



WIKI LEGAL LLC

HANOI

7th Floor, HH Office, No. 293/15 Khat Duy Tien Str., Trung Hoa Ward, Cau Giay Dist., Hanoi

Website: www.wikilegal.vn

Email: admin@wikilegal.vn

HO CHI MINH CITY

Ground Floor, DHouse Building, No. 39 Nguyen Thi Dieu Str., Vo Thi Sau Ward, Dist. 3, HCM City

Website: www.wikilegal.vn

Email: hcm.office@wikilegal.vn

LEGAL UPDATE

No. 1 – August 2023

(1 August 2023 – 15 August 2023)



News in focus

Summary of outstanding policies effective in early August 2023



New

Legal documents

Remarkable among documents:

Circular 52/2023/TT-BTC, issued on August 8, 2023, mandates utilizing state budget funds for recurring expenses, as per Decree 80/2021/ND-CP, to assist small and medium-sized businesses

A – News in focus



Summary of outstanding policies

(Taking effect on August 2023)

Our legal newsletter is here to inform you about the latest policies that the Government has introduced. These policies will come into effect from the beginning of August 2023.

Moreover, the newsletter also includes a concise summary of the new legal regulations that were announced in early August 2023.

SOME OUTSTANDING UPDATE ON ENTRY, EXIT AND RESIDENCE IN VIETNAM OF VIETNAMESE CITIZEN EXPORTS AND FOREIGNERS



On August 15, 2023, the amended versions of the Law on Exit and Entry for Vietnamese Citizens and the Law on Entry, Exit, Transit, and Residence for Foreign Citizens in Vietnam came into effect with new updates. Some noteworthy changes include:

1. Add the place of birth to the passport

The official information regarding immigration documents (passports) will encompass the following details:

- Portrait;
- Full name;
- Gender;
- **Place of birth;**
- Date of birth;
- Nationality;
- Sign, entry and exit paper numbers, granting agency, and expiration dates (including month and year)
- Personal identification numbers or identity card numbers;
- Diplomatic and official passports may include positions and titles relevant to foreign affairs.;
- Other information

2. Visa extension and visa exemption period

- Electronic visa (EV) can now be extended for up to 90 days and can be used once or multiple times. For visas with a duration of less than 1 year, the visa duration will be calculated in days to ensure consistency
- Citizens of countries that are unilaterally exempted from visas by Vietnam will be allowed to stay temporarily for up to 45 days.

3. Citizens who do not receive passports will have their passport validity canceled.

Passports not received within 12 months of scheduled appointment will be cancelled if no reason for delay is given.

CONDITIONS FOR FOREIGN LOAN NOT GUARANTEED BY THE GOVERNMENT



Starting from May 18, 2023, Circular 08/2023/TT-NHNN sets out the conditions for foreign loans not be guaranteed by the Government.

➤ **Borrowing currency is a foreign currency, there are 03 cases where foreign loans are allowed in Vietnam dong, adding one case than before, as follows:**

- a) The borrower in question is a microfinance institution;
- b) A foreign direct investment company is borrowing profits from their direct investment activities in Vietnam. The lender is a foreign investor who has contributed capital to the borrower;
- c) The borrower takes out funds and pays back the debt in a foreign currency, but the loan obligation is determined in VND

➤ **Specific subjects are subject to limit on short-term foreign loans:**

- a) Commercial banks are required to pay 30% of the total principal balance for short-term foreign loans.
- b) Foreign banks or other credit institution must maintain 150% of their short-term foreign loan amount.
- c) For those who are not credit institutions, foreign bank branches can be a viable option:
 - Foreign loans for investment projects must meet certain conditions. The borrower's total loans, including short-term loans, cannot exceed the project's borrowing limit. This limit is determined by subtracting the investor's contributed capital from the total investment capital.
 - When a borrower applies for foreign loans to fund their production, business or other projects, their medium and long-term domestic and foreign loan balance (including short-term loans) that are overdue or extended should not exceed the total loan demand specified in the Plan for using foreign loans approved by the competent authority.
 - New foreign loans for debt restructuring cannot exceed the existing debt's principal balance, interest, and fees. The amount of new loans is determined during restructuring.

AMENDING AND SUPPLEMENTING SOME PROVISIONS ON LICENSE ISSUANCE, ORGANIZATION AND OPERATION OF NON-BANK CREDIT INSTITUTIONS

Circular 05/2023/TT-NHNN has been issued by the State Bank, to amend and supplement certain articles of Circular No. 30/2015/TT-NHNN. This relates to the licensing, organization, and operation of credit institutions (including non-bank credit institutions) and will take effect from August 6, 2023.

1. The process and guidelines for authorizing operational licenses for non-banking credit institutions

The State Bank now has a shorter time frame to send a confirmation to the Preparatory Board stating that they have received all necessary and valid documents for consideration and approval in principle. If any additional documents are needed, they must be requested promptly.

2. Modifying and enhancing the process of submitting the charter to the State Bank

Non-banking credit institutions must send their approved Charter to the State Bank within 15 days of approval. Any changes or additions to the Charter must also be sent within 15 days of approval.



ADDITIONAL SECURITY AND ORDER CONDITIONS APPLY TO CERTAIN CONDITIONAL BUSINESS LINES

On August 15, 2023, the government will implement Decree 56/2023/ND-CP, which modifies Decree 96/2016/ND-CP regarding the security and order requirements for certain business sectors. Additionally, Decree 99/2016/ND-CP concerning the management and use of seals and Decree 137/2020/ND-CP regarding the management and use of firecrackers will also be in effect.

1. Enhancing the safety and organizational standards of pawn establishments.

Pawnshop security personnel are exempt from penalties for certain actions in the five years before registering the business, including resisting official duties and organizing or participating in gambling activities.

2. Enhancing the accuracy and structure of the application process for obtaining the Certificate of Satisfaction of Security and Order Conditions.

To ensure security and order, any business must obtain a Certificate of Satisfaction. This certificate can be obtained either as a physical or electronic document, both with the same legal validity. Businesses can submit their application in three ways: directly to the competent police agency, through the public postal service, or through the National Public Service Portal or the Public Service Portal of the Ministry of Public Security (excluding any documents that are prohibited from being posted online by law).

3. Regulate export/import of fireworks and explosives:

- Use the form in Appendix VI of this Decree to request, including the organization or enterprise's name and address under the Ministry of National Defense;
- Submit a written request through the National Public Service or Ministry of Public Security portal or send a letter to the Police Department. If an organization or enterprise submits the request directly to the Police Department, the written request for addition of full name, number of citizen identification, identity card or passport;
- The Police Department and Ministry of Public Security will issue an import/export license within 3 days of receiving a written request using Appendix I form. If refused, a clear reason must be given in writing;
- The validity period for the import and export license is 60 days.

B – New legal documents



Remarkable new legal documents

(Enacted from 01 Aug 2023 – 15 Aug 2023)

No.	Legal documents	
FINANCE		
1	Circular 52/2023/TT-BTC, issued on August 8, 2023, mandates utilising state budget funds for recurring expenses, as per Decree 80/2021/ND-CP, to assist small and medium-sized businesses	
	Enactment Date: 08/08/2023	Effective Date: 23/09/2023
ADMINISTRATIVE - JUDICIARY		
3	Circular 03/2023/TT-BTP modified Circular 01/2022/TT-BTP, which guides Decree 87/2020/ND-CP on electronic civil status database management and online register posting.	
	Enactment Date: 02/08/2023	Effective Date: 02/08/2023

No.	Legal documents	
CONSTRUCTION		
4	Circular 05/2023/TT-BXD was released by the Ministry of Construction on August 1, 2023. The circular specifies the industries and duration within which individuals who have held positions of authority at the Ministry cannot establish, acquire titles, or assume managerial or administrative roles in private enterprises such as private firms, partnerships, joint stock companies, limited liability companies, or cooperatives.	
	Enactment Date: 01/08/2023	Effective Date: 20/09/2023
TOURISM		
5	Circular 10/2023/TT-BVHTTDL was released on August 9, 2023. Its purpose is to provide guidance on managing positions and specialized professional titles, as well as structuring public employees according to their professional titles in non-business units related to culture, sport, and tourism.	
	Enactment Date: 09/08/2023	Effective Date: 01/11/2023
	The Ministry of Culture, Sports, and Tourism released Circular 09/2023/TT-BVHTTDL on August 9, 2023. This circular contains a list of cultural goods that fall under their specialized management. In addition, it also specifies the commodity codes for these goods as per Vietnam's Import and Export Goods List.	
	Enactment Date: 09/08/2023	Effective Date: 06/10/2023