



GLOBAL VIETNAM
LAWYERS

LEGAL NEWSLETTER

Issue No. 09 | September 2023

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NEWLY ISSUED LEGAL DOCUMENTS

1. Support policy for trade union members and employees whose working hours are reduced or labour contracts are terminated due to cutting or softening purchase orders placed on enterprises

On 25 August 2023, the Vietnam General Confederation of Labour issued Decision 7785/QD-TLD ("**Decision 7785**") amending and supplementing a number of articles of the Regulation issued together with Decision 6696/QD-TLD dated 16 January 2023 ("**Decision 6696**") on the implementation of policies to support trade union members and employees whose working hours are reduced or labour contracts are terminated due to cutting or softening purchase orders placed on enterprises **from 01 April 2023 to 31 December 2023**. Decision 7785 has some notable novelties as follows:

1.1 Adding more cases of eligibility for allowances

Decision 7785 has added more cases of eligibility for allowances than Decision 6696, so the eligible subjects now include:

- Union members and employees working under labour contracts at enterprises that pay union fees before 01 April 2023.
- Enterprises that pay union fees before 01 April 2023 and have their purchase orders cut or reduced during the period from 01 April 2023 to 31 December 2023.
- Grassroots trade union; immediate higher-level trade union; Provincial and City Labour Confederations; Central industry union and equivalent unions; The Corporation's Trade Union under the Vietnam General Confederation of Labour.
- Offices, Office of the Inspection Committee, departments of the Vietnam General Confederation of Labour, units under the Vietnam General Confederation of Labour.

Decision 7785 amends and supplements a number of principles to support union members and employees as follows:

- Union members and employees who are under review for allowances due to reduction in working hours, stoppage of work, suspension of labour contracts, or unpaid leave: (i) must be working under a labour contract at the time of requesting allowance, and (ii) must have their names on the payroll list at the enterprise before the commencement of the reduction in working hours, stoppage of work, suspension of the labour contract, or unpaid leave, and request support for at least 30 days or more.
- Union members and employees who are under review for allowances due to the termination of their labour contracts but are not eligible for unemployment insurance payment must have their names on the payroll list at the enterprise before the termination of labour contracts, and request support for at least 90 days or more (at least 88 days or more if the labour contract begins to be terminated from 01 April 2023).

1.2 Support principles

- Union members and employees will receive a one-time payment in cash or by bank transfer.
- Union members and employees who are eligible for allowance under which case will be applied with the support policy for that case, but a person is only entitled to receive allowance for once. If union members and employees are eligible for all support policies, the difference between support levels will not be deducted.
- In case union members or employees have their working hours reduced or their labour contracts terminated due to the cut or softening of purchase orders from 1 October 2022 to 31 March 2023, and have submitted the support request to trade unions after 31 March 2023 but the higher-level trade union has not yet considered or provided allowances, the higher-level union will continue to consider the level of allowance.

1.3 Amending and supplementing policies to support union members and employees working under labour contracts at enterprises that pay union fees before 01 April 2023

Union members and employees working under labour contracts at enterprises that pay union fees before 01 April 2023 will be supported when they fall into one of three cases: (i) having working hours reduced or stopping work due to the cut or softening of purchase orders, (ii) having labour contracts suspended, or taking unpaid leave reduced, (iii) having labour contracts terminated due to the cut or softening of purchase orders but not eligible for unemployment benefits.

Corresponding to each case of eligibility for allowance, the conditions and level of allowance and other related matters are different in each case, specifically as follows:

Case	Reduced working hours, stoppage of work	Suspension of labour contracts, unpaid leave	Labour contract terminated but not eligible for unemployment benefits
Supporting conditions	<ul style="list-style-type: none"> ▪ Reduction of daily working hours, or number of working days in a week or a month (except for reducing overtime hours) or stoppage of work according to Article 99.3 of the Labour Code 2019 for 14 days or more. 	<ul style="list-style-type: none"> ▪ Suspension of labour contracts, or taking unpaid leave within the term of the labour contract for 30 consecutive days or more due to the cut or softening of purchase orders (except for suspension or 	<ul style="list-style-type: none"> ▪ Termination of labour contracts from 01 April 2023 to 31 December 2023, except for cases of unilaterally terminating labour contracts illegally; subject to disciplinary action and dismissal; fail to pass the

