



GLOBAL VIETNAM  
LAWYERS

# LEGAL NEWSLETTER

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### NEWLY ISSUED LEGAL DOCUMENTS

## 1. Cases in which personal data can be processed without the consent of the data owner

On 07 February 2023, the Government issued Resolution 13/NQ-CP approving the dossier formulating the Decree on personal data protection. Accordingly, the Government agrees that personal data can be processed without the consent of the data subject in the following cases:

To protect the life and health of the data owners or others in an emergency situation. The Personal Data Controller, Personal Data Processor, Personal Data Controller and Processor, and Third Parties must be able to justify this purpose.

To disclose personal data as required by law.

To serve the activities of state agencies as prescribed by specialized laws.

To perform obligations of data owners under contracts with relevant agencies, organisations and individuals in accordance with law.

The processing of data by competent state agencies in the event of emergency in national defense, security, social order and safety, major disasters or dangerous epidemics; when there is a risk to national defense and security but not to the extent of declaring a state of emergency; to prevent and combat riots and terrorism, to prevent and combat crimes and violations of the law.

Resolution 13/NQ-CP takes effect from the date of signing, i.e. 07 February 2023.

## 2. Guidance on policies to support employees whose working time is reduced or labour contracts are terminated due to the lack of goods orders

On 16 January 2023, the Vietnam General Confederation of Labour issued Decision 6696/QD-TLD (“**Decision 6696**”) regulating the implementation of policies to support trade union members and employees whose working time is reduced or labor contracts are terminated due to the lack of goods orders as follows:

### 2.1 Subjects entitled to supports

Trade union members (“**Union members**”), employees working under Labour Contracts (“**LCs**”) at enterprises and cooperatives (“**Enterprises**”) who have paid trade union fees by 30 September 2022 but:

Whose working time is reduced or labour contracts are terminated due to the lack of goods orders.

Who suspend LCs, or have to take unpaid leave due to the lack of goods orders.

Whose LCs are terminated due to the lack of goods orders but who are not eligible for unemployment benefits.

**Note:** The period when enterprises face the lack of goods orders is from 01 October 2022 to the end of 31 March 2023.

## 2.2 Support conditions, levels and principles

Cases	Union members, employees whose working time is reduced, or who have to stop working	Union members, employees who are under suspension of LCs, or have to take unpaid leave	Union members, employees whose LCs are terminated but who are not eligible for unemployment benefits
Support conditions	<ul style="list-style-type: none"> <li>Reduction in daily working hours, or working days in a week or a month (except reduction in overtime hours) or work being suspended for 14 days or more during the period from 01 October 2022 to the end of 31 March 2023.</li> <li>The income of any month is equal to or lower than the regional minimum salary as prescribed in Decree No. 38/2022/ND-CP.</li> </ul>	<ul style="list-style-type: none"> <li>Under suspension of LCs, taking unpaid leave for 30 consecutive days or more due to the lack of goods orders (except for those who temporarily suspend LCs, or take unpaid leave for personal reasons).</li> <li>The period of suspension of LCs, or of unpaid leave is from 01 October 2022 to the end of 31 March 2023.</li> <li>The starting time of suspending LCs, or of taking unpaid leave</li> </ul>	<ul style="list-style-type: none"> <li>LCs are terminated from 01 October 2022 to the end of 31 March 2023 (except for cases where the employee unilaterally terminates the LC illegally; is subject to disciplinary action of dismissal; agrees to the probation content stated in the LC but the probationer fails to meet the requirements or one party cancels the probation agreement; is being entitled to pension, or monthly allowance for loss of working capacity).</li> </ul>

