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Legal News

February 2016

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Highlighted

1. Reducing time for payment of taxes and social insurance premiums, and issuance of construction permit

On 17 February 2016, the Prime Minister issued Decision No. 253/QĐ-TTg on the issuance of Government's comprehensive program on thrift practice and waste combat in 2016 ("Decision 253").

Accordingly, the Prime Minister requests:

- (a) To significantly reduce time for customs clearance of exported or imported goods to be equal to or less than the average time in ASEAN-4 countries;
- (b) That the time for tax payment shall not exceed 119 hours/year and the time for payment of compulsory insurance premiums shall not exceed 49 hours/year;
- (c) To reduce the time for issuance of construction permits to not more than 77 days;
- (d) To reduce the time for registration of the right to own or use properties to no more than 14 days;
- (e) To reduce the time for completion of export procedures to less than 10 days and that of import procedures to less than 12 days;
- (f) To simplify administrative procedures relating to recruitment of public officials and servants, rank promotion competition for public officials, occupational title promotion competition for public servants.

Decision 253 takes effect on the issuance date.

2. Guidelines on foreign employees working in Vietnam

On 3 February 2016, the Government issued Decree No. 11/2016/ND-CP detailing a number of articles of the Labour Code on foreign employees working in Vietnam ("Decree 11").

Accordingly, foreigners working in Vietnam as experts, managers, executive directors or technical employees for under 30 days and accrued period of 90 days at maximum in 1 year shall not be required to obtain work permits.

Besides the above-mentioned people, cases exempt from work permits also include: Employees internally reassigned in the companies, which engage in 11 service industries in the Vietnam's WTO commitments on services, (including: Trade, Information and Communications, Construction,

Distribution, Education, Environment, Finance, Health, Tourism, Culture, Entertainment and Transportation); Foreign pupils and students studying in schools or training institutions in foreign countries and executing their practicum at agencies, organizations or companies in Vietnam under agreements; Holders of official passports working in State agencies, political organizations or socio-political organizations, etc.

Foreign employee exempt from work permit must be certified by the Department of Labour, War Invalids and Social Affairs of the province or centrally-running city where such employee plans to work at least 7 working days prior to the date on which he/she shall start to work. In other cases, employees without work permits will be expelled from Vietnam within 15 working days from the date when they are detected.

Also under Decree 11, foreign expert working in Vietnam must have a document certifying that he/she is an expert issued by an overseas agency, organization or enterprise; or have a bachelor's degree or equivalent or higher qualifications and has worked for at least 3 years in his/her educated field. Foreign technicians working in Vietnam must undergo training in technique or other majors for at least 1 year and have worked for at least 3 years in their training fields. Before recruiting foreign employees, the contractor shall specify the quantity, qualifications, professional capacities and experiences of foreign employees to the Chairman of the Provincial People's Committee where the contract is performed.

Decree 11 takes effect on 1 April 2016.

3. Guidelines on foreign exchange control in respect of foreign loans and repayment of foreign loans of enterprises

On 26 February 2016, the State Bank of Vietnam (SBV) issued Circular No.03/2016/TT-NHNN, providing a number of guidelines for foreign exchange control in respect of foreign loans and repayment of enterprises' foreign loans ("Circular 03").

According to this Circular, medium-term and long-term foreign loans; renewed short-term loans which have more than 1 (one) year of aggregated maturity term; Short-term loans which are not covered by any loan renewal contract but there is outstanding principal at the time of full 1 year from the date of the first capital withdrawal, except the case in which borrower has already fully repaid its debt within 10 (ten) days from the 1st anniversary of the first capital withdrawal must be registered with SBV.

The declaration of registered information, registration for changes to loans, and reports on the implementation of self-borrowed and self-repayable foreign loans can be conducted online (using websites) or in traditional form (not using

the websites). Borrower can alter the selection from traditional form into online form; however, once changed from traditional form into online form, borrower is unable to change back to the traditional form.

When changing any content related to the foreign loan referred to in the SBV's certification document of foreign loan registration, the borrower must register changes to foreign loans with the SBV. However, in certain cases when capital withdrawal, debt repayment and fee transfer have actually changed within 10 days in comparison with the plans of capital withdrawal, debt repayment and fee transfer previously certified by the SBV; changes in the borrower's address within the same city or province; or changes in name of commercial bank providing the account service, etc.; the borrower is only required to notify, but not register, such any change to the loan with the SBV.

