



**GLOBAL VIETNAM
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LEGAL NEWSLETTER

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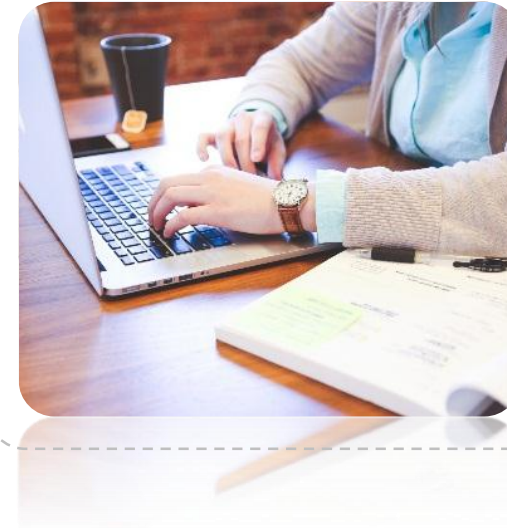
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READING FOR YOU



MONTHLY LEGAL UPDATE

GV Lawyers would like to present an article by Mr. Luong Van Ly and Mr. Tran Thanh Tung titled: "How To Promote Sandbox Mechanism Effectively" published in Saigon Times on October 3, 2019, Issue No. 40.2019 (1.503).



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SANDBOX – A SPECIALTY OF ECONOMY 4.0

The "Sandbox" mechanism was first introduced in the Prime Minister's Decision No. 999 / QĐ-TTg dated August 12, 2019, approving the Scheme to promote a shared economy. "Sandbox" is a strange concept in Vietnam but can be considered a specialty of economy 4.0. Literally, the sandbox is a space where children can play around without fears of being injured or disturbing adults. From the original meaning, the sandbox concept spreads to other fields, such as computer technology, engineering or policies. In computer technology, the sandbox is an isolated environment for testing new software without affecting the overall system. Similarly, in terms of policies, the sandbox is a mechanism for testing or piloting new policies, ideas or business models in a definite time and scope, under the supervision of managers for the purposes of evaluation, testing and adjustment before becoming a general policy.

WHY IS SANDBOX NEEDED?

Economy 4.0 with the strong development of technology has created new business ideas or models, quickly negating the old ones. These include the ideas of a shared economy like Uber, Grab, Airbnb; crypto currency; peer – to –peer lending etc. These business models can greatly influence economic institutions, even creating destructive changes to the old mechanism. For example, the operation of a crypto currency immediately creates an international "currency" which can lead to the deactivation of a central bank's control and affect the monetary sovereignty of countries.

In light of such new economic issues, governments in the past used to approach those conservatively, such as trying to enact policies to manage, control or limit those realities, or at worst "banning if it cannot be managed". However, when that business model goes beyond the control of a government, the controlling or banning solutions are no longer feasible, and the economy will suffer a loss if that idea opens the economy to a new trend.

Considering those realities, some governments have opted for a more flexible approach: not to ban it but allow ideas to be freely developed in a controlled environment and limited time so they can monitor them and grasp how such models operate, and then devise appropriate measures.



The first often-mentioned official Sandbox mechanism was issued by the UK's Financial Regulatory Authority and was initially applied to fintech companies. Since then, this mechanism has been gradually expanded to many other fields, and increasingly studied and applied by many countries.

SANDBOX IS NOT NEW TO VIETNAM

Vietnam in fact applied a number of sandbox policies in the past - under the name "pilot program". These include the program allowing foreign organizations and individuals to buy houses in Vietnam pursuant to the National Assembly's Resolution 19/2008 / NQ-QH12 dated June 3, 2008 and later transformed into an official policy in the Housing Law and Real Estate Business Law, or the pilot controversial program which is still being applied under Decision No. 24 / QĐ-BGTVT dated January 7, 2016 by the Ministry of Transport on piloting the application of science and technology to support the management and connection of passenger transport activities under contracts. And perhaps most notably is the mechanism of piecework contract on agricultural products devised by the Secretary of Vinh Phu Provincial Party Committee - Mr. Kim Ngoc and then formalized in accordance with the Politburo's Resolution 10-NQ/TW of April 5, 1988. Pilot programs give regulatory authorities time to consider new ideas thoroughly - as a stepping stone prior to issuing official policies.

PROS AND CONS

Obviously, the sandbox mechanism has many benefits. It helps policymakers to foster a new idea without nipping it in the bud, even in case of a lack of a mechanism to manage it. The ideal formula for implementing a sandbox model is: first, let businesses freely bring their ideas into practice; next, the management body will monitor, gradually adapt to it or create its own policies and management measures, and step by step shape the business model of enterprises to harmonize the three primary targets: growing businesses, providing community benefits and developing the national economy.

As seen from a certain angle of the history, sandbox shows the hesitant attitude of regulatory authorities: jumping in is accompanied by a fear of losing control while staying as an outsider brings on a fear of being backward in a world of new economic models. Inertia is certainly part of the cause, which is the inherent nature of management, but another part of the cause also comes from the limitations of the sandbox mechanism itself. Sandbox is essentially an ask-and-give mechanism, meaning that when a business obtains a sandbox license, it has the opportunity to become the first on the market. If the business grows well, it will become a policy monopoly. If not carefully controlled, such business tends to maintain the mechanism in which it is licensed to operate, thus preventing other enterprises from entering into the market, thereby leading to competition restriction.

In addition, the "sand box" for children to play in is a zoned space, isolated from the outside, what is allowed to be done in the sand box is not allowed outside the sand box; players in sandboxes and people outside of sandboxes hardly affect each other, behaviors in sandboxes do not affect the outside. But the sandbox in the economy is completely different. The new and bold ideas as aforesaid need to be experienced in practice. In other words, before regulators can find the right policy and management, those business ideas have had time to influence the community, even the economy and society, depending on their expansion. Uber and Grab taxi technologies are typical examples.

Whether the said limitations can be overcome depends on the effectiveness of policies and management measures.

RECOMMENDATIONS

Currently, the space for sandbox mechanism is very large and can be applied to many fields.

In terms of policy, in order for the sandbox mechanism to be effectively developed, a specific sandbox mechanism needs to meet the following requirements:

The "Sandbox" mechanism was first introduced in the Prime Minister's Decision No. 999 /QD-TTg dated August 12, 2019, approving the Scheme to promote a shared economy. "Sandbox" is a strange concept in Vietnam but can be considered a specialty of economy 4.0.

Firstly, there must be clear and specific criteria (in terms of size, industry, content, business ideas ...) to screen and select businesses that join the sandbox (sandbox business) in each period. The empirical nature requires a sufficient amount to draw the necessary conclusions but at the same time demands a screening rather than carrying out a mass performance. One of the necessary criteria to consider is the scope and depth of the experiment for each type of sandbox business and each specific sandbox business. An example in the field of high technology shows that up to now, for more than 17 years after the first high-tech zone of the country (Ho Chi Minh City Hi-tech Park) comes into operation, there have been no specific criteria for high-tech enterprise.

Secondly, there is the monitoring and supervision of each sandbox business by a specialized team with in-depth knowledge about the business field, the ability to appraise new business ideas and make objective assessment on the achieved results to propose measures to shape the business method of the enterprise during the time of experimenting and making policy, management measures when the business idea of the sandbox business is officially applied in the market.

Thirdly, there is a setup of experiment period with clear, specific criteria to determine the outcome of the experimental duration. Once again, it should pay attention to the experience of Grab taxi: the experiment period and the criteria to end the experiment are not available, so the experimental duration is prolonged while Grab business is increasingly spreading and exerts a growing impact on the public transit industry.





REMARKABLE REGULATIONS

DECREE NO. 69/2019/ND-CP

New Decree on penalties for administrative violations in the field of competition

DECREE NO. 69/2019/ND-CP

New Decree provides for the use of public property to pay investors when executing work construction investment projects in the form of construction-transfer contract.

