

LIST OF CERTAIN FIELDS IN WHICH INDIVIDUALS ARE PERMITTED TO ESTABLISH SCIENCE AND TECHNOLOGY ORGANIZATION

On July 24, 2009, the Prime Minister signed Decision No. 97/2009/QĐ-TTg promulgating the list of certain fields in which individuals are permitted to establish their science and technology organizations.

Individuals must be fully responsible for the operation of their science and technology organizations established by themselves. They are not entitled to use the title of their science and technology organization to give out their opposite opinions or suggestions to competent authorities. Of course, they must comply with applicable laws.

The Ministry of Science and Technology will provide in detail conditions and procedures for registration of science and technology organizations established by individuals.

The list of certain fields in which individuals are permitted to establish their science and technology organizations is described as follows:

(i) Natural science field, including: mathematics, computer science and information technology, physics, chemistry, mechanics, earth sciences, biology.

(ii) Social science field, including: psychology, economics and business, education science, sociology, economic and social geography.

(iii) Human science field, including: history and archaeology, philosophy, linguistics, literature, art.

(iv) Technical science and technology field, including: architecture and civil construction, electricity, information technology and communication engineering, mechanical engineering and manufacture machinery, chemical technology, material technology and metallurgy engineering, medicine engineering, environment technology, biological technology, nano technology, food and beverage technology, energy and resources development technology.

(v) Science, medicine and pharmacy and health field, including: basic medicine, clinical medicine, preventive medicine, and pharmaceuticals.

(vi) Agricultural science field, including: farming, sylviculture, breeding, veterinary, aquiculture.

(vii) Science and technology service field, including: science and technology information service, library service, science and technology storage service, science and technology museum service, standard, measures, quality service, intellectual property service, technology transfer service.

This Decision shall take effect from September 15, 2009.

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GUIDING PIT EXEMPTION UNDER RESOLUTION NO. 32/2009-QH12 OF THE NATIONAL ASSEMBLY

On August 12, 2009, the Ministry of Finance issued Circular No. 160/2009/TT-BTC guiding PIT exemption under Resolution 32/2009-QH12.

Taxpayers entitled to PIT exemption from January 01, 2009 until the end of June 30, 2009 are resident individuals generating their individual incomes from business, salary and wages, receipt of inheritances and receipt of gifts. As from July 01, 2009, individuals must pay PIT for all above-mentioned incomes. Individuals generating their individual incomes from capital investment, capital transfer, copyright and franchise are entitled to PIT exemption for 2009. They must pay PIT from January 01, 2010.

Individual incomes from salary and wages used to determine the amount of PIT exemption shall be taxable incomes from salary and wages, which the employer must pay to the individual employees for the first 6 months of 2009, regardless of the date of payment.

In the case of quarterly monetary bonuses, tax-exempt incomes shall be the amount of the monetary bonus for the first and second quarters of 2009.

The deadline for the payment of monetary bonuses for these quarters of 2009 shall not be later than December 31, 2009.

In the case of monetary bonuses for the year 2009 (such as an annual bonus, or the thirteenth month salary or so forth), the incomes used to determine the amount of PIT exemption shall be 50% of such monetary bonus. The deadline for the payment of monetary bonuses for the year 2009 shall not be later than March 31, 2010.

In the case of other income items such as cash for holidays and summer vacations, cash for uniforms and other benefits, PIT exemptible incomes shall be the incomes actually paid within the first 06 months of 2009.

In case of dividends receivable from share capital contribution, PIT exemptible incomes shall be dividends distributed within 2009. In case of interest (imposed by the lender) on loans provided, it shall be the amount of monetary interest actually received in 2009 as consistent with the interest rate agreed in the loan contract. If an individual receives its individual income in advance for a number of years, the amount of income

corresponding to 2009 shall be PIT exempted.

