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NEWLY ISSUED LEGAL DOCUMENTS

1. Bidding to select investors to implement land using projects

On September 16, 2024, the Government issued Decree 115/2024/ND-CP (“Decree 115/2024”) detailing a number of articles and measures to implement the Law on Bidding on selecting investors to implement land using projects.

1.1 Investment projects using land must organize bidding to select investors

Article 4 of Decree 115/2024 stipulates that investment projects including: (i) investment projects to build urban areas, rural residential area projects for which the People's Council of the provincial level decides on land allocation and land lease; and (ii) projects in which the State recovers land for socio-economic development for national and other public interests must organize bidding to select investors as prescribed by the laws on industry and sector management, including: (1) domestic solid waste treatment facilities; (2) water supply facilities; (3) market construction; (4) rest stop facilities; (5) aviation service facilities at airports; (6) projects in the fields of education, health, culture, sports, and environment; (7) social housing construction; renovation and reconstruction of apartment buildings; housing for the people's armed forces; (8) horse and dog racing tracks; and (9) energy facilities.

1.2 Conditions for organizing bidding for land using investment projects

Article 4.3 of Decree 115/2024 stipulates that the land fund expected to implement the project must organize bidding to select investors that fully meet the following conditions:

- (i) Belonging to the case of land recovery for socio-economic development for national and public

interests as prescribed in Article 79 of Law on Land 2024. In case the land area for implementing the project includes a part of land managed by a State agency or organization that has not been allocated, not leased or has been allocated land for management, the State shall recover the land to allocate or lease through bidding to select investors to implement the project for the entire land area; and

- (ii) Belonging to the list of land areas for bidding for land using investment projects decided by the Provincial People's Council.

1.3 Build a summarizing score based on standards and criteria with corresponding proportions to evaluate bidding documents

Unlike Article 48 of Decree 25/2020, which stipulates the evaluation of bidding documents based on preliminary requirements on capacity and experience, according to Article 45 of Decree 115/2024, the evaluation of investors' bidding documents is carried out on the basis of the method of assessing social benefits and state benefits applied to evaluate the standards of capacity and experience of investors and the effectiveness of the investment and business plan proposed by investors, including land use efficiency, investment efficiency in developing industries, fields, and localities.

Accordingly, the construction of a summarizing score based on the combination of scores of standards and

criteria for each project to ensure a total proportion of 100% is specified as follows:

Criteria	Urban area construction investment projects; rural residential area projects as stated in section 1.1(i) above <i>(Proportion)</i>	Projects according to the law on industry and sector management as stated in section 1.1(ii) above <i>(Proportion)</i>	Energy construction investment projects <i>(Proportion)</i>
Ability and experience score	From 20% to 30% of total score.	From 30% to 40% of total score.	From 5% to 10% of total score.
Business investment plan score	From 20% to 30% of total score.	From 30% to 50% of total score.	From 5% to 10% of total score.
Land use efficiency score	From 40% to 60% of total score.		
Investment efficiency score for industry, sector and local development		From 10% to 40% of total score.	From 00% to 90% of total score.

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Thus, depending on each specific project, the law stipulates the evaluation score for each criterion, which will account for a different proportion of the summarizing score to evaluate the bidding documents on the basis of considering the social benefits and state benefits that the investor will bring if selected to implement the project.

average increase rate after the auction of land use rights (*the difference between the starting price and the winning price*) calculated on an area unit of all land plots, land funds, and reference land plots. This rate *m* is the basis for investors to propose the rate of payment to the state budget in the bidding documents (*M*), accordingly, $M \geq m$.

1.4 Regulations on minimum rate of payment to the state budget

Article 48 of Decree 115/2024 stipulates the criteria for assessing land use efficiency applied to urban area projects; rural residential areas as stated in Section 1.1(i) above and determined in the bidding documents on the basis of the “minimum rate of payment to the state budget” (*m*). In which, the rate *m* is the

Thus, after winning the bid, the investor will pay to the state budget an amount determined based on the ratio *M* and the land levies and land rent payable as prescribed by land regulations according to the following formula: *Value paid to the state budget at the time of paying land levies and land rent = M x Land levies and land rent payable by the investor at the time of paying land levies and land rent.*

1.5 The winning investor has the right to establish an economic organization to implement the land using projects

According to Article 51 of Decree 115/2024, the winning investor is entitled to directly implement the project or establish an economic organization to implement the investment project using land. In particular, for foreign investors who win the bid, it is mandatory to establish an economic organization to be allocated land or leased land to implement the project as prescribed by the law on land.