Circular 03 takes effect on 15 April 2016.

4. Guidelines on Corporate Income Tax incentives for development of supporting industry

On 5 February 2016, the Ministry of Finance promulgated Circular No.21/2016/TT-BTC, providing guidelines for declaration of value-added tax and corporate income tax incentives under Decree No. 111/2015/ND-CP, on development of supporting industry ("Circular 21").

According to Circular 21, corporate income tax (CIT) incentives for supporting industry (SI) are guided as follows:

- (a) CIT incentives are applicable to enterprises' incomes gained from the implementation of projects on manufacturing SI products from 1 January 2015, which satisfy conditions prescribed in the Law on amending Laws on taxes 2014 and guiding documents and are issued with Certificates of incentive for manufacturing SI products.
- (b) Process of and procedures for certification and post-inspection of incentives for projects on manufacturing SI products under the List of SI products prioritized to develop under Circular No.55/2015/TT-BCT.
- (c) The Certificate of incentive for manufacturing SI products prioritized to develop is the basis for application of CIT incentives.
- (d) The level of incentive, commencement time of application of incentive, and transition of incentive shall comply with laws on CIT.
- (e) During the entitlement of CIT incentive, if an enterprise performs many production and business activities, such enterprise shall specify its incomes gained from projects on manufacturing SI products prioritized to develop for entitlement of CIT incentive.

- (f) CIT incentives detailed in Circular 21 are applied to CIT period from 2015.

Circular 21 takes effect on 1 April 2016.

Other sectors:

Finance

- Decision No. 08/2016/QD-TTg dated 26 February 2016 of the Prime Minister, providing for the procurement of State assets by centralized method.
- Decision No. 05/2016/QD-TTg dated 5 February 2016 of the Prime Minister, on the management and use of lending charges and extracted amounts of guarantee charges at the Ministry of Finance in the period from 2016 to 2020.
- Circular No. 35/2016/TT-BTC dated 26 February 2016 of the Ministry of Finance, providing guidelines for the procurement of State assets by centralized method.
- Circular No. 34/2016/TT-BTC dated 26 February 2016 of the Ministry of Finance, promulgating the list of national-level centralized procurement items.
- Circular No. 23/2016/TT-BTC dated 16 February 2016 of the Ministry of Finance, providing guidelines for a number of contents on the management and use of State assets at public non-business professional units.
- Circular No. 15/2016/TT-BTC dated 20 January 2016 of the Ministry of Finance, on the amendment to Circular No. 183/2011/TT-BTC providing guidelines for the establishment and management of open funds.
- Circular No. 10/2016/TT-BTC dated 19 January 2016 of the Ministry of Finance, providing guidelines for the mortgage of assets as security for loans guaranteed by the Government.
- Circular No. 08/2016/TT-BTC dated 18 January 2016 of the Ministry of Finance, on the management and payment of investment capital funded by the State budget.

Banking

- Decision No. 306/QD-TTg dated 26 February 2016 of the Prime Minister, on the adjustment in lending rates for households doing production and business in areas with difficult socio-economic conditions.
- Circular No. 02/2016/TT-NHNN dated 26 February 2016 of the State Bank of Vietnam, on the assets preservation, locket, and safe vault lease services of credit institutions.
- Circular No. 01/2016/TT-NHNN dated 4 February 2016 of the State Bank of Vietnam, providing guidelines on lending policy for development of supporting

industry.

- Circular No. 13/2016/TT-BTC dated 20 January 2016 of the Ministry of Finance, on the amendment to Circular No. 114/2014/TT-BTC, providing guidelines for the compensation of difference of interest rates resulted from the implementation of credit policy under Decree No. 67/2014/ND-CP, promulgating the policy on development of aquacultural products and Circular No. 117/2014/TT-BTC, providing guidelines for Decree No. 67/2014/ND-CP.

