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| **Legal News Update - December 2011**(2011-12-05) |
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| LEGAL NEWS UPDATE |
|  **BROSS & PARTNERS LLP**[**www.bross.vn**](http://www.bross.vn/) **Practice areas:***- Investment**- Corporate**- Banking & Finance**- Securities & Capital Market**- Private Equity**- Contracts**- Real Estate & Construction**- Merger & Acquisition**- Labour & Employment**- Taxation**- Debt collection**- Litigation & Dispute resolution**- Criminal & Civil law**- Intellectual property & Copyright**- Franchising & Technology transfer**- Market survey***Contact us:***Hanoi:**contact@bross.vn**HCMC:**saigon@bross.vn*  | *05th December 2011***TO REDUCE CONDITIONS IN REGISTERING TECHNOLOGY TRANSFER CONTRACT***On November 11, 2011, the Government issued the Decree No. 103/2011/ND-CP amending, supplementing some articles of the Decree No. 133/2008/ND-CP dated December 31, 2008 of the Government detailing and guiding the implementation of a number of articles of the Law on Technology Transfer.*In the dossiers for registration of technology transfer contracts, In the case that contracting parties for technology transfer are Vietnamese organizations and individuals, only technology transfer modified contract in Vietnamese is needed, not included the contract in English as prescribed in previous regulations.Dossiers for registration of modification of technology transfer contracts shall be made in 03 files with 01 original and 02 copies. Technology transferees or technology transferors will be on behalf of the contracting parties to submit a dossier to an agency competent issued technology transfer contract registration certificates to propose the modification of technology transfer certificate.These amends and supplements take effect on January 01, 2012. **EXEMPT PERSONAL INCOME TAX AND REDUCE 50% VAT TILL DECEMBER 31, 2012***From August 01, 2011 till the end of December 31, 2011, individuals with taxable incomes from salaries, wages and from business to the level of taxable personal income at grade 1 of the partially progressive tax schedule provided for in Article 22 of Law on Personal Income Tax will be exempt from personal income tax.*This is one of the guidelines of the government in the Decree No. 101/2011/ND-CP dated November 04, 2011 detailing the implementation of the Resolution of the National Assembly on additional issuance of some tax solutions to remove difficulties for enterprises and individuals.As stipulated in this Decree, from August 01, 2011 till the end of December 31, 2012, dividends to individuals from investment activities in securities markets, capital contribution for shares purchase of enterprise other than dividends from joint stock banks, financial investment funds, credit institutions are also exempt from personal income tax; Besides, income from securities transfer activities of the individuals will be reduced 50% of personal income tax.For households, individuals trading guest-house, room used for renting out workers, students, pupils; households, individuals caring for children; households, individuals supplying shift meals for workers; their lump-sum tax of value added tax, personal income tax will be reduced 50%.For enterprises, the Government also guides the reduction of 30% of payable enterprise income tax amounts in 2011 of small and medium enterprises; enterprises employing many laborers in the field of production, out-sourcing, processing agricultural, forestry and aquatic products, textiