



NEWSLETTERS

Legal Updates September, 2012

New regulations in the securities

Vietnam Securities Depository (VSD) issued Decision 148/QD-VSD on amending and supplementing Decision 57/QD-VSD dated on May 08, 2012 on Operation Regulation of clearing and settlement of the securities.

Accordingly, the time for sending the corrected records to VSD shortened compared to the old regulations. For payment transaction time T +3, the corrected records must be sent to VSD later than 08h30 on T +2 and records transferred to support, securities loans under Provision of securities in the case of error correction leads to Members not have enough the securities to pay, it must be sent to VSD later than 10.00 am on T +2 to ensure error correction is done before payment transactions.

The decision also provides more detailed than the time cancel the payment transaction. For bonds: after 09:00 am on the payment, VSD will do cancel the payment transaction for the cases of cancellation of payment transactions in accordance with Clause 2, 3,4,5, Article 18 of this Regulation . After 11.00 the day of payment, VSD will do cancel payment transactions for the cases of cancellation of payment transactions in accordance with paragraph 1 of Article 18 of this Regulation. There are also rules for trading shares and fund certificates.

The decision takes effect from the date of September 04, 2012.

New requirements for the passenger used the aircraft

In order to improve and ensure security of civil aviation in Vietnam, dated on August 01, 2012, the Minister of Transport issued Circular 30/2012/TT-BGTVT on guidance and quality control of civil aviation security.

Airlines have the right to refuse carriage to specific flights for the following cases: Passengers have the trouble, lost the ability to do all acts and denied entering (except passengers due to Airlines transports to Vietnam); or as notified by the competent authorities of Vietnam or foreign.

The Passenger has security violations, aviation safety, they will be sanctioned administrative, criminal, and be enhanced the inspection, security monitoring, visual inspection; Violations but not to the extent sanction, the Civil Aviation Administration of Vietnam shall consider and decide on the checklist, monitoring security.

In addition, the list of dangerous articles, fluid requirements are allowed to bring their baggage and some other requirements are specified in detail in the Circular.

This Circular takes effect from the dated of September 15, 2012, annulled Decision 06/2007/QD-BCT dated on February 05, 2007 and Circular 17/2011/TT-BGTVT dated on March 31, 2011.



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New regulations on gold bar production

On August 23, 2012, the State Bank Governor issued Decision 1623/QD-NHNN on the organization and management of gold production of the State Bank of Vietnam to manage monetary policy and gold bars on the market.

Saigon Jewelry Company Ltd. - SJC processes SJC gold 99.99% based on the decision of the State Bank of Vietnam on the limit, raw materials, SJC gold

Source of raw materials gold bars - SJC is the State Bank, gold bars in each period, SJC gold has produced, at least one not enough weight, scratched; closed more company; deforming.

Regulation specified the of gold bars from Especially the process of

was sanding, abrasion, scratches, deformation This regulation has reduced the fears of organizations and individuals who are keeping SJC gold with dented distortion not be purchased.

This regulation takes effect from the date of signing.



the time of production, volume.

for the production of gold raw material of the production was allowed by SJC company which of the characteristics: cutting, abrasion; signs, symbols, not SJC

manufacturing process different materials.

re-SJC gold bars which



New point in mobilizing and lending gold



Circular No. 24/2012/TT-NHNN has been issued on August 23, 2012 by State Bank of Vietnam on amending and supplementing Article 1 Circular 11/2011/TT-NHNN dated on April 29, 2011 provisions on termination of mobilizing and lending gold capital of credit institutions.

Under the old regulations, credit institutions are not made for gold loans to customers and other credit institutions (including credit contracts signed but not yet disbursed or disbursements not all); not sent gold at other credit institutions; not perform professional fiduciary services, investment and other forms of credit in gold.

Circular 24/2012/TT-NHNN amended and supplemented as follows: In special cases, ensuring the safe operation of the bank, the State Bank Governor of Vietnam shall consider and decide on the implementation of borrowing and lending in gold between a credit institution together.

This Circular takes effect from the date of August 23, 2012.



Prohibited Things in insurance

Insurance agents do not make false advertising on the content and scope of business activities of the insurance enterprise, foreign subsidiaries, conditions and terms of insurance to harm the rights and legitimate benefits of the insurance buyers; ...

The content is guided by the Ministry of Finance in Circular 124/2012/TT-BTC of Decree No. 45/2007/ND-CP on the Insurance Business Law and Decree 123/2011/ND-CP on amending the Insurance Business Law.

