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1. Amending and supplementing regulations on granting licenses to import films for non-commercial purposes

On 25 March 2022, the Government issued Decree 22/2022/ND-CP (“**Decree 22/2022**”) amending and supplementing a number of articles of Decree 32/2012/ND-CP on managing export and import of cultural products for non-business purposes. Decree 22/2022 takes effect from 10 May 2022 with the following notable contents on licensing importation of films as cultural products for non-commercial purposes:

1.1 Licensing competence

The Ministry of Culture, Sports and Tourism issues licenses to import films for distribution and publication nationwide (*Current regulations are to license films and television series for publication and distribution nationwide or in two or more localities*).

Additionally empowering the Department of Culture, Sports and Tourism to grant licenses to local Radio and Television Stations to import films for distribution and publication.

At the same time, it is additionally stipulated that the agency granting film import licenses will revoke the licenses when detecting that the film content violates the prohibition provisions of the Law on Cinematography.

1.2 About licensing procedures

Decree 22/2022 supplements regulations on licensing procedures for imported cultural products being films as follows:

- The organization must provide the imported film copy and the customs declaration form (submit a certified

copy, or a copy and present the original for comparison in case of filing applications in person, or submit a certified copy in case of postal application) within 30 days of obtaining the import license for inspection. The import licensing agency shall make minutes of assessment and handover of the film based on the application and the summary of the film's content.

- At the same time, individuals who import films for personal use only commit not to violate the prohibition provisions of the Law on Cinematography and to use the films in accordance with the law.

1.3 Time limit for granting licenses and assessment of cultural products being films

- The time limit for granting a license is 03 working days of receipt of a complete and valid application, the licensing authority must issue a license.
- Time to assess the film is not more than 12 working days of the organization providing the film copy.

2. Nov on business and use of postal services

On 12 April 2022, the Government issued Decree 25/2022/ND-CP (“**Decree 25/2022**”) amending and supplementing a number of articles of Decree 47/2011/ND-CP detailing the implementation of a number of points of the Postal Law. In particular, it is worth paying attention to the novelties on business and use of postal services:

2.1 Enterprises to submit applications for postal licenses through the online public service system

Decree 25/2022 stipulates that enterprises and organizations that apply for a postal license or written confirmation of notification of postal activities shall submit their dossiers via the online public service system to competent state agencies in charge of postal services, and they must take responsibility for the legality, accuracy and truthfulness of the dossiers. *(Currently, dossiers are submitted in person or by post).*

2.2 Shorten the time limit for granting postal service licenses

Currently, according to Article 8 of Decree 47/2011/ND-CP, the verification and issuance of a postal license will be carried out within 30 days of receipt of the application.

However, according to the novelties of Decree 25/2022, the time limit for verification and issuance of postal licenses will be reduced to 20 days from the date of receipt of the application.

2.3 Postal service fees must be in Vietnamese Dong

According to Article 1.16 of Decree 25/2022, postal service providers and postal service agents having the right to decide and adjust postal service fees

must publicize postal service fees in Vietnamese Dong (including taxes, and service surcharges) and other relevant information (if any) in one or several forms such as listing at the service provision point, posting written notices, uploading on the website or in other forms so that the fees are readily visible to all organizations and individuals.

The postal service fees shall be publicized from the time the enterprise or organization begins to provide services and the fees must be consistent with the fee rate that the enterprise or organization has notified to the competent state agency in charge of postal services.

2.4 Promotions in the provision of postal services must not exceed 50% of the fee rate

According to Decree 25/2022, promotion in the provision of postal services will be implemented in accordance with the law on commerce. In particular, the maximum discount rate for postal services in the form of discounts must not exceed 50% of the most recent postage fee rates publicly announced and statutorily notified.

2.5 Responsibility for storing documents and information

Decree 25/2022 stipulates the responsibilities of postal service

providers in the storage of documents and information as follows:

- For documents that are contracts for provision and use of postal services, documents certifying the acceptance of postal items between the postal service provider and the sender (in paper or electronic form), the minimum storage period is 5 years.
- For information about senders, recipients and information related to postal items, the minimum storage period is 01 year from the date of provision.

