



GLOBAL VIETNAM  
LAWYERS

# LEGAL NEWSLETTER

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### NEWLY ISSUED LEGAL DOCUMENTS

## 1. Novelties on reduction of value-added tax

On 30 June 2023, the Government issued Decree 44/2023/ND-CP (“**Decree 44/2023**”) providing for the policy on reduction of value-added tax (VAT) under the National Assembly’s Resolution No. 101/2023/QH15 dated 24 June 2023, specifically as follows:

### 1.1 Goods and services eligible and ineligible for VAT reduction

According to Article 1.1 of Decree 44/2023, the VAT reduction is applied to the group of goods and services currently subject to the 10% tax rate, **except the following groups of goods and services:**

Telecommunications, financial and banking activities, securities, insurance, business in real estates, metals and prefabricated products, mining products (excluding coal mining), coke, refined petroleum and chemical products as detailed in Appendix I of Decree 44/2023.

Products and services subject to special consumption tax as detailed in Appendix II of Decree 44/2023.

Information technology pursuant to the law on information technology as detailed in Appendix III of Decree 44/2023.

### 1.2 VAT reduction rate

Article 1.2 of Decree 44/2023 stipulates 02 rates of VAT reduction for eligible goods and services, specifically as follows:

Goods and services currently subject to VAT under the deduction method: Apply a new VAT rate of 8% (decrease by 2% against the previous one).

Goods and services currently subject to VAT under the percentage on revenue method: Reduce 20% of the percentage used to calculate VAT when issuing invoices for goods and services subject to tax reduction.

### 1.3 VAT reduction period

Pursuant to Article 2.1 of Decree 44/2023, the policies on VAT reduction are applied from 01 July 2023 until end of 31 December 2023.

Decree 44/2023 will take effect from 01 July 2023.

## 2. Amending and supplementing regulations on lending activities of credit institutions

On 28 June 2023, the State Bank of Vietnam issued Circular 06/2023/TT-NHNN ("**Circular 06/2023**") amending and supplementing a number of articles of Circular 39/2016/TT-NHNN ("**Circular 39/2016**") on lending activities of credit institutions, foreign bank branches (CIs) with some notable novelties as follows:

### 2.1 Amendments and supplements to capital demands that are not eligible for loans

Article 1.2 of Circular 06/2023 has amended 06 capital needs that are not eligible for loans as specified in Circular 39/2016, and added 4 capital needs that are not eligible for loans. Accordingly, such 10 capital needs include:

(1) To carry out business investment activities in the industries and business lines banned from investment as prescribed by the Law on Investment.

(2) To pay expenses and meet the financial needs of investment activities in the industries and business lines banned from investment as prescribed by the Law on Investment, and other transactions and acts prohibited by law.

(3) To purchase and use goods and services of the industries and business lines banned from investment as prescribed by the Law on Investment.

(4) To buy gold bars.

(5) To repay the loans taken out previously from the lending credit institution itself, except the case of paying loan interest arising from the construction of works, where the loan interest is counted into the total construction investment capital as approved by the competent authority.

(6) To repay foreign loans (excluding foreign loans to purchase goods in the form of deferred payment), loans from other credit institutions, except for the case of early repayment of a loan whose loan term does not exceed the remaining loan term of the previous loan and which has not yet been restructured.

(7) To make deposits.

(8) To fulfill capital contributions, or make capital contributions in limited liability companies or partnerships; to contribute capital, to purchase or receive the transfer of shares in joint stock companies that have not been listed on the stock market or have not been registered for trading on the Upcom trading system.

(9) To fulfill capital contributions under the capital contribution contract, investment cooperation contract or business cooperation contract for the implementation of an investment project that is not eligible to be put into business as stipulated by law at the time when the credit institution decides to grant the loan.

(10) To make financial compensations, unless the loan fully meets the following conditions:

- The customer has advanced the customer's own capital to pay for the cost of implementing the business project, but the costs of implementing this business project have been incurred less than 12 months up to the time when the credit institutions decides to grant the loan;

- Costs that have been paid using the customer's own capital in order to carry out the business project are the costs that are paid for by the capital loaned from the credit institution according to the capital usage plan already submitted to the credit institution for consideration of lending medium and long-term loans to carry out that business project.

## 2.2 Customers can via negotiation repay the loan in a currency different than the loan currency

Previously, Circular 39/2016 only stipulates that the repayment currency is the loan currency. However, Circular 06/2023 now allows CIs and customers to negotiate to repay debts in other currencies as long as it is consistent with laws.