In addition, insurance agents does not prevent the insurance buyers to provide information related to the insurance contract or inciting the insurance buyers, the insured did not declare the details relating to the insurance contract; Competing for customers in the form; customer promotion with illegal forms; Inciting the insurance buyers to cancel the insurance contract to purchase a new insurance.

The insurance enterprises does not promise to provide illegal benefits to incite customers to sign a insurance contract; Inciting the insurance buyers cancels the insurance contract to purchase a new insurance contract; Partnership with individuals and organizations (except for the insurance enterprises specified in Clause 1, Article 52 of this Circular) to make one or more the insurance process....

This Circular takes effect from October 01, 2012 and replaces Circular 155/2007/TT-BTC on December 20, 2007.



Inspection and comparison of the Health Insurance card



Investigating the Health Insurance card for the case: the use of large high-cost technical services, multicasting to other provinces, the case of large cost.

One of the contents of Vietnam Social Insurance requires the Provincial Social Insurance to perform at Dispatch 3483/BHXH-CYST.

Currently, the province has found many cases that using and making fake Health Insurance cards, issuance in contravention of regulations, erased card ... to seek medical care, profit and loss of social insurance fund. However, the current sanctions have not properly, not enough deterrent.

Article 20 of the Law on health insurance regulated health insurance card in custody in the case: the patients use health insurance card of other people or health insurance card which be revoked when frauded in the issuance card ... Or Article 49 is only general rules on sanctions violations ...

Therefore, in order to limit the loss of the Social Insurance Fund, the Social Insurance Agency must regularly compare and test cards with data management as incurred the huge Health Insurance. Especially, the case of health insurance issued by another province, where has received Health Insurance have to suggest the released place to test and compare.

Dispatch above takes effect from the date of issuance.

Using of state assets in wrong: a fine of up to 50 million

Acts of gifts, exchange of state assets in contravention of regulations if the property is office, the basis of business activities, the fine is 30-50 million. In addition, organizational violation may be subject to recovery measures for assets in contravention of regulations.

Decree 66/2012/ND-CP issued by the Government dated on September 06, 2012 on sanctioning of administrative violations in the field of management and use of state assets.

Besides, the act of donation, exchange of state assets in contravention of regulations with the value under 100 million, the fines from 5 - 10 million; In case assets are cars, property value from 100 million or more, the fines is 10 - 20 million. The maximum fines for procurement of state assets in excess of the provision standards and norms for 20 million.

For the loan in contravention of regulations such as: car loan, the value of 100 million or more: a fines from 5 - 10 million; Loan office: the fines from 10 to 20 million. In particular, if encroachment the office: the fines from 20 to 30 million. Depending on the nature and seriousness of their violations, organizations are also subject to a number of remedies corresponding to the type of violation specified in this Decree.

This Decree takes effect from November 01, 2012.



Petroleum business operating instructions

On the basis of Ministry of Industry and of petroleum enterprises, issued gasoline prices to gasoline in the current

That is the main content QLG dated on August Finance sent to the operating of the oil and

Accordingly, the import Stabilization Fund Calculating under the gasoline prices in the 2012 from reference of



consultation with the Trade and based on the price the Ministry of Finance has handle the retail price of context.

of Dispatch 11534/BTC-28, 2012 of the Ministry of petroleum enterprises on gas business.

tax of gasoline and remain as current. 30-day average price of world to end on August 27, Platt's newsletter.

Profit of 300 yuan / liter (kg) will temporarily not be included in the calculating formula. The other calculation formulas are specified in Decree No. 84/2009/ND-CP and Circular No. 234/2009/TT-BTC.

The gasoline enterprises may decide to time of gasoline price adjustment in accordance with the provisions of Decree No. 84/2009/ND-CP.

This Dispatch takes effect from the date of signing.



Ensuring competition in the telecommunication market

For some of important telecommunication market (fixed domestic long distance, international, mobile, broadband Internet, etc.), comply with the requirements of the national telecommunications plan to ensure each market with at least three strong enterprises participate in activities.

It is one of the content that the Ministry of Information Communication issued in Directive 36/CT-BTTTT. The implementation arrangement, reorganization of corporations, the state enterprises in the field of Information Communication with the specialization in accordance with the operation characteristics of the industry, clearly defining operations ventures with public works.

Restructuring of State enterprises must harmonize the interests of the country - enterprises - people, ensure competition, but avoid excessive competition and business efficiency in low market.