3. Some solutions to speed up the progress and improve the quality of planning for the period 2021-2030

On 06 May 2022, the Government issued Resolution 64/NQ-CP on the implementation of policies and laws on planning activities as from entry into force of the Law on Planning and a number of solutions to improve the quality and speed up the progress of planning for the period 2021-2030; on the completion of procedures and dossiers for submission of a number of law-related projects.

Accordingly, a number of solutions to remove obstacles, speed up the progress, and improve the quality of planning are proposed by the Government as follows:

- Allowing the plannings, according to the Law on Planning and other laws and ordinances that have been amended and supplemented with a number of articles related to planning, to be made at the same time to ensure uniformity; plannings which are made and appraised first will be approved first.
- Allowing plannings which are integrated into national, regional, and provincial plannings to be implemented until the national, regional, and provincial plannings (*except for plans of technical and specialized nature*) that have been decided or approved before 01 January 2019 may continue to be implemented, prolong the period and adjust the content in accordance with relevant laws before the effective date of the Planning Law to meet the requirements of socio-economic development until the national, regional, and provincial plannings of the period 2021 - 2030 are decided or approved in accordance with the Law on Planning; considering to integrate relevant contents into the plannings of the period 2021 - 2030.
- Allowing adjustment of the planning progress, focusing on speeding up the preparation, appraisal and approval of the plannings in 2022 for urgent national-level plannings, facilitating socio-economic development and operation.
- Allowing ministers, heads of ministerial-level agencies,

After a planning is decided or approved, if there are inappropriate details, the lower-level plans must be adjusted according to the higher-level plan, ensuring the hierarchy in the national planning system.

chairpersons of People's Committees of provinces and centralized cities to consider and decide on applying the form of contractor appointment for bidding packages to make national, regional, and provincial plannings, for which the contractor has not yet been selected.

However, the appointment of contractors in accordance with the law on bidding, the contractor selected via the form of contractor appointment must satisfy the requirements on capability, experience, schedule guarantee, quality assurance, efficiency, combating corruption and waste in accordance with the law.

In case the form of contractor appointment is not applied or the contractor cannot be selected, the competent person will decide to use another form of contractor selection to select contractors in accordance with the law on bidding.

- Allowing the use of capital sources for recurrent expenditure, in accordance with the law on state budget, to prepare, appraise, approve, and publicize urban plannings, rural plannings,

plannings of technical nature that have not yet been allocated capital and urgent national-level plans. Being allowed to mobilize and use capital sources under socialization, ensuring compliance with regulations on preparation, appraisal, approval, publication and adjustment of plannings in accordance with the Planning Law.

- The adjustment of the national-level plannings, regional plannings and provincial plannings in the 2021-2030 period, if the lower-level planning is approved in advance but the contents are not consistent with the higher-level plan, it shall be carried out in the direction of not making planning tasks and some procedures for planning adjustment should be reduced.
- In addition, researching to restore necessary and strategic product plannings, ensuring that they are not contrary to the international commitments that Vietnam has signed.

Decree 25/2022 will take effect from 01 June 2022 and replace Circular 02/2012/TT-BTTTT.

GV Lawyers would like to introduce to readers an article by **Mr. Le Quang Vy**, Partner of GV Lawyers titled **“Project of the Law on Cinematography (amended) - “Firm in objectives, flexible in strategies”** published in the electronic magazine Vietnamese Lawyers on 30 October 2021.

(LSVN) - In the past few days at the National Assembly building, deputies flew into quite enthusiastic controversy about the project of the Law on Cinematography (amended). The story of censorship and appraisal of cinematographic works before they are licensed for dissemination has always been a trending topic.

Many think that the current censorship mechanism has been "causing difficulties" for filmmakers, as the censorship is conducted more emotionally than rationally, and accidentally rubbing away the artist's creative power. The National Assembly must find the logic balance point between: (i) the artist's right to freedom in artistic creation, which hides the motive to step up the growth and competitiveness of the country's cinema industry, and (ii) the limits of social morals and public order. This is an important and extremely difficult task because legislative work (law making) is not only a science but also an art. To be more specific, from the scientific view, law-making must be accurate, and is an



Illustration.

art of creation from the artistic view. Lawmakers observe phenomena and then create laws to apply in social practice. So what “firm in objectives” means so that law makers can be “flexible in strategies”?

Firm in objectives

We know that the Constitution is the highest act of a country. In terms of content, the Constitution contains the most important constitutional legal principles which any code or act must follow upon its enactment. No legal regulation can be contrary to the constitutional principles. Constitutional principles are the guidelines for all legislative activities, and no act can stand above the constitution.

Going back to the project of the Law on Cinematography (amended), the objectives

that need to be kept firm are the constitutional principles in the 2013 Constitution on human rights, basic rights and obligations of citizens (Chapter II), rights to literary and artistic creation, and to benefit from such activities (Article 40); Rights to enjoy and access cultural values (Article 41) and Rights to protection of intellectual property (Article 62).

Human rights, or the freedom to create artistic works are legally the constitutional moral rights, so no matter what the reasons are, the lower-level laws or statutes are supposed not to abolish these rights of citizens. These rights can only be restricted by law in necessary cases where national defense, security, social order and safety, social ethics, and public health may be compromised (Article 14.2 of the 2013 Constitution). According to the constitutional principle on protection of intellectual property rights, which has

been concretized by the current Intellectual Property Law (IP Law), artworks are protected for their integrity, and no one may modify, mutilate or distort them in any way detrimental to the honour and reputation of the author (Article 19.4 of the IP Law).

In addition, a principle recognized by most countries in the legislative process is the non-retroactive effect of laws, meaning the law is only valid for the future but not for the past. The non-retroactive principle involves two concepts: acquisition rights and expectations. Accordingly, the law cannot violate the acquisition rights of any individual or legal entity, but if it is only an expectation, the newly enacted law can be applied right away since the application of the new law does not harm anyone's interests.

It sounds not fine when a member of the National Assembly proposed "Revoking the film license if the artist violates the law and morality", because when participating in the making of the film, the artist does not violate the law, so by revoking the film license when the artist violates the law, his/her acquisition

rights have been taken away (the right to be licensed and lawfully disseminate the film) and the film's owner's interests are violated. This means that before the new law is enacted, the artist and the film producer has cooperated in making the film in a lawful manner under the old law, which is an acquisition right. And if the artist and the film producer just have an intention to cooperate in the film production after the enactment of a new law, this is just an expectation and so the two parties must comply with the new law. Therefore, it will be more appropriate for the National Assembly deputy to propose amending the law in the direction that film producers are not allowed to invite artists whose violations against the law or professional ethics are being subjected to remedies by the competent State authorities.

Flexible in strategies

According to the current Law on Cinematography, the licenses to disseminate or broadcast the films are granted depending on the opinions of the Film Appraisal Council. Particularly, the Council will evaluate the film based on the standards of not violating the prohibitions specified in Article 11. If the

film's content is in violation, one or more scenes must be cut out, or the dialogue must be corrected; If the film cannot be fixed, the broadcast will not be allowed.

From the perspective of state management, the regulations on film evaluation before granting licenses for dissemination are aimed at protecting public interests, fine customs and national security. However, the legal corridor for film appraisal is in reality not clear, the evaluation standards provided for by the current law are not specific and detailed enough. Therefore, the Council will decide on how to identify a violation, how to cut and edit the film, but when there are no specific criteria or standards, they tend to do it emotionally rather than rationally. In fact, it is reflected in the opinions the Vietnam Chamber of Commerce and Industry (VCCI) contributes to the draft law that many businesses in the film industry complain about the editing requests of the film appraisal council which go too far or interfere deeply with the content of the film in terms of art and commerce, this by accident violates the right to have the

integrity of the artwork protected under the IP Law.

As a comparison between the draft (amended) Law and the current Law on Cinematography, the draft Law provides clearer and more progressive provisions such as concretizing the prohibitions and prohibited acts in cinematographic activities. New and quite important is the addition of a provision on film classification. Accordingly, there will be 6 categories: (a) Category P: Films that are allowed to be disseminated to viewers of all ages; (b) Category T18: Films that are disseminated to viewers of full 18 years of age or older; (c) Category T16: Films are disseminated to viewers aged of full 16 years of age or older; (d) Category T13: Films that are disseminated to viewers of full 13 years of age or older; (dd) Category K: Films that are disseminated to viewers under 13 years of age with the supervision of a parent or guardian; (e) Category C: Films that are not allowed to disseminate. The film appraisal council under the amended law will be referred to as the Film Appraisal and Classification Council.