Audit

- Decision No. 161/QD-KTNN dated 17 February 2016 of the State Audit, promulgating the State Audit's Process of receiving and resolving complaints and denouncements.
- Decision No. 158/QD-KTNN dated 16 February 2016 of the State Audit, promulgating the Regulations on organization and operations of State Audit's Inspection teams.
- Decision No. 31/QD-KTNN dated 20 January 2016 of the State Audit, promulgating the Inspection Process of State Audit.

Taxation

- Resolution No. 06/NQ-CP dated 22 January 2016 of the Government, on the execution of additional Protocol to implement the Agreement on avoidance of double taxation between Vietnam and India.
- Decision No. 07/2016/QD-TTg dated 22 February 2016 of the Prime Minister, on the exemption of personal income tax for Vietnamese individuals working at representative agencies of international organizations under the United Nations in Vietnam.
- Decision No. 06/2016/QD-TTg dated 22 February 2016 of the Prime Minister, on the exemption of personal income tax for foreign experts implementing foreign non-governmental aid projects in Vietnam.
- Decision No. 2469/QD-TCT dated 25 December 2015 of the General Department of Taxation, on the tax management process for asset lease activities of individuals.
- Circular No. 36/2016/TT-BTC dated 26 February 2016 of the Ministry of Finance,

providing guidelines for the implementation of regulations on taxation applicable to organizations and individuals conducting exploration and exploitation of oil and gas under Law on Oil and Gas.

- Circular No. 31/2016/TT-BTC dated 23 February 2016 of the Ministry of Finance, on the addition of N-Hexan Solvent used for production of soybean meal and vegetable oil, extracted rice bran and rice bran oil to Chapter 98 of the Preferential Import Tariff.
- Circular No. 25/2016/TT-BTC dated 16 February 2016 of the Ministry of Finance, on the adjustment in preferential import tax rate applicable to Diammonium hydrogen orthophosphate (diammonium phosphate) coded 3105.30.00 under the Preferential Import Tariff.
- Circular No. 12/2016/TT-BTC dated 20 January 2016 of the Ministry of Finance, on the amendment to Clause 1 of Article 7 of Circular No. 152/2015/TT-BTC, providing guidelines for natural resource tax.

Trade

- Resolution No. 09/NQ-CP dated 2 February 2016 of the Government, on the execution of “Trans-Pacific Partnership Agreement”.
- Decision No. 450/QD-BCT dated 29 January 2016 of the Ministry of Industry and Trade, approving the “Planning for commercial development of Northern key economic zone until 2025, with orientation to 2035”.
- Decision No. 188/QD-TTg dated 28 January 2016 of the Prime Minister, on the Plan to implement the Trade agreement between Vietnam and Laos.
- Decision No. 292/QD-BCT dated 20 January 2016 of the Ministry of Industry and Trade, designating State inspection agencies on food safety for imported foods under management responsibility of this Ministry.

Labour

- Decision No. 306/QD-BHXX dated 29 February 2016 of Vietnam Social Insurance, providing for the appointment, re-appointment, transfer, resignation, retiring from positions, dismissal, suspension of position and work of Heads and Deputy Heads of Professional Teams under Social Insurance agencies of districts, towns, and provincial cities.

- Decision No. 236/QD-BHXX dated 19 February 2016 of Vietnam Social Insurance, promulgating the remuneration rates for organizations acting as social insurance and health insurance collection agencies.
- Decision No. 177/QD-BHXX dated 17 February 2016 of Vietnam Social Insurance, promulgating SMS collection management software.
- Decision No. 158/QD-LDTBXH dated 1 February 2016 of the Ministry of Labour, War Invalids and Social Affairs, announcing newly-issued, and wholly or partially repealed administrative procedures under State management function of the Ministry of Labour, War Invalids and Social Affairs.
- Decision No. 101/QD-LDTBXH dated 22 January 2016 of the Ministry of Labour, War Invalids and Social Affairs, announcing new administrative procedures under State management function of this Ministry.
- Decision No. 96/QD-BHXX dated 21 January 2016 of Vietnam Social Insurance, on criterion and quota for allocation of social insurance, health insurance, and unemployment insurance management costs for Social Insurance agencies of provinces, centrally-running cities and non-business professional units directly under Vietnam Social Insurance.
- Circular No. 01/2016/TT-BLDTBXH dated 18 February 2016 of the Ministry of Labour, War Invalids and Social Affairs, detailing and providing guidelines for a number of articles of Law on Social Insurance with respect to voluntary social insurance.
- Circular No. 20/2016/TT-BTC dated 3 February 2016 of the Ministry of Finance, providing guidelines for the implementation of financial management mechanism for social insurance, health insurance and unemployment insurance, and social insurance, health insurance and unemployment insurance management costs.