The State continues to hold shares in a some of enterprises with network infrastructure and public services that is important for the national telecommunications and direct impact on the socio-economic development, ensuring national defense and security of the country.

Equitization and divestments for Information and Communication activities that the state does not need to hold shares and the field not main business sector.

This directive takes effect from the date of signing.



Determine the conditions for permitting the construction

Profile of the building design must be qualified organizations or individuals in accordance with the implementation capacity; the design must be evaluated and approved unless the individual houses with a total floor area less than 250m², under the three-floors, not in historical area, investors are self-organizing design and construction.

These are the conditions for construction, individual houses under Decree 64/2012/ND-CP.

In addition, this building must also be consistent with construction planning, land use purpose, investment objectives, the regulations of state agencies, and other general conditions depending on the size and characteristics, nature, construction places, ensure the safety of the building and to comply with the construction boundary, red line boundary...

The provisions on record, process, procedures for re-adjustment, recovery of construction permits, individual houses as well as other construction permits are also detailed provisions in this decree.

This Decree takes effect from the date of October 20, 2012.



Tax Exemption for Individuals and Enterprise

Individuals, motel, renting room; Babysitting; supply of food for workers exempt from tax if paid personal income tax of the first quarter, second quarter, third quarter 2012 will be refunded the amount of tax which paid.

Ministry of Finance issued the Circular 140/2012/TT-BTC guiding Decree 60/2012/ND-CP and Resolution 29/2012/QH13 on Tax policy to remove difficulties for organizations and individuals.

From 01/7/2012 to end on 31/12/2012, the personal is with income tax from monthly salary, the subject is in personal income tax at level 1 - the temporary tax exemption, tax deduction but still have to declare tax.. The subject is in personal income tax at level 2 or higher, they must comply tax, withholding tax, pay personal income tax from the first level of the tariff prescribed in Article 22 of the Law on Personal Income Tax.

The content of the declaration, deduction, tax settlement income from salaries; tax return for individuals, small business; determine the amount of tax reduction, exemption, etc. are also detailed instructions in this circular.

This Circular takes effect from the date of October 05, 2012.



Not renew the passport

General passports, the passport of seafarers with a value not exceeding 10 years from the date of issue and not be renewed, if having the term, it shall be granted the term, upon expiration, they must make the new procedures. In particular, the passports of seafarers will be increased more than 5 years compare with old regulations.

Decree 65/2012/ND-CP amending and supplementing a number of Articles of Decree 136/2007/ND-CP on exit and entry of Vietnamese citizens is issued by the Government.

Diplomatic passports, official passports issued to children under age 18 with a term of 1 to 5 years from the date of issuance until the children are 18 years old and not be extended.

The Subject is granted diplomatic passport, official passport which is extended and more complete list. However, diplomatic passports, official passports are not issued to officers and employees, professional soldiers of the People's Army and the People's Police who were sent to study abroad with a term over 6 months.

Decree amending and supplementing a some of articles about the procedures and dossiers for diplomatic passports, official passports, passports, passports for children under 14 years who are overseas.

This Decree takes effect from the date of November 10, 2012.

Reduction of charges on the Trung Luong Expressway

To respond to the recommendations of the Ministry of Transport, on August 31, the Ministry of Finance issued Circular 143/2012/TT-BTC, decided to reduce 25% of charges on the Trung Luong Expressway.

This reduction is only applied to vehicles with a tonnage of 18 tons or more, or container trucks 40ft. Accordingly the fee level of 2 kinds is only 6,000 VND / km. Total fee of 2 turns is only 480,000 VND.

Although this reduction is the minimum reduction of the Ministry of Transport has proposed, but also showed an understanding, shared by the Ministry of Finance for the transportation business enterprise. Hoping contribute to reducing overcrowding of Highway 1A due to the truck "avoid" to Trung Luong Expressway ; well as reduced "not have" customers of this road.

Charge rates above will be applicable from October 15, 2012.



Reducing 2% of the tax on imported oil, diesel



This is the decision to stabilize the market price, stable retail price of all types of petrol and oil as current, ensuring harmonious interests of consumers and petroleum enterprises.

From 12/9, diesel fuel will apply import tax rate is 8%, instead of 10% as before; Meanwhile, oil, aircraft engine fuel dropped from 12% to 10%. For gasoline import tariffs (from RON 90 to RON 97, with or without lead) is applied at 12%.