DECREE NO. 74/2019/ND-CP

Amend and supplement the regulation on employment promotion policies and the National Fund for Employment

DECISION NO. 2402/QD-BTP

Regulations on assets not eligible to be recognized as fixed assets, or intangible and special fixed assets managed by the Ministry of Justice

DECREE NO. 68/2019/ND-CP

Regulations on management of construction investment costs

DECREE NO. 69/2019/ND-CP

New Decree on penalties for administrative violations in the field of competition



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As of 26 September 2019, the Government issued Decree No. 75/2019/ND-CP (“Decree 75”) on penalties for administrative violations in the field of competition. Decree 75 replaces Decree 71/2014 /ND-CP, except for Article 36 of Decree 71/2014/ND-CP and will take effect from December 1, 2019, there are some notable regulations as follows:

- Specifying administrative violations in the field of competition & sanction regulation

- ▶ For violations against the regulation on the competition restriction agreements of the enterprises on the same relevant market, enterprises may be subject to a fine of from 1% to 10% of the total turnover on the relevant market in the fiscal year adjointly preceding the year of committing the violation;
- ▶ For violations against the regulation on the competition restriction agreements of the enterprises doing business at different stages in the same production, distribution and supply chain for a certain type of product or service, enterprises may be subject to a fine of from 1% to 05% of the total turnover on the relevant market in the fiscal year adjointly preceding the year of committing the violation;

Violations against the regulation on the abuse of dominant market position or the abuse of monopoly position;

- ▶ For abuse of dominant market positions, enterprises or each enterprise belonging to a group of enterprises with dominant market position may be subject to a fine of between 1% and 10% of the total turnover on the relevant market in the fiscal year adjointly preceding the year of committing the violation;
- ▶ For abuse of monopoly position, enterprises may be subject to a fine of from 1% to 10% of the total turnover on the relevant market in the fiscal year adjointly preceding the year of committing the violation;

Violations against the regulation on economic concentration;

- ▶ Decree 75 stipulates a fine on enterprises from 01% to 10% of the total revenue on the relevant market in the fiscal year adjointly preceding the year of the following acts: (i) merging prohibited enterprises; (ii) consolidating prohibited enterprises; (iii) acquiring prohibited enterprises; (iv) establishing joint ventures among prohibited enterprises; (v) no notification of economic concentration;
- ▶ For violations against the regulations on economic concentration, enterprises may be subject to a fine of between 0.5% and 03% of the total turnover on the relevant market in the fiscal year adjointly preceding the year of implementation. Violation.

Violations against the regulation on unfair competition;

- ▶ A fine of from 200 million to VND 300 million will be imposed on the acts of accessing or infringing on confidential information in business activities;
- ▶ A fine of from 100 million to VND 300 million will be imposed on the acts of forcing in business activities, the fine will be doubled where the violations are committed within 2 or more centralized provinces or cities;
- ▶ A fine of from 100 million to VND 300 million will be imposed on the acts of providing dishonest information about other enterprises, the fine will be doubled where the violations are committed within 2 or more centralized provinces or cities;
- ▶ A fine from 800 million to VND 1 billion will be imposed on the acts of goods sale and service supply at a price below the costs of goods/service in whole, the fine will be doubled up to VND 2 billion where the violations are committed within 2 or more centralized provinces or cities.

Decree 75 specifies violations of competition laws that help enterprises improve their sense of compliance with the law and awareness of compliance with the law of fair competition to contribute to transparency and conduct fair and healthy competition behaviors in a business development trend full of potentials and challenges.

REMARKABLE REGULATIONS

DECREE NO. 69/2019/ND-CP

New Decree provides for the use of public property to pay investors when executing work construction investment projects in the form of construction-transfer contract.



