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LEGAL UPDATE

No. 2 – January 2023

(15 Jan 2023 – 31 Jan 2023)



News in focus

Outstanding policies relevant to economy which takes effect from February 2023



New legal documents

Remarkable among documents:

The Minister of Industry and Trade's Circular 01/2023/TT-BCT on the abolishment of (i) several regulations in Circular 02/2019/TT-BCT about the implementation and development of wind power projects, and the sample Power Purchase Agreements for wind power projects, (ii) Circular 18/2020/TT-BCT regulating the projects' development and the power purchase agreements applicable for solar power projects

A – News in focus



Outstanding policies relevant to economy

(Taking effect from Feb 2023)

Several important documents officially come into effect from February 2023, also these documents will take place some other applicable legal documents.

In this legal update, we summarize some notable policies that come into effect in February 2023.

New Circular on buying, transferring and bringing foreign currency abroad

From February 15, 2023, Circular 20/2022/TT-NHNN, guiding the one-way money transfer from Vietnam to abroad and the payment and remittance for other current transactions of residents being organizations and individuals, is officially effective. The new Circular removes the whole Circular 20/2011/TT-NHNN dated 29 Aug 2011 and Clause 3 Article 1 of Circular 24/2018/TT-NHNN dated 28 Sep 2018; as well as amends and supplements several clauses of Circulars: 02/2021/TT-NHNN dated 31 Mar 2021, 15/2011/TT-NHNN dated 12 Aug 2011, 16/2014/TT-NHNN dated 01 Aug 2014.

In particular, Circular 20/2022/TT-NHNN adds some cases in which one-way remittances abroad are permitted for the purpose of sponsoring and aid of residents being organizations, including:

- Sponsorship and aid according to commitments and agreements between the State, the Government, local authorities at all levels and foreign countries. Sources of funding and aid are funds from the budget or the money source of the donor or aid organization itself;
- Sponsorship and aid for overcoming the consequences of natural disasters, epidemics and wars. Sources of funding and aid are voluntary contributions from domestic organizations and individuals and/or money sources from the donor and aid organizations themselves;
- Sponsoring programs, funds and projects established by domestic and/or overseas organizations to support and encourage the development of: culture, education (sponsoring scholarships), medical. The funding source is the money source of the sponsoring organization itself.

Circular 20/2022/TT-NHNN guides individuals to buy, transfer & bring foreign currency abroad for the purposes of one-way money transfer; supplements regulations on foreign currency levels purchased, transferred and brought abroad in Articles 8 and 13 of this Circular. Especially, this Circular also adds cases of buying and selling goods of overseas Exchanges through the Commodity Exchanges in Vietnam connected with payment and money transfer activities for other current transactions.

In addition, also stipulates the payment and remittance of money abroad for other current transactions of residents being organizations and individuals specified at Point g, Clause 6 of the Ordinance on Foreign Exchange; supplements the responsibilities of banks (allowed), organizations and individuals in developing processes and procedures, presenting, checking and keeping papers and documents for the right purposes and in accordance with legal regulations of the laws. The Bank has the right to refuse or not perform transactions of selling or transferring foreign currencies abroad if organizations or individuals provide incomplete and/or inaccurate information.

New regulations on re-inspection of health due to occupational accidents

From February 15, 2023, Circular 18/2022/TT-BYT, amending and supplementing several Articles of Circular 56/2017/TT-BYT dated December 29, 2017 detailing the implementation of the Law on Social Insurance and The Law on Occupational Safety and Health in the field of health, is officially effective.

Accordingly, employees suffering from occupational accidents and diseases who have undergone a health assessment to enjoy the occupational accident and disease regime can take the initiative to go for medical re-examination of the decrease in working capacity if needed (instead of waiting at least 2 years).

The employee is also paid the fee for re-examination by the Occupational Accident and Disease Insurance Fund, if the results determine that the employee is eligible for an increase in the allowance for occupational accidents and diseases.

New regulations on dispute settlement of power purchase agreement

From Feb 16, 2023, Circular 42/2022/TT-BCT dated Dec 30, 2022 regulating the inspection of electricity activities, electricity use, and disputes settlement of power purchase agreement is officially effective.

Accordingly, The Department of Industry and Trade has the authority to settle disputes of power purchase agreements with voltage up to 110 kV if the parties have not conducted civil proceedings or commercial arbitration and have agreed to request the Department of Industry and Trade to resolve the dispute.

The Electricity Regulatory Authority of Vietnam has the authority to settle disputes of power purchase agreement with voltages above 110 kV if the parties have not conducted civil proceedings or commercial arbitration and have agreed to request the Electricity Regulatory Authority to resolve the dispute.

The Electricity Regulatory Authority and the Department of Industry and Trade only settle disputes if the two parties cannot negotiate and agree to request the Electricity Regulatory Authority or the Department of Industry and Trade to settle the dispute..

