

Legal news

April 2012

Contents

HIGHLIGHTED UPDATES.....	2
Other Sectors.....	7
Finance - Banking.....	7
Audit - Statistics.....	7
Securities.....	8
Taxation.....	8
Trade.....	8
Labour.....	9
Education.....	9
Health.....	10
Transport.....	10
Science - Technology.....	11
Energy.....	11
Administration - Judiciary.....	12
Agriculture.....	12
Culture - Sports.....	13
Miscellaneous.....	13
Contact Details.....	14

This **Legal news** is published solely for our clients and other interested persons. It is intended to be used for general information purpose only and should not be relied upon as legal advice or opinion. Professional advice should be sought for any specific situation. Please direct your inquiries to our offices or persons listed at the end of this Legal news.

This **Legal news** is also available online at www.vision-associates.com

© Vision & Associates 2012. All rights reserved

HIGHLIGHTED UPDATES

1. Scale of stock market capitalization will account for 50% of GDP by 2015

The above content was contained in Decision No. 450/QĐ-TTg dated 18 April 2012 of the Prime Minister on approving Financial Strategy up to 2020 (“Decision 450”)

According to Decision 450, general objective of the Financial Strategy up to 2020 aims at building a strong national finance, to ensure the maintenance of the financial security, to stabilize macroeconomic and financial – monetary system, to create conditions to impulse economic growth associated with changing growth model and restructuring the economy, to solve welfare problems; mobilizing, managing, distributing and using financial resources of the society effectively and fairly; carrying out administrative reformation comprehensively and overall; ensuring efficiency and effectiveness of the financial management and supervision.

Specifically,

- (i) The investment proportion of the whole social in the period between 2011 and 2015 will account for from 33.5 to 35% of GDP;
- (ii) The total revenue of taxes and fees for the period between 2011 and 2015 will account for 22-23% of GDP, the period between 2016 and 2020 will account for 21-22% of GDP; in which the domestic revenue (excluding the revenue from crude petroleum) will account over 70% of the total state budget revenue by 2015 and will account over 80% of the total state budget revenue by 2020;
- (iii) Scale of stock market capitalization will account for 50% of GDP in 2015 and will account for 70% of GDP in 2020; balance of bond market debt will account for 30% of GDP in 2020; total revenue of insurance industry will account for 2% to 3% of GDP in 2015 and 3% to 4% of GDP in 2020;
- (iv) Reducing the state budget over-expenditure to under 4.5% of GDP in 2015 (including Government bonds) and in the period of 2016-2020, equivalent to 4% of GDP;
- (v) Public debt (including Government debts, the debts guaranteed by the Government and local authorities’ debts) until 2020 will not be more than 65% of GDP; the balance of overseas debt will not exceed 50% of GDP; the balance of Government debt will not exceed 55% of GDP;
- (vi) The total State reserves will account for from 0.8% to 1% of GDP by 2015 and it will account for 1.5% of GDP by 2020.

The Decision 450 takes effect on 18 April 2012.

2. Land Use Right Registration Offices are strengthened to become into a direct subordinate

It is a content approved by the Prime Minister at Decision No. 447/QĐ-TTg dated 17 April 2012 (“Decision 447”) on approval of pilot Scheme on strengthening the land use right registration offices system becoming a direct subordinate of the provincial Departments of Natural Resources and Environment (the “Project”).

Pursuant to Decision 447, the object of the Scheme aimed to strengthen the land use right registration offices system becoming a direct subordinate of the provincial Departments of Natural Resources and Environment in order to overcome the limitations of the current land use right registration offices system at two levels and to move towards the standardization of the current land use right registration offices system according to the model of countries around the world, and in accordance with the conditions of modern technology.

The Scheme was piloted in 4 provinces and cities with the scope as follows: Ha Nam Province (Phu Ly City and 2 Ly Nhan and Kim Bang rural districts); Hai Phong City (Ngo Quyen urban district and Thuy Nguyen rural district); the whole of Da Nang City (6 urban districts and 2 rural districts) and the whole of Dong Nai Province (1 city, 1 town, and 9 rural districts).