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On August 15, 2019, the Government issued Decree 69/2019/ND-CP ("Decree 69") stipulating the use of public property to make payments to investors when carrying out construction projects in the form of build-transfer contracts ("BT Project"). Decree will take effect from October 1, 2019 and feature some notable provisions as follows:

Public property to make payments to Investors implementing BT Projects include:

- ▶ Land fund, specifically: (i) The land fund will be paid to investors who apply the form of state land allocation with land use levy or leased land with full one-off rental payment for the entire lease period in accordance with land law (ii) The land fund paid to the investor is land without land clearance or land which has been completed for site clearance;
- ▶ Land, houses and other properties associated with the land (hereinafter referred to as working offices) of state agencies, public non-business units, units of the people's armed forces and the Communist Party of Vietnam, socio-political organizations, socio-political-professional organizations, social organizations, socio-professional organizations and other organizations established under the law on associations (hereinafter referred to as agencies, organizations, units);
- ▶ Infrastructure assets in service of national interests and public interests;
- ▶ Other types of public property in accordance with the Law on Management and Use of Public Property.

Subjects of application

- ▶ State agency having competence to sign Build-Transfer Contract ("BT contract");
- ▶ Agencies, organizations and units authorized by competent state agencies to sign BT contracts or tasked with preparing investment, negotiating, signing BT contracts and implementing BT contracts;
- ▶ Investors implementing BT contracts;
- ▶ Other agencies, organizations and individuals involved in the implementation of BT Project.

Decree 69 stipulates the use of public property to make payment to Investors implementing BT Projects must adhere to the following principles:

- ▶ Ensuring compliance with regulations of the law on management and use of public property; in the form of open bidding; being implemented only when authorized by the competent authority;
- ▶ Payment in the principle of parity, the value of BT Project is equivalent to the value of public property;
- ▶ Payments must be aggregated into the State budget;
- ▶ The payment time in case of payment by land fund is from the date of the decision on land allocation or land lease;
- ▶ Loan interest in the financial plans of the BT contract for the value of the work completed on schedule, terminated from the date of the decision on land allocation, land lease and Transfer, sale or liquidation of the property;
- ▶ Transfer of the public property for payment must be made after the Project is completed or in proportion to the completed volume.

DECREE NO. 74/2019/ND-CP

Amend and supplement the regulation on employment promotion policies and the National Fund for Employment

On 23/9/2019, the Government enacted Decree No. 74/2019/ND-CP on amending and supplementing a number of articles of Decree 61/2015/ND-CP on employment promotion policies and the National Fund for Employment, directed towards increasing preferential loans from the National Fund for Employment granted to small and medium-sized enterprises, cooperatives, co-operative groups, business households and laborers. Particularly:

Eligible borrowers and lending limits

- ▶ Laborers: VND 100 million maximum (currently, VND 50 million).
- ▶ Businesses: maximum VND 2 billion/project and not exceed VND 100 million for 1 laborer whose job is created, maintained or expanded (currently, maximum VND 1 billion/project and not exceed VND 50 million/1 laborer).

Security measure

Regarding loans of VND 100 million or more, businesses and laborers who borrow loans for oversea working under contracts must have security properties as prescribed by the law on security transactions.



On 19/09/2019, the Minister of Justice issued Decision 2402/QD-BTP on the list, life cycle, and depreciation rate of the assets not eligible to be recognized as fixed assets, or intangible and special fixed assets managed by the Ministry of Justice. Particularly:

Assets not eligible to be recognized as fixed assets

- ▶ Assets in one of the following two categories will be determined as not eligible to be recognized as fixed assets under the management Assets (except houses, construction works and architectural objects) have a historical cost of VND 5 million to under VND 10 million and have a life cycle of 01 year or more.
- ▶ Assets which are easily damaged or broken and have a historical cost of VND 10 million or higher.

Lending term

- ▶ The preferential lending term by the National Employment Fund is up to 120 months (currently, the maximum is 60 months).
- ▶ The specific lending term will be agreed between the Vietnam Bank for Social Policies and borrowers based on the funding sources, business cycles and the borrower's solvency.

Lending interest rate

For the subjects specified in Article 12.1 of the Law on employment, the lending interest rate will equal to the one applicable to near-poor households as prescribed by the law on credit. (currently, the lending interest rate is equal to the one for poor households).

