

“I don't need lawyers who win at all cost.
I really need them to win, but calculate the costs ”

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CAPITAL MARKET – COMMERCE – BANKING

REDUCE IN TRANSACTION'S REQUIREMENTS, PROCEDURES AT HANOI STOCK EXCHANGE

Non-listed Public company is not required to have a counter guarantee member when register for trading at Hanoi Stock Trading Center. Hanoi Stock Exchange, Securities depository center's managing jurisdiction over the method of trading has been expanded. The Exchange and Securities depository center reserved the right to directly regulate the method of transaction and transaction amending on the basis of matching order after gaining State Securities Commission's approval.

The above contents stipulated on Circular 95/2010/TT-BTC dated 30th June 2010 issued by the Ministry of Finance regarding the Regulations on managing and securities trading for non-listed Public company at Hanoi Stock Trading Center issued along with Decision no. 108/2008/QĐ-BTC dated 20th November 2009

The Circular comes into effect on date of signing.

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CAPITAL MARKET – COMMERCE – BANKING

NEW REGULATIONS ON THE REGISTRATION OF SECURED TRANSACTIONS

Online registration for secured transaction: Individual, organization may register and consult information online regarding secured transaction. The online registration of secured transactions holds equal value to those done on paper. Online registration procedure considered a significant point for Decree 83 as it helps the public to save time, expenses and allow online consultation regarding security transaction.

Within-the-day process of transaction registration form. The registration center has the obligation to process registration form, amendment form, letter of notification to handle transaction registration's mistake amendment, termination of registration within submission date of valid registration form, if the form receiving time is after 15:00pm, the registration will be completed on the next business day.

Term of the registration is not limited to: five years as per regulated previously by Decree 08/2000/NĐ-CP, except when terminated upon request.

The above new items stipulated on Decree 83/2010/NĐ-CP dated 23th July 2010 by the Government regarding secured transaction.

Apart from the said new items, Decree 83 also specifying the moment the registration of the security interest take effect. Depend on the type of security interest the registration's effective time will vary. For and use rights, fixed asset tied to land the effective time is the date when transaction center receives a valid registration form. For ships, airplanes, the effective time is the date when the information regarding the secured transaction is registered with Vietnam National Aircraft Register, Ship Register; for other assets, the effective time is the time when the provision of the registration form is inputted into the security transaction database.

The Decree comes into effect on 9th Sept 2010, supersedes Decree no. 08/2000/NĐ-CP.

INTEREST RATES REGULATION FOR RE-LENDING OF STATE ODA

On 30th August 2010 Decree no. 78/2010/NĐ-CP will come into effect and supersede Decree no. 181/2007/QĐ-TTg dated 26/11/2007 by the Prime Minister of the Government.

The Decree stipulates that the interest rate of commercial funding re-lending, preferential loan under foreign interest rate. For ODA re-lending, the interest rate under the original foreign currency is calculated to be 2/3 of the referential financial interest rate at the lending term at time the re-lending condition was determined. In the case where the said 2/3 referential commercial interest rate is lower than the foreign loan interest rate, the re-lending interest rate is equivalent to the foreign interest rate. Correspondingly, the case where re-lending is done using foreign currency without referential commercial interest rate, the re-lending interest rate also equivalent to foreign loan interest rate.

Also during the process of re-lending ODA funding, if the re-lending is done using VND, the re-lending interest rate is calculated by foreign interest rate as stipulated above in addition to the hedging rate between foreign currency and the VND. The Ministry of

Finance presides, in conjunction with the State Bank of Vietnam to calculate and announce the hedging rates between VND and three strong currencies including USD, EURO, and JPY.

In exceptional cases for the few industries and sectors that enjoy preferable interest rates equivalent to 30% the foreign currency or VND re-lending interest rate equal to but not lower than foreign lending interest rate.

Under the Decree, the lender must pay three fees including: Re-lending fee, relevant fee and expense collectible by foreign lending party, service fees charged by the service bank in accordance to the bank's regulation.

The lender must apply guarantee for the lending using properties created from re-lending funding of the State and/or other properties. However, cases that are not require loan hedging including: lending to Provincial level People's Committee or to re-lending to financial or credit organization, or cases approved by the Prime Minister of the Government to use credit or exempted from loan guarantee.