## 2.3 Adding regulations on repayment of principal and interest for overdue loans

Circular 06/2023 adds the case where a loan has one or several overdue repayment periods, CIs will collect debts in the order of collecting overdue principal, interest on overdue principals that has not yet been repaid, due principals, and interest on the due principal that has not yet been repaid (Article 1.3 of Circular 06/2023).

## 2.4 Blocking obligation-securing loans until termination of the security obligation

Circular 06/2023 adds responsibilities of CIs in case of granting loans to secure the performance of obligations, CIs must block the disbursed amount from the loan granted by the CIs in accordance with law, and the loan agreement between the parties until termination of the security obligation (Article 1.6(c) of Circular 06/2023).

## 2.5 Adding regulations on lending by electronic means

Compared with Circular 39/2016, Circular 06/2023 adds regulations on lending by electronic means with the following contents: Principles of lending by electronic means; Identify and verify customer identification information; Outstanding balance; Dossier of application for a loan; Appraisal and lending decision; Loan agreement; Retainment of lending records; and Payment method used for loan disbursement (Article 1.11 of Circular 06/2023).

Circular 06/2023 will take effect from 01 September 2023.

## 3. Amending and supplementing a number of articles of the Decrees in the field of state management of the Ministry of Construction

On 20 June 2023, the Government issued Decree 35/2023/ND-CP ("Decree 35/2023") amending and supplementing a number of articles of the Decrees in the field of state management of the Ministry of Construction with some notable novelties as follows:

### 3.1 Conditions for a land lot to be determined as small-sized

According to Article 1 of Decree 35/2023, small-sized land lots must satisfy the following conditions:

The project on the land lot is implemented by only an investor or set up by a competent state agency.

Having a land use scale of less than 2 hectares for the projects of construction of apartment buildings or having a land use scale of less than 10 hectares for investment projects to build factories, plants, industrial production facilities or technical infrastructure works (except for technical infrastructure works along the lines) which are determined according to the urban general planning or provincial planning or other approved plans with technical and specialised nature or with a land use scale of less than 5 hectares for the remaining cases.

In the area where there is an approved zoning plan or there is an approved general plan for the area that does not require zoning planning.

### 3.2 Reduction of advance payments in construction contracts

Article 9.2 of Decree 35/2023 stipulates that the advance payment in a construction contract must not exceed 30% of the contract value at the time of signing (including provisions, if any). In case it is necessary to make a higher advance payment, the investment decider's permission must be obtained. *(Previously, the contract advance could not exceed 50% of the contract value at the time of signing).*

### 3.3 Specifying responsibilities among the parties in EPC contracts

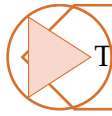
According to Article 11.1 of Decree 35/2023, for engineering, procurement and construction contracts (hereinafter referred to as EPC contracts), the division of responsibilities between the parties to this kind of contract is specified as follows:

- (a) The investor and the EPC general contractor may negotiate and stipulate in the contract that the EPC general contractor is assigned to perform one or more construction supervision activities under the responsibility of the investor specified in Article 19.1(b, c, d, dd, e, g, h, i and m) of Decree 06/2021/ND-CP.
- (b) The general contractor is responsible for ensuring quality control and for the works undertaken by the general contractor and subcontractors (if any); perform other responsibilities as prescribed in the contract with the investor.

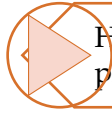
### 3.4 Provincial People's Committees are entitled to decide on their own the division of land lots for sale

According to Article 4.4 of Decree 35/2023, the Provincial People's Committee will specify the areas where the land use rights can be transferred in the form of subdivision and sale of land lots to people for construction of houses on their own, according to the

detailed planning of the approved projects, in compliance with the law on land, housing, real estate business and the following regulations:



The project is consistent with urban planning levels.



Having completed the construction of infrastructure for the whole project or according to the approved investment phase.



The construction of houses must ensure compliance with the approved project content and schedule.



Not located in an area with high requirements for management of landscape architecture, the facades of roads at regional or higher levels and major landscape routes in urban areas, central areas and around the works that are architectural highlights in the city.

### 3.5 Rehabilitation of apartment buildings of less than 2 hectares requires detailed planning

Article 7.1 of Decree 35/2023 stipulates that in case the area for renovation and reconstruction of apartment buildings or apartment complexes has a land area of less than 2 hectares, the competent state agency will formulate, appraise and approve the detailed planning according to a simplified process (referred to as general ground planning process). The formulation, appraisal, approval, adjustment and announcement of the master plan will be conducted in accordance with the law on construction planning and urban planning.