In case of income from receipt of inheritances and gifts, the period to determine PIT exemptible income shall be from January 01, 2009 until the end of June 30, 2009 with the conditions that an individual receiving the inheritances or gifts must submit a valid file to the competent authorities within such period.

In addition, the Circular also provides guidelines for PIT declaration, finalization for 2009.

This Circular shall take effect from September 26, 2009.

PIT APPLICABLE TO TRANSFER OF REAL PROPERTY AND RECEIPT OF INHERITANCES AND GIFTS BEING REAL PROPERTY

On August 12, 2009, the Ministry of Finance issued Circular No. 161/2009/TT-BTC guiding PIT applicable to transfer of real property and receipt of inheritances and gifts being real property.

Taxpayers liable to pay PIT are detailed as follows:

(i) a transferor in case of real property transfer, except the case there is an agreement between the transferor and the transferee on discharging tax obligations by the transferee.

(ii) an individual who is a recipient of an inheritance or gift.

According to the Law on PIT and Decree No. 100/2008/ND-CP dated September 08, 2008 detailing a number of articles of the Law on PIT (“Decree No. 100/2008/ND-CP”), a tax rate applicable to income from transfer of property shall be (i) either 25% of taxable income or (ii) 2% of the transfer price.

A tax rate of 25% shall only be applicable for individuals who transfer real property with valid documents and invoice to determine the transfer price, prime cost and other expenses relating to transfer activity.

If the prime cost and relevant expenses to determine taxable income are unidentified, a tax rate of 2% of the price of the transfer shall be applied. If the price of the land transfer is less than the land price stipulated in the list of land prices issued by the provincial people's committee, then the price of the transfer shall be such land price stipulated in the List issued by the provincial people's committee.

In addition to the cases of PIT exemption on income from real property transfer and recipient of an inheritance or gift being real property as stipulated in Clauses 1, 2, 3, 4, 5 of Section III of Part A of Circular No. 84/2008/TT-BTC, PIT shall be exempted or temporarily not collected in the following cases:

(i) An individual or a family household with a land use right and/or who owns a house when making capital contribution by such real property in order to establish an enterprise or to increase production and business capital.

(ii) Incomes being compensation received when the State recovers land, including income paid by economic organizations and being compensation or assistance

received when one's land is recovered by the State under Decree No. 197/2004/ND-CP dated December 03, 2004 and Decree No. 17/2006/ND-CP dated January 27, 2006 on compensation, support of resettlement when land recovered by the State.

(iii) Incomes from the transfer of residential house and/or right to use residential land and assets on the land by an individual who has only one residential house and/or residential land in Viet Nam according to Point 2 of Section III of Part A of Circular No. 84/2008/TT-BTC dated September 30, 2008 guiding the implementation of a number of articles of the PIT Law and Decree No. 100/2008/ND-CP.

This Circular shall take effect on September 26, 2009 and replaced Official Letter No. 16181/BTC-TCT dated December 31, 2008 and Official Letter No. 762/BTC-TCT dated January 16, 2009.

ADDITIONAL PROVISIONS ON DECLARING TAX-PAYING AMOUNT IN GOODS IMPORT DECLARATION

On August 13, 2009, the Ministry of Finance issued Circular No. 163/2009/TT-BTC guiding amendment of and supplement to a number of provisions of Decision No. 30/2008/QD-BTC of the Minister of Finance dated May 21, 2008 promulgating declaration of tax-paying amount of imported goods and guidelines of declaration.

There are seven (07) kinds of goods, which need not to be declared the cost in tax-paying declaration but still need to be declared the cost in import goods or export goods declaration. They include:

(i) Exported goods.

(ii) Imported goods without a sales contract which are determined the tax-paying cost under the declaration as stipulated at Clause 7 of Item VIII of Part II of Circular No. 40/2008/TT-BTC.

(iii) Imported goods being subjects which are exempted tax, considered to enjoy import duty exemption in accordance with the Law on Import and Export Duties.

(iv) Imported goods under the form of imported materials to produce exported goods.

