

Legal news

July 2015

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HIGHLIGHTED

1. **New regulations on the employment creation supporting policy and National fund for employment**

On 9 July 2015, the Government issued Decree No. 61/2015/ND-CP, providing for the employment creation supporting policy and National fund for employment (“Decree 61”).

According to Decree 61, employees approaching poverty threshold who work overseas under contracts are allowed to borrow up to 100% of the expenses for contracts signed with service providers or non-business professional units sending employees to work overseas.

With regard to a loan of more than VND 50 million, the borrowing employee must have assets to be used as collateral for the loan in accordance with the laws. The term of the supporting loan must not exceed the overseas working period of the employee as prescribed in the contract. The preferential loan interest shall be equal to the loan interest applicable to the households living in poverty as provided for by the Government from time to time, and the overdue interest shall be equivalent to 130% of the loan interest mentioned above.

In addition, Decree 61 also details the preferential loans reserved for small and medium-sized enterprises, co-operatives, cooperative groups, business households, and workers to create, maintain and expand the employment. Accordingly, a production and business establishment employing people handicapped or of ethnic minority from 30% of its total employees may borrow from National fund for employment with a loan not exceeding VND 1 billion for each project and not exceeding VND 50 million for each recruited employees, the term of loans may be up to 60 months.

This Decree shall take effect on 1 September 2015.

2. **New provisions on the activities of sale and purchase of debts by credit institutions and foreign banks’ branches.**

On 17 July 2015, the State Bank of Vietnam issued Circular No.09/2015/TT-NHNN, providing for the activities of sale and purchase of debts by credit institution and foreign bank branches (“Circular 09”).

Circular 09 provides for the activities of sale and purchase of debts arising from professional lending transactions (including payment on a third party's behalf in a guarantee transaction) by credit institutions and foreign banks’ branches; the application file, process of and procedures for obtaining consent for activities of sale and purchase of debts by credit institutions and foreign banks’ branches.

According to Circular 09, credit institutions and foreign banks' branches are permitted to purchase debts only when the State Bank of Vietnam has given consent to such activity in the Establishment license and bad debt ratio of the institution or foreign bank's branch is below 3%; however, in case of selling a debt, the permission from the State Bank of Vietnam is not required.

Similarly, a company managing debts and operating assets, which is subsidiary of a credit institution, is permitted to purchase debts from other foreign banks' branches and credit institutions only when the parent credit institution has a bad debts ratio below 3%, except for the case of purchasing debts in accordance with an approved restructuring plan.

Another notable content of Circular 09 is that credit institutions and foreign banks' branches must issue their internal rules and regulations on the activities of sale and purchase of debt before conducting such activities and are not permitted to sell debts to its subsidiary, unless they are sold to a company managing debts and operating assets of the parent company in accordance with an approved restructuring plan. Especially, the debt seller is not permitted to re-purchase a debt already sold.

Regarding foreign exchange management in the activities of sale and purchase of debts, Circular 09 requires parties to comply with the provisions of laws imposing restrictions on use of foreign currencies within territory of Vietnam when conducting sale and purchase of debts and recovering purchased debts. Accordingly, when using a foreign currency to purchase a debt, a debt purchaser who is not Vietnam resident must use a foreign payment account opened at a credit institution or foreign bank's branch permitted to conduct foreign exchange activities in Vietnam or a foreign currency account of the debt purchaser in overseas to pay debt purchase price and related expenses.

This Circular shall take effect on 1 September 2015.

3. Provisions on process of and procedures for investments in thermal power plant projects on the basis of BOT contracts

On 13 July 2015, the Ministry of Industry and Trade issued Circular No.23/2015/TT-BCT, providing for the Process of and procedures for investments in thermal power plant projects on a basis of Build – Operate – Transfer (BOT) contracts (“Circular 23”).

Pursuant to Circular 23, the projects on investments in thermal power plants falling within the List of National electricity development planning for which the investor has not yet been determined, with two or more BOT investors being registered for participation therein and projects falling within the List of National electricity development planning, which are designated by the Prime Minister, shall organize international tendering.

Regarding other projects on investments in thermal power plants including: Projects proposed by BOT investors, not falling within the List of National electricity development planning, and approved by the Prime Minister;

projects falling within the National electricity development planning for which only one BOT investor is registered for his participation and approved or designated by the Prime Minister shall designate the BOT investor without organization of tendering.

According to the same Circular 23, within 30 days from the date of signing investment agreements, the BOT investors must conduct procedures for the issuance of Investment registration certificate and the establishment of BOT enterprise, and finalize required-to-be-added items to sign officially the project documents within 30 days from the issuance of Investment registration certificate.