Previously, according to Decree 69/2021/ND-CP, competent state agencies do not have to make detailed planning, but they must formulate and approve the plan drawings and architectural plans for the works in the sequence, and procedures for formulation, appraisal and approval of detailed planning.

Decree 35/2023 will take effect from 20 June 2023.

## 4. Novelties on guiding the Law on Insurance Business

On 01 July 2023, the Government issued Decree 46/2023/ND-CP (“Decree 46/2023”) detailing the implementation of a number of articles of the Law on Insurance Business, in which notably is the regulation on insurance enterprises, reinsurance enterprises, and their foreign branches in Vietnam.

### 4.1 Conditions for establishment of insurance and reinsurance enterprises

According to Article 11.1 of Decree 46/2023, organisations contributing 10% or more of the charter capital to establish insurance or reinsurance enterprises, apart from meeting



the conditions specified in Articles 64, 65 and 66 of the Law on insurance business, they must also meet the following financial conditions:

(a) Capital-contributing organisations operating in business lines that require to have a minimum level of charter capital or a minimum capital must ensure that the equity after the minimum charter capital or minimum capital is subtracted from which must at least be greater than or equal to the expected capital contribution.

(b) Where a capital-contributing organisation is established and operating in accordance with the Law on Credit Institutions, the Law on Insurance Business, and the Law on Securities, this organisation must ensure maintenance and satisfaction of the financial safety conditions and be approved by the competent authority to participate in capital contribution as prescribed by law. Where relevant laws do not require a competent agency to issue a written approval, the capital contributing organisation must have a written confirmation of this matter.

(c) If the capital contributing organisation is an insurance enterprise, a reinsurance enterprise, a foreign financial or insurance group, it must ensure maintenance and satisfaction of financial safety conditions and obtain the approval of the competent authority of the country where it is based to establish an insurance enterprise or reinsurance enterprise in Vietnam. If the law of the country where this organisation is headquartered do not require a written approval, a written certification from a competent agency, organisation or individual is required as prescribed by the law of that country.

(d) Having financial statements for 03 consecutive years preceding the year of submitting the application for the establishment and operation licence, which are audited with unqualified opinions.

#### **4.2 Conditions for foreign non-life insurance enterprises and reinsurance enterprises to establish branches in Vietnam**

According to Article 11.2 of Decree 46/2023, when establishing a branch in Vietnam, a foreign non-life insurance enterprise or reinsurance enterprise must satisfy the conditions specified in Article 67 of the Law on Insurance Business and the following financial conditions:

- (a) Conditions specified at sections 4.1.(a) and 4.1.(d) above; and
- (b) Certified by the competent authority of the foreign country where the foreign non-life insurance enterprise or reinsurance enterprise is headquartered that financial safety conditions are maintained and met and that there are no serious violations of regulations of the law on insurance business within the latest 03 consecutive years up to the time of submitting the application for the establishment and operation licence.

#### **4.3 Minimum level of charter capital and minimum level of allocated capital**

According to Articles 35 and 36 of Decree 46/2023, the minimum charter capital of insurance enterprises, reinsurance enterprises and the minimum level of allocated capital of foreign branches in Vietnam are prescribed as follows:

Business lines		Minimum charter capital	Minimum allocated capital for foreign enterprise's branch
Life insurance enterprises	(1) Conduct business in life insurance (except unit-linked insurance, retirement insurance) and health insurance.	VND 750 billion.	
	(2) Conduct insurance business as in point (1) above and unit-linked insurance or retirement insurance.	VND 1.000 billion.	
	(3) Conduct insurance business as in point (1) above, unit-linked insurance and retirement insurance.	VND 1.300 billion.	
Health insurance enterprises		VND 400 billion.	
Non-life insurance enterprises	(1) Conduct business in non-life insurance (except aviation insurance, satellite insurance) and health insurance.	VND 400 billion.	VND 250 billion.
	(2) Conduct insurance business as in point (1) above and aviation insurance or satellite insurance.	VND 450 billion.	VND 300 billion.
	(3) Conduct insurance business as in point (1) above, aviation insurance and satellite insurance.	VND 500 billion.	VND 400 billion.
Reinsurance enterprises	(1) Conduct business in reinsurance, receive the transfer of non-life reinsurance or both non-life reinsurance and health reinsurance.	VND 500 billion.	VND 400 billion.
	(2) Conduct business in reinsurance, receive the transfer of life reinsurance or both life reinsurance and health reinsurance.	VND 900 billion.	VND 450 billion.
	(3) Conduct business in reinsurance, receive the transfer of reinsurance in all 3 types of life reinsurance, non-life reinsurance and health reinsurance.	VND 1.400 billion.	VND 700 billion.
Note	Insurance enterprises, reinsurance enterprises and branches of foreign non-life insurance enterprises established, organised and operating before the effective date of Decree 46/2023 (ie, 01 July 2023) and having charter capital and allocated capital lower than the minimum charter capital, the minimum allocated capital, they must before 01 January 2028 complete the adding of charter capital, the allocated capital and pay deposits as prescribed by law.		