DECISION NO. 2402/QD-BTP

Regulations on assets not eligible to be recognized as fixed assets, or intangible and special fixed assets managed by the Ministry of Justice

The list, life cycle, and depreciation rate of the assets not eligible to be recognized as fixed assets under the management of the Ministry of Justice will be provided in Annexes 01 and 02 attached to this Decision.

Special fixed assets

- ▶ Special fixed assets include: Fixed assets of which the costs of forming or real values cannot not be determined, but they need be managed strictly; Fixed assets which are the brands of non-business organizations and of which the costs of forming cannot be determined.
- ▶ The conventional price of a special fixed asset is VND10 million, which is used to determine the historical costs of assets

Intangible fixed assets

- ▶ The criteria for identifying intangible fixed assets: those assets which do not have a physical form and are formed by the investment of an agency, organization, or enterprise or through a duration of operation, satisfying the two criteria as (i) having a life cycle of 01 year or more; and (ii) having a historical cost of VND10 million or more.
- ▶ The list, life cycle, and depreciation rate of intangible fixed assets under the management of the Ministry of Justice will be provided in Annex 02 attached to this Decision.

Decision 2402/QD-BTP takes effect from 19/9/2019 and replaces Decision No. 1422/QD-BTP dated 01/07/2016.



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REMARKABLE REGULATIONS



DECREE NO. 68/2019/ND-CP

Regulations on management of construction investment costs



On 14/08/2019, the Government issued **Decree 68/2019/ND-CP (Decree 68)** on the management of construction investment costs. Accordingly, **Decree 68** regulates the costs which form the total construction investment, including the following costs:

- ▶ **Compensation, assistance and resettlement costs:** include compensation costs for land, houses, works on land and water surface; assistance amounts paid by the State for land recovery; resettlement costs; costs for removal of and payment for technical infrastructure items which have been constructed (if any).
- ▶ **Construction costs:** include construction costs of work items in a project; temporary works serving construction; costs of demolition of the works outside the scope of site clearance for which the costs have been counted into the costs of compensation, assistance and resettlement.
- ▶ **Equipment costs:** include procurement of construction and technological equipment; training and technology transfer costs (if any); costs for fabricating and manufacturing non-standard equipment (if any); transportation and insurance costs; taxes, fees.
- ▶ **Project management costs:** include the costs for managing projects from the preparation stage, execution stage to the completion stage to bring the project into use.
- ▶ **Construction investment consulting costs:** include survey and consulting costs; design costs, construction supervision consulting costs.
- ▶ **Contingency costs:** include the costs for arising workloads and contingency costs for inflation during the project execution period.
- ▶ **Other costs:** include necessary costs for detecting and removing mines and explosive objects; insuring the works during the time of construction; charges and fees for appraisal of projects; costs for audit, due diligence and approval of the investment capital.

▶ Adjustment of the total construction investment will be carried out along with the adjustment of the investment project and must be adjusted when costs arise in excess of the total investment.

▶ In case of adjustment of the total construction investment:

▶ In case of adjusting only the cost structure, including the contingency costs, due to price adjustment when price indexes increase higher than the indexes calculated in the price escalation reserves but this does not exceed the approved total construction investment, the investors will adjust the investment and submit the results to the competent officer.

▶ In case of increasing the project costs or project delay leading to loss and waste as a result of carrying out projects while the capital plans are inconsistent with the execution plans, the investment approver and the investor must take legal responsibility.

Decree 68 takes effect from 01/10/2019 and supersedes Decree No. 32/2015 / ND-CP.



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Vietnam's lunar Tet holidays 2020

The Government agreed to a 5-day Lunar New Year Holidays (2020) plan, including the last 2 days of the Year of the Pig and the first 3 days of the year of the Rat.

The Government Office has just sent a document conveying the opinion of Prime Minister Nguyen Xuan Phuc consenting to the Ministry of Labor, War Invalids and Social Affairs' s request on the Lunar New Year holidays 2020.