However, what film producers are interested in

is the standards for appraisal and classification which are still not mentioned in the draft law. Just like the current law, the draft law still assigns the task of issuing regulations on organization and operation of the Council to the Minister of Culture, Sports and Tourism. And what standards will these regulations provide for to assess and classify films? Hence, with the “unchangeable objectives” as well as the internationally-standardized legislative principles, how to get “flexible in strategies” in order to strike a balance between the purposes of state management and the rights to freedom of artistic creation and protection of artworks is the issue that legislators and rule-makers need to solve to avoid arbitrary decisions based on common sense, affecting creative minds and the film industry.

Experience in some countries and solutions for Vietnam

South Korea is now considered an Asian country with a developed film industry. Previously, Korean law allowed film censorship to protect social moral values. This put the Korean film industry at that

time under strict control and a myriad of restrictions. However, after the Film Promotion Law was amended in 1999, the Korean film industry entered an era of free expansion. Censorship was abolished when the Korean Film Council was established with the aim of respecting freedom in the film industry and helping to promote the effectiveness of cinematographic policies.

In the United States, in the early days of the film industry, the Supreme Court held that the display of film products was a purely commercial, for-profit activity like any other. Therefore, film products are not considered to be the expression of points of view of a section of the public, and are not entitled to the freedom of expression. However, in 1952, along with the development of the film industry, the Supreme Court changed its views, saying that films are used to reflect and influence public opinions, and to communicate certain ideas – an act that is protected by the First Amendment on freedom of expression. As such, both Korean and American film industries went through an adverse period of film censorship, but it is now easing to

promote freedom of creation and expression. with social moral standards, fine customs and traditions. not violate an individual's rights to freedom in cultural and artistic creation, and the right to protection of the integrity of artworks. In addition, there needs to be a mechanism for film producers and authors to inquire and complain about the evaluations and decisions of the Film Appraisal Council when they think that the exercise of state management is violating their law-protected rights.

Back to the Vietnamese legal context, freedom in artistic creation should be respected, but we cannot imitate Korea or the United States in a stereotypical way by eliminating the appraisal before granting licenses. As an artist is also a citizen, the exercise of their rights and obligations must be governed by the laws enacted by the National Assembly, and consistent with social moral standards, fine customs and traditions. To be in harmony with the aspects of state management, human rights, moral rights of the author, and the rights of film producers, the Law on Cinematography needs to stipulate specific evaluation criteria and standards so the Film Appraisal Council can rely on legal grounds for censorship and classification. These standards and criteria must

1. Proposal to supplement regulations on issuance of red books for condotels and officetels

At the consultation session on the draft decree amending decrees detailing the implementation of the Land Law dated 20 April 2022, the regulations on issuance of ownership certificates (red books) for real estate resort projects has been supplemented.

Accordingly, Article 32a

stipulates that the owners of hotels, condotels, officetels, other works serving the purpose of accommodation and tourism, etc., who are granted a red book, must fully satisfy the conditions of the Construction Law, and Real Estate Business Law.

The localities will verify the legality of the project before issuing the red book. When having the red book, the owner has the right to trade the real estates normally like other types of residential real estate.

According to the Ministry of Natural Resources and Environment, the addition of Article 32a aims to solve



Condotel apartment market along Tran Phu street, Nha Trang. Photo: Vuong Manh Cuong.

inadequacies for localities, businesses and investors. In fact, there are localities that have not yet been able to issue red

books for these works, some have done it but it is not in accordance with the law such as determining the type of land as residential land or land not formed as residential units with a long term. This affects the rights and interests of

investors and recipients of ownership.

Besides, the issuance of red books for condotels, officetels... will reposition the coastal real estate market. The condotel red book will give more opportunities to small and medium-sized resort real estate investors; Condotels will be better priced. In addition, the condotel red book will create a psychological boost for this investment market after a series of events such as the nCoV epidemic or the shock of Cocobay breaking profit commitments...