ENTERPRISE - INVESTMENT**PEOPLE'S COMMITTEE OF HANOI, VIETNAM POSTS AND TELECOMMUNICATION GROUP, VIETNAM ELECTRICITY, TO PILOT ONLINE TENDERS**

These three enterprises shall perform a pilot program for online tenders pursuant to Circular no. 17/2010-TT-BKH dated 22th January 2010 by the Ministry of Planning and Investment.

Pursuant to the Circular, the online tenders applied to private service contracts, purchase of goods and construction and instalment under the forms of public tenders, closed tenders and competitive domestic tenders. Each pilot agency shall choose at least 05 (five) purchase of goods, 03 (three) consultant services, 03 (three) construction and instalment contracts to carry out the online tenders pilot program.

When hosting online tenders, the tenders offeror must register into the Online tenders system at the following address <http://muasamcong.mpi.gov.vn> to be provided with ID number, the tender must also register into the System when participate in the online tenders to be provided ID number.

Electronic transaction documents that go through the System with the authorized representative's ID number hold legal value equivalent to written documents. Electronic document sent to the server only considered successful when received by the server; the server upon receiving will send a successfully receive confirmation to the sender.

The electronic documents' sending and receiving time via the Online tenders System is determined based on the time stamp left in the System's server. Tender who need to change their tender's name, entering competitive tender after receiving tender invitation package, requirement package must notify by written letter to the tender offerer prior to the tending time, or the deadline of offering package submission.

The Circular comes into effect starting from 15th September 2010.

SIX SCIENTIFIC-TECHNOLOGICAL SECTORS ENCOURAGED FOR FOREIGN INVESTMENT

The Government of Vietnam encourage foreign individual, and organization to invest in the following six sectors: Fundamental Natural Science research; Research and Development for applied information technology, biotechnology, new material technology, automaton and electronic-mechanical, atomic energy and new energy sources, space technology, mechanical-machinery fabrication technology, agricultural product processing and storing technology, waste treatment technology; High-tech human resource R&D; Development of high tech company in Vietnam; Technological transferring and Scientific-Technological services; Establishing or contributing to Scientific-Technological development funds in Vietnam.

To establish representative office, branch in Vietnam, foreign Scientific-Technological organization must operated at least one year (for representative office) or at least five years (for establishment

of branch)... The operational term for Rep Office and Branch is not exceeding 5 years and not more than the remaining operational term of the foreign Scientific-Technological organization.

Apart from the regulations stipulated by the law on direct foreign investment, foreign investment project in Scientific-Technological sectors must also satisfy the three following conditions: Must have plan for foreign investment in Scientific-Technological sector; to have consent from the Ministry of Science and Technology and rewarded investment license by the Ministry of Planning and Investment. However, there is no restriction on the contribution from foreign investor.

The items stipulated at Decree no. 80/2010/NĐ-CP regulating foreign cooperation and investment in Scientific-Technological sectors. The Decree shall come into effect on 1st September 2010.

COMMERCE**ARBITER COUNCIL EMPOWERED TO EXECUTE PROVISIONAL EMERGENCY MEASURE**

This new content of the Commercial Arbitration Law ratified by the National Assembly of the Socialist Republic of Vietnam dated 17th June 2010. Consequently, the parties have the right to appeal to the Arbitrator Council or the Court to execute provisional emergency measure as stipulated by this Law and relevant regulations within the law. The appeal to the court to execute provisional emergency measure is not considered as a void of the arbitrator's agreement or as a waiver of the right to settle dispute via Arbitration. Previously, under the Commercial Arbitration Ordinance 2003, the Court is exclusively reserved the right to execute provisional emergency measure.

In addition, the Commercial Arbitration law 2010 also has other noteworthy items such as: The Arbitrator's jurisdiction has been expanded compared to Commercial Arbitration Ordinance 2003. The Arbitrator settling disputes that include at least one party operating in commercial sector and stipulated by the law to settle via Arbitrator; the Arbitrator has the right to verify the case, collect evidences and call for witnesses. The case where witness refused to cooperate, the Arbitrator's Council shall issue a letter to competent Court to issue a decision to subpoena the witness to attend the session between the Arbitrator's Council. Expense for the subpoena of the witness shall be incurred upon the party requesting the subpoena or

consider the appeal to void the Court's verdict is not allowed to appeal or protest according to the reviewing procedure. Previously, pursuant to the Commercial Arbitration Ordinance 2003, within the duration of 15 days counting from the day the Court issued the decision to resolve the appeal to void the arbitral decision, the parties have the right to appeal. Procurator of equal status has the right to appeal the Court's decision.