Accordingly, the Prime Minister agreed to the proposal on the Lunar New Year holiday schedule by the Ministry of Labor, War Invalids and Social Affairs. Officers, civil servants and employees are entitled to 7 days off, from Thursday, January 23, 2020 until end of Wednesday, January 29, 2020 (from December 29, Ky Hoi year until end of the 5th day of January of the year of Rat Ty)

The Prime Minister requested the agencies and units making the vacation schedule to pay attention to assigning and arranging working departments reasonably to deal with jobs on a continuous basis, ensuring good service organizations and individuals. Agencies and units that do not have Saturdays and Sundays as fixed weekend holidays will rely on specific programs and plans to arrange vacation schedule accordingly.

Source: T.An, vietnamnet.vn



READING FOR YOU



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How to collect tax arrears worth of billions of dong from people earning on Facebook, YouTube ?

Recently, Ho Chi Minh City Department of Taxation has discovered and collected 1.5 billion dong in tax arrears from an individual who owns a YouTube channel, earning an income of more than 19 billion dong from posting clips on this network from 2016 - 2018

Thanks to their profitability, YouTube and Facebook have become a platform to enrich a great many people. Retrospective collection and sanction on taxes in relation to income on social networks is no longer. However, how these individuals are discovered and collected is problematic.

According to current regulations, individuals with an income of VND 100 million or more/year fall under the category of businessmen and any income from YouTube or Facebook is subject to tax. Due to failure to voluntarily file a tax return or to deliberately delay paying taxes, individuals will suffer administrative penalties and even criminal prosecution in case of large tax amounts.

Mr. Luu Duc Huy, Director of the Tax Policy Department, General Department of Taxation said that the most important thing is the coordination of the State Bank to trace the abnormal income of individuals and businesses through the said social networks. "All e-wallets, or visa cards, master cards, etc. must be licensed by the State Bank to operate. The cash flows of payment are licensed by the State Bank" Mr. Huy said.

In addition, the disclosure of individuals who show signs of tax avoidance and delayed tax payment should be promoted to accelerate the process of voluntary tax payment. In particular, according to the Director of the Tax Policy Department, it is necessary to have solutions and mechanisms for multinational corporations such as Google and Facebook to coordinate in providing transaction information, cash flows paid to tax authorities whereby they can pinpoint the access channel for effective recovery.

In addition, the involvement of the Ministry of Public Security, the Ministry of Industry and Trade, and the Ministry of Information and Communications is also needed to effectively monitor and manage the tax collection of e-commerce.



If you have any questions or concerns about the Legal Newsletters, please contact us via the telephone: +28 3622 3555 or email: info@gvlawyers.com.vn



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ANSWER LEGAL INQUIRIES



ANSWERS TO QUERIES



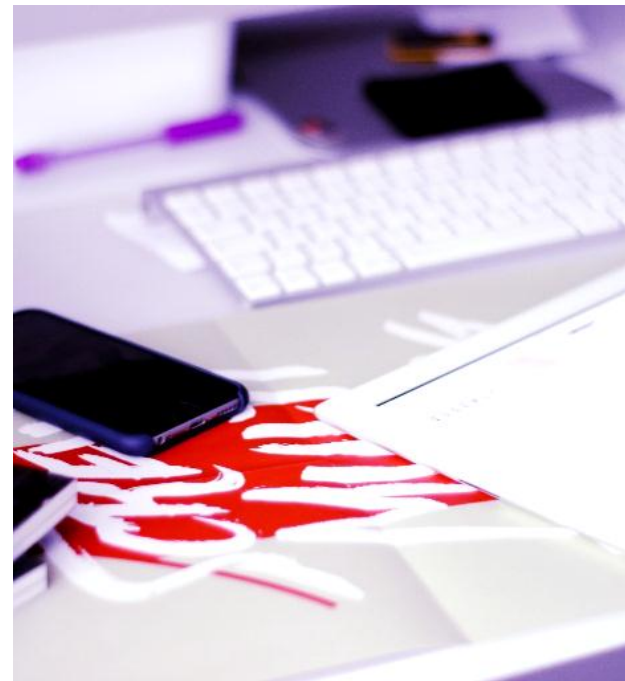
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Answering 10 questions about criminal situations, typically including: usury crimes arising from civil transactions stipulated in Article 201 of the Criminal Code; If a defendant becomes pregnant after initiation of the legal proceedings, will mitigating circumstances be used as a relief for "a defendant who is a pregnant woman" as provided in point n of Article 51.1 in the Criminal Code?; How to determine the responsibilities for compensation in criminal cases with accomplices? ect.