Health

- Decision No. 695/QD-BTY dated 29 February 2016 of the Ministry of Health, correcting Circular No. 05/2015/TT-BYT dated 17 March 2015 of this Ministry, promulgating the list of herbal medicines, and medicines from traditional pharmaceuticals and medicines under payment scope of Health Insurance Fund.
- Decision No. 316/QD-TTg dated 27 February 2016 of the Prime Minister, approving the Scheme on Strengthening the capacity of medical test quality management system in the period from 2016 to 2025.

- Decision No. 493/QD-BYT dated 18 February 2016 of the Ministry of Health, promulgating the "Guidelines on treatment by methadone in drug rehabilitation facilities".
- Decision No. 445/QD-BYT dated 5 February 2016 of the Ministry of Health, approving this Ministry's Plan of application and development of information technology in the period from 2016 to 2020.
- Decision No. 439/QD-BYT dated 5 February 2016 of the Ministry of Health, providing guidelines on diagnosis and treatment of Zika virus disease.
- Circular No. 05/2016/TT-BYT dated 29 February 2016 of the Ministry of Health, providing for the prescription in outpatient treatment.
- Circular No. 04/2016/TT-BYT dated 26 February 2016 of the Ministry of Health, providing for medical examination and treatment, and payment of medical examination and treatment costs under health insurance regime relating to tuberculosis examination and treatment.
- Circular No. 03/2016/TT-BYT dated 21 January 2016 of the Ministry of Health, providing for pharmaceutical business.

Transport

- Resolution No. 16/NQ-CP dated 25 February 2016 of the Government, approving the Protocol between the Government of Socialist Republic of Vietnam and the Government of New Zealand, amending the Agreement between the Government of Socialist Republic of Vietnam and the Government of New Zealand on air transportation.
- Decision No. 334/QD-BGTVT dated 1 February 2016 of the Ministry of Transport, announcing supplemented, amended or replaced administrative procedures under the management function of Ministry of Transport.
- Decision No. 131/QD-BGTVT dated 15 January 2016 of the Ministry of Transport, promulgating the List of legal documents on transport expired in the last 6 months of 2015.
- Circular No. 22/2016/TT-BTC dated 16 February 2016 of the Ministry of Finance, providing for the rules, terms, premium table, and compulsory insurance liability levels of motor vehicle owners' civil liability.
- Circular No. 01/2016/TT-BGTVT dated 1 February 2016 of the Ministry of Transport, detailing the Program on aviation security and quality control of

aviation security in Vietnam.

Natural Resources - Environment

- Decree No. 12/2016/ND-CP dated 19 February 2016, on the environment protection charges applicable to mineral exploitation.
- Decision No. 399/QD-BTNMT dated 26 February 2016 of the Ministry of Natural Resources and Environment, correcting Circular No. 58/2015/TT-BTNMT dated 8 December 2015 of the Ministry of Natural Resources and Environment, providing for the appraisal, inspection and acceptance of projects on application of information technology to the natural resources and environment fields.

Land - Real Estate

- Circular No. 02/2016/TT-BXD dated 15 February 2016 of the Ministry of Construction, promulgating the Regulation on management and use of condominium buildings.
- Circular No. 18/2016/TT-BTC dated 21 January 2016 of the Ministry of Finance, providing guidelines for the implementation of Decree No. 35/2015/ND-CP, on the management and use of paddy land.
- Circular No. 61/2015/TT-BTNMT dated 15 December 2015 of the Ministry of Natural Resources and Environment, on the issuance and management of Certificates of land valuation.

Science - Technology

- Decision No. 229/QD-TTg dated 4 February 2016 of the Prime Minister, on the mechanism and policy on the implementation of Strategy on and Planning for development of automobile industry in Vietnam.
- Circular No. 01/2016/TT-NHNN dated 4 February 2016 of the State Bank of Vietnam, providing guidelines on lending policy for development of supporting industry.