The economic organization established by the winning investor must have 100% of the charter capital held by the winning investor and has the following rights and obligations:

- Be allocated land or leased land by the State to implement the investment project using land as prescribed by the law on land.
- Inherit the rights and obligations of the winning investor according to the commitments in the bidding documents and the provisions of the project contract.
- Pay land levies and land rent as prescribed by the law on land.

1.6 Conditions for transferring shares and capital contributions in economic organizations established by winning investors

Articles 52.4 and 52.5 of Decree 115/2024 allow economic organizations to be established by winning investors to transfer shares and capital contributions of members and shareholders in the economic organization before the project

is exploited and operated, but they must satisfy the following conditions:

- (i) Approved by a competent authority based on the evaluation opinion of the inviting party;
- (ii) The investor receiving the transfer must have legal status and meet the operating conditions according to the law corresponding to each type of economic organization, laws on investment, enterprises, land, real estate business and laws on management of sectors and fields; have capacity and experience corresponding to the shares and capital contributions expected to be transferred (in case of partial transfer) or have capacity and experience equivalent to or higher than that of the transferring investor (in case of full transfer); be required to inherit the rights and obligations to implement the investment project that the transferring investor has committed to in the bidding documents and project contract; and
- (iii) The investor receiving the transfer of shares and capital contributions of the consortium members must ensure the minimum equity ratio of each member as prescribed.

From the time the project is put into operation, the transfer of shares and capital contributions will be carried out as prescribed by the law on enterprises and the law corresponding to each type of economic organization without having to satisfy the conditions stated above.

Decree 115/2024 will take effect from the date of signing, September 16, 2024, and replaces Decree 25/2020/ND-CP ("**Decree 25/2020**").

2. Amendments and supplements to regulations on trade promotion activities

On October 10, 2024, the Government issued Decree 128/2024/ND-CP (“**Decree 128/2024**”) amending and supplementing a number of articles of Decree 81/2018/ND-CP (“**Decree 81/2018**”) detailing the Law on Commerce on trade promotion activities. Decree 128/2024 will take effect from December 1, 2024 with some notable novelties related to promotional activities.

2.1 Adding a form of promotion that does not apply a maximum limit on the value of goods and services used for promotion

According to Article 1.1 of Decree 128/2024, the material value used for promotion for a unit of goods and services being promoted must not exceed 50% of the selling price immediately before the promotion period of that unit of goods and services being promoted, except for the case of promotion in the forms prescribed in Articles 92.8 and 92.9 of the Commercial Law 2005 and Articles 8, 9.2, 12, 13 and 14 of Decree 81/2018.

Or the total value of goods and services used for promotion in a promotion program must not exceed 50% of the total value of the goods and services being promoted, except for the case of promotion in the form prescribed in Articles 92.8 and 92.9 of the Commercial Law 2005 and Articles 8 and 9.2 of Decree 81/2018.

Thus, Decree 128/2024 has amended and supplemented Articles 6.1 and 6.2 of Decree 81/2018 in the direction of adding cases where the maximum limit on the value of goods and services used for promotion is not applied, which are *other forms of promotion if approved by the state management agency in terms of commerce as prescribed in Article 92.9 of the Commercial Law.*

2.2 Two forms of promotion required to notify promotional activities

According to Article 17.2 of Decree 81/2018, the forms of promotion specified in Article 92.8 of the Commercial Law and Articles 8, 9, 10, 11, 12, 14 of Decree 81/2018 do not have to carry out the promotion notification procedure to the Department of Industry and Trade if they fall into the following cases: (1) the promotion program has a total value of prizes and gifts under VND 100 million; and (2) only conduct sales and promotions through e-commerce trading floors and online promotion websites.

However, the above provision has been amended by Decree 128/2024 in Article 1.3, accordingly, traders do not have to carry out administrative procedures to notify promotional activities in the following cases:

- (1) Conducting promotions in the forms prescribed in Article 92.8 of the Commercial Law and Articles 8, 9, 10, 11 of Decree 81/2018;
- (2) Conducting promotions in the forms prescribed in Articles 12 and 14 of Decree 81/2018 with a total value of prizes and gifts of less than VND 100 million; and

Only implementing promotional programs in the forms prescribed in Articles 12 and 14 of Decree 81/2018 for

goods and services sold and provided through e-commerce trading floors, e-commerce trading floor applications, online promotional websites and online promotional applications.