	<ul style="list-style-type: none"> Income (not deducting mandatory monthly contributions) of any month is equal to or lower than the regional minimum wage prescribed for employees working under labour contracts. Reduction of working hours or stoppage of work lasts from 1 April 2023 to 31 December 2023. 	<ul style="list-style-type: none"> taking leave due to personal reasons). The period of suspension of labour contracts or unpaid leave is from 01 April 2023 to 31 December 2023. The starting time of contract suspension or the unpaid leave is from 1 April 2023 to 31 December 2023. 	<ul style="list-style-type: none"> probationary period or one party cancelling the probationary agreement; receive monthly pension or disability allowance. Not eligible for unemployment benefits.
Level of allowance	<ul style="list-style-type: none"> Employees who are union members: VND 1,000,000/person. Employees who are not union members: VND 700,000/person. 	<ul style="list-style-type: none"> Employees who are union members: VND 2,000,000/person. Employees who are not union members: VND 1,400,000/person. 	<ul style="list-style-type: none"> Employees who are union members: VND 3,000,000/person. Employees who are not union members: VND 2,100,000/person.
<p><i>Note: If a female employee is not a union member, aged full 35 years or older, is pregnant, is raising a natural or adopted child or taking care of children under 6 years old (only provide allowance for 1 person who is a parent or a substitute carer), she will also be entitled to the allowance level of the employee who is a union member.</i></p>			
Payment method	One-time payment in cash or by bank transfer.		
Deadline for receiving applications	Enterprises and employees should submit application files for allowance to the higher-level trade union /Provincial level trade union no later than 31 January 2024.		

1.4 Fees for transferring allowance money to employees are paid by the trade union

According to Article 1.4 of Decision 7785, if a grassroots trade union or a higher-level trade union transfers allowance money to union members

and employees via a bank account, the transfer fee (if any) will be paid from the financial source of the grassroots trade union or the higher-level trade union that pays the allowance.

Decision 7785 takes effect from the date of signing, ie. 25 August 2023.

2. Novelties on industrial property rights

On 23 August 2023, the Government issued Decree 65/2023/ND-CP (“Decree 65/2023”) detailing a number of articles and measures to implement the Law on Intellectual Property concerning the rights of industrial property (IP), protection of IP rights, rights to plant varieties and State management of intellectual property with some notable novelties related to IP rights as follows:

2.1 Procedures for amending and supplementing applications for registration of IP rights

Compared to the provisions in Article 1.16 of Circular 16/2016/TT-BKHCHN, Article 16 of Decree 65/2023 has added some information that the applicant may request to amend before the National Office of Intellectual Property issues a decision to reject the application, a decision to grant or refuse to grant a protection certificate such as: the applicant's country code, the author's address, the layout design, industrial design, the person representing the industrial property rights.

2.2 Protection certificates are issued in electronic or paper form

According to Article 29.1 of Decree 65/2023, protection certificates will be issued in electronic and paper versions (in case the applicant requests a paper copy).

2.3 Specify conditions for restricting the transfer of trademark rights

Article 60 of Decree 65/2023 provides detailed instructions for the provisions prescribed in Article 139.4 of the Law on Intellectual Property 2005 on restricting the transfer of trademark rights. Accordingly, the transfer of rights to a trademark is considered to cause

confusion about the characteristics and origin of goods and services bearing the trademark in the following cases:

- The transferred trademark is identical or confusingly similar to the protected trademark owned by the transferor.
- Part of the goods or services bearing the transferred trademark is similar to the remaining goods or services owned by the transferor and the use of that transferred trademark is likely to cause confusion about the commercial origin of goods and services.
- The transferred trademark contains signs that make consumers confused or misunderstand about the origin, quality, value... of the goods and services within the scope of transfer.

2.4 Regulations on application files for confidential patent registration

According to Decree 65/2023, confidential patent application files are regulated as follows:

- An application file for confidential patent registration must be submitted in paper form to the state management agency on industrial property rights and will be accepted if it has the minimum information

and documents as prescribed in Article 108.1 of the Law on Intellectual property and a document certifying the subject matter stated in the application file is a secret of the State according to the law on protection of state secrets.

- An application file for confidential patent registration will be reviewed in no more than 18 months from the date the application file is accepted as valid if the request for substantive examination is submitted before the date the

application is accepted as valid or from the date of receipt of the request for substantive examination if such request is filed after the date the application is validly accepted.

- An application file for confidential patent registration and confidential patent protection certificates are not published in the IP Official Gazette. In case of declassification, the confidential patent application and confidential patent/utility solution patent will be published in the IP Official Gazette within 3 months declassification.

3. Instructions on electricity purchase contracts for domestic purposes

On 31 August 2023, the Ministry of Industry and Trade issued Circular 16/2023/TT-BCT (“Circular 16/2023”) providing guidance on electricity purchase contracts for domestic purposes (“Contract”) with the following notable contents:

3.1 Subjects of application

- Electricity retailer (Electricity Seller).
- Customers using electricity for domestic purposes (Electricity Buyer).
- Other relevant agencies, organisations and individuals.

3.2 Form of Contract

- The Contract must be made in writing in paper form (made into 2 copies of equal value, each party keeps 1 copy) or in electronic form (the Electricity Buyer can look up and download from the electronic information portal of the Electricity Seller).

- The language used in the Contract is Vietnamese. The parties may agree to use other Vietnamese ethnic languages or foreign languages. In case there is a difference between the Vietnamese version and other ethnic Vietnamese language versions or foreign language versions, the version more beneficial to consumers will prevail.
- The Contract must follow the form of Circular 16/2023.

3.3 Subjects signing the Contract

- The person signing the Contract for the Electricity Buyer is the representative of the Electricity Buyer. Accordingly, the representative must have full capacity for civil acts as prescribed by law, have a request letter to buy

electricity and have household information at the place of purchase of electricity or a document proving ownership of the residence location where electricity is purchased, and have submitted an application for purchasing electricity for domestic use to the Electricity Seller as specified in Article 8.2 of Decree 104/2022/ND-CP.

- In case the Electricity Buyer includes many households using electricity with one contract, the subject signing the contract for the Electricity Buyer is the representative of the households who must be authorised in writing by all the households. These households must have full capacity for civil acts, have a request letter to buy electricity and have household information at the place of purchase of electricity or a document proving ownership of the residence location where electricity is purchased. The Contract must clearly state the number of households using electricity (with an attached list) and the electricity price applied according to the electricity price table issued by the Ministry of Industry and Trade.
- In case the Electricity Buyer is a tenant, the subject signing the Contract for the Electricity Buyer will be determined according to the regulations on electricity selling prices issued by the Ministry of Industry and Trade.

- The person signing the Contract for the Electricity Seller is the legal representative or authorised representative of the electricity retailer with a distribution grid capable of providing electricity to meet the needs of the Electricity Buyer.

3.4 Term of the Contract

The term of the Contract is agreed upon by both parties. In case the two parties do not specifically agree on a term of the contract, the term of the contract will be calculated from the date of signing to the date of contract termination.

3.5 Responsibilities of the Electricity Seller

- Register and re-register the contract according to the form and general transaction conditions with the competent state management agency on protecting consumer rights.
- Publicly announce the sample contract, general transaction conditions and comply with other relevant regulations in the Law on Consumer Protection and its guiding documents.

Circular 16/2023 will take effect from 16 October 2023 and replace Circular 19/2014/TT-BCT and Circular 38/2022/TT-BCT.

1. Tax policy upon paying by personal credit card

In case the Company authorises an individual as an employee of the Company to pay for the purchase of fixed assets used for the Company's production and business activities with a value of VND 20 million or more (including value added tax (VAT)) by paying by the individual's credit card to the seller's account, then the Company pays such individual by transfer from the Company's account that has been registered with the tax authorities to a personal account. If this form of payment: (i) is specifically stipulated in the Company's financial management regulations or governance regulations, and the above expenses have complete records and documents proving the assets used for production and business activities of the enterprise; (ii) has invoices for purchasing goods and services bearing the Company's name and tax code; (iii) has the records related to the Company's authorisation for individuals to make payments to the seller and claim repayment from the Company; (iv) also has a credit statement from the personal credit card to the seller, and a money transfer document from the Company's bank account to the individual, the Company can declare and deduct input VAT and have it included in deductible expenses when calculating corporate income tax.

Ha Noi City Tax Department replies to the question of Int'l Zyyx Vietnam Co., Ltd. in Official Letter No. 62652/CTHN-TTHT dated 25/8/2023.