Information - Communications

- Decision No. 05/2016/QD-UBND dated 18 February 2016 of the People's

Committee of Hanoi, on the Regulation on co-ordination in the work of preventing and fighting against violations of laws in the field of information and communications in the area of Hanoi.

- Decision No. 203/QD-BTTTT dated 5 February 2016 of the Ministry of Information and Communications, on the List of fully or partially expired legal documents in the fields under State management of the Ministry of Information and Communications in 2015.
- Decision No. 226/QD-TTg dated 4 February 2016 of the Prime Minister, approving the Scheme on organization of emergency communication system of common use for searching and rescuing situations.
- Decision No. 03/2016/QD-UBND dated 1 February 2016 of the People Committee of Hanoi, on the regulation on providing information of Hanoi to foreign press, foreign representative agencies, and foreign organizations.
- Circular No. 03/2016/TT-BTTTT dated 1 February 2016 of the Ministry of Information and Communications, providing for the reception of citizens, and the handling and settlement of complaints, denunciations, petitions and reflections.
- Circular No. 02/2016/TT-BTTTT dated 1 February 2016 of the Ministry of Information and Communications, providing for the inspection of radio frequencies.
- Circular No. 01/2016/TT-BTTTT dated 25 January 2016 of the Ministry of Information and Communications, on the amendment to Circular No.21/2013/TT-BTTTT providing for revenues of telecommunication services.

Culture - Sports

- Decision No. 227/QD-BVHTTDL dated 18 January 2016 of the Ministry of Culture, Sports and Tourism, correcting Circular No. 12/2015/TT-BVHTTDL, amending the Regulation on appraisal and issuance of permits for film dissemination accompanying Decision No. 49/2008/QD-BVHTTDL.
- Circular No. 18/2015/TT-BVHTTDL dated 31 December 2015 of the Ministry of Culture, Sports and Tourism, on conditions for off-roading training and competitions.

Administration - Judiciary

- Resolution No. 08/NQ-CP dated 1 February 2016 of the Government, on the

termination of the “Agreement on co-operation in international adoption between Vietnam and Québec”.

- Decree No. 10/2016/ND-CP dated 1 February 2016, on the Governmental agencies.
- Decree No. 08/2016/ND-CP dated 25 January 2016, providing for the quantity of Deputy Chairman of a People’s Committee, and the process of and procedures for election, resignation, removal, dismissal, transfer and demotion of members of the People’s Committees.
- Decision No. 140/QD-TANDTC dated 26 February 2016 of the Supreme People’s Court, promulgating the Plan of implementation of the Criminal Proceedings Code in People’s Courts.
- Decision No. 139/QD-TANDTC dated 26 February 2016 of the Supreme People’s Court, promulgating the Plan of implementation of the Civil Proceedings Code in People’s Courts.
- Decision No. 138/QD-TANDTC dated 26 February 2016 of the Supreme People’s Court, promulgating the Plan of implementation of Administrative Proceedings Law in People’s Courts.
- Decision No. 276/QD-BTP dated 25 February 2016 of the Ministry of Justice, promulgating the Plan of implementation of the Civil Code.
- Decision No. 282/QD-TTg dated 23 February 2016 of the Prime Minister, approving the Project on "Enhancement of training and fostering of cadres, and public officials and servants in the People’s Procurary branch in the period from 2016 to 2020".
- Decision No. 272/QD-TTg dated 19 February 2016 of the Prime Minister, on the Plan of implementation of the Criminal Code.
- Decision No. 243/QD-TTg dated 5 February 2016 of the Prime Minister, on the Plan of implementation of the Civil Code.
- Decision No. 235/QD-TTg dated 5 February 2016 of the Prime Minister, on the Plan of implementation of the Civil Proceedings Code.
- Decision No. 225/QD-TTg dated 4 February 2016 of the Prime Minister, approving the Plan of State administrative reform in the period from 2016 to 2020.
- Decision No. 58/QD-UBDT dated 4 February 2016 of the Committee for Ethnic Minorities Affairs, promulgating the List of expired legal documents in the fields under State management of the Committee for Ethnic Minorities Affairs in 2015.