The model of the one-level registration office is the provincial registration offices directly under the provincial Departments of Natural Resources and Environment, with the branches which are arranged according to the geographical scope of locality (each branch shall be in charge of a rural district, or a urban district, or a city directly under the province), is established based on changing the status from the registration offices directly under the Divisions of Natural Resources and Environment of the piloted cities, towns, urban districts, and rural districts. The branches are managed and instructed directly and comprehensively from the provincial registration offices; they are not independent accounting units but under the unified management of the provincial registration offices, however the branches have their own official seals to implement the registration functions according to their authority.

The Branches of the registration office have the functions, duties and authority of the one-level registration office within the geographic area scope assigned for their management, including: the implementation of the procedures for registration, the issuance of certificates of the land use rights and ownership over residential housing and other property attached to land and the registration of changes to all subjects (organizations, households, individuals, population communities and religious institutions); the certification of changes in the issued Certificates for the cases of registration of changes without issuance of new Certificates, and the regular update and revision of cadastral documents and database; the management, update and correction of cadastral documents and provision of land information; and periodical land statistic implementation.

The particular authority to issue the Certificates will be piloted in Da Nang City assigning the Department of Natural Resources and Environment to sign the Certificates for all subjects, including: Domestic and foreign organizations and individuals, households, population communities, and religious establishments.

The Scheme is anticipated to be implemented during 21 months (commencing from April 2012 and ended in December 2013). This Decision took effect on 17 April 2012.

3. The common minimum wage of VND 1,050,000/month to be applied as from 1 May 2012

The above content is contained in Decree No. 31/2012/ND-CP dated 12 April 2012 providing for the common minimum wage (“Decree 31”).

According to Decree 31, the common minimum wage applies to cadres, public officials, public servants, armed forces servicemen and employees who are working for (i) State agencies, armed forces, political organizations and socio-political organizations; (ii) Non-business professional units of the State; Non-business professional units of political organizations and socio-political organization; and (iii) State-owned single member limited liability companies, which are organized and managed and operate under the Law on Enterprises.

The above-mentioned common minimum wage is used as a basis for calculating wage levels in the system of wage scales, payrolls and wage-based allowance levels and implementing a number of other regimes stipulated by law with regard to cadres, public officials, public servants, armed forces servicemen and employees working for agencies, units and organizations mentioned above.

Funds for applying the common minimum wage to employees working in State-owned single member limited liability companies shall be provided by these companies and may be accounted into their product costs or production or business expenses.

The State budget shall assure funds for applying the common minimum wage to the remaining subjects from the sources (i) Use of saved 10% from the regular expenditures; (ii) Use of at least 40% of revenues of administrative agencies and non-business professional units, which is permitted to be retained in accordance with 2012 regulations. Use of at least 35% of revenues permitted to be retained at non-business professional units of the health sector under regulations; (iii) Use of 50% of increased revenues of local budgets; (iv) expenditures funded by the State budget for the wage reform that remain unused by the end of 2011; (v) additional expenditures funded by the central budget in cases of short of funds; and (vi) the central budget’s supports for localities with difficult conditions, which cannot balances the accounts.

Decree 31 shall take effect on 1 June 2012; Entitlements provided for in this Decree are applied from 1 May 2012. Decree 31 repeals Decree 22/2011/ND-CP dated 4 April 2011 providing for the common minimum wage.

4. Amendments of Law on Enterprises and Law on Investment will be completed within the 2nd quarter of 2012

This is the content contained in Decision No. 419/QĐ-TTg of the Prime Minister dated 11th April 2012, approving the Scheme on innovation of the State management with respect to the post-establishment registration of enterprises (“Decision 419”).

According to Decision 419, main groups of solutions include:

- (i) Group of solutions to innovate the supervision model to oversee enterprises after their registration to be established, following the orientation that promotes the role of society and other subjects in order to support the State administration in respect of the enterprise management and supervision;
- (ii) Group of solutions to reform the legislative process for the laws on enterprises; and
- (iii) Group of solutions to increase the efficiency and validity of the apparatus in charge of the State administration over enterprises after their registration to be established.
 - (a) To clearly provide for rights and responsibilities of bodies in charge of the State administration over enterprises after their registration to be established.
 - (b) To promulgate the regulation on specific co-operation between State management bodies at central and provincial levels when implementing State administration over enterprises after their registration to be established, following orientation of strengthened validity and efficiency of State administration, consistency and compliance with laws and convenience for enterprises.
 - (c) To absolutely apply information technology to enterprise registration administration and exchange of information between State management bodies; to focus on completing the National Database of Business Registration and progressing to link and share online legal database of enterprises to other State management bodies; to widely and publicly publish information about enterprise registration to which every enterprise and the folks are able to access.
 - (d) To strengthen the capacity and consolidate structure of bodies and units in charge of inspecting or examining enterprises at multiple levels and in multiple sectors, in order to ensure the quality of inspection, examination and supervision and at the same time, to restrict the discrimination and extortion towards enterprises.
 - (e) To organize training classes for officers of multiple echelons to foster and improve their skills and professional knowledge on State management over enterprises.

The Ministry of Planning and Investment is responsible for completing the Decree to replace Decree No. 53/2007/ND-CP and Decree No. 62/2010/ND-CP within the fourth quarter of 2012, and the Laws amending and supplementing a number of articles of Law on Enterprises and Law on Investment within the third quarter of 2013.

The Decision 419 takes effect on 11 April 2012.

Other Sectors

Finance - Banking

- On 23 April 2012, the State Bank of Vietnam issued Decision No. 780/QD-NHNN on the classification of debts entitled to the repayment payment period adjustment or extension.
- Circular No. 12/2012/TT-NHNN dated 27 April 2010 of the State Bank of Vietnam on the amendment of and supplement to a number of articles of Circular No. 11/2011/TT-NHNN dated 29 April 2011 of the Governor of the State Bank of Vietnam providing for the termination of mobilizing capital and lending in gold by credit institutions.
- On 19 April 2012, the Ministry of Education and Training and the Ministry of Labour, War Invalids and Social Affairs jointly stipulated Inter-ministerial Circular No.14/2012/TTLT-BGDDT-BLDTBXH providing guidelines for the mechanism on coordination in supplying information to website on loans for learning and in service of management of credits in favour of pupils and students.
- Circular No. 10/2012/TT-NHNN of the State Bank of Vietnam dated 16 April 2012 providing for post-inspection and post-supervision settlements in respect of credit institutions and foreign banks' branches.
- On 10 April 2012, the State Bank of Vietnam issued Circular No. 09/2012/TT-NHNN providing for the use of payment instruments to disburse loans of credit institutions and foreign banks' branches to clients.
- Circular No. 08/2012/TT-NHNN of the State Bank of Vietnam on the amendment of and supplement to a number of articles of Circular No.30/2011/TT-NHNN dated 28 September 2011 providing for the maximum interest rate applicable to deposits in Vietnamese Dong of organizations and individuals at credit institutions and foreign banks' branches.

Audit - Statistics

- On 6 April 2010, the State Audit stipulated Decision No. 05/2012/QD-KTNN issuing the Process of auditing State Budget.
- Decision No. 04/2012/QD-KTNN dated 6 April 2010 of the State Audit issuing the Process of auditing enterprises.
- On 4 April 2010, the State Audit issued Decision No. 03/2012/QD-KTNN issuing the Process of auditing Investment projects for construction of works.
- Decision No. 02/2012/QD-KTNN dated 4 April 2010 of the State Audit issuing the Process of auditing National target programs.

- On 9 April 2012, the Ministry of Finance stipulated Circular No. 53/2012/TT-BTC providing for the management, use and finalization of expenditures for Total statistic surveys decided by the Prime Minister.
- Circular No. 02/2012/TT-BKHDT dated 4 April 2012 of the Ministry of Planning and Investment providing the year 2010 for the original year in lieu of the original year 1994 to calculate statistic norms according to comparative prices.

Securities

- On 3 April 2012, the Ministry of Planning and Investment issued Decision No.396/QD-BKHDT on the detailed allocation of Plan of capital from the Governmental bonds for the period from 2012 to 2015 and the year 2012.
- Decision No. 368/QD-TTg dated 3 April 2012 of the Prime Minister on allotting the plan of capital from the Governmental bonds for the period from 2012 to 2015 and the year 2012.
- On 5 April 2012, the Ministry of Finance stipulated Circular No. 52/2012/TT-BTC providing guidelines for publication of information at securities markets.