2.3 Extending the deadline for payment of the announced prize amount of the promotional program without a winner

In case the trader conducts a promotion in the form of *selling goods, providing services together with participation in lucky programs where participation in the program is linked to the purchase of goods, services and winning the prize is based on the luck of the participant according to the announced*

rules and prizes (lucky promotional program) and other forms of promotion as prescribed in Article 92.9 of the Commercial Law without a winner, the trader must deduct 50% of the announced value of the prize in the promotional program by paying to the state budget **within 45 days of receipt of the collection decision of the state management agency**. This regulation has a major change compared to the regulation in Decree 81/2018, according to which traders must pay 50% of the announced value of the prize without a winner within 15 working days of receipt of the collection decision of the state management agency.



GLOBAL VIETNAM
LAWYERS

1. Value added tax policy for industrial park infrastructure business activities and profit transfer abroad

Regarding value added tax (VAT): In case the Company obtains land allocation by the State for a limited period and with one-off land levies collected to build an industrial park for re-lease, the revenue for calculating and paying VAT will be the one-off amount the Company has collected from the customer for the entire lease period.

Regarding the transfer of profits abroad: The Company is allowed to transfer profits abroad at the end of the fiscal year or at the end of direct investment activities in Vietnam after the Company has fulfilled its financial obligations to the Vietnamese State as prescribed by law, submitted audited financial statements and corporate income tax finalization declarations to the direct tax authority and fully performed its obligations as prescribed by the Law on Tax Administration and its implementing guidelines.

Binh Phuoc Provincial Tax Department replies to the question of DDK Vietnam Industrial Investment Co., Ltd in Official Letter No. 3334/CTBPH-TTHT dated October 2, 2024.

2. Issuing VAT invoices for bank interest

In case the Company has idle money deposited in banks, the income from interest on bank deposits of the Company will be considered as other financial income which is not required to be declared and paid VAT. The Company does not have to issue invoices for this financial income but only issue receipts according to regulations.

Binh Duong Provincial Tax Department replies to the question of TSM Vietnam Co., Ltd in Official Letter No. 25992/CTBDU-TTHT dated September 27, 2024.

3. Making a commercial discount invoice

If the Company applies commercial discounts to customers in accordance with the law, the invoice content will have to ensure compliance with Article 10.6(dd) of Decree 123/2020/ND-CP. In case the commercial discount is based on the quantity and turnover of goods and services, the discount amount of the sold goods will be adjusted on the invoice for the sale of goods and services of the last purchase or the following period. In case the discount amount is made at the end of the sales discount program (period), the Company will make an adjustment invoice with a list of invoices that need to be adjusted, the amount, and the adjusted tax amount. Based on the adjustment invoice, the seller and the buyer declare the adjustment of the purchase and sale revenue, output and input taxes.

Bac Giang Provincial Tax Department replies to the question of Cong Minh Trading Co., Ltd. in Official Letter No. 6876/CTBGI-TTHT dated October 1, 2024

4. Tax policy for loan collateral

In case the Company mortgages real estate to borrow capital from the Bank, is no longer able to repay the debt and has handed over the collateral to the Bank according to the agreement to replace the debt repayment obligation:

- The Company neither has to issue a VAT invoice, nor has to declare and pay VAT when handing over the collateral to the Bank.

- In case the collateral that the Company has handed over to the Bank for auction has a value greater than the Company's debt and the Bank returns the difference, the Company must declare and pay corporate income tax on the proceeds from the difference. In case the Company does not receive any proceeds from the handover of

collateral to the Bank, it will not have to declare and pay corporate income tax on the debt assignment by collateral.

Dong Thap Provincial Tax Department replies to the question of QVD Dong Thap Food JSC. in Official Letter No. 1641/CTDTH-TTHT dated dated September 30, 2024.



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LAWYERS

1. Proposal to reduce land rent by 30% in 2024

According to the draft proposal to develop a Government decree regulating the reduction of land rent in 2024, the Ministry of Finance has proposed two options to reduce land rent. In which, option 1 reduces 15% of the land rent payable in 2024 for land lessees; option 2 reduces 30% of the land rent payable in 2024 for land lessees.

The subjects eligible for land rent reduction are organizations, units, enterprises, households, and individuals who are leasing land from the State, in the form of paying annual land rent, and also cases where land lessees are not in the group exempted or reduced from land rent, and cases where land lessees are receiving land rent reduction as

prescribed by the law on land and other relevant laws.