#### 4.4 Conditions to increase or decrease charter capital and allocated capital

According to Articles 19 and 20 of Decree 46/2023, insurance enterprises, reinsurance enterprises wishing to increase or decrease their charter capital and foreign branches in Vietnam wishing to increase or decrease the allocated capital must satisfy the following conditions:

<p><b>Conditions for increasing charter capital and allocated capital</b></p>	<ul style="list-style-type: none"> <li>(1) The capital increase must be made in Vietnamese Dong;</li> <li>(2) Shareholders, capital contributors of enterprises, parent companies of foreign branches in Vietnam are not allowed to use loaned capital, investment trust capital of other organisations and individuals to increase the charter capital, and allocated capital of foreign enterprises and branches in Vietnam;</li> <li>(3) After the charter capital is increased, the enterprise must still satisfy the conditions on shareholder structure specified in Article 66 of the Law on Insurance Business for joint-stock companies.</li> <li>(4) In case the enterprise increases the charter capital using the capital contributed by new shareholders or capital contributors, these new shareholders and capital contributors must satisfy the conditions specified in Articles 64.1, 64.2 and 65 of the Law on Insurance Business.</li> </ul>
<p><b>Conditions for reducing charter capital and allocated capital</b></p>	<ul style="list-style-type: none"> <li>(1) Fully meet the financial requirements as prescribed in Decree 46/2023.</li> <li>(2) After reducing the charter capital and allocated capital, the enterprise still has to ensure the regulations on capital, and solvency margin as prescribed by law and the conditions on shareholder structure specified in Article 66 Law on insurance business for joint-stock companies.</li> </ul>

#### 4.5 Cases in which the extension of the investment is not allowed

Pursuant to Article 122.3 of Decree 46/2023, in case insurance enterprises, reinsurance enterprises and foreign branches in Vietnam have invested in corporate bonds, in which the purpose is to restructure the debts that the enterprise has issued before 01 January 2023, they are not allowed to extend this investment.

Decree 46/2023 will take effect from 01 July 2023 and replace Decree 73/2016/ND-CP.

GV Lawyers would like to introduce our valued readers to an article by **Ms. Nguyen Yen Nhi**, Paralegal of GV Lawyers titled **“Vietnam’s renewable energy landscape post-new policy implementation”** published on The Legal 500 site on 19 June 2023.

The National Power Development Plan for the period 2021-2030, with a vision towards 2050 (PDP8), was officially announced by the Prime Minister of Vietnam on May 15, 2023. This significant development is expected to drive new waves of investment and growth in Vietnam’s power market, particularly in the renewable energy sector, in the upcoming phase.

### 1. Emerging power development trends in Vietnam

The rapid economic rebound following the pandemic, coupled with the ongoing Russia-Ukraine conflict since February 2022 and the escalating prices of fossil resources, has led to a growing global energy crunch[1]. Vietnam, like many other countries, is also grappling with this issue. In order to mitigate the impact of this energy crunch, both the Vietnamese government and governments worldwide are actively seeking alternative energy solutions to foster sustainable development in the energy sector.

Renewable energy has emerged as the most promising and appealing solution for achieving sustainability, as evidenced by the continuous increase in investment in renewable energy systems compared to fossil fuel-based power. According to the World Energy Investment 2023 report released in late May[2], renewable energy investments have surpassed those in traditional power sources. This trend reflects the recognition of the potential and attractiveness of renewable energy as a key driver of sustainable development in Vietnam and globally.

Under the PDP8, the Prime Minister of Vietnam has laid out a strategic roadmap to gradually decrease the reliance on coal-fired power generation. The plan includes measures such as importing liquefied natural gas (LNG) for power generation at a reasonable scale and placing significant emphasis on promoting renewable energy sources,

particularly wind power and rooftop solar (RTS) for self-consumption.

The PDP8 aims to diversify Vietnam’s energy mix by reducing the proportion of coal-based power generation while prioritizing the adoption of cleaner and more sustainable alternatives. This includes actively exploring the potential of wind power and encouraging the implementation of rooftop solar systems for individual consumption. The government’s commitment to these initiatives signifies a strong drive towards a greener and more environmentally friendly energy sector in Vietnam.