Taxation

- Circular No. 67/2012/TT-BTC dated 27 April 2012 of the Ministry of Finance adjusting preferential import tax rates applicable to commodity being stainless steel in bar and rod under the sub-heading 7222.30.10 in the Preferential Import Tariff.
- On 23 April 2012, the Ministry of Finance issued Circular No. 63/2012/TT-BTC amending special preferential import tax rates applicable to a number of group of commodities in the Special Preferential Import Tariffs.
- Circular No. 58/2012/TT-BTC dated 12 April 2012 of the Ministry of Finance providing guidelines for the implementation of Decision No. 05/2012/QDD-TTg dated 19 January 2012 of the Prime Minister on the pilot refund of value-added tax with respect to goods bought in Vietnam and carried by foreigners in exit from the country via the bordergates of Noi Bai and Tan Son Nhat International Airports.

Trade

- On 3 April 2012, the Government stipulated Decree No. 24/2012/ND-CP on the management of activities of gold business.
- Decision No. 19/2012/QD-TTg dated 10 April 2012 of the Prime Minister on establishing the economic zone of Mong Cai border-gate, Quang Ninh Province.
- On 17 April 2012, the Ministry of Finance issued Circular No. 62/2012/TT-BTC providing the customs procedures for gasoline and oils bought from abroad for

temporary import to interchangeably use gasoline and oils bought from Dung Quat refinery for re-export to Laos.

- Circular No. 57/2012/TT-BTC dated 11 April 2012 of the Ministry of Finance providing guidelines for the pilot mechanism of mobilizing funds to support the prevention of and fighting against cigarette traffic; and production and traffic of fake cigarettes.
- On 9 April 2012, the Ministry of Industry and Trade stipulated Circular No.08/2012/TT-BCN issuing the List of products and goods capable of causing unsafeness, which are subject to the Ministry of Industry and Trade's management responsibility.

Labour

- Decision No. 487/QD-LDTBXH dated 23 April 2012 of the Ministry of Labour, War Invalids and Social Affairs on managing and organizing the implementation of the National program on labour safety and hygiene for the period from 2011 to 2015.
- On 9 April 2012, the Ministry of Labour, War Invalids and Social Affairs issued Decision No. 447/QD-LDTBXH announcing administrative procedures to be abrogated, amended and supplemented within the scope of the Ministry of Labour, War Invalids and Social Affairs's management function.
- Circular No. 10/2012/TT-BLDTBXH dated 26 April 2012 of the Ministry of Labour, War Invalids and Social Affairs providing guidelines for the implementation of the common minimum wage with respect to State-owned one member limited liability companies.
- On 26 April 2012, the Ministry of Labour, War Invalids and Social Affairs stipulated Circular No. 09/2012/TT-BLDTBXH providing guidelines for the adjustment in pensions, social insurance allowances and monthly allowances under Decree No. 35/2012/ND-CP dated 18 April 2012 and Decree No.31/2012/ND-CP dated 12 April 2012.
- Circular No. 07/2012/TT-BLDTBXH dated 16 April 2012 of the Ministry of Labour, War Invalids and Social Affairs on the promulgation of National technical regulation on the respiratory protective equipment – Dust filters.

Education

- On 3 April 2012, the Executive Committee of Scheme on improving the quality of law dissemination and education in schools issued Decision No. 1252/QD-BDHDA promulgating the Plan of implementing the Scheme on “Improving the quality of law dissemination and education in schools” in the year of 2012.

- Circular No. 13/2012/TT-BGDDT dated 6 April 2012 of the Ministry of Education and Training on the promulgation of Standards for evaluation of secondary schools, high schools and multi-level general schools.

Health

- On 25 April 2012, the Government stipulated Decree No. 38/2012/ND-CP detailing the implementation of a number of articles of Law on Food Safety.
- Decision No. 1223/QD-BYT dated 18 April 2012 of the Ministry of Health on the correction of Inter-ministerial Circular No. 04/2012/TTLT-BYT-BTC dated 29 February 2012 of the Ministry of Health and the Ministry of Finance on the promulgating the maximum price frame for a number of services of medical examination and treatment in health examination and treatment establishments of the State.
- On 20 April 2012, the Ministry of Health issued Circular No. 06/2012/TT-BYT providing for establishment conditions and operational contents with respect to HIV/AIDS consulting organizations.

