



NEWSLETTERS

Legal Updates August, 2012

Some items are banned from import

There are 15 groups of used information technology products were banned from import into Vietnam by the Ministry of Information and Communications, issued in Circular 11/2012/TT-BTTTT dated on June 17, 2012..

Under this provision, the list was prepared based on the list of goods and HS codes in the export import tariff and banned from import of goods with HS 8-digit code. The components in the banned list are also banned from imports.

However, some cases are not on the list of prohibited imports to comply with the provisions of Clause 5, Article 3 as: imported for repairing services, manufacturing refreshes and re-export of products; re-imported after taken abroad for warranty, maintenance or repair, refresh...

Specifically some prohibited items such as printer-copy, printed by inkjet technology; electronic computer can be operated without external power and Recorder, copy and display the data, remove the bag with function calculations; cell phones or phone for other wireless networks...

This Circular takes effect from the date of September 01, 2012, replaces Circular 43/2009/TT-BTTTT on December 30, 2009.

The Export Tax of Coconut reduce to 0%



Ministry of Finance issued Circular 114/2012/TT-BTC dated on July 18, 2012 on adjusting the export tax of coconut of heading 0801 in the Export Tariff specified in Appendix I attached to Circular 157/2011 / TT-BTC dated on November 14, 2011.

The export tax would be reduced to 0%, while the current is 3%. In heading 0801, there are Brazil nuts and cashew nuts, fresh or dried, whether or not shelled with unchanged tax at 0%..

This adjustment minimizes problems for coconut growers and manufacturing enterprises export, while the coconut area is narrow and the coconut price is low. This is a good sign for farmers.

This Circular 114/2012/TT-BTC applies from the date of September 01, 2012.



This newsletters is issued by Trust Lawyer. It is intended to be brief to enable readers to browse the various new legal issues in Vietnam. The summary of legal issues and information in this newsletter are not legal advice. Please contact the Trust Lawyer Librarians for further details on any law or legal issues that are of interest to you.

Designed by Trust Law Firm

Association of Vietnamese women involved in the management of state



Government issued Decree 56/2012/ND-CP dated on July 16, 2012, the responsibilities of ministries, branches and People's Committees ensure that the Vietnam Women's Association participate in the management of state.

Vietnam Women's Association can participate in mechanisms, policies, legal documents, programs, schemes and projects related to the rights and interests of women and children; Economic, Cultural and Social Affairs. People's Committee have to invite Vietnam Women's Association in local to build, modify and supplement mechanisms and policies, programs, Economy and Society, relating to the rights and interests of

women, children and gender equality; in collaboration with the specialized agencies to promote and disseminate the law.

Decree states: the relationship between the Ministry and Vietnam Women's Association; People's Committee implements the functions, duties and powers of each agency in accordance with law.

This Decree takes effect from the date of September 05, 2012.



Key tasks last 6 months of 2012

The Government issued Resolution 26/NQ-CP dated on July 09, 2012 on direct administration of the last 6 months of 2012, focusing on a number of major issues:

Farmers and Enterprises can have capital at low interest rates: The central bank have to control monetary situation, credit to adjust the fit, reasonable payment to promote Production, Business, curbing inflation. Reduction of exports of agricultural commodities: accelerate disbursement of investment capital from the state budget, government bonds; using savings and efficiency of expenditures; keeping the deficit level of 4.8%.

Implementation of promotional programs, stimulating consumption: strengthening trade promotion, market expansion; maintaining growth of the main export commodities, advantages, and market competitiveness; export quality inspection ...Problems to reduce VAT, corporate income tax in the current conditions that will be placed in the tax system reform strategy to 2020, the implementation of effective solutions for the exemption, reduction, extension tax and the fee of using the land for enterprises, individuals under Resolution 13/NQ-CP and the Resolution in session 3 of the National Assembly Course XIII.

This Resolution shall take effect immediately.



Criteria for determining villages with special difficulties

The criteria identifies the villages with special difficulties of ethnic and mountainous in period 2012 - 2015 in Decision 30/2012/QĐ-TTg on July 18, 2012 .