This Law comes into effect on the 1st of Jan 2011. Starting from the day this Law comes into effect, the Commercial Arbitration Ordinance 2003 expires. The arbitral agreements entered into before this Law comes into effect are executed in accordance to the law in force at the time of the signing of arbitral agreement.

The Arbitration centers formed before the day this Law comes into effect are not required to perform procedure of re-incorporation. The Arbitration centers must amend, supplement the charter, arbitration rules to comply with the regulation stipulated by this Law within 12 months starting from the day this Law comes into effect. Upon the expiration of the said time limit, the Arbitration centers that failed to amend, supplement the arbitration rules shall have their Incorporation license revoked and must cease to operate.

LAND - CONSTRUCTION**ENROACHED LAND MUST BEAR TAXABLE RATE UP TO 0.2%**

This is one of the most noteworthy regulations within the Taxation law on utilization of non-agriculture land ratified at National Assembly XII Session 7 on 17th June 2010.

Pursuant to Taxation law on utilization of non-agriculture land, issues on taxable individuals, tax exemptible individuals, taxpayers, basis to calculate tax, registration, declaration, calculation, tax paying, exemption, deduction of non-agriculture land utilization's tax have been better regulated compared to Ordinance on residential tax 1992, in details:

- Taxpayer according to the Law is determined

as non-agriculture land, including: rural residential land, urban residential land, manufacturing land, non-agriculture trading, including land used for industrial park construction; land used for factory and business center construction; land used for mining, processing mineral; land used for the manufacturing of construction material and pottery.

- At the same time, the Law stipulated that the seven categories of non-agriculture lands, including: rural residential land, urban residential land, manufacturing land,

LAND - CONSTRUCTION

non-agricultural trading, including land used for industrial park construction; land used factory and business center construction; land used for mining, processing mineral; land used for the manufacturing of construction material and pottery.

- At the same time, the Law stipulated that the seven categories of non-agricultural lands utilize for non-economical reason shall not subjected to tax, including: land employed for public purposes including traffics, irrigation; land employed for construction of cultural, medical, educational, gymnastic projects for public use; land with significant historic-cultural artifacts, famous architectures and scenic spots; land employed for other public projects stipulated by the Government; land employed by religious groups; land employed as cemetery, graveyard; land that contains rivers, stream, dikes, canal and specialized surface water; land that has buildings in these categories: communal house, temple, shrine, ancestral hall, family worshipping hall; land employed for construction of company head office, public building, social organization, land employed for national defense and security purpose. However, should the lands under the above categories used for economic reason, they will be subjected to tax stipulated by the Taxation law on utilization of non-agriculture land.

- There are two bases to calculate tax that are tax calculation charge and tax rate. Accordingly, tax calculation charge is calculated using the actual utilized area of land multiply by the charge applied to one square meter of land. The taxable area of land is the land area under actual use; the case where it is allowed to use many land plots the taxable area is the total area of the taxable residential land plots. The Charge for one square meter of land is the lease stipulated and regulated by the Provincial People's Committee, Cities under centralization in five years cycles starting from the day this law comes into effect.

To prevent real estate speculation, the law regulates tax rate as follow: land area within limit has the tax rate of 0.03%; not exceeding three times the limit of 0.07%; exceeding three times the limit of 0.15%. Land employed for purpose different from declaration, unemployed land

shall be taxed at the rate of 0.15%.

In addition, the case of land under multi-term investment project stated under the investor's registration approved by competent agency, it is not considered unemployed land and subjected to 0.03% tax rate. At this same tax rate there are residential land of multi-floors house, apartment, underground construction, land employed for manufacturing, and non-agricultural land employed for economical purpose.

Another noteworthy item within the Law is the taxation for encroached land, subjected to a general tax rate at 0.2%; not applying residential land limit to encroached land. The Law at the same time, strongly emphasizes that the tax paying is not the basis to recognize lawful right of land use for the taxpayer's encroached land area.