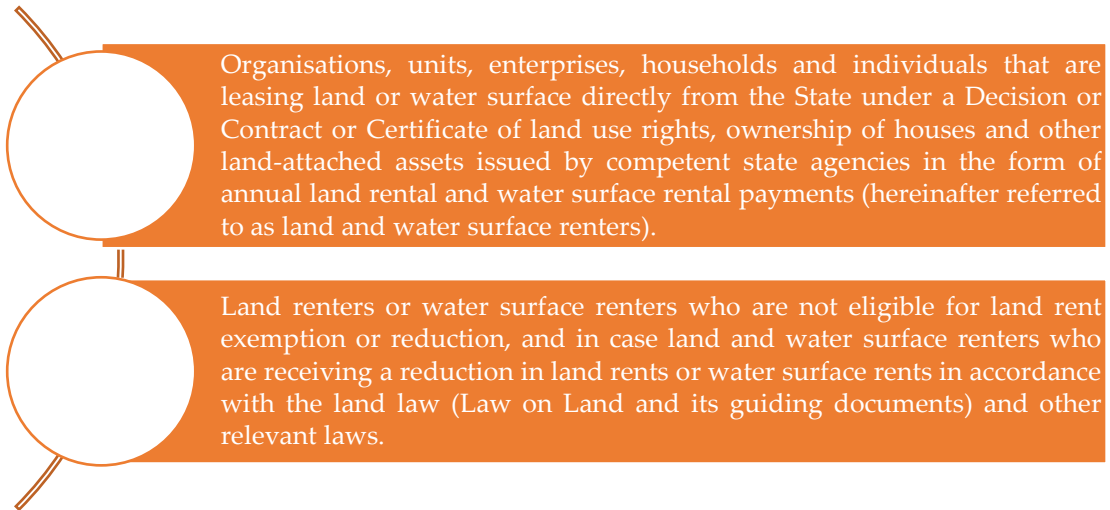
		is from 01 October 2022 to the end of 31 March 2023.	▪ Not eligible for unemployment benefits.
<b>Support level</b>	▪ Employees who are union members: VND 1,000,000/person.	▪ Employees who are union members: VND 2,000,000/person.	▪ Employees who are union members: VND 3,000,000/person.
	▪ Employees who are not union members: VND 700,000/person.	▪ Employees who are not union members: VND 1,400,000/person.	▪ Employees who are not union members: VND 2,100,000/person.
<i>Note: The female employee who 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 support for 01 person who is a mother or father or a substitute carer) is also entitled to the support level of the employee who is a Union Member.</i>			
<b>Support principles</b>	<ul style="list-style-type: none"> <li>▪ For each case, Union members/employees receive a one-time payment in cash or by bank transfer.</li> <li>▪ If Union members and employees are eligible for many types of support, they will only be entitled to the type of support with the highest level.</li> <li>▪ If Union members and employees have been entitled to a lower level of support, and then they are converted to a subject entitled to a higher level of support according to the Regulations, they will continue to enjoy the difference between the two support levels.</li> <li>▪ If Union members and employees are eligible for support under the Regulations but have received similar support from the trade union before 16 January 2023 with a lower rate according to Regulations, they will continue to enjoy the difference between the 02 support policies.</li> </ul>		

Decision 6696 takes effect from the date of signing, ie. 16 January 2023.

### 3. Reduction of land rental and water surface rental for subjects affected by the Covid-19 pandemic

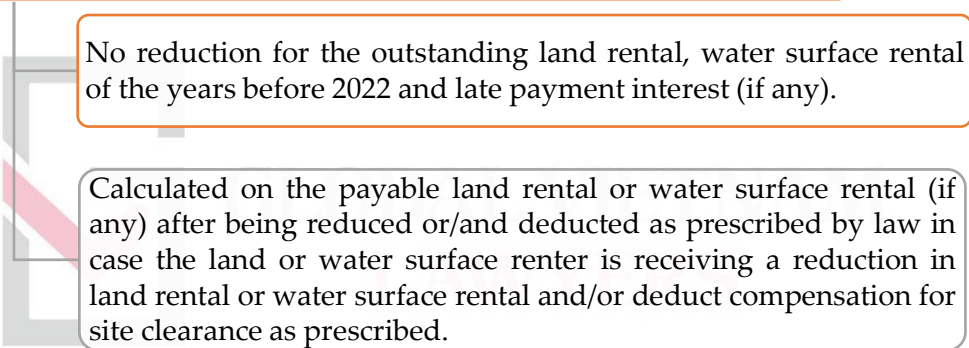
On 31 January 2023, the Prime Minister issued Decision 01/2023/QĐ-TTg (“**Decision 01/2023**”) on reduction of land rental and water surface rental in 2022 for subjects affected by the Covid-19 pandemic, specifically as follows:

#### 3.1 Applicable subjects



**3.2 Land rental and water surface rental reduction**

30% reduction of land rental and water surface rental payable in 2022 as prescribed by law.



**3.3 Submit dossier for reduction of land rent and water surface rent**

Land and water surface lessee will submit a dossier requesting reduction of land rental or water surface rental (by electronic or other methods) to the tax authority, the Economic Zone Authority, the Hi-Tech Park Management Board, other agencies as prescribed from 31 January 2023 to the end of 31 March 2023.

*Note:* if the application is submitted after 31 March 2023, land and water surface lessees will not be entitled to a reduction in land rental or water surface rental as prescribed.

Decision 01/2023 takes effect from the date of signing, i.e. 31 January 2023.