Transport

- Decision No. 480/QD-TTg dated 24 April 2012 of the Prime Minister approving the Agreement on Air Transport between the Government of the Socialist Republic of Vietnam and the Government of the United Kingdom of Great Britain and Northern Ireland.
- On 24 April 2012, the Ministry of Transport stipulated Circular No. 13/2012/TT-BGTVT amending and supplementing a number of articles of Circular No.09/2010/TT-BGTVT dated 6 April 2010 of the Minister of Transport providing for environmental protection when developing transport infrastructures.
- Circular No. 12/2012/TT-BGTVT dated 24 April 2012 of the Ministry of Transport providing for the clothing, insignias and badges of civil aviation security forces.
- On 12 April 2012, the Ministry of Transport issued Circular No. 11/2012/TT-BGTVT providing for professional standards and certificates of crew members and minimum safe staffing for sea-going vessels of Vietnam.
- Circular No. 10/2012/TT-BGTVT dated 12 April 2012 of the Ministry of Transport providing for the organization and operation of load testing stations for land road vehicles.

Construction - Land

- On 9 April 2012, the Ministry of Industry and Trade stipulated Decision No.1731/QD-BCT approving the Planning on development of construction equipment manufacturing industry for the period from 2009 to 2020, with orientation to 2025.
- Decision No. 322/QD-BXD dated 6 April 2012 of the Ministry of Construction on the announcement of rates of construction investment capital and level of expenses for treatment of life-circle-based solid wastes.
- On 3 April 2012, the Prime Minister issued Decision No. 371/QD-TTg approving the detailed planning on crossroads connected with the Ho Chi Minh Trail.
- Circular No. 03/2012/TT-BTNMT dated 12 April 2012 of the Ministry of Natural Resources and Environment providing for the management and use of semi-submerged land in hydropower and irrigation reservoirs' beds.

Science - Technology

- On 16 April 2012, the Prime Minister stipulated Decision No. 440/QD-TTg approving the Memorandum of co-operation in the field of education, higher education and scientific research between the Government of the Socialist Republic of Vietnam and the Government of the State of Qatar.
- Decision No. 439/QD-TTg dated 16 April 2012 of the Prime Minister approving the list of national products to be implemented from 2012 under the Program on development of national products up to 2020.
- On 11 April 2012, the Prime Minister issued Decision No. 418/QD-TTg approving Science and technology development strategy for the period from 2011 to 2020.
- Circular No. 34/2012/TT-BQP dated 17 April 2012 of the Ministry of National Defense detailing the implementation of a number of articles of Decision No.111/2009/QD-TTg dated 1 September 2009 of the Prime Minister providing conditions and procedures for participation in defense industry activities.

Energy

- On 20 April 2012, the Ministry of Industry and Trade stipulated Circular No.09/2012/TT-BCT providing for the setting up of plans and reports on the implementation of plans with respect to plans of cost-effective use of energy; and the implementation of energy audit.
- Circular No. 07/2012/TT-BCT dated 4 April 2012 of the Ministry of Industry and Trade providing energy labeling for energy-consumed tools and equipment.

Administration - Judiciary

- On 4 April 2012, the Standing Committee of the National Assembly issued Resolution No. 475/NQ-UBTVQH13 on the organization of supervision activities with respect to settlement of voters' petitions.
- Resolution No. 474/NQ-UBTVQH13 dated 4 April 2012 of the Standing Committee of National Assembly on the organization of supervision activities with respect to settlement of citizens' complaints and denunciations.
- On 27 April 2012, the Government stipulated Decree No. 39/2012/ND-CP amending and supplementing a number of articles of Decree No. 42/2010/ND-CP dated 15 April 2010 detailing the implementation of a number of articles of Law on Emulation and Rewards and Law on amendments of and supplement to a number of articles of the Law on Emulation and Rewards.
- Decree No. 36/2012/ND-CP dated 18 April 2012 providing for functions, duties, powers and organizational structures of the Ministries and ministerial-level agencies.
- On 5 April 2012, the Government issued Decree No. 26/2012/ND-CP providing for orders, procedures, authorities and expenditures in service of receipt, collection, classification, preservation, liquidation and destruction of weapons, explosive materials and supportive tools.
- Decree No. 25/2012/ND-CP dated 5 April 2012 detailing the implementation of a number of articles of Ordinance on management and use of weapons, explosive materials and supportive tools.
- On 16 April 2012, the Ministry of Justice stipulated Decision No. 634/QD-BTP on the approval for and application of the System of quality management documents and processes according to TCVN ISO 9001: 2008 standard in operations of agencies under the Ministry of Justice.
- Circular No. 23/2012/TT-BCA dated 27 April 2012 of the Ministry of Public Security providing for residential zones, communes, wards, towns, agencies, enterprises and schools meeting standards on security and order.
- On 13 April 2012, the Ministry of Public Security issued Circular No.21/2012/TT-BCA providing for seals of the State's agencies and titles.
- Circular No. 01/2012/TT-TTCP dated 9 April 2012 of the Government Inspectorate providing for the samples and the management and use of Inspector Cards.