(v) Imported goods falling into tax duty free subjects.

(vi) Imported goods falling into the form of temporary import for re-export goods.

(vii) Goods, which do not belong to the subjects having to determine the value for tax calculation according to one of the six methods for determining the value for tax calculation as specified in part II of Circular No. 40/2008/TT-BTC.

Any kind of goods, which does not belong to above-mentioned subjects, must declare the value for tax calculation in the tax declaration in accordance with the provisions of Decision No. 30/2008/QD-BTC.

This Circular takes effect from September 27, 2009.

AMENDMENT OF CERTAIN ARTICLES OF THE REGULATIONS ON ISSUANCE OF VALUABLE PAPERS WITHIN VIET NAM BY CREDIT INSTITUTIONS

On August 11, 2009, the State Bank of Viet Nam ("SBV") issued Circular No. 16/2009/TT-NHNN amending and supplementing a number of articles of the Regulations on issuance of valuable papers within Viet Nam by credit institutions issued in conjunction with Decision No. 07/2008/QD-NHNN of SBV's Governor dated March 24, 2008 ("Decision No. 07").

The time-limit for considering and issuing a decision on issuance of convertible bonds or bonds with options by a credit institution has extended up to forty five (45) working days (instead of 20 working days as provided in Decision No. 07) from the date of receipt of a complete and valid application file from the credit

institution requesting such issuance.

The conditions for issuing long-term valuable papers by a credit institution stipulated in Clause 3, Article 22 of previous regulation have extended on the condition that the operational and business results in the year immediately the preceding the year of issuance of such papers and up to the most recent date must be profitable.

The plan for increasing the charter capital from the proceeds of the issuance of convertible bonds or of bonds with options of a financial year passed by the General Meeting of Shareholders must contain all the items required by current regulations of SBV on files for approval of

change in the charter capital of a credit institution.

SBV has also amended Clause 3 of Article 28 of the previous Regulation on the conditions for issuance of convertible bonds or bonds with options as follows:

The operational and business results of the credit institution in the year immediately preceding the year of the issuance and up to the most recent date must be profitable.

The ratio of a credit institution's bad debts over the total outstanding loan balance in the year immediately preceding the year of the issuance and up to the most recent date must remain below 5% (instead of A level

TAX – FINANCE – BANKING**AMENDMENT OF CERTAIN ARTICLES OF THE REGULATIONS ON ISSUANCE OF VALUABLE PAPERS WITHIN VIET NAM BY CREDIT INSTITUTIONS (tt)**

applicable to a credit institution in the year immediately preceding the year of the issuance as provided in Decision No. 07).

In addition, SBV repealed Clause 3 of Article 42 and supplemented a number of contents on the function and mission of its relevant departments within SBV.

This Circular shall take effect from September 25, 2009.

REMITTANCE FOR GOVERNMENT BONDS DENOMINATED IN FOREIGN CURRENCY TO BE USED AS PLEDGES FOR LOANS IN VIETNAMESE DONG

On July 16, 2009, the State Bank of Vietnam ("SBV") issued Decision No. 1666/QD-NHNN adding government bonds denominated in foreign currency ("FC Bonds") into the list of valuable papers permitted to be used as pledges for loans in Vietnamese dong at SBV.

After commercial banks have used up valuable papers called levels I and II in accordance with Decision No. 441/QD-NHNN of the Governor of the SBV dated March 02, 2009 on the list, priority order and ratio of value of valuable papers to the amount of loans secured by valuable

papers pledged at SBV, they may be permitted to use the FC Bonds (issued in accordance with Decision No. 211/QD-TTg dated February 13, 2009) as security assets for loans in Vietnamese dong at SBV to support their ability to make payments

The value of the FC Bonds to be used as security assets for a loan in Vietnamese dong at the SBV shall be calculated based on par value. The value of the FC Bond may be converted into an amount in Vietnamese dong at the exchange rate on the inter-bank foreign currency market announced by SBV

at the time in which a decision on providing the loan is made.