With regard to the reporting regime, the new Circular provides that throughout the process of construction of the thermal electricity plant, the BOT enterprise must prepare monthly reports to be sent to General Department of Energy and competent authorities on the 5th day of each month; the reporting contents include: Progress of completed work; Existing issues, proposals, recommendations (if any) and expected plan for the following month, etc.

This Decree shall take effect on 1 September 2015.

4. New guidelines on the Law on Enforcement of Civil Judgements

On 18 July 2015, the Government issued Decree No. 62/2015/ND-CP, detailing and providing guidelines for the implementation of a number of articles of Law on Enforcement of Civil Judgements (“Decree 62”).

According to Decree 62, if at the time of the enforcement, the value of an asset increases or decreases by more than 20% in comparison with the value of this asset when the verdict comes into effect and at least one of the plaintiffs requests, the bailiff shall organize the valuation of such asset.

Documents proving the change in the asset’s value may be the price bracket provided for by the State, common market price of the identical or similar asset or actual transfer price of assets of the same type in the locality where the asset is located.

After 30 days from the receipt of documents requesting for payment of enforcement fee, if the recipient does not voluntarily make the payment, the bailiff shall decide to auction the asset for the enforcement of the verdict.

The person occupying the asset who does not voluntarily transfer the asset to the auction property purchaser shall be enforced to implement the verdict and bear expenses as stipulated.

Decree 62 shall take effect on 1 September 2015.

Other Sectors

Finance - Banking

- On 21 July 2015, the Prime Minister issued Decision No. 28/2015/QD-TTg, on the credits reserved for newly-escaped-poverty households.
- Decision No. 1376/QD-NHNN dated 17 July 2015 of the State Bank of Vietnam, on the List of periodically-rotated positions for public officials and servants of the State Bank.
- On 8 July 2015, the Prime Minister stipulated Decision No. 26/2015/QD-TTg, providing for the Functions, duties, powers and organizational structure of the State Treasury under the Ministry of Finance.
- Decision No. 1336/QD-BTD dated 7 July 2015 of the Ministry of Finance, repealing legal documents.
- On 1 July 2015, the Prime Minister issued Decision No. 976/QD-TTg, promulgating the Regulation on classifying debts at the Social Policy Bank.

Taxation

- Decision No. 1362/QD-BTC dated 10 July 2015 of the Ministry of Finance, correcting Circular No. 25/2015/TT-BTC, on the Special Preferential Import Tariff of Vietnam to implement Vietnam - Japan Economic Partnership Agreement in the period from 2015 to 2019.
- On 1 July 2015, the Ministry of Finance stipulated Decision No. 1315/QD-BTC, announcing the administrative procedures in the field of Tax administration under the management authority of the Ministry of Finance.
- Decision No. 1314/QD-BTC dated 1 July 2015 of the Ministry of Finance, announcing the administrative procedures in the field of Tax administration under the management authority of the Ministry of Finance.
- On 28 July 2015, the Ministry of Finance issued Circular No. 110/2015/TT-BTD, providing guidelines for electronic transactions in the field of taxation.

Trade

- Decision No. 1379/QD-BTC dated 13 July 2015 of the Ministry of Finance, on the establishment of Express Mail Service Customs Bureau directly under Hanoi Customs Department.
- On 10 July 2015, the General Director of the General Department of Customs stipulated Decision No. 1966/QD-TCHQ, promulgating the Customs process and procedures for exported or imported goods.

- Decision No. 34/2015/QD-UBND dated 10 July 2015 of the People's Committees of Ho Chi Minh City, promulgating the Regulations on guidelines for the establishment, assessment, approval, adjustment and norms of expenses for establishing, assessing and announcing the overall planning for Socio – economic development, and planning for the development of branches, fields and products in the area of Ho Chi Minh City.
- On 1 July 2015, the Ministry of Finance issued Circular No. 103/2015/TT-BTC, promulgating the List of Vietnam's imported or exported goods.

Labour

- Decree No. 62/2015/ND-CP dated 22 July 2015 of the Government, providing for the policy with regard to redundant employees when re-organizing one member limited liability companies owned by the State.
- On 10 July 2015, the General Director of Vietnam Social Insurance stipulated Decision No. 763/QD-BHXH, providing for the application file, process and procedures for registration of I-VAN service provision.
- Decision No. 971/QD-TTg dated 1 July 2015 of the Prime Minister, amending and supplementing Decision No. 1956/QD-TTg dated 27 November 2009 of the Prime Minister, approving Scheme on “Vocational training for rural workers up to 2020”.
- On 13 July 2015, the Ministry of Labour, War Invalids and Social Affairs issued Circular No. 25/2015/TT-BLDTBXH, providing for the registration of vocational education activities, the issuance and revocation of registration certificates for vocational education activities, and the suspension of vocational education activities at elementary level.