Agriculture

- On 25 April 2012, the Ministry of Agriculture and Rural Development stipulated Decision No. 911/QD-BNN-CB announcing the organizations and individuals producing machines and equipment for reduction of post-harvest losses, that shall

be entitled to policies under Decision No. 63/2010/QĐ-TTg dated 15 October 2010 and Decree No. 65/2011/QĐ-TTg dated 2 December 2011 of the Prime Minister.

- Circular No. 18/2012/TT-BNNPTNT dated 26 April 2012 of the Ministry of Agriculture and Rural Development providing for the management of production and business of industrial plants and perennial fruit-trees' varieties.
- On 18 April 2012, the Ministry of Agriculture and Rural Development issued Circular No. 17/2012/TT-BNNPTNT promulgating the "List of additional plant varieties allowed to be produced and traded in Vietnam".

Culture - Sports

- Decree No. 37/2012/NĐ-CP dated 24 April 2012 on sanctioning administrative violations in the field of physical exercise and sports.
- On 13 April 2012, the Government issued Decree No. 33/2012/NĐ-CP amending and supplementing a number of articles of Decree No. 35/2010/NĐ-CP dated 21 April 2010 providing for the organization, operation and management of associations.
- Decree No. 32/2012/NĐ-CP dated 12 April 2012 on the management of export and import of cultural products without business purpose.
- On 12 April 2012, the Government stipulated Decree No. 30/2012/NĐ-CP on the organization and operation of the social funds and charity funds.
- Decree No. 28/2012/NĐ-CP dated 10 April 2012 detailing the implementation of a number of articles of Law on Handicapped Persons.

Miscellaneous

- On 12 April 2012, the Prime Minister issued Decision No. 432/QĐ-TTg approving the sustainable development strategy of Vietnam for the period from 2011 to 2020.
- On 9 April 2012, the Ministry of Finance stipulated Circular No. 55/2012/TT-BTC providing guidelines for the method of valuation of coffee gardens and tea gardens attached to processing facilities at the time of equitization.
- Circular No. 04/2012/TT-BTTTT dated 13 April 2012 of the Ministry of Information and Communications providing for the management of prepaid mobile subscribers.

Contact Details

Hanoi Head Office

Mr. Pham Nghiem Xuan Bac
Managing Partner

Mr. Luu Tien Ngoc
Director, Business Development

Mr. Pham Minh Hai
Partner, Consulting Practice

Ms. Le Quynh Anh
Executive Partner, Legal Practice

Ms. Le Thi Kim Dzung
Partner, Intellectual Property Practice

Unit 308-310, 3rd Floor, Hanoi Towers
49 Hai Ba Trung, Hanoi, Vietnam
Tel: 84-4-3934 0629/ 3826 4797 Fax: 84-4-3934 0631
E-mail: vision@vision-associates.com

Ho Chi Minh City Office

Mr. Luu Tien Ngoc
Partner, HCMC office

Mrs. Nguyen Thi Van
Associate, Intellectual Property Practice

Unit 1801, 18th Floor, Saigon Trade Centre
37 Ton Duc Thang Street, District 1
Ho Chi Minh City, Vietnam.
Tel: 84-8-3823 6495 Fax: 84-8-3823 6496
E-mail: hcmvision@vision-associates.com

www.vision-associates.com