/2023/TT-BTC amending and supplementing a number of articles of the Ministry of Finance's Circular 36/2021/TT-BTC guiding some issues regarding investment of state capital in enterprises and management and use of capital and assets at enterprises as prescribed in Decree 91/2015/ND-CP; Decree 32/2018/ND-CP; Decree 121/2020/ND-CP, and Decree 140/2020/ND-CP.	17/3/2023	08/5/2023
MINISTRY OF CULTURE, SPORTS AND TOURISM			
1	Circular 04/2023/TT-BVHTTDL regulating the economic - technical norms for formulation and modification of outdoor advertising plans.	04/4/2023	04/4/2023
STATE BANK OF VIETNAM			
1	Official Letter 2308/NHNN-TD on the implementation of the scheme to grant loans for purchasing social houses and houses for workers, renovating and rebuilding old apartment buildings under Resolution 33/NQ-CP.	01/4/2023	01/4/2023
VIETNAM SOCIAL INSURANCE			
1	Decision 490/QD-BHXH amending and supplementing a number of articles on the procedures for collecting premiums of social insurance, health insurance, unemployment insurance, occupational accident and disease insurance; managing social insurance books and health insurance cards, issued in attachment to Decision 595/QD-BHXH dated 14 April 2017 and amending and supplementing Article 1 of Decision 505/QD-BHXH dated 27 March 2020.	28/3/2023	01/4/2023
HA NOI CITY TAX DEPARTMENT			
1	Official Letter 13762/CTHN-HKDCN on finalization of personal income tax in 2022.	22/3/2023	22/3/2023



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