Based on queries and answers of the Judges' Council in the process of handling criminal, administrative, civil, business, and commercial cases, the Supreme People's Court gives the answers to the queries as follows:



Answering 10 questions about administrative legal proceedings, typically including: If a litigant revises his/her petition at the request of a judge without submitting documents or evidence proving that their rights and interests are violated, will the court return such petition?; If the court rejects the request for cancellation of a administrative decision made by the plaintiff, how will the authority handle this case?



Answering 10 questions about business and commercial cases: Disputes between insurance enterprises and insurance buyers about payment of insurance premiums under non-life insurance policies are civil, business or commercial disputes? ect.

The content is provided in Official Dispatch No. 212/TANDTC-PC dated 13/9/2019 of the Supreme People's Court.



Answering 8 questions about civil situations, typically including: Does the judge have the right to collect additional evidence during the appellate stage?; In case of emergency, the petitioner files a petition and requests the application of interim relief at 4:30 pm on Friday. Pursuant to Article 111.2 and Article 133.3 of the Civil Procedure Code, may the Court apply interim reliefs on weekends or public holidays? ect.





ANSWERS TO QUERIES



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Land procedures for the cases where the project bidding involves land use, or using land without paying land rent as provided for in the investment law

After listening to the opinions in the meeting about some problems related to land procedures for the cases where the project bidding involves land use, or using land without paying land rent, Deputy Prime Minister Trinh Dinh Dung concluded as follows:

Regarding land allocation and land lease for investment projects using land, the bidding is conducted through the selection of investors.

Regarding the forms of land allocation and land lease for projects in the investment incentive fields and geographical areas, investors are exempt from land rent and the auction of land use rights will be carried out in compliance with the Law on land.

The instruction is provided in Notice 344 / TB-VPCP dated 27/9/2019 of the Government Office.

Use e-invoices while using the invoices purchased from tax authorities

Enterprises that have used invoices purchased from tax authorities are allowed to use e-invoices if they meet the conditions required of organizations that are allowed create e-invoices as prescribed in Article 4.2 and Article 7.1 of Circular No. 32/2011/TT-BTC. Before using e-invoices, enterprises must comply with the e-invoice issuance notice as prescribed by law.

When starting to use e-invoices, enterprises must stop using and destroy the invoices purchased from tax authorities. In addition, enterprises must submit a monthly report on the use of invoices from the the first day of the month to the end of the day when enterprises stop using invoices purchased from tax authorities, and switch to submitting quarterly reports on invoice usage from the next day as prescribed in Article 27 of Circular No. 39/2014/TT-BTC above.

The instruction is provided in Official Letter 73694/CT-TTHT dated 23/9/2019 of Hanoi Tax Department.

VAT on tour contracts made at the package price

If the enterprise signs a contract to provide travel services in the form of package tour (meals, accommodation and travel), the package price is considered VAT-inclusive. If the package price is inclusive of the costs of return flights, meals, accommodation, and other oversea expenses (if valid receipts are presented), then the collected amounts to cover those costs may be deducted from the taxable price (revenue). Input VAT on the goods and services serving the package tours will be declared and deducted in full pursuant to Article 5.2 of Circular No. 219/2013/TT-BTC dated 31/12/2013 of the Ministry of Finance.

Enterprises will declare VAT on the declaration form No. 01/GTGT (Issued in attachment to Circular No. 26/2015/TT-BTC).

The instruction is provided in Official Letter 73696/CT-TTHT dated of Hanoi Tax Department.