SBV shall decide the amount of the loan based on: (i) the objectives of monetary policy control from time to time; (ii) demand for a loan; and (iii) the value of the FC Bonds which is converted into an amount in Vietnamese dong (this value must be at least equal to 105% of the amount of the loan for that such bond are pledge as security assets).

This Decision takes effect from the signing date.

SECOND STAGE FOR ISSUANCE OF GOVERNMENT BONDS DENOMINATED IN FOREIGN CURRENCY IN 2009

On August 17, 2009, the Ministry of Finance issued Decision No. 1958/QD-BTC on second stage for issuance of Government bonds denominated in foreign currency ("FC Bonds") in 2009.

The total amount of bonds issued for this period is USD250 million. In which, FC Bonds with a one year term and bonds with a two year term have the same issued amount of USD100 million; FC Bonds with a three year term has issued amount of USD50 million. The face value of bonds is USD100 per bond or

multiples of USD100. The bonds can be issued in the form of book entries.

The method of issuance can be bidding at the Hanoi Stock Exchange in the form of equal to face value. The fixed bond interest rate applies for the whole of the term of bonds; the ceiling interest rate as decided by the Ministry of Finance and winning bid interest rates can be determined based on the bidding results.

Bondholders can be permitted to assign, donate, bequeath or use their bonds to pledge in credit

relationship and so forth, in accordance with law. In addition, bondholders must declare and pay tax on bond interest according to current regulations.

This Decision takes effect from the signing date.

GUIDING FOREIGN EXCHANGE CONTROL APPLICABLE TO TRADING GOVERNMENT BONDS DENOMINATED IN CURRENCY

On August 24, 2009, the State Bank of Viet Nam ("SBV") issued Circular No. 19/2009/TT-NHNN guiding foreign exchange control applicable to trading government bonds denominated in currency ("FC Bonds") issued pursuant to Decision No. 211/QD-TTg of the Prime Minister dated February 13, 2009.

This Circular applies to resident organizations and resident individuals legally operating in Viet Nam, using foreign currency in their foreign savings account opened at credit institutions licensed to conduct foreign exchange activities as stipulated at Article 30 of Decree No. 160/2006/ND-CP dated December 28, 2006.

Viet Nam Securities Depository and depository members shall open their foreign currency savings accounts at a designated payment bank in accordance with current regulations on foreign exchange control to settle FC Bonds.

A foreign currency savings account shall be used to implement the following revenue and disbursement transactions:

(i) Revenue into the account: to collect foreign currency proceeds from the sale of FC Bonds; to receive payment being repayment of principal and interest when the bonds mature; and to collect proceeds being receipt in one's capacity as trustee engaged

in bidding for bonds, and other items of revenue relating to trading FC Bonds.

(ii) Disbursement from the account: to disburse foreign currency to purchase FC Bonds, to disburse payment out as trustee, including fees for trading bond and other disbursements relating to trading FC Bonds.

Resident organizations and resident individuals who are bondholders shall be permitted to pledge their FC Bonds in order to borrow capital at credit institutions licensed to conduct foreign exchange activities.

This Circular takes effect from November 01, 2009.

NEW REGULATION ON MAXIMUM RATIO OF SHORT-TERM CAPITAL FUNDS PERMITTED TO BE USED BY CREDIT INSTITUTIONS

On August 10, 2009, the State Bank of Viet Nam issued Circular No. 15/2009/TT-NHNN regulating maximum ratio of short-term capital funds permitted to be used by credit institutions to provide medium and long term-loans.

The maximum ratio of short-term capital funds permitted to be used to provide medium and long term-loans by commercial banks, finance companies and finance leasing companies is 30% and by central people's credit fund is 20%.

A credit institution may use its capital funds to provide medium and long-term loans in according with the following principle: (i) (prior) use of its medium and long-term capital

funds; (ii) (later) use of its short-term capital funds.