New regulations on criteria for determining components exempt from import tax for technology products

From Feb 15, 2023, Circular 25/2022/TT-BTTTT dated Dec 31, 2022 stipulating the determination of imported materials, supplies, components which are exempt from import tax directly serving the operation manufacture information technology products, digital content, software is effective.

Accordingly, materials, supplies and components which are exempt from import tax to produce information technology products, digital content and software must meet the criteria as follows:

- Belongs to the List of software, hardware and electronic products specified in Circular 09/2013/TT-BTTTT dated April 8, 2013 and Circular No. 20/2021/TT-BTTTT dated Dec 3, 2021 amending and supplementing Circular 09/2013/TT-BTTTT dated April 8, 2013; or on the list of digital content products as prescribed by the Ministry of Information and Communications;
- Not on the list of machinery, equipment, raw materials, supplies and components for the telecommunications - information technology industry, digital content, and software that can be produced domestically in Appendix 8 to Circular 05/2021/TT-BKHDT on August 17, 2021.

Tax exemption dossiers and procedures comply with Articles 30 and 31 of Decree 134/2016/ND-CP dated September 1, 2016 (amended and supplemented in Decree 18/2021/ND-CP on 11 Mar 2021).

New regulations on paying fees for permanent and temporary residence registration

From February 5, 2023, Circular 75/2022/TT-BTC stipulating the rate of collection, collection, payment and management of residence registration fees officially takes effect. For example:

Fee for registration of permanent residence: VND 20,000/time if applying directly, VND 10,000/time if submitting the application through the online public service portal.

The fee for citizens applying for temporary residence and extension of temporary residence for individuals and households is VND 15,000/time for direct registration, VND 7,000/time for registration via the online public service portal.

The fees for temporary residence registration according to the list, extension of temporary residence according to the list are VND 10,000/time for direct registration, VND 5,000 VND/time for registration via the online public service portal, respectively.

B – New legal documents



Remarkable new legal documents

(Enacted from 15 Jan 2023 – 31 Jan 2023)

No.	Legal documents
LABOR	
1	The Vietnam General Confederation of Labor 's Resolution 06/NQ-DCT in 2023 on supporting trade union members and employees whose working hours are reduced or their labor contracts terminated because the orders of enterprises are cut or reduced
	Enactment Date: 16 Jan 2023
2	The Presidium of Vietnam General Confederation of Labor's Decision 6696/QĐ-TLD in 2023 stipulating the implementation of the policy on supporting trade union members and employees whose working hours are reduced or their labor contracts terminated because the orders of enterprises are cut or reduced
	Enactment Date: 16 Jan 2023
ENERGY	
3	The Minister of Industry and Trade's Circular 01/2023/TT-BCT on the abolishment of (i) several regulations in Circular 02/2019/TT-BCT regarding the implementation and development of wind power projects, and the sample Power Purchase Agreements for wind power projects, (ii) Circular 18/2020/TT-BCT regulating the projects' development and the power purchase agreements applicable for solar power projects
	Enactment Date: 19 Jan 2023

No.	Legal documents	
STATE FINANCE		
4	The Minister of Finance's Circular 04/2023/TT-BTC guiding the management, financial collection and expenditure for festival organization and merit money, funding for monuments and festival activities	
	Enactment Date: 30 Jan 2023	Effective Date: 30 Jan 2023
5	The Government's Resolution 7/NQ-CP in 2023 on reducing land and water surface rents in 2022 for subjects affected by the Covid-19 epidemic	
	Enactment Date: 19 Jan 2023	Effective Date: 19 Jan 2023
INFORMATION TECHNOLOGY		
6	The Minister of Information and Communication's Decision 26/QD-BTTTT of 2023 stipulating the functions, tasks, powers and organizational structure of the National Electronic Certification Center	
	Enactment Date: 16 Jan 2023	Effective Date: 16 Jan 2023
ADMINISTRATIVE – JUDICIARY		
7	Decree 01/2023/ND-CP stipulating the functions, tasks, powers and organizational structure of the Ministry of Culture, Sports and Tourism	
	Enactment Date: 16 Jan 2023	Effective Date: 20 Feb 2023
8	The Minister of National Defense's Circular 10/2023/TT-BQP amending Circular 19/2018/TT-BQP stipulating the titles of officers of the Military Judgment Execution Sector	
	Enactment Date: 30 Jan 2023	Effective Date: 16 Mar 2023
9	Decision 67/QD-BTP in 2023 announcing the list of legal documents that have expired or cease to be effective in whole or in part in the field of state management of the Ministry of Justice in 2022	
	Enactment Date: 27 Jan 2023	Effective Date: 27 Jan 2023
10	Hanoi's Decision 375/QD-UBND of 2023 announcing the List of new administrative procedures which are amended, supplemented in the field of lawyers and civil status	
	Enactment Date: 16 Jan 2023	Effective Date: 16 Jan 2023