Tax on contracts for providing services abroad

If enterprises provide services which are executed and consumed outside of Vietnam, and satisfy the conditions prescribed in Article 9.2 of Circular No. 219/2013/TT-BTC, they are entitled to the VAT rate of 0%. When exporting services, enterprises use commercial invoices consistent with international practices as prescribed in Article 3.7 of Circular No. 119/2014/TT-BTC above.

If the income from the aforementioned service contracts in a foreign country (the country that has signed the agreement on avoidance of double taxation with Vietnam) is subject to CIT (or a tax of a similar nature to corporate income tax), the tax which has been paid in accordance with that country's law and the treaty will be deducted from the tax payable in Vietnam if it meets the conditions and complies with the principles prescribed in Article 48 of Circular No. 205/2013/TT-BTC.

The procedure for deducting foreign tax from tax payable in Vietnam is provided for in Article 44.4 of Circular 156/2013/TT-BTC.

The instruction is provided in Official Letter 74660/CT-TTHT dated 26/9/2019 of Hanoi Tax Department.



MONTHLY LEGAL UPDATE



GLOBAL VIETNAM LAWYERS

NO.	DOCUMENT TITLE	ISSUANCE DATE	EFFECTIVE DATE
GOVERNMENT			
1	Decree 75/2019/ND-CP stipulating administrative sanctions in the field of competition	26/09/2019	01/12/2019
2	Decree 74/2019/ND-CP on amending and supplementing a number of articles of Decree 61/2015/ND-CP on employment promotion policies and the National Fund for Employment.	23/09/2019	23/09/2019
3	Decree 73/2019/ND-CP regulating the investment in and applying information technology by using the State budget	05/09/2019	01/01/2020
4	Resolution 73/NQ-CP on an action program to implement Resolution 60/2018/QH14 on continuing to perfect and promote the policies and laws on management and use of state capital and assets in enterprises, and the equitization of state enterprises	23/09/2019	23/09/2019
PRIME MINISTER			
1	Decision 28/2019/QD-TTg amending and supplementing Article 2 of Decision 45/2017/QD-TTg on amending Decision 36/2016/QD-TTg on the application of ordinary import duties.	16/09/2019	01/11/2019
2	Decision 27/2019/QD-TTg on credit with respect to laborers in poor districts who work overseas under labor contracts until 2020	09/09/2019	25/10/2019
SUPREME PEOPLE'S COURT			
1	Official Letter 212/TANDTC-PC notifying online answers to queries arising from adjudication.	13/09/2019	13/09/2019

NO.	DOCUMENT TITLE	ISSUANCE DATE	EFFECTIVE DATE
SUPREME PEOPLE'S PROCURACY			
1	Decision 435/QD-VKSTC on regulations on the work of supervising bankruptcy settlement	26/09/2019	26/09/2019
MINISTRY OF INDUSTRY AND TRADE			
1	Circular 17/2019 / TT-BCT on abolishing legal documents issued or jointly issued by the Minister of Industry and Trade	11/09/2019	28/10/2019
MINISTRY OF NATURAL RESOURCES AND ENVIRONMENT			
1	Circular 15/2019/TT-BTNMT regulating the organization and operation of the Council for reviewing the license applications for access to genetic resources to conduct research for commercial purposes and development of commercial products	11/09/2019	28/10/2019
MINISTRY OF FINANCE			
1	Circular 62/2019/TT-BTC amending Circular 38/2018/TT-BTC determining the origins of imports and exports.	05/09/2019	21/10/2019
MINISTRY OF JUSTICE			
1	Decision 2402/QD-BTP on the list, life cycle, and depreciation rate for assets not eligible to be recognized as fixed assets, intangible or special fixed assets under the management of the Ministry of Justice	19/09/2019	19/09/2019
VIETNAM SOCIAL SECURITY			
1	Decision 1270/QD-BHXH amending the Regulation on management and issue of social insurance codes for people participating in social insurance and health insurance, in attachment to Decision 346/QD-BHXH	30/09/2019	30/09/2019



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