Difficult villages must have three criterias: First, the poverty rate from 55% or more (poverty rate greater than 25%) and at least 2 of 3 criterias: over 80% of untrained workers; over 50% of households do not have sanitary latrines, over 30% of households lack of clear water. Second, at least two of three conditions: over 20% of households lack of productive land, over 50% of the cultivated area does not need the irrigation, not extension officers, or less than 10% of household works non-agricultural occupations. Third, there are all two conditions: no roads from the villages to the town center; not have meeting rooms for kindergarten or over 30% of households do not have electricity or not community house with all standard.

Communes in mountainous and ethnic based on several criteria, divided into three regions: region III with socio-economic conditions of the most difficult; sector II with socio-economic conditions are difficult, but temporarily stable; region I is other communes.

This Decision shall take effect from the date of September 06, /2012, repealed Decision 393/2005/QĐ-UBND.



Using plastic bags with friendly environment



Plastic bags were granted Vietnamese Green Label under provision of Ministry of Natural Resources and Environment, this plastic bags are granted environmentally friendly certificate. These criteria are specified in detail in the Circular 07/2012/TT-BTNMT dated on July 04, 2012.

Plastic bags must be one of two specifications: a layer thickness greater than 30 micrometers (microns), the least dimension greater than 20 cm (centimeters), and the organizations and individuals who produce or import plastic bags must have plans for recovery, recycling, or capable of biodegradation of at least 60% within a period not

exceeding 02 years.

In addition, the maximum allowable concentrations of heavy metals as follows: Arsenic (As): 12 mg / kg; Cadmium (Cd): 2 mg / kg Lead (Pb): 70 mg / kg Copper (Cu): 50 mg / kg Zinc (Zn): 200 mg / kg Mercury (Hg): 1 mg / kg; nickel (Ni): 30 mg / kg. Plastic bags which are produced in households or manufacturing facilities have to fully comply with the provisions of the law on environmental protection.

Certificate is not more than 36 months from the date of grant, and extended several times, each extension is not exceeding 24 months from the date of extension.

This Circular takes effect on August 20, 2012.



Planning Import and Export of Goods up to 2030

In Decision 2471/QĐ-TTg on approving plans of import and export goods in the period 2011-2020, the Prime Minister issued Decision 950/QĐ-TTg dated on July 25, 2012 on implementation of the plan, the orientation up to 2030.

To 2030, the average growth export of 11% -12% / year in the period 2011-2020; Growth imports of goods increases by 10% - 11% / year; Descending trade deficit, deficit control about 10% of exports in 2015 and advancing to the balance of trade in 2020.

In addition, there are 7 main tasks to implement the following strategy: Production development, economic restructuring; market development; trade promotion; improve trade policy, finance, credit, and export development; Investment development of infrastructure; Services for import and export of goods, and socialized logistics; Training and development of human resources; importing control; Improving the strength of the enterprise and the role of business associations.

This decision takes effect from the date of signing.



Only sell the meat, by-products in 8 hours

To limit the poor hygiene of Safety Food , Ministry of Agriculture and Rural Development issued Circular 33/2012/TT-BNNPTNT dated on July 20, 2012 on sanitary regulations for the business establishment of meat and fresh by-products used as food.

Accordingly, the seller slaughter or stamp of quarantine certificate of the

Keeping at temperature keeping at a temperature of slaughter. For by-products and large intestine which in 24 hours after slaughter.

Packaging production from with toxic, odor, ensure the on the shelf, standard as

For all who work in the have certificates of training knowledge of safety food and good health certificate issued by the medical establishment.

This Circular takes effect from September 03, 2012.



must have the controlling seal of veterinary inspection and veterinary agency

room is only sold within 08h; 0 - 5oC sold within 72 hours after is the stomach, small intestine kept at temperatures 0 - 5oC sold

safe material, not contamination quality of meat and by-products prescribed by Law.

meat business, by-products must

Tourism on the water: the waiter must know to swim!

Tourism on the water, the service personnel must have swimming certificate, professional certificate appropriate to the job and title.

This is one of the new regulations on safety traffic of traveling on waterways specified in Circular 22/2012/TTLT-BGTVT-BVHTTDL issued on June 26, 2012.

Accordingly, the vehicle must have bedrooms with quality facilities, equipment and service under the current regulations; There are signboards with instruction manual for life-saving equipment, fire fighting; there are all crew members as prescribed; There are phonebook of crew and the service personnel; There are a scheduled tour, the port, embarkation and disembarkation; There are docket telephone, address of the agency for Search and Rescue ...

This Circular prescribed anchorage area with rescue vehicles, fire prevention equipment, and safety, security and protection of the environment, the authorized agency issues licenses as prescribed on the management of port, the waterway.

This Circular takes effect from January 01, 2013.



Criteria for determining the maritime accidents



On July 20, 2012, the Ministry of Transport issued Circular 27/2012/TT-BGTVT on reporting and investigation of marine accidents.

Accordingly, serious marine accidents identified under the new criteria, irrespective of the level of injury, damage to health or the value of each property as defined previously.

Serious maritime accidents happen when there are the dead or missing person; make all the lost ships; spilling into the sea ≥ 100 tons of oil or ≥ 50 tons of toxic chemicals. Marine accidents are one of the damage, ship fire, explosion, stranding ≥ 24 h, damaging the structure of the ship which affect the seaworthiness of the ship; spilling into the sea < 100 tonnes of oil or < 50 tons of toxic chemicals,...

When marine accidents happen, captain, ship owners, managers and the organizations and individuals must report to the Port Authority or the Vietnam Maritime Bureau quickly; rescue promptly and efficiently in accordance the safety of the ship, the accident scene protection and data recording equipment at the time of the occurrence; provide sufficient evidence for the investigation.

This Circular takes effect from September 15, 2012 and replaces Circular 17/2009/TT-BGTVT dated on August 11, 2009 .



131,900 billion for telecommunications development

Construction and development of modern telecommunication with a large capacity, high speed, wide coverage to remote areas and islands of Vietnam which is the target in Decision 32/2012/QĐ-TTg on national telecommunications development till 2020.

100% communes have public connected to the Internet, national population; 40 - 45%; percentage of develop from now till 2020.

Restructuring of the of the reorganization of the especially state-owned allowing the transfer, purchase order to create corporations. services, telecommunications



telecommunications services are mobile communication over 95% of the proportion of households with landline Internet users 55- 60%. It is targeted to

telecommunications market on the basis telecommunications enterprises, enterprises inefficient operation, or merger of telecom enterprises in Universal public telecommunications services with reasonable rates

Implementation of policies and legislation on telecommunications, researching of scientific and technology, improving the quality of work and resources to strengthen international cooperation in order to attract funding and investment. Combining information and communication, awareness.

This Decision takes effect from the date of October 01, 2012.



The condition practices Tax services

Becoming a tax agency must have enough the following conditions: business registration in accordance with the law; There are enough procedures of tax service in the certificate of business registration; There are at least two staffs who have the Tax certificates..

The content above, the Ministry of Finance issued Circular 117/2012/TT-BTC on July 19, 2012.

Employees of tax agents must have the following conditions: Being Vietnamese citizens or foreign citizens are permitted to reside in Vietnam; a tax certificate issued by the General Department of Taxation; Being a founding member or contract employees working in organizations providing services of tax.

Be prohibited from practicing as: People with limited or lost civil act capacity; criminal prosecution or serving their imprisonment; There violation of tax law, customs, audit, be administratively sanctioned for a period of one year; Officers and Servants under the provisions of the law on cadres and civil servants ...

At the same time, who has the tax certificate, only working in a tax agency

This Circular takes effect from the date of October 01, 2012 and replaces Circular No. 28/2008/TT-BTC.



The stability macroeconomic

Dated on August 03, 2012, the Government issued Resolution No. 37/NQ-CP on regularly meeting of Government on July 2012.

Government assessed social and economic during seven months of 2012 which is positive changes. Controlling inflation, stability macroeconomic, solve difficulties for enterprises. However, there are still many difficulties and challenges, growth economy is much lower than the same period last year.

Government requested the ministries, the agencies to resolve the difficulties, the challenges currently, promoting business development; inflation control, stability macro-economic in the last months of 2012 and the following years.

In particular a number of important tasks such as: Ministry of Construction coordinates with other agencies to propose mechanisms, effective policies to solve the difficult of real estate market; building the houses for income lower. Ministry of Planning and Investment coordinates with other ministries and the agencies to accelerate the disbursement of investment from the State budget, Government bonds, the ODA.

Hoping this Resolution completes the target of controlling inflation, stability macro-economic.



Search and rescue in the civil aviation



Discovering, and coordinating with the force search and rescue of Civil Aviation which is the principle in Decision 33/2012/QĐ-TTg was issued on August 06, 2012.

Civil Aviation Rescue include: forces, the means for the search and rescue of civil aviation, airport emergency center of the airport, the aviation units of the ministries, branches and provincial-city.

All organizations and individuals received or detected civil aircraft in danger and emergency, they must notify to the local authorities and the facilities of aviation search and rescue.

Search and Rescue Center and the Aviation Department shall prepare plans and flight plan to search, rescue, maneuver the aircraft, the means on time. There is also need and coordinate with local agencies and organizations by supporting nearest to reduce damage and injury to the lowest level.

This decision takes effect from the date of October 01, 2012.

Announcing the import of the amount of salt, sugar, eggs

The amount of salt, sugar, eggs imported under the tariff 2012 of Circular 22/2012/TT-BTC of the Ministry of Industry and Trade issued on August 06, 2012.

The amount of salt is imported 102,000 tons; Ministry of Industry and Trade assigns to import 100,000 tons of industrial salt for traders to use as raw materials for the production of chemicals and 2,000 tons of pure salt as raw materials for medicine, medical products.

Refined sugar, raw sugar are 70,000 tons, including 50,000 tons of refined sugar and raw sugar as raw materials for production and 20,000 tons of raw sugar to provide for production, consumption.

The amount of imported eggs is 40,000 dozen.

This Circular takes effect from the date on August 06, 2012 and end of December 31, 2012.



New point in the implementation of the Law on Corporate Income Tax



The Ministry of Finance issued Circular 123/2012/TT-BTC dated on July 27, 2012 of the Corporate Income Tax Law, the Decree 124/2008/ND-CP and 122/2011/ND-CP of the Government, the provisions detailing a number of articles of the Law on Corporate Income Tax..

The determination of the cost is deducted from taxable income has some new such as: The money of life insurance for the employee is deducted if stated in the labor contract, the company's financial regulations ...; commission paid to distributors of multi-level companies are not bound by the limit of 10% of the expenditures exceed the total deductible expenses;...

The determination of the revenue of the enterprises also has many new features: For property leasing activity that now is the time to enjoy preferential corporate income tax, if the "choice" method of determining the revenue to income the entire taxable amount for the tenant to pay rent for several years, the determination of each year CIT exemption and reduction of corporate income tax is the total number of years of pay divided by the number of years for the tenant to pay; for business golf course a golf ticket sales, sale of membership cards are prepaid cards for many years, the turnover as a basis for determining the corporate income tax of each year is the amount of the ticket, card collection divided by the number of cards.

This Circular takes effect from September 10, 2012 and replaces Circular 130/2008/TT-BTC, 177/2009/TT-BTC, 40/2010/TT-BTC, 18/2011/TT-BTC of Ministry of Finance.

Minimum wage will increase in 2013

The minimum wage will be increased to ensure the interests of workers and enterprises. It is planned to adjust the minimum wage for workers in the types of enterprises in 2013 under the Ministry of Labor, War Invalids and Social Affairs in Dispatch 2750/LDTBXH-LDTL, issued on August 09, 2012.