**4. Compulsory content to be displayed electronically on the goods label**

On 30 December 2022, the Ministry of Science and Technology issued Circular 18/2022/TT-BKHCN (“Circular 18/2022”) detailing a number of mandatory contents



displayed on the labels of some groups of goods by electronic means, in which the following main contents are recorded:

- (i) Organisations and individuals responsible for labeling of goods may choose to label their goods by electronic means or write them on labels that are attached directly to the goods, their commercial packaging or in the accompanying documents of the goods as prescribed in Decree 43/2017/ND-CP as amended and supplemented in Decree 111/2021/ND-CP.
- (ii) Groups of goods and compulsory contents to be expressed by electronic means will comply with the provisions of Appendix "Some contents according to the nature of goods to be expressed by electronic means" attached to Circular 18/2022, including a number of commodity groups such as textile products, apparel, leather, shoes, household appliances, and household appliances, ...
- (iii) Organisations and individuals responsible for labeling goods when displaying labeling contents electronically must ensure requirements as follows:
  - The electronic method is clearly shown the link on the goods label, for example, barcode number, QR code, on the electronic screen of the product with a screen or other common electronic methods.
  - Providing vehicles, equipment and/or instructions for customers to access regulated electronic content on the spot.
  - The content displayed by electronic means must correspond to the content shown on the label directly, so as not to mislead readers, viewers or listeners in terms of the nature of the goods.

Circular 18/2022 takes effect from 15 February 2023.



### 1. Value-added tax obligations upon implementing projects abroad

In case the Company, engaged in construction and installation activities abroad for a foreign organisation (without a resident establishment in Vietnam), meets the conditions as prescribed in Article 9.2 of Circular 219/2013/TT-BTC, the VAT rate of 0% will be applied.

In case the provision of a service occurs in both Vietnam and outside Vietnam, but the service contract is signed between two taxpayers in Vietnam or having a resident establishment in Vietnam, the tax rate of 0% will be only applied to the value of services performed outside of Vietnam as prescribed in Article 9.1 of Circular 219/2013/TT-BTC. In case, the contract does not specify the value of services performed in Vietnam separately, the taxable price is determined according to the ratio (%) of costs incurred in Vietnam over the total cost. The Company in Vietnam must have documents proving the service performed outside Vietnam.

Exported goods and services are the goods and services sold or supplied to organisations and individuals abroad and consumed outside of Vietnam; sold and supplied to organisations and individuals in non-tariff zones; provided to foreign customers as prescribed by law. It is the output contracts between the Company and foreign customers in the case of export if they meet the conditions specified in Article 9.2 of Circular 219/2013/TT-BTC.

*Ha Noi City Tax Department replies to the question of CK Engineering Vietnam Co.,*

*Ltd. in Official Letter No. 4423/CTHN-TTHT dated 09/02/2023.*

### 2. Value-added tax policy for transmission activities

In case the Company has transmission and broadcasting activities funded by the state budget, these activities is not subject to value added tax (VAT) as prescribed in Article 4.14 of Circular 219/2013/TT-BTC. Transmission and broadcasting activities that are not funded by the state budget are not subject to VAT.

In case the Company rents transmission lines and satellite bands from abroad as prescribed by law, the Company is not required to declare, calculate and pay VAT as prescribed in Article 5.2 of Circular 219/2013/TT-BTC.

*Ha Noi City Tax Department replies to the question of VTC NetViet Technology and Communication Joint Stock Company in Official Letter No. 4417/CTHN-TTHT dated 09/02/2023.*

### 3. Issuing value-added invoices in 2023 for services completed in 2022

When the Company signs a construction and installation activities, the time of issuing invoices will be the time of acceptance and handover of works, work items, completed construction and installation volumes, regardless of whether monetary amounts have been collected or not.

In case the Company issues a VAT invoice after 31 December 2022, the VAT reduction policy will be not applied as prescribed in Article 3 of Decree 15/2022/ND-CP. In case the

Company issues invoices when selling goods and services at the wrong time as prescribed by law, penalties for violations of regulations on invoicing when selling goods and services will be applied as prescribed by Article 24 of Decree 125/2020/ND-CP.

*Ha Noi City Tax Department replies to the question of HIROSE (Vietnam) Hanoi Co., Ltd. in Official Letter No. 2619/CTHN-TTHT dated 18/01/2023.*

#### 4. Import tax refund procedures

Pursuant to column 2 of form No. 10 - Tax calculation report on raw materials and supplies requested for import tax refund in Appendix VII issued together with Decree 18/2021/ND-CP on declaration of number and date of issuing import declaration form.

In case goods are imported for production and business but have been exported, which are subject to tax

refund as prescribed in Article 36 of Decree 134/2016/ND-CP, when carrying out export procedures for the products that are manufactured from imported goods, the customs declarant writes "exported products are manufactured from imported goods" in the box "Notes" of the electronic customs declaration or the box "Other notes" on the paper customs declaration without having to declare in detail the list of imported goods declarations on the product export declaration, and declares the detailed list of imported goods declarations in column 2 of the Report on tax calculation of raw materials and supplies requested for import tax refund according to form No. 10 of Appendix VII issued together with Decree 18/2021/ND-CP.