Health

- Decision No. 2992/QD-BYT dated 17 July 2015 of the Ministry of Health, approving the Planning for development of human resource in medical examination and treatment system in the period from 2015 to 2020.
- On 1 July 2015, the Ministry of Health stipulated Decision No. 2782/QD-BYT, promulgating the Temporary list of traditional medical diseases for the pilot encoding applicable to medical examination and treatment and health insurance payments.
- Circular No. 18/2015/TT-BYT dated 14 July 2015 of the Ministry of Health, promulgating the Process of forensic psychiatric examination and forms used in forensic psychiatric examination.
- On 9 July 2015, the Ministry of Health, Ministry of Labour, War Invalids and

Social Affairs, and Ministry of Public Security jointly issued Inter-ministerial Circular No. 17/2015/TTLT-BYT-BLDTBXA-BCA, providing for the authority and procedures for and process of determining the drug addiction condition.

- Inter-ministerial Circular No. 16/2015/TTLT-BYT-BTC dated 2 July 2015 of the Ministry of Health and Ministry of Finance, amending Clause 5, Article 13 of Inter-ministerial Circular No. 41/2014/TTLT-BYT-BTC dated 24 November 2014 of the Ministry of Health and Ministry of Finance, providing guidelines for the implementation of health insurance.
- On 27 July 2015, the Ministry of Health stipulated Circular No. 20/2015/TT-BYT, providing guidelines for the process of testing chemicals and finished products against mosquitos in aerosol spray form with infinitesimal volume.

Land - Real Estate

- Decision No. 35/2015/QD-UBND dated 14 July 2015 of the People's Committees of Ho Chi Minh City, providing for the coefficient adjusting the land price in 2015 in the area of Ho Chi Minh City.
- On 10 July 2015, the Prime Minister issued Decision No. 27/2015/QD-TTg, on the standards of duty houses.
- Decision No. 1819/QD-BTNMT dated 10 July 2015 of the Ministry of Natural Resources and Environment, approving the project on Adjustment in the planning for land use until 2020 and the elaboration of planning for land use in 5 years from 2016 to 2020 at national level.
- On 9 July 2015, the People's Committees of Hanoi stipulated Decision No.3206/QD-UBND, announcing the service price bracket for condominium or apartment buildings in the area of Hanoi City.

Transport

- Decision No. 2505/QD-BGTVT date 13 July 2015 of the Ministry of Transport, announcing the List of legal documents on transport, which are no longer valid in 6 first months of 2015.
- On 10 July 2015, the Ministry of Transport issued Decision No. 2491/QD-BGTVT, correcting Circular No. 29/2014/TT-BGTVT, providing for the training, fostering and coaching professional skills of aviation security.
- Decision No. 1012/QD-TTg dated 3 July 2015 of the Prime Minister, approving the Planning for development of a system of logistics centres in the whole country until 2020, with orientation to 2030.
- On 21 July 2015, the People's Committee of Hanoi stipulated Decision No.17/2015/QD-UBND, amending the Regulations on management, operation,

exploitation and use of urban road system in the area of Hanoi accompanying Decision No. 15/2013/QD-UBND.

- Decision No. 16/2015/QD-UBND dated 17 July 2015 of the People's Committees of Hanoi, amending the settlement in cases where land does not satisfies conditions for site plan existing along transport routes and rules for implementing the projects on investment in construction of new transport roads in Hanoi accompanying Decision No. 15/2011/QD-UBND.
- On 28 July 2015, the Ministry of Transport issued Circular No. 37/2015/TT-BGTVT, providing the procedures for issuing the licenses for imports of used ship for dismantlement.
- Circular No. 36/2015/TT-BGTVT dated 24 July 2015 of the Ministry of Transport, on managing the service prices of domestic aviation transport and service prices of aviation specialization.
- On 24 July 2015, the Ministry of Transport stipulated Circular No. 34/2015/TT-BGTVT, providing for the reports and investigations on marine accidents.
- Circular No. 31/2015/TT-BGTVT dated 17 July 2015 of the Ministry of Transport, providing for the contents on and process of the examination for the issuance of licenses for operating trains on urban railway.
- On 14 July 2015, the Ministry of Transport issued Circular No. 30/2015/TT-BGTVT, amending and supplementing a number of articles of Circular No.46/2012/TT-BGTVT dated 11 July 2012 of the Ministry of Transport, providing for the training, examination, and issuance of licenses for road vehicle driving.
- Circular No. 29/2015/TT-BGTVT dated 6 July 2015 of the Ministry of Transport, providing for the issuance and use of international driving licenses.