There are two options to adjust the minimum wage in 2013. Option 1: Adjust the minimum wage according to the roadmap to the Central Executive Committee, the adjusting increased 4 areas of about 36%, which are: Region 1: 2,700,000 VND / month; Region 2: The 2400.000 / month; Region 3: 2.13 million VND / month; Region 4: 1.93 million VND / month. Option 2: Based on the actual situation of production, business of the enterprise in 2012 were difficult, adjusting the minimum wage by about 90% compared with Option 1, the adjusting increased 4 areas of about 25%, the highest is Region 1 with 2.5 million VND / month.

Basic salary of two plans will be increased compared to the basic wage applicable from October 01, 2011 to the end of December 31, 2012 from 500,000 - 700,000 VND / month for the enterprise in Region 1. However, Option 1 would be detrimental to small and medium enterprises which are facing many difficulties in production, trading in 2012.

The Government will adjust the minimum wage in the enterprise on October 2012 and implemented from the date of January 01, 2013.



Additional fees of using the road



The Ministry of Finance issued Circular 134/2012/TT-BTC on the collection, management of fees of using road at charging station of Highway 51 on 13/08/2012.

Details of charges specified in Table of charges of Organizing Committee at the charging station at the km 11 and km 56 +450 of Highway 51.

The vehicle must pay the fee including: less than 12 seats, The truck less than 2 tons and all kind of busses; from 12 seats to 30 seats; The truck from 2 tons to less than 4 tons; from 31 seats or more; The truck from 4 tons to less than 10 tons; The truck from 10 tons to less than 18 tons and Container 20 fit; The truck less than 18 tons or more and Container 40 fit.

Shall issue a receipt or a invoice to the payer specified in the Circular.

This Circular takes effect from October 01, 2012. Collection of Charges will be started by the Ministry of Transport when issued the regulation.

New regulations on cash transactions



Credit institutions and branches of foreign banks, the State Treasury on cash transactions with the branches of the State Bank, The Exchange of State Bank is maximum twice/day and be notified prior to the time of the transaction at 2 hours.

Specified in Circular 23/2012/TT-NHNN on cash transactions issued by the State Bank of Vietnam dated on August 09, 2012.

State Bank uses service fund and reserve fund to make the issue of money and collecting money through revenue and expenditure of cash and other services for customers.

In addition, the circular also specified Bank branches, the Exchange must satisfy the cash for customers on the basis of the balance of the deposit account; forecast the revenue and expenditure of cash to send the Issuing and Vault funds; Bank branches must check the cash in the area to determine the structure of the cash.

This Circular takes effect from September 24, 2012 and replaces Decision No. 25/2008/QĐ-NHNN on September 08, 2008..



Supervising the Civil Procedure Law.

The Supreme People's Procuracy in cooperation with the Supreme People's Court issued Circular No. 04/2012/TTLT-VKSNDTC-TANDTC guiding a number of provisions of the Civil Procedure Law of controlling the compliance with civil law.

For the term of records, within 05 working days from the date of the decision to bring the case to trial, the Court of First Instance, Appeal, must transfer the case file to the Institute for Procuracy. This Circular also specifies the transfer of records to the Court when requested.

For the court of first instance, the Procuracy only participate to the case, the court may proceed to collect evidence, civil disputes has public property, public benefits, civil has a dispute about the right to use the land or housing, civil case has a object who is a minor, defects, physical or mental.

In court, the Prosecutor expressed an opinion on compliance with the procedural law of the judge, the trial panel, the participants in the proceedings in the course of solving the case, no statement of opinion settlement of the case.

This Circular shall take effect from September 15, 2012 and replaces Joint Circular No. 03/2005/TTLT-VKSNDTC-TANDTC.



TRUST LAW FIRM

T.1 Floor, A Chau Building,
140/1 Ly Chinh Thang St., Ward 7, District 7, Ho Chi Minh City.
Tel: (84) 8.3602.55.66 / (84) 8.3526.88.78
Fax: (84) 8.3526.88.87
Email: contact@trustlawyer.com.vn
Web: www.trustlawyer.com.vn