2. Personal income tax exemption according to the Air Transport Agreement

In case the Office is not a designated subject according to Article 3 of the Civil Air Transport Agreement between Vietnam and China, the employees with Chinese nationality as resident individuals working at the Office with income from salaries and wages paid from abroad are subject to tax declaration and payment as prescribed in Article 19 of Circular 80/2021/TT-BTC.

In case the Office is a designated air transport enterprise as prescribed in Article 3 of the Civil Aviation Transport Agreement between Vietnam and China, the salary, income, and other similar remuneration of the employee working at the Office with Chinese nationality will be viewed as tax-exempt income in Vietnam pursuant to Article 12 of the Civil Air Transport Agreement between Vietnam and China. Dossier requesting tax exemption or reduction is made according to the instructions in Article 63.1 of Circular 80/2021/TT-BTC

Ha Noi City Tax Department replies to the question of Ticket office of ShenZhen Airlines in Hanoi in Official Letter No. 63646/CTHN-TTHT dated 30/8/2023.

3. Handling flawed invoices issued according to Decree 15/2022/ND-CP

In case the Company provides the goods and services that are eligible for VAT reduction according to Decree 15/2022/ND-CP, after 31 December 2022, upon discovering errors, an adjusted or replaced invoice must be issued without affecting the goods price and VAT payable or the adjusted taxable price, the adjusted or replaced invoice will apply 8% VAT rate. In case

an error in the quantity of goods leads to an error in the monetary amount of goods and VAT, the adjusted or replaced invoice will apply the VAT rate as prescribed at the time of making the adjusted or replaced invoice according to the instructions in Official Letter No. 2121/TCT-CS dated 29 May 2023 of the General Department of Taxation.

Ha Noi City Tax Department replies to the question of TPSC (Vietnam) Co., Ltd. in Official Letter No. 63648/CTHN-TTHT dated 30/8/2023.

4. Declaring and finalising corporate income taxes

In case the Company has a power production plant other than the provincial area where the headquarters is located (centralised accounting is performed at the headquarters), the tax declaration filing location is the tax agency directly managing the headquarters as prescribed in Article 11.2 of Decree 126/2020/ND-CP.

In case the Company has a hydroelectric plant other than the provincial area where the head office is located, it is eligible for corporate income tax (CIT) allocation as prescribed in Article 17.1 of Circular 80/2021/TT-BTC, the Company will declare CIT for all production and business activities according to form No. 03/TNDN, and submit an appendix of the distribution table of corporate income tax payable to the localities where they enjoy the revenue sources from hydropower production activities according to form 03-8/TNDN and form No. 03-8B/TNDN issued with Appendix II of Circular 80/2021/TT-BTC for direct management tax authorities; pay the amount allocated to the locality where the hydroelectric plant is located as prescribed in Article 12.4 of Circular 80/2021/TT-BTC.

Ha Noi City Tax Department replies to the question of Nam Lum Hydropower JSC. in Official Letter No. 65973/CTHN-TTHT dated 12/9/2023.

1. The State Bank ceases the effect of implementing some lending regulations according to Circular 06/2023/TT-NHNN

Late on 23 August 2023, the State Bank of Vietnam (SBV) released information about the cease of the effect of implementing Articles 8.8, 8.9 and 8.10 of Circular 39/2016/TT-NHNN (that has been added according to Article 1.2 of Circular 06/2023/TT-NHNN).

Specifically, on 28 June 28, 2023, the SBV issued Circular No. 06/2023/TT-NHNN, effective from 01 September 2023. The Circular has added regulations on lending in accordance with the digital transformation process in banking operations and other regulations to remove obstacles and create more favorable conditions for customers to access bank loans. At the same time, the Circular supplements a number of regulations to control risks arising in lending activities, contributing to ensuring the operational safety of the system of credit institutions.

However, amid lingering economic woes, to further prioritise promoting economic growth, the SBV issued Circular No. 10/2023/TT-NHNN dated 23 August 2023, on cessation of the effect of Articles 8.8, 8.9 and 8.10 of Circular No. 39/2016/TT-NHNN (added according to Article 1.2 of Circular No. 06/2023/TT-NHNN) from 1 September 2023 until the effective date of new legal documents regulating these issues.

The SBV said that in the coming time, this agency will coordinate with relevant agencies and units to research and consider appropriate solutions to control risks and ensure operational safety of credit institutions, support to overcome difficulties for people and enterprises.

By cafef.vn

2. The Government requires an early proposal to increase the minimum wage for workers

According to the announcement of the regular Government meeting in August 2023, Prime Minister Pham Minh Chinh requested the Ministry of Labour, War Invalids and Social Affairs to focus on well implementing social security policies; propose an increase in the minimum wage for workers and report to competent authorities.

Previously, in early August 2023, the National Wage Council held its first meeting to discuss adjusting the regional minimum wage in 2024. The related parties all agreed on the need to increase the regional minimum wage, but the timing of increase needs careful consideration.

The Vietnam General Confederation of Labour hopes for an increase of 5-6% to both improve the lives of workers and share with businesses, helping to stabilise the economy.

Meanwhile, the representative of enterprises as the Vietnam Federation of Commerce and Industry, stated that salaries should not be adjusted in the current context, because enterprises are also facing difficulties, many businesses are struggling to maintain jobs for workers.

Due to many different opinions and lack of consensus on the increase and timing, the National Wage Council decided to postpone the next meeting to the last quarter of 2023 instead of the third quarter as usual.

The technical department of the National Wage Council proposes a salary increase from 1 January 2024 or 1 July 2024, the said proposal follows the principle of making the minimum wage equal to or higher than the minimum standard of living.

By vneconomy.vn

No.	Document title	Issuance date	Effective date
GOVERNMENT			
1	Decree 68/2023/ND-CP amending and supplementing a number of articles of Decree 115/2022/ND-CP on enacting Vietnam's Preferential Export Tariff and Special Preferential Import Tariff to implement the Comprehensive and Progressive Agreement for Trans-Pacific Partnership for the 2022-2027 period.	07/9/2023	07/9/2023
2	Decree 67/2023/ND-CP regulating compulsory insurance for civil liability of motor vehicle owners, compulsory fire and explosion insurance, and compulsory insurance in construction investment activities.	06/9/2023	06/9/2023
3	Decree 65/2023/ND-CP detailing a number of articles and measures to implement the Law Intellectual Property on industrial property, protection of industrial property rights, rights to plant varieties and State management of intellectual property.	23/8/2023	23/8/2023
4	Resolution 127/NQ-CP on the grant of e-visas to citizens of countries and territories; and international border gates through which foreigners may enter or leave the country with e-visas.	14/8/2023	15/8/2023
PRIME MINISTER			
1	Decision 980/QD-TTg promulgating a specific list of technologies, equipment, and products for the environmental industry.	22/8/2023	22/8/2023
MINISTRY OF INDUSTRY AND TRADE			
1	Circular 16/2023/TT-BCT providing guidance on electricity purchase contracts for domestic purposes.	31/8/2023	16/10/2023
2	Official letter 6084/BCT-DKT providing guidance on application of Articles 227 and 238 of the Penal Code 2015.	5/9/2023	5/9/2023
MINISTRY OF HOME AFFAIRS			
1	Circular 13/2023/TT-BNV guiding the storage of electronic administrative procedure records.	31/8/2023	15/10/2023
STATE BANK OF VIETNAM			
1	Circular 10/2023/TT-NHNN on cessation of the effect of a number of provisions of Circular 39/2016/TT-NHNN prescribing the provision of loans by credit institutions and foreign bank branches to clients (supplemented under Circular No. 06/2023/TT-NHNN).	23/8/2023	1/9/2023
VIETNAM GENERAL CONFEDERATION OF LABOUR			
1	Decision 7785/QD-TLD amending and supplementing a number of articles of the Regulation issued together with Decision 6696/QD-TLD dated 16 January 2023 regulating the implementation of policies to support trade union members, employees have their working hours reduced, labour contracts terminated due to	25/8/2023	25/8/2023

	cutting or softening purchase orders placed on enterprises		
PEOPLE'S COMMITTEE			
1	Decision 37/2023/QD-UBND of Ho Chi Minh City People's Committee promulgating the regulations on reviewing and publicly announcing the list of small and narrow land plots directly managed by the State, and collecting opinions from adjacent land users and publicising land allocation, land lease for small and narrow plots of land for public use or land allocation, land lease to adjacent land users in Ho Chi Minh City area.	05/9/2023	15/9/2023
2	Decision 17/2023/QD-UBND of the Hanoi City People's Committee on preferential land rental policies in the fields of education - training, vocational training, health, culture, sports, environment, and judicial appraisal in Hanoi city.	28/8/2023	08/9/2023



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