Vietnam’s Government is seeking consultation on a draft decision that pertains to the mechanism of direct power sale and purchase agreements (DPPA) between power plant owners and off-takers with high power consumption. This draft decision builds upon the updated guidance provided in PDP8. According to the draft decision, investors are

permitted to register and participate in the pilot DPPA mechanism. However, the cumulative capacity of the registered projects must not exceed 1,000 MW. [3]

## 2. The status of renewable energy in Vietnam

### ▪ The shrinking investment in RTS

During recent years, RTS systems with a commercial operation date (COD) prior to December 31, 2020, were permitted to connect to EVN's power grid and sell their surplus electricity at a favorable price[4]. However, following this period, the absence of a legal framework for the sale of RTS-generated power has resulted in investors being unable to sell their abundant power to EVN.

After a prolonged period of anticipation, the release of PDP8 has provided clear guidelines indicating that renewable energy systems (RTS) are intended solely for self-consumption purposes. This implies that RTS systems should not be connected to EVN's power grid, and the timeframe for recovering

the invested capital in RTS projects will be extended.

As a result, the required capital for RTS investments is expected to decrease in the coming period.

### ▪ Renewable sources of energy are "no longer renewable"

In the context of hydroelectricity, which constitutes a significant portion of Vietnam's renewable energy market according to PDP8, the current depletion of rivers – the primary power source in North Vietnam – during the ongoing summer season is causing severe power shortages in the region. Despite support from Central and South Vietnam[5], the low water levels in the rivers of the North pose a risk to power security and the supply of electricity for daily activities throughout the remaining dry season of 2023. [6]

This situation serves as a critical indication that alternative energy solutions need to be urgently explored to address the emerging energy crisis.

### ▪ The urgent need for a better national power grid

According to PDP8, there is a significant projected increase in the proportion of green power in Vietnam's energy mix. It is anticipated to surge to 30.9 – 39.2% by 2030 and further rise to 67.5 – 71.5% by 2050. This ambitious target reflects the Vietnamese Government's strong commitment to the development of green power.

However, Vietnam is currently encountering various challenges concerning renewable energy sources, particularly due to the fluctuating electricity generation caused by changes in natural factors that serve as the primary fuel for these renewable power plants. These factors pose a hurdle to the stable and consistent production of electricity from renewable sources.[7]

Solar power systems, including RTS systems, can be affected by variations in sunlight throughout the day and obstructions that cast shadows on the system during the daytime,

leading to a decrease in power generation. Moreover, with the increasing vertical development in urban areas, solar productivity of RTS systems installed on rooftops of buildings or residential houses may diminish over time due to shading from surrounding structures.

Similarly, hydropower and wind power plants are also subject to fluctuations in productivity caused by climatic factors. Changes in water levels and flow rates in rivers can impact the output of hydropower plants, while variations in wind speed and direction influence the generation capacity of wind power plants. These climatic factors introduce a level of unpredictability and intermittency in the power generation of both hydropower and wind power systems.

As outlined in PDP8, there is a clear focus on prioritizing renewable energy development, particularly during the 2021-2030 timeframe. The long-term vision until 2050 aims to reduce reliance on fossil fuels, as well as decrease greenhouse gas emissions. One of the objectives is to

address challenges that arise in the operation and maintenance (O&M) of the grid[8], specifically concerning the connection of power systems with unstable capacity to the national power grid.

The aim is to mitigate the obstacles faced in integrating renewable energy sources with variable power generation into the existing power grid infrastructure. By doing so, the goal is to ensure a more stable and reliable operation of the grid, promoting the sustainable growth of renewable energy while minimizing disruptions and enhancing the overall efficiency of the power system.

In order to create a solid foundation for implementing the plans outlined in PDP8, it is crucial to prioritize the construction, improvement, and maintenance of the national power grid in Vietnam. This is essential for effectively harnessing renewable energy resources, alleviating stress on the electricity supply, and addressing the challenges experienced during the dry season. PDP8 recognizes the

significance of this mission and provides specific requirements in this regard.

Firstly, there is a focus on maintaining and upgrading the existing national grid to ensure a stable connection and efficient transmission of electricity, thus maximizing the productivity of power plants. This involves enhancing the infrastructure and capabilities of the grid to accommodate the increasing share of renewable energy sources.

Secondly, PDP8 emphasizes the need to develop one-way super high-voltage transmission lines, particularly to support the exploitation of large-scale power plants, including offshore wind power systems. This strategic orientation aims to facilitate the effective integration of these power sources into the grid, enabling their significant contribution to the energy mix.