The items must be deducted from medium and long-term capital funds permitted to be used to provide medium and long-term loans including investments in securities with such investment retained until the date of maturity and investments in other valuable papers, with a medium or long-term and as issued by other credit institutions; investments in the purchase of treasury shares; deposit with other credit institutions with a deposit term of above 12 months.

This Circular takes effect from September 24, 2009 and replaced the provisions on the maximum ratio

or short-term capital fund permitted to be used by credit institutions providing medium and long term-loans in the Regulations on Prudential Ratio in Operations of Credit Institutions issued in accompany with Decision No. 457/2005/QD-NHNN dated April 19, 2005.

CONSTRUCTION – REAL ESTATE**ADMINISTRATIVE PENALTY IN CONSTRUCTION FIELD**

On July 22, 2009, the Ministry of Construction issued Circular No. 24/2009/TT-BXD detailing the implementation of a number of contents of Decree No. 23/2009/ND-CP of the Government dated February 27, 2009 on administrative penalty in the field of construction; real estate business; exploiting, manufacturing, trading construction materials; managing infrastructure works; managerial development of housing and office.

Construction works contrary to the construction permits is the works breaching of one of the contents within the construction permits, including: changing construction place; wrong foundation; breaching red-lined boundaries. If construction works are civil and industrial projects and separate dwelling-house, the breaches are included: wrong area; exceeding limit height, number of floor and breaching management of architecture. Works are considered to have wrong design if falling into one of the following cases: changing

main weight-bearing structure, architecture of vertical planes; exceeding maximum height; changing usage purpose and wrong construction density, wrong coefficient of land using.

After the issuance of execution suspension decision, if investors and contractors repeatedly commit an offence, they shall be punished a fine depending on level of breach, scale of works as below: (i) VND500 million if the works is required to formulate the investment construction project; (ii) VND300 million if the works is not required to formulate projects and be revoked construction permits (if any).

This Circular also regulates in detail the cases of revocation of the right to use construction permits. A practicing certificate granted to an individual whose operation exceeding his/her practicing capacity conditions or having his/her operation exceeding the scope of practicing certificate for the works

can be revoked for an unlimited period.

The right of trading real estate can be revoked for an unlimited period in following violations which have been committed more than three times: (i) sale, lease, hire purchase of real estate without via a real estate trading floor in case such transaction needed via a real estate trading floor under the law; (ii) sale, lease, hire purchase of real estate at a real estate trading floor not comply with order and procedure; and (iii) not confirm or wrongly confirm on real estate transacted on a real estate trading floor; etc.

This Circular takes effect from September 09, 2009 and replaced Circular No. 01/2005/TT-BXD dated January 21, 2005.

GUIDELINES ON QUALITY MANAGEMENT FOR CONSTRUCTION WORKS

On July 31, 2009, the Ministry of Finance issued Circular No. 27/2009/TT-BXD guiding a number of contents on quality management for construction works.

Investors shall be responsible for strict quality management for construction works from the period preparing, executing projects until accepting and handing over the works to use and must ensure quality and effect of works and comply with applicable law.

Investors may authorize the Board of Management of projects (in case the Investors directly manage projects) or projects management consultancy (in case the Investors hire consultant for management of project) to execute a number or the whole of the following scope of work:

(i) to select organizations, individuals with sufficient capacity conditions to: (i) survey construction, (ii) formulate projects on investment-construction of works,

(iii) make economic-technical construction report, (iv) formulate projects on design- construction of works, (v) executive projects construction, (vi) supervise projects construction execution, (vii) experiment, (ix) audit quality of construction works and construction consultancy work.

(ii) to manage construction survey quality and construction works design.

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GUIDELINES ON QUALITY MANAGEMENT FOR CONSTRUCTION WORKS (tt)

(iii) to manage construction works execution.

(iv) to require the contractor executing construction to maintain construction works.

(v) to store dossier of complete works.

(vi) to report periodically to decentralized location management authorities of construction of the State on the status of quality and management quality construction works according to the regulations.

In case where the investors assigns a general contractor to formulate projects of construction works, design, supply technical equipment, the investors must: (i) approve design tasks formulated by the general contractor; (ii) examine condition capacity of the contractor comparing with bidding dossier; (iii) approve rate of progress of construction execution and the time to accept complete construction works; (iv) receive complete works dossier; and (v) audit the quality of works if it is necessary to accept complete construction works.

This Circular shall take effect from September 15, 2009 and replaced the content on quality management of construction works stipulated at Circular No. 12/2005/TT-BXD dated July 15, 2005 and the Annex 01 attached with Circular No. 02/2006/TT-BXD dated May 17, 2006.

COMMERCE

REGULATIONS ON TRANSIT OF GOODS FROM LAOS THROUGH VIET NAM TERRITORY

On August 04, 2009, the Ministry of Industry and Trade issued Circular No. 22/2009/TT-BCT regulating transit of goods from Lao through Viet Nam.

Transited goods must be transferred by a transporter being a legal entity legally certificated or authorized. Transited goods is entitled to store in Viet Nam territory within a maximum duration of thirty (30) days from the date of performance of customs procedures at import border-gates except the case of extension of transit period according to this Circular.

Viet Nam Customs supervises the transited goods during the time it is being transited Viet Nam territory. It is not allowed for goods falling into the list of goods banned from import-export and trade and the list of temporary export – import goods to be consumed in Viet Nam.

There are seven (07) couples of border-gates and road junction routes in which goods are entitled to transit (according to the list attached with this Circular). Dossier to request the issuance of transit permit must be submitted to the Export-import management sector located in

Da Nang or in Hanoi under the Ministry of Industry and Trade.

The time limit to deal with dossier of issuance, extension of transit permit is 05 working days from the date of receipt of a valid dossier.

This Circular takes effect from September 28, 2009.

LABOUR

LEVEL OF PAYMENT AND ENJOYMENT OF HEALTHCARE INSURANCE UNDER THE LAW ON HEALTHCARE INSURANCE

On July 27, 2009, the Government issued Decree No. 62/2009/ND-CP detailing the implementation of a number of articles of the Law on Health Insurance ("HI").

A monthly payment HI level of persons participating HI is: (i) 3% of a monthly salary or wage from July 01, 2009 until the end of December 31, 2009; (ii) 4.5% of a salary, wage, retirement pension, allowance of losing labor capacity from January 01, 2010; and (iii) 3% of a minimum salary with regard to pupils and/or students from January 01, 2010.

A monthly payment level with regard to voluntary subjects is 4.5% of a minimum salary applied from January 01, 2010.

On enjoyment levels, the Decree also regulates in detail: (i) children below six (06) years old, people operated revolution before January 01, 1945 and Vietnamese Heroine Mother shall be supported with 100% of the fees using high-tech service, large expenses; (ii) officer, non-commissioned officer operating in People's public security force and people with meritorious services to the revolution shall be supported with 100% expenses but not exceeding forty (40) minimum salary for one time using that technical service.

People participating HI shall be paid by HI fund: (i) 100% of examination and treatment of disease fees at a commune medical station; (ii) 100% of examination and treatment of disease fees in case the amount of one time examination and treatment of disease fees is less than 15% of

a minimum salary level; (iii) 100% of examination and treatment of disease fees with regard to the subjects: officer, non-commissioned officer operating in People's public security force and people with meritorious services to the revolution and children below six (06) years old.

In case people participating HI have disease examination and treatment by a wrong technique specialty channel, they shall be entitled to enjoy the following respective amounts:

(i) 70% of the expenses in case of disease examination and treatment of at a medical examination and treatment establishments reaching the third rank standard. In this case, the enjoyed amount must not exceeding forty (40) minimum salary months for each time using high-tech service, large expenses.

(ii) 50% of the expenses in case of disease examination and treatment at a medical examination and treatment establishments reaching the second rank standard. In this case, enjoyed amount must not exceeding forty (40) minimum salary months for each time using high-tech service, large expenses.

(iii) 30% of the expenses in case of disease examination and treatment at a medical examination and treatment establishments reaching the first or the special rank standard. In this case, enjoyed amount must not exceeding forty (40) minimum salary months for each time using high-tech service, large expenses.

This Decree takes effect from October 01, 2009 and replaced Decree No. 63/2005/ND-CP dated May 16, 2005; repealed Article 18 of Decree No. 36/2005/ND-CP dated March 17, 2005.

TYPICAL CASE STUDY***In case the transaction cost in handwriting paper is higher than the cost in the notarized contract, which document shall be applied for a court? ¹***

On September 24, 2003, Mrs. A signed a housing sales contract notarized by a notary public's office in Province B with the housing sales price of VND546 million. In early 2004, Mrs. A and her husband received the house and performed the ownership transfer procedure. Until March 2007, the former house owner sued Mrs. A in a court for 92.5 teals of gold on behalf of Ms. A's deceased husband with the evidence of handwriting paper made on September 18, 2003 (before the date of notarization of housing sales contract). This handwritten paper states that: "giving you (the former owner of the house) the amount of 207.5 teals of gold. The unpaid amount is 92.5 teals of gold". The former owner affirmed that this paper was made by Mrs. A's husband to confirm housing purchase debt.

The first hearing was conducted in July 2007 and appeal hearing in September 2007 by the competent courts which ruled: "Mrs. A must pay the remaining 92.5 teals of gold" to the former owner of the house based on the of aforementioned handwritten paper.

This case has caused much argument between the lawyers and procedural authorities with two controversial arguments as follows:

1. The case was wrongly decided by the courts. The legal bases are:
 - According to point 1c, Article 80 of the Civil Proceedings Code ("CP Code"), details and facts which were recorded in documents and duly notarized or authenticated are not required to be proved. In case where both parties introduce evidence, of which one is legal and the other has not been proved yet, the court cannot ignore the legal evidence.
 - The statute of limitation for lawsuits has been run; the court nonetheless still accepted a petition (by the former owner of the house). According to Clause 3, Article 159 of the CP Code, the statute of limitation for initiating a lawsuit to request the court to settle a civil case is two (02) years. Resolution No. 02 of Council of Judges of the Supreme People's Court dated August 10, 2004 guides: if a dispute arising before the date of January 01, 2005, the prescription for lawsuits is two (02) years from January 01, 2005.
 - The court has breached proceedings procedure when the court did not subpoena persons with related rights and/or interests to participate in the case (Clause 1, Article 637 of the CP Code).
2. The court must rely on real transaction expenses when hearing the case. They say:
 - A notarized contract is not the only evidence to determine the real cost of the house. The court should rely on other evidences such as: handwriting contract, witness, the cost from Cost Appraisal Council asked by the court, etc.
 - The court is entitled to evaluate dispute asset when there is unreasonable cost. The law allows the court to interpret, presume legally to find out the real cost of dispute asset.
 - If the parties could prove the real transaction cost, then the notarized contract, which is an artificial contract to hide another real contract, is not valid. Therefore, the court needs to rely on the handwriting contract/paper.

The purpose behind is that under the law, when selling and purchasing housing or transferring the land use right, the seller must pay the personal income tax at the rate of 2% of the transfer price, whereas the buyer must pay a registration fees level of 0.5% of the transfer price defined in the contract. To avoid paying higher tax, fees both parties can agree to make two different contracts: one defined unreal price to notarize and one defined real price to execute by both parties. Due to a small immediate benefit, any party may suffer disadvantages later. It is advisable that each party of a contract should pay attention to this when entering into the civil or business contract.