*The General Department of Customs replies to the question of Minh Chau Import-Export Solution Co., Ltd. in Official Letter No. 347/TCHQ-TXNK dated 18/01/2023.*



## 1. Proposal on extending payment of value added taxes and corporate income taxes

The Ministry of Finance is collecting comments on the Government's draft decree on extending the time to pay value added taxes (VAT), corporate income taxes (CIT) and land rents in 2023.

Accordingly, the Ministry of Finance proposed 6-month extension of the VAT amount from January to May and the first quarter of 2023; 5-month extension for tax amounts of June and the second quarter of 2023. Enterprises will pay VAT before 31 December 2023. It is estimated that the total amount of extended VAT is about VND 64,000 - 65,000 billion.



Illustration: baohinhphu.vn

Regarding CIT, the Ministry of Finance proposes 3-month extension for the

temporarily paid CIT amount of the first and second quarters of 2023. It is estimated that the extended tax amount is about VND 42,800 - 43,600 billion.

For business households and business individuals, the Ministry of Finance proposes extension of the deadline for paying VAT and personal income taxes for the amount of taxes payable in 2023 to 30

December. At the same time, the Ministry of Finance also proposed extension of the payment of land rent for 50% of the payable amount in 2023 for 6 months from 31 May to 30 November. It is expected that the amount of land rent to be extended is about VND 3,500 billion.

*By thanhnien.vn*

## 2. Solution to corporate bonds

Pursuant to the Government's direction, the Ministry of Finance develops a draft Decree amending and supplementing Decree No. 65/2022/ND-CP on private placement and trading of corporate bonds in the domestic market and offering corporate bonds to the international market (Decree 65) with many new solutions expected to revive the corporate bond market, especially against the backdrop of its various woes.

Accordingly, the drafting agency proposes extension of the

implementation period for one year in connection with the regulations on determining the status of professional securities investors. That is, if approved, the regulation that professional securities investors guarantee a held portfolio averaging VND 2 billion for at least 180 days, excluding borrowed money, will take effect from the beginning of 2024 instead of 2023 like Decree 65. According to the Ministry of Finance, this regulation will help the market have more time to adjust and enterprises can maintain the demand



Illustration: cafej.on

for bond investment from individual investors with financial potential, especially in the context of difficult liquidity.

Another notable amendment proposed is to predate the mandatory credit rating deadline when enterprises issue large-scale bonds. Specifically, according to Decree 65, from the beginning of 2023, the offering documents of bond issuers must have

credit rating results, while the draft proposal is dated back to the beginning of 2024. This regulation is also considered urgent, because currently many enterprises have difficulty in raising capital, while the credit rating process takes a certain amount of time and increases the issuance cost.

The draft also proposes allowing enterprises to extend the issued bond term for a maximum of 2 years. With this proposal, enterprises that have previously issued bonds with outstanding loans will be entitled to the repayment period extended to 2025 - 2026, as well as the chance to raise capital to serve production and business and conduct a debt restructuring.

*By vietstock.vn*



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No.	Document title	Issuance date	Effective date
<b>GOVERNMENT</b>			
1	Resolution 13/NQ-CP approving the dossier formulating the Decree on personal data protection.	07/02/2023	07/02/2023
2	Decree 02/2023/ND-CP detailing the implementation of a number of articles of the Law on Water Resources.	01/02/2023	20/03/2023
3	Resolution 07/NQ-CP on reduction of land and water surface rentals for 2022 for subjects affected by the Covid-19 pandemic.	30/01/2023	30/01/2023
<b>PRIME MINISTER</b>			
1	Decision 02/2023/QD-TTg on the average electricity retail price bracket.	03/02/2023	03/02/2023
2	Decision 01/2023/QD-TTg on reduction of land rental and water surface rental for 2022 for subjects affected by the Covid-19 pandemic.	31/01/2023	31/01/2023
<b>MINISTRY OF LABOUR, INVALIDS AND SOCIAL AFFAIRS</b>			
1	Circular 01/2023/TT-BLDTBXH specifying coefficients for adjustment of monthly salaries and incomes for which social insurance premiums have been paid.	03/01/2023	20/02/2023
<b>VIETNAM GENERAL CONFEDERATION OF LABOUR</b>			
1	Resolution 06/NQ-DCT supporting trade union members and employees subject to reduction of working periods or termination of labour contracts due to the cut of orders of enterprises.	16/01/2023	16/01/2023
2	Decision 6696/QD-TLD promulgating Regulations on the implementation of policies to support trade union members and employees subject to reduction of working periods or termination of labour contracts due to the cut of orders of enterprises.	16/01/2023	16/01/2023
<b>MINISTRY OF SCIENCE AND TECHNOLOGY</b>			
1	Circular 18/2022/TT-BKHCHN stipulating a number of mandatory contents to be displayed on goods labels of some groups of goods by electronic means.	30/12/2022	15/02/2023



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