By addressing these priorities, Vietnam can establish a robust power grid infrastructure that enables the successful utilization of renewable

energy resources, enhances electricity transmission capabilities, and strengthens the resilience of the power system.

▪ **Lack of a legal framework for offshore wind power plants**

Apart from the improvement of the national power grid, the legal framework for renewable energy investment is a significant concern for energy investors in Vietnam.

PDP8 acknowledges that offshore wind power has great potential for Vietnam's energy future. However, the current Vietnamese laws do not sufficiently cover the development of offshore wind power projects. There is a lack of legal provisions to determine the competent authority responsible for approving investment policies, the procedure for contractor selection, and the mechanism for determining prices in wind power projects, as defined in the applicable investment laws.[9]

To foster a more favorable environment for renewable energy projects in Vietnam, it is necessary

for the National Assembly to issue comprehensive legislation or provide guidance to competent authorities to establish a robust legal framework for such projects. This comprehensive legal framework would address key aspects of offshore wind power project development, including investment approval, procurement procedures, and pricing mechanisms. By doing so, it would provide clarity and certainty for investors and facilitate the growth of renewable power in Vietnam.

### 3. What's next?

With the strategic plan and goals outlined in PDP8, significant transformations are expected in Vietnam's energy market, particularly concerning the statutory procedures for investment and the prioritization of renewable power sources. The updates in PDP8 indicate a shift in the structure of the renewable energy industry, moving from small power systems to larger-scale power plants. These larger projects necessitate substantial capital investment, as well as the expertise and know-how

from investors, particularly those from developed countries with extensive experience in the field.

Consequently, there is a strong anticipation of a substantial increase in foreign investment capital in the green power sector in Vietnam in the coming years.[10] The expansion of foreign investment is expected to contribute to the development and growth of the renewable energy industry in Vietnam, bringing in advanced technologies, financial resources, and international best practices. This influx of foreign investment capital will play a significant role in driving the expansion of the green power sector and supporting the achievement of the renewable energy targets outlined in PDP8.

While there are predictions and indications regarding the development of the green energy sector in Vietnam, a comprehensive and detailed guidance from the Government is necessary to provide a clearer vision. As renewable energy continues to gain importance, it is expected that the government will



provide further guidance and regulations to support the growth and implementation of green energy projects in Vietnam.

These guidelines would outline specific procedures, policies, and incentives to attract investment, streamline processes, and ensure the effective integration of renewable energy sources into the national energy system. They would provide clarity and direction for investors, project developers, and other stakeholders in the green energy sector.

It is important to keep an eye on the government's updates and official announcements to gain a more comprehensive understanding of the future direction and specific measures that will shape the green energy sector in Vietnam.

[1] <https://www.iea.org/to-pics/global-energy-crunch>

[2] <https://iea.blob.core.windows.net/assets/8834d3af-af60-4df0-9643-72e2684f7221/WorldEnergyInvestment2023.pdf>

[3] <https://baochinhphu.vn/thi-diem-mua-ban-dien-truc-tiep-giua-don-vi-phat-dien-voi-khach-sudung-dien-lon-102220509160349789.htm>

[4] The RTS system having commercial operation date (COD) until the end of 31 December 2020 and connected to EVN's power grid shall sell the power to EVN at a favourable price (i.e. Feed-in Tariff) in accordance with Decisions 11/2017/QĐ-TTg and 13/2020/QĐ-TTg regarding incentives for development of solar energy in Vietnam.

[5] [https://e.vnexpress.net/photo/environment/da-river-dries-up-amid-](https://e.vnexpress.net/photo/environment/da-river-dries-up-amid-summer-blackouts-4615662.html)

[summer-blackouts-4615662.html](https://e.vnexpress.net/photo/environment/da-river-dries-up-amid-summer-blackouts-4615662.html)

[6] <https://vietnamnews.vn/environment/1534291/northern-region-faces-high-risk-of-serious-electricity-shortage.html>

[7] <https://npc.com.vn/goc-nhin-bao-chi/ly-do-vietnam-van-nguy-co-thieu-dien-du-nhieu-dien-gio-mat-troi-20119.html>

[8] <https://vov.vn/kinhte/van-hanh-hop-ly-luoi-truyen-tai-tang-hieu-quachodien-nang-luong-tai-tao-post1002512.vov>

[9] <https://vneconomy.vn/phat-trien-dien-gio-ngoai-khoi-van-kho-do-thieuhanh-lang-phap-ly.htm>

[10] <https://tapchitaichinh.vn/dau-tu-nuoc-ngoai-tro-thanh-don-bay-cho-thi-truong-nang-luong-tai-taoviet.html>



### 1. Tax declaration for head office and branches

In case the Company has a different dependent accounting branch than the place where the Company's head office is located and conducts centralised accounting at the head office as prescribed in Article 11.2 of Decree 126/2020/ND-CP, the tax declaration and calculation will be made and submitted in form of centralised tax declaration dossiers to the tax agency managing the Company (headquarters) and allocate the payable tax amount to each province where it does business as prescribed in Article 12.1 of the Circular 80/2021/TT-BTC. The tax declaration, calculation, and allocation and payment of value-added taxes will be conducted as prescribed in Article 13 of Circular 80/2021/TT-BTC.