The Ministry of Finance plans to submit the Government a proposal for option 2 to suit the new socio-economic developments of the whole country. Specifically, the growth rate in the last 6 months of the year of the whole country and many localities is forecast to slow down; GDP growth in the third quarter of the whole country may decrease by 0.35%, and in the fourth quarter by 0.22% compared to the scenario without storm No. 3. For option 1 proposed by the Ministry of Finance in the scenario without storm No. 3.

By plo.vn

2. The Prime Minister's new direction focuses on direct electricity trading, opening the window for small customers to participate

The Government Office has just issued a document conveying the Prime Minister's direction on handling press information reflecting on Decree 80/2024/ND-CP regulating the mechanism of direct electricity trading between renewable energy power generation units and large electricity users (DPPA mechanism).

Previously, the press reflected information on Decree 80/2024/ND-CP on the newly issued DPPA mechanism, but it only applied to 7,000 large customers. These customers must have an average electricity consumption of 200,000kWh per month to participate in the DPPA mechanism. Meanwhile, there are tens of thousands of smaller-scale export enterprises in demand for DPPA.

Therefore, Prime Minister Pham Minh Chinh asked Deputy Prime Minister Tran Hong Ha and Deputy Prime

Minister Bui Thanh Son to carefully study Power Planning 8 to add more renewable energy sources.

In particular, creating conditions for enterprises and people to participate in production and consumption; participate in the transparent and public electricity market. This is to serve green growth and export goods to markets that require the use of clean energy, for the dry season of 2025.

At the same time, the Prime Minister also assigned Deputy Prime Minister Tran Hong Ha and Deputy Prime Minister Bui Thanh Son to co-chair a meeting with relevant agencies to promptly implement the review and supplementation of Power Planning 8 in October 2024, and related accompanying documents.

By tuoitre.vn

No.	Document title	Issuance date	Effective date
GOVERNMENT			
1	Decree No. 128/2024/ND-CP amending and supplementing a number of articles of Decree 81/2018/ND-CP detailing the Commercial Law on trade promotion.	October 10, 2024	December 1, 2024
2	Decree 125/2024/ND-CP stipulating conditions for investment and operation in the education sector.	October 5, 2024	November 20, 2024
3	Decree 123/2024//ND-CP on penalties for administrative violations against regulations on land.	October 4, 2024	October 4, 2024
4	Decree 122/2024/ND-CP amending and supplementing a number of articles of Decree No. 14/2018/ND-CP detailing border trade activities.	October 4, 2024	December 1, 2024
5	Decree 119/2024/ND-CP regulating electronic payment for road traffic.	September 30, 2024	October 1, 2024
PRIME MINISTER			
1	Decision 1011/QD-TTg promulgating the List of key energy-using establishments in 2023.	September 20, 2024	September 20, 2024
MINISTRY OF PLANNING AND INVESTMENT			
1	Circular 15/2024/TT-BKHĐT stipulating the form of bidding documents for selecting investors to implement investment projects under the public-private partnership method, business investment projects; providing and posting information on investment under the public-private partnership method, bidding for selecting investors on the National Bidding Network System	September 30, 2024	September 30, 2024
MINISTRY OF CONSTRUCTION			
1	Circular 18/2024/TT-BCT promulgating the list of scraps under suspension of temporary import for re-export or border-gate transfer.	October 8, 2024	January 1, 2024
MINISTRY OF FINANCE			
1	Circular 68/2024/TT-BTC amending and supplementing a number of articles of Circulars prescribing securities transactions in securities trading system; clearing and payment of securities transactions; operation of securities companies and information disclosure on the securities market.	September 18, 2024	November 2, 2024
MINISTRY OF SCIENCE AND TECHNOLOGY			
1	Circular 06/2024/TT-BKHHCN amending and supplementing a number of articles of Circular 11/2015/TT-BKHHCN detailing and guiding the implementation of a number of articles of Decree 99/2013/ND-CP on sanctioning of administrative violations in the field of industrial property.	September 30, 2024	November 15, 2024
MINISTRY OF HEALTH			
1	Circular 19/2024/TT-BYT promulgating the List of imported and exported medical equipment with commodity codes determined according to Vietnam's Nomenclature of exports and imports.	October 1, 2024	November 16, 2024
2	Circular 16/2024/TT-BYT promulgating the List of insecticidal or germicidal preparations for household and medical use with HS codes determined according to Vietnam's Nomenclature of exports and imports.	September 30, 2024	November 15, 2024



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