- The Law specifically stipulated that the total tax exemption for nine categories and 50% deduction for four categories. Note: for company that has 50% employment rate being veterans, disables; land with recognized artifact or architectures of significant historical-cultural value and the taxpayer is under hardship caused by force majeure also entitled for land's tax exemption, reduction.

- The case where the taxpayer has right of land use over many residential land plots, the tax limit is calculated on the total area of the land plots. The taxpayer is offered choice to pick residential land tax limit from a district, suburban district, commune, city from the province the taxpayer own the rights of land use. The case where there is one or many residential land plots exceeded the limit, the taxpayer is allowed to choose one location that has the limit-exceeding land plot to determine the land area that exceeded the limit over the total land areas of the plots. Tax calculation charge applied based on the the land value of district, suburban district, commune, city in the respective province that contain the land plot.

The Law comes into effect on 1st Jan 2012 and supersedes the Ordinance on House and land tax 1992.

ADMINISTRATION**TRADING OF CONTRABANDED ALCOHOL AND TOBACCO WORTH MORE THAN 100 MILLION VND MIGHT BE GROUND FOR CRIMINAL CONVICTION**

12th July 2010, the Government issued Decree no. 76/2010/NĐ-CP amending and supplementing Article 11 of Decree no. 06/2009/NĐ-CP dated 22nd Jan 2009 regarding the penalty for administrative violation for alcohol and tobacco trading, manufacturing sector. Accordingly, implement that: for offense that involving contraband alcohol worths 100 million VND and up or more than 1,500 packages of contraband cigarettes; the agency that discovered or handling the offense must transfer the dossier to the competent agency to initiate criminal procedure investigate the criminal offense; the case where the criminal procedure executive agency decided to not to perform criminal investigation, an administrative sanction equivalent to 100 millions VND shall be fined.

Offense regarding regulations on the trading of contraband raw material, monetary penalty is set, depending on the weight of contraband tobacco, between 100 thousand VND to 100 million VND for the act of trading, transporting and stockpiling of tobacco raw material under the form of pre-separated cured tobacco (for flaked tobacco leaves, preliminarily treated tobacco, blended tobacco, tobacco

stalks and replacing products use for the manufacturing of tobacco products convert into equivalent weight). For the act of trading contraband tobacco raw material exceeding 2000kgs and up, the discovering agency or the agency handling the case must transfer the dossier to competent criminal procedure executive agency to begin investigation; the case where the criminal procedure executive agency decided to not to perform criminal investigation, an administrative sanction equivalent to 100 millions VND shall be fined.

Article 11 Decree no. 06/2009/NĐ-CP is divided into three sub-Articles as follow:

- Article 11a. Violation of regulations regarding the trading of contraband alcohol;
- Article 11b. Violation of regulations regarding the trading of contraband being cigarettes;
- Article 11c. Violation of regulations regarding the trading of contraband tobacco's raw material.

This Decree comes into effect 01st September 2010.

ADMINISTRATION**PUBLIC ORDER AND PUBLIC SAFETY**

12th July 2010, the Government issued Decree 73/2010/NĐ-CP regulating administrative sanction for public order and public safety sectors. Accordingly, apart from the regular administrative sanctions, the offender must also compensate the damage caused to organization, individual in accordance to the regulation on damage compensation within the Civil law.

Fine amount: The fining barrier is still hold at 60 thousand VND to 30 million VND; however there are many changes regarding the fining mechanism for each particular violation, especially the raising of fining barrier to keep up with the market economy and create more effective deterrence. For example, violation of public order and safety; registrative managing and residence; violation of regulations on the issuance and administration and usage of ID and other identity papers; violations of arms, explosives, detonators, firecrackers control, banned dangerous toys; acts that cause

damage to public buildings, safety buildings, public order or acts of violation regulations on sectors, industries that have regulations on the management and utilization of seal; violations on the regulations on management and security service providing,...

Fining Jurisdiction: to implement more jurisdictions to sanction administrative violation to the Director of Immigration. The monetary fining amount of People's police officer on duty; head of police station, Squad leader, Commune level police commissioner; Provincial commissioner, Director of the fire brigade; Chairman of the People's Committee of all level...shall be raised.

Decree no. 73/2010/NĐ-CP officially comes into effect on the 1st of Sept 2010, supersedes Decree no. 150/2005/NĐ-CP dated 12th December 2005 issued by the Government.