By Vnexpress.net

2. The Ministry of Construction makes a proposal on owning apartments for 50 years

As outlined in the Housing Law (amended), the Ministry of Construction makes a proposal that the ownership of apartments will last for the useful life of the construction work. In this direction, ownership certificates issued for apartments will have a term

of 50 years, 70 years instead of a perpetual term.

According to this Draft, the Ministry of Construction has proposed two options. According to Option one, the



The fact that the apartment will have a term of 50 years, 70 years... instead of long ownership should be carefully considered.

apartment ownership term will be in accordance with the land law.

For Option two, the term of ownership of an apartment is as long as the useful life of the construction work according to the law on construction (the age of the construction work). Accordingly, apartments will be owned for a limited time, such as depending on the design of the work or the actual use, according to each type of apartment building, which has a term of ownership such as 50 years, 70 years, etc. (e.g. 50 years with grade II buildings).

Currently, the housing law does not regulate the duration of ownership of an apartment. The current construction law stipulates that the useful life of a construction work depends on the design documents or the actual use term. Upon expiration of the useful life, the construction work owner must report to the competent authority and the propose a treatment plan (such as reinforcing to continue using or demolishing the construction...).

According to the civil law, property ownership ends when the property is destroyed, so in case the house is demolished due to the expiration of its useful life, the owner's house ownership also ends (the residential property no longer exists).

Meanwhile, in Article 126 of the Land Law, the period of allocating or leasing land to the organizations implementing a project is considered and decided on the basis of an investment project or an application for land allocation or land lease but not exceeding 50 years, for large projects with slow capital recovery or investment in difficult economic areas, the period for land allocation or land lease shall not exceed 70 years.

In case of constructing apartments for sale, lease, or hire-purchase, the period for land allocation to the investor is determined according to the project term, and buyers of houses associated with land use rights will have the right to use land perpetually.

Thus, in terms of land use rights, owners may use land perpetually, but for assets on land that are constructions and houses, owners may only use their assets for a period of time limited (rather than perpetual.) Therefore, the Ministry of Construction said that it is very necessary to study and supplement regulations on the duration of apartment ownership.

By vietnamnet.vn

1. Personal income tax policy of insurance agents

In case an individual directly signs an insurance agent contract with the Company:

- The Company is responsible for withholding, declaring taxes and paying personal income tax (PIT) if the Company determines the commission paid to individuals therein in the calendar year is over VND 100 million. In case an individual generates a revenue of VND 100 million/year or less in many places in the year, he or she expects or determines a total revenue of more than VND 100 million/year, he or she may authorize organizations to pay withheld income on the commissions received therein during the tax year as prescribed at Article 9.2.b of Circular 40/2021/TT-BTC. Tax declaration dossiers comply with Article 15.1.a of Circular 40/2021/TT-BTC.
- In case the Company paying income has not yet made tax deductions because it did not reach the deduction level and the individual does not authorize an organization to pay withheld income, at the end of the year the individual shall declare and pay tax according to the year as prescribed at Article 9.2.d of Circular 40/2021/TT-BTC. Tax declaration dossiers of individuals who directly declare taxes will comply with Article 15.1.b of Circular 40/2021/TT-BTC.
- The Company makes monthly or quarterly tax declarations according to the law on tax administration and

is not required to declare tax finalization for the PIT withholding obligation of individuals acting as insurance agents as prescribed at Article 9.2.c of Circular 40/2021/TT-BTC.

Ha Noi City Tax Department replies to the question of MB Ageas Life Insurance Co. Ltd. in Official Letter No. 18178/CTHN-TTHT dated 26/4/2022.

2. Expenses paid for by a third company and cleared for debts

The Company's input expenses are accounted as deductible expenses when determining corporate taxable income if the actual expenses incurred are related to its production and business activities, with enough lawful invoices and documents as prescribed by law and invoices for purchase of goods and services each time with a value of VND 20 million or more (value-added tax included) and when requesting payment for such expenses, non-cash payment documents must be shown as prescribed in Article 4 of Circular 96/2015/TT-BTC.

In case the Company uses the form of debt clearing through a third party, the basis for determining the non-cash form of payment with respect to the said form of clearing is instructed in Article 1.10 of Circular 26/2015/TT-BTC.

Ha Noi City Tax Department replies to the question of Tu Liem Urban Development Joint Stock Company in Official Letter No. 18174/CTHN-TTHT dated 22/4/2022.

3. Value added tax rate for securities business activities

If the Company provides agency services to issue bonds, advise businesses on financial investments, organize the General Meeting of Shareholders, make share offer, assist with information disclosure, etc. in accordance with law, and if this activity is determined to be the securities business activity according to the securities law, it is not subject to value added tax (VAT) under the guidance at Article 8.1.c Article 4 of Circular 219/2013/TT-BTC.

In case the above-mentioned activities are not securities trading activities according to the Securities Law, they are subject to the 10% VAT rate.

Ha Noi City Tax Department replies to the question of Vietnam Bank for Industry and Trade Securities Joint Stock in Official Letter No. 14480/CTHN-TTHT dated 08/4/2022.

4. Invoicing instructions for the time a customer cancels the contract

In case the Company uses e-invoices according to Decree 123/2020/ND-CP and provides office rental services under a contract, the Company must issue an invoice to deliver to the buyer as prescribed in Article 4 of of Decree 123/2020/ND-CP, calculate VAT, and determine revenue subject to corporate income tax (CIT) according to regulations.

The compensation for damages in cash due to contract cancellation is not required to declare, calculate and pay VAT, when receiving any compensatory amount, the Company does not have to issue an invoice but make a receipt for collection according to Article 5 of Circular 219/2013/TT-BTC and must declare and pay CIT according to regulations.

Ha Noi City Tax Department replies to the question of Prime Development Co. Ltd. in Official Letter No. 13381/CTHN-TTHT dated 06/4/2022.

No.	Document title	Issuance date	Effective date
GOVERNMENT			
1	Decree 29/2022/ND-CP detailing and providing measures to implement Resolution 12/2021/UBTVQH15 on allowing the application of a number of health-related mechanisms and policies for the prevention and control of COVID-19 pandemic.	29/04/2022	29/04/2022
2	Decree 25/2022/ND-CP amending and supplementing a number of articles of Decree 47/2011/ND-CP detailing a number of contents of the Law on Post.	12/04/2022	01/06/2022
3	Decree 24/2022/ND-CP amending and supplementing a number of articles of the decrees prescribing conditions for investment and operation in vocational education.	06/04/2022	05/04/2022
4	Decree 23/2022/ND-CP on the establishment, rearrangement, ownership conversion and transfer of the right to represent the owner in enterprises in which 100% charter capital is held by the State.	05/04/2022	05/04/2022
PRIME MINISTER			
1	Decision 10/2022/QD-TTg stipulating the sequence and procedures for approving the change of land use purposes for wet rice cultivation from 02 or more crops with an area of less than 500 ha; land of special-use forests and watershed protection forests of less than 50 hectares.	06/04/2022	06/04/2022
MINISTRY OF FINANCE			
1	Official Letter 3849/BTC-TCT on combating tax losses in business activities and real estate transfer.	28/04/2022	28/04/2022
2	Circular 24/2022/TT-BTC amending and supplementing a number of articles of Circular 48/2019/TT-BTC providing instructions on the appropriation and use of provisions of devaluation of inventories, loss of investments, bad receivable debts and warranty for products, goods, services and construction works at enterprises.	07/04/2022	25/05/2022
3	Circular 23/2022/TT-BTC guiding the state financial management of foreign non-refundable aid as part of state budget revenues.	06/04/2022	20/05/2022
MINISTRY OF LABOUR – INVALIDS AND SOCIAL AFFAIRS			
1	Official Letter 1312/LDTBXH-ATLD guiding the implementation of Resolution 17/2022/UBTVQH15.	26/04/2022	26/04/2022
2	Official Letter 1244/LDTBXH-VL on the implementation of the Prime Minister's Decision 08/2022/QD-TTg stipulating the implementation of the house rent support policy for employees.	21/04/2022	21/04/2022



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