*Ha Noi City Tax Department replies to the question of TNHH SJ Thermal Vina Co., Ltd. in Official Letter No. 46972/CTHN-TTH dated 04/7/2023.*

### 2. Tax obligations for foreign contractors

In case a foreign company does business in Vietnam or generates income in Vietnam from sending workers to Vietnam to work on the basis of a contract, agreement or commitment between the foreign contractor and the company in Vietnam is subject to contractor taxes as prescribed in Article 1 of Circular 103/2014/TT-BTC.

*Ha Noi City Tax Department replies to the question of Infineon Technologies Vietnam Co., Ltd. in Official Letter No. 49216/CTHN-TTHT dated 10/7/2023.*

### 3. Value-added tax rate for services provided to export processing enterprises

In case the Company provides mold repair services to export processing enterprises but the mold repair services are performed and consumed outside the non-tariff zone, they are not eligible for the value-added tax rate of 0% as prescribed in Article 9 of Circular 219/2013/TT-BTC. The Company bears the value-added tax rate of 10% as prescribed in Article 11 of Circular 219/2013/TT-BTC.

*Ha Noi City Tax Department replies to the question of Elentec Vietnam Co., Ltd. in Official Letter No. 43260/CTHN-TTHT dated 22/6/2023.*

### 4. Conditions and documents proving family circumstances deduction for dependents

In case the employee registers dependents as his/her biological father or mother; father-in-law, mother-in-law; stepfather, stepmother; legal adoptive father and mother satisfying the conditions to be counted as dependents as prescribed in Article 9.1(d) of Circular 111/2013/TT-BTC, and at the same time having sufficient documents to prove these dependents as prescribed in Article 9.1(g3) of Circular 111/2013/TT-BTC (without requiring that the dossier component must have proof of income), taxpayers may declare deductions for family circumstances when determining their taxable personal income according to regulations.

Taxpayers must declare themselves and take responsibility before law for the accuracy, truthfulness and completeness of declared data as prescribed in Article 17.2 of the Law on Tax Administration 2019.

*Ha Noi City Tax Department replies to the question of Tien Thanh Veterinary Supplies Co., Ltd. in Official Letter No. 46974/CTHN-TTHT dated 4/7/2023.*

## 1. The Ministry of Industry and Trade proposes a series of preferential mechanisms for rooftop solar power

The Ministry of Industry and Trade has just sent a document to seek consultation from ministries, ministerial-level agencies and Vietnam Electricity on the draft decision of the Prime Minister on the mechanism for developing rooftop solar power in Vietnam.

In the Draft Decision on the mechanism to encourage the development of rooftop solar power installed in houses, offices and businesses' headquarters in Vietnam, the Ministry of Industry and Trade provides a support mechanism for rooftop solar power and requirements.

Accordingly, the Ministry of Industry and Trade proposes that the total capacity of rooftop solar power systems installed nationwide under this decision is prioritised for unlimited capacity development and belongs to the national electricity development planning approved by Decision No. 500/QD-TTg dated 15 May 2023 of the Prime Minister.

In addition, organisations and individuals investing in the development of rooftop solar power systems are exempted from electricity activity licences and electricity business registration certificates. Rooftop solar power systems installed in offices are prioritised for budget allocation for implementation.



The Ministry of Industry and Trade proposes a support mechanism for rooftop solar power (Photo: EVN).

Along with that, organisations and individuals investing in and using rooftop solar power systems are exempted or reduced from taxes and fees of some kinds; given loans at preferential interest rates as prescribed by law.

The Ministry of Industry and Trade also proposes that the rooftop solar power system installed in the connected power system according to the regulation on distribution power system does not have to perform the connection agreement. Previously installed rooftop solar power systems that meet the conditions on subjects of this decision are subject to this regulation.

In addition, the Ministry of Industry and Trade also stipulates that organisations and individuals investing, installing and using rooftop solar power systems must meet the requirements on electrical safety, construction safety, environment, fire and explosion prevention according to current regulations.