- Decision No. 51/QD-VKSTC-V12 dated 2 February 2016 of the Supreme People's Procurary, on the Regulation on reception of citizens, settlement of complaints and denouncements, and supervision over settlement of complaints and denouncements in judicial activities.
- Decision No. 64/QD-BNV dated 25 January 2016 of Ministry of Home Affairs, promulgating the List of wholly or partially expired legal documents within the fields under State management of the Ministry of Home Affairs in 2015.
- Joint Circular No. 03/2016/TTLT-BTP-BCA-BNG-BLDTBXH dated 22 February 2016 of the Ministry of Justice, Ministry of Foreign Affairs, Ministry of Public Security, and Ministry of Labour, War Invalids and Social Affairs, providing guidelines for the observation of the development of Vietnamese children adopted abroad and protection of such children in necessary cases.
- Circular No. 03/2016/TT-TANDTC dated 3 February 2016 of the Supreme People's Court, promulgating the Regulation on operations of Examination Council for selection of Primary Judges, Intermediate Judges and Superior Judges.
- Circular No. 02/2016/TT-TANDTC dated 3 February 2016 of the Supreme People's Court, promulgating the Regulation on examination for selection of Primary Judges, Intermediate Judges and Superior Judges.
- Circular No. 02/2016/TT-BTP dated 1 February 2016 of the Ministry of Justice, providing for the process of settlement of complaints, denouncements, requests, suggestions and reflections in civil judgment enforcement.
- Circular No. 01/2016/TT-BTP dated 1 February 2016 of the Ministry of Justice, providing guidelines for the implementation of administrative management and professional standard forms in civil judgement enforcement.

Agriculture - Forestry - Fishery

- Decision No. 476/QD-BNN-TY dated 17 February 2016 of the Ministry of Agriculture and Rural Development, approving the "National program on prevention of and fighting against foot and mouth disease in the period from 2016 to 2020".
- Decision No. 223/QD-BNN-BVTV dated 20 January 2016 of the Ministry of Agriculture and Rural Development, announcing new administrative procedures within the scope of managerial function of this Ministry.
- Circular No. 02/2016/TT-BNNPTNT dated 22 February 2016 of the Ministry of

Agriculture and Rural Development, on the amendment and supplement to the List of types of machineries and equipment enjoying the policy on assistance to reduce losses in agriculture accompanying Circular No. 08/2014/TT-BNNPTNT dated 20 March 2014 of the Ministry of Agriculture and Rural Development.

- Circular No. 01/2016/TT-BNNPTNT dated 15 February 2016 of the Ministry of Agriculture and Rural Development, amending Circular No.57/2012/TT-BNNPTNT, providing for the inspection of, supervision over and dealing with violations relating to banned substances of Beta-agonist category in breeding.

Enterprise

- Joint Circular No. 01/2016/TTLT-BKHDT-BTC dated 23 February 2016 of the Ministry of Planning and Investment and Ministry of Finance, providing guidelines for the exchange of information about enterprises between the National Business Registration System and Tax Information System.
- Circular No. 14/2016/TT-BTC dated 20 January 2016 of the Ministry of Finance, providing guidelines on the financial regime of single member limited liability companies having 100% charter capital owned by the State participating in implementing political tasks, ensuring social welfare, and balancing supply-demand of the economy.

Miscellaneous

- Decision No. 251/QD-TTg dated 17 February 2016 of the Prime Minister, approving the Scheme on “Orientation to attract, manage and use official development aids (ODA) and preferential loans of foreign sponsors in the period from 2016 to 2020”.
- Circular No. 26/2016/TT-BTC dated 18 February 2016 of the Ministry of Finance, providing guidelines for the implementation of a number of incentive mechanisms and policies applicable to the area of Con Dao, Ba Ria – Vung Tau Province.
- Circular No. 08/2016/TT-BCA dated 16 February 2016 of the Ministry of Public Security, providing for uniforms of security force of agencies and enterprises.
- Circular No. 01/2016/TT-BXD dated 1 February 2016 of the Ministry of Construction, promulgating the National technical regulations on "Technical infrastructure building works".

- Circular No. 01/2016/TT-BGDDT dated 15 January 2016 of the Ministry of Education and Training, on the Regulation on organization and operations of Ethnic Minority Boarding Schools.

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