Science - Technology

- On 3 July 2015, the People's Committees of Hanoi stipulated Decision No.3096/QD-UBND, approving the Program on Major sciences and technologies of the capital in the period from 2015 to 2020.
- Decision No. 1694/QD-BKHCN dated 2 July 2015 of the Ministry of Science and Technology, announcing newly-issued administrative procedures under management authority of the Ministry of Science and Technology.
- On 2 July 2015, the Ministry of Science and Technology issued Decision No.1692/QD-BKHCN, approving the list of scientific and technological missions in accordance with Ordering protocol for initiating the implementation under the plan of 2015.
- Circular No. 12/2015/TT-BKHCN dated 20 July 2015 of the Ministry of Science

and Technology, providing for the safe analysis with respect to nuclear power plants.

- On 13 July 2015, the Ministry of Labour, War Invalids and Social Affairs stipulated Circular No. 24/2015/TT-BLDTBXH, detailing the implementation of Clause 6, Article 14 of Decree No. 87/2014/ND-CP dated 22 September 2014, on attracting individuals conducting scientific or technological activities who are Vietnamese residing overseas or foreign specialists to participate in scientific and technological activities in Vietnam.

Administration - Judiciary

- Circular No. 04/2015/TT-TTTP dated 9 July 2015 of the Government Inspectorate, providing for the work of protecting national secrets in Inspection branch.
- On 6 July 2015, the Ministry of Public Security issued Circular No.31/2015/TT-BCA, providing guidelines for the issuance of visas, temporary residence cards and exit-entry licenses to, and the settlement of permanent residence status for foreigners in Vietnam.

Agriculture - Forestry - Fishery

- Decision No. 2796/QĐ-BNN-QLCL dated 15 July 2015 of the Ministry of Agriculture and Rural Development, on the temporarily-suspended effect of Clause 2, Article 16 of Circular No. 12/2015/TT-BNNPTNT dated 16 March 2015 of the Ministry of Agriculture and Rural Development, providing guidelines for the safety inspection of foods originating from imported plants.
- On 13 July 2015, the Ministry of Agriculture and Rural Development stipulated Decision No. 2766/QĐ-BNN-CN, announcing the HS codes with respect to List of livestock breeds varieties permitted to be produced or marketed in Vietnam.
- Decision No. 2711/QĐ-BNN-KTHT dated 10 July 2015 of the Ministry of Agriculture and Rural Development, announcing new administrative procedures under management authority of the Ministry of Agriculture and Rural Development.
- On 22 July 2015, the State Bank of Vietnam issued Circular No. 10/2015/TT-NHNN, providing guidelines for the implementation of a number of contents contained in Decree No. 55/2015/ND-CP dated 9 June 2015, on the credit policy serving the agricultural and rural development.
- Circular No. 25/2015/TT-BNNPTNT dated 1 July 2015 of the Ministry of Agriculture and Rural Development, on the List of livestock breeds varieties permitted to be produced and marketed in Vietnam.

Miscellaneous

- On 24 July 2015, the Prime Minister stipulated Decision No. 1168/QD-TTg, approving the Program on providing public-use telecommunications services until 2020.
- Decision No. 1161/QD-TTg dated 23 July 2015 of the Government, approving the Scheme on ASEAN Statistical integration in the period from 2016 to 2020.
- On 15 July 2015, the Ministry of Natural Resources and Environment issued Decision No. 1831/QD-BTNMT, announcing administrative procedures under the State management authority of the Ministry of Natural Resources and Environment.
- Decision No. 1023/QD-TTg dated 6 July 2015 of the Government, on capital support to the regions enjoying the Program on ensuring the school' educational quality.
- On 8 July 2015, the Ministry of Culture, Sport and Tourism issued Circular No.06/2015/TT-BVHTTDL, providing for the process of and procedures for receiving application files to issue Licenses for carrying weapons, supporting tools in, out of Vietnam territory to display, exhibit in cultural and artistic activities; process of and procedures for permitting the use of weapons, explosions and supporting tools as properties.

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