*By vietnamnet.vn*

## 2. The Ministry of Information and Communications recommends against the current imposition of special consumption taxes on online games

The Ministry of Information and Communications (IC) has just sent an official dispatch to the Ministry of Finance about collecting opinions on the proposal for the development of a draft Law on Special Consumption Tax (amended). Accordingly, the IC recommends that at the present time, the type of "online video game service business" should not be added to the subjects suffering consumption taxes.



*If the special consumption taxes are imposed on online games, it will prompt domestic enterprises to tend to move to set up enterprises abroad.*

According to the IC, the revenue of unlicensed games provided by foreign enterprises across borders into Vietnam in 2021-2022 accounts for nearly 30% of the total revenue of the entire game industry without having to pay any taxes. While the special consumption taxes are only applied and collected from domestic enterprises, it cannot be applied to foreign enterprises. Therefore, if applied, it will significantly reduce the competitiveness of domestic enterprises compared to enterprises providing cross-border into Vietnam; increasing

inequality between domestic and foreign enterprises.

Moreover, if the special consumption taxes are imposed on online games, it will prompt domestic enterprises to tend to move to set up enterprises abroad such as Singapore, and then provide online game services across borders into Vietnam to avoid high taxes. Thus, the budget will lose a large tax revenue from this smokeless industry.

On the other hand, the application of the special consumption taxes will not encourage domestic game enterprises to increase investment in development, while this is one of the few industries in our country with great potential for development and reaching the world. The top countries with the developed game industry in the world such as China, Japan, Korea or some European countries do not apply the special consumption tax collection policy for the game industry.

Along with the IC, VCCI also said that the special consumption taxes on online games are not really feasible, because it will be difficult to determine taxable subjects, taxpayers and taxable revenue. Therefore, VCCI recommends the drafting agency currently should not let online games fall into the category of bearing special consumption taxes.

*By vietnamnet.vn*

No.	Document title	Issuance date	Effective date
<b>NATIONAL ASSEMBLY</b>			
1	Resolution 101/2023/QH15 on the 5th Session of the XV National Assembly.	24/6/2023	24/6/2023
2	Resolution 98/2023/QH15 on pilot implementation of a number of special mechanisms and policies for development of Ho Chi Minh City.	24/6/2023	01/8/2023
<b>GOVERNMENT</b>			
1	Decree 45/2023/ND-CP detailing a number of articles of the Petroleum Law.	01/7/2023	01/7/2023
2	Decree 46/2023/ND-CP detailing the implementation of a number of articles of the Law on Insurance Business.	01/7/2023	01/7/2023
3	Decree 44/2023/ND-CP stipulating the policy on value-added tax reduction under the National Assembly's Resolution No. 101/2023/QH15 dated 24 June 2023.	30/6/2023	01/7/2023
4	Decree 36/2023/ND-CP on the extension of deadlines for special consumption tax payment for domestically manufactured or assembled automobiles.	21/6/2023	21/6/2023
5	Decree 35/2023/ND-CP amending and supplementing a number of articles of Decrees in the field of state management of the Ministry of Construction.	20/6/2023	20/6/2023
<b>MINISTRY OF FINANCE</b>			
1	Circular 44/2023/TT-BTC providing a number of charge and fee rates to support residents and businesses.	29/6/2023	01/7/2023
<b>STATE BANK OF VIETNAM</b>			
1	Circular 08/2023/TT-NHNN regulating on conditions for foreign loans without government guarantee.	30/6/2023	15/8/2023
2	Circular 07/2023/TT-NHNN amending and supplementing a number of articles of Circular 38/2018/TT-NHNN stipulating the import of goods for money printing and minting activities of the State Bank of Vietnam.	30/6/2023	14/8/2023
3	Circular 06/2023/TT-NHNN amending and supplementing a number of articles of Circular 39/2016/TT-NHNN prescribing the provision of loans by credit institutions and foreign bank branches to clients.	28/6/2023	01/9/2023
4	Circular 05/2023/TT-NHNN amending and supplementing a number of articles of Circular No. 30/2015/TT-NHNN defining the licencing, organisation and operation of non-bank credit institutions.	22/6/2023	06/8/2023
5	Circular 04/2023/TT-NHNN on operations of agents for exchange of bordering countries' currencies.	16/6/2023	01/8/2023
<b>MINISTRY OF HEALTH</b>			
1	Circular 13/2023/TT-BYT stipulating the price bracket and method of pricing medical examination and treatment services on request provided by the State's medical examination and treatment establishments.	29/6/2023	15/8/2023



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