¹With references to Article of Mai Minh author posted on the Ho Chi Minh Law Newspaper dated 11 August 2009.

Q & A SECTION**Question 1:**

Our company is a listed company on Hanoi Stock Exchange. During our operation, we have technological and business secrets needed to secure absolutely. However, a number of staff who no longer works for our company has known such confidential information. Thus, what should we do to force such staff to keep confidentiality? ²

Answer:

In principle, when a staff and your company sign a labor contracts, a labor relationship between the employer and the employee will arise. At that time, all rights, duties and responsibilities of the staff in your company should comply with the applicable laws, internal regulations of management of the company, internal labor regulations, the collective labor agreement (if any).

However, the termination of the labor contract also means that the labor relationship between your company and that staff is ended. Now, the relationship between the parties (if any) is purely a civil relationship and governed by the civil law.

The Labor Code regulates that employees working in an enterprise have responsibilities for protection of the property, technological and business secrets of the enterprise. If an employee commits an act of disclosure of technological and business secrets, he/she will be applied dismissal as a disciplinary measure (according to Article 85 of the Labor Code).

In addition to that, Article 129 of the Labor Code regulates that an employee with highly specialized skills and technical qualifications who discloses technological or business secrets shall be liable for payment of compensation for incurred damages.

To control and bind liabilities of the employees on securing business secrets of enterprise after they stop working for your company, your company is able to sign an information security undertaking with your employees. Such undertaking should contain provisions on absolutely securing technological and business secrets after the termination of the labor contract and a level of compensation for incurred damages in case employees commit a breach. This shall be considered as a civil agreement and able to bind the liabilities of the employees upon their leaving.

Question 2:

Please kindly advice in which cases public companies must make an extraordinary disclosure of information? ³

Answer:

Disclosure of information plays an important role to investors and makes an exposure of securities market. Thus, the Law on Securities provides in detail the disclosure of information of public companies including making an extraordinary disclosure of information. Making an extraordinary disclosure of information provided in Clauses 2 and 3, Article 101 of the Law on Securities, as follows:

(2) Article of LuatViet's lawyers posted on the Investment Bridge Section – Securities Investment Newspaper 92 (720) dated August 03, 2009.

(3) Article of LuatViet's lawyers posted on the Investment Bridge Section – Securities Investment Newspaper 94 (722) dated August 07, 2009.

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“A public company must make an extraordinary disclosure of information within twenty four (24) hours from the occurrence of one of the following events:

- a) *An account of the company at a bank is frozen, or an account is permitted to be released after having been frozen.*
- b) *Temporary suspension of business.*
- c) *Revocation of its business registration certificate, license for establishment and operation, or operating license.*
- d) *A resolution is passed by the general meeting of shareholders in accordance with Article 104 of the Law on Enterprises.*
- e) *When there is a decision of the board of management on redemption of shares of the company or on the resale of redeemed shares; or a decision about the date for implementing share purchase rights by owners of bonds which carry with them share purchase rights, or the date for conversion of convertible bonds into shares, and all decisions relating to offers stipulated in Clause 2 of Article 108 of the Law on Enterprises.*
- e) *When there is a decision to bring legal proceedings against a member of the board of management, the director or general director, the deputy director or deputy general director, or the chief accountant of the company; or where there is a verdict or decision of a court relating to the operation of the company; or where there is a conclusion by the tax office about a breach of the law on taxes by the company.*

A public company must make an extraordinary disclosure of information within seventy two (72) hours from the occurrence of one of the following events:

- a) *There is a decision to borrow or to issue bonds with a value of thirty (30) per cent or more of the company's equity.*
- b) *There is a decision of the board of management on medium term development strategies and plans, or on the annual business plan of the company; a decision to change the applicable accounting method.*
- c) *The company receives a notice from a court about acceptance of jurisdiction over a petition to commence enterprise bankruptcy proceedings.”*

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