Content provided in Circular 148/2012/TT-BTC guiding the preferential import tax rates for a number of goods of heading 2710 in the preferential import tariff.

This Circular takes effect from September 12, 2012 and replaces Circular 109/2012/TT-BTC on July 03, 2012.



Controlling the quality of pharmaceutical packaging



The manufacturing facilities have to control the quality of pharmaceutical packaging as: provision, maintenance, manufacturing, testing, controlling production environment, operating equipment, monitoring production systems from the input to the output. There must be quality control system and common standards to ensure product requirements.

It is defined in Circular 14/2012/TT-BYT issued on August 31, 2012 by the Ministry of Health, in order to ensure safety in the production of pharmaceuticals, as well as the best practices as recommended by the World Health Organization.

Pharmaceutical packaging used in direct contact with medicines such as: containing, protecting, circulated together with the drug, including commercial packages and packaging of non commercial nature.

There are staff quality, fully organized, and health insurance to participate in the production. The factories and the equipment must ensure "clean", separate from the other areas and prevent infection. Raw materials such as water, additives, chemicals.... have to be moderated carefully before they are put into production.

This Circular takes effect from the date of October 15, 2012.



Financial support for national defense enterprises

To specify the financial support for the enterprise in service of defense and security, dated on August 22, 2012, the Ministry of Finance - the Ministry of Defense - Ministry of Public Security issued Joint Circular 141/2012/TTLT-BTC-MOD-BCA guidance Decree 104/2010/ND-CP.

The enterprises serves the national defense and security that will be invest enough charter capital to create assets for production and supply of products and services by the State; Exemption from land rent, land use and the tax of using land for the area of using the land in the time in service of defense and security; Provided the fund such as: maintain, maintenance, repair and support the salaries of employees on the payroll of the production line in case of suspension of production; funded child care and education that do not have schools in the public education system; welfare and bonus for operating management, . . .

Some expenses are: salaries, social insurance, health insurance for the time of retirement; military uniforms for officers, soldiers ...; expenditures for defense and security ... will be accounted for in the products and services that served of national defense and security.

This Circular shall take effect from 10.10.2012 and replaces Joint Circular 118/2005/TTLT/BTC-BQP on December 22, 2005 and 159/2007/TTLT/BTC-BQP on December 31, 2007.



Supporting 100% interest loan to buy the rice



Ministry of Finance issued Circular 139/2012/TT-BTC on August 20, 2012 to support interest rates on bank loans to buy paddy and rice for Summer-Autumn 2012.

State budget will support 100% of the interest rates on commercial bank loans for traders who are the subject as prescribed of Decision 812/QĐ-TTg 02/7/2012.

The loan supported the interest rate which is the loan repay ahead in the time of the interest rate, not support the overdue loans. Maximum interest rate does not exceed 11.5%

/ year. In particular, the number of paddy, rice rate supported by the number of paddy, rice that traders buy temporary storage, but not exceed the amount prescribed by the Vietnam Food Association and ensure total paddy, rice are up to 500,000 tonnes.

Temporary storage time of purchase from July 10, 2012 to August 10, 2012. Temporary storage time is the actual time in the range from July 10, 2012 to October 10, 2012. The actual purchase price is the market price (including VAT). If traders buy raw materials for the production of rice processing into finished products, the price of rice to support including production and processing costs.

This Circular takes effect from the date of issuance.



To guide Tax for using the non-agricultural land

The Land in socio-economic conditions particularly difficult will be exempt from tax, and the area of socio-economic difficulties will be reduced to 50% of tax payable.

This is the content in Dispatch 11850/BTC-TCT by the Ministry of Finance issued dated on September 04, 2012 to agree to the list of communes that have social and economic difficulties to apply the tax exemption or reduction for using non-agricultural land.

Accordingly, from the dated of January 01, 2012, the identification of areas with difficult socio-economic conditions for the exemption or reduction of using non-agricultural land as provided for in Paragraph 4 of Article 9, Clause 2 of Article 10 of the Law on using non-agricultural land shall comply with Decree 108/2006/ND-CP dated on September 22, 2006 and the amendments and supplements (if any).

Therefore, if the list of communes with special difficulties specified in the Decision 164/2006/QD-TTg, Decision 113/2007/QD-TTg and Decision 69/2008/QD-TTg, but not on the list provided for in Decree 108/2006/ND-CP is not eligible for exemption or reduction of using non-agricultural land.

Dispatch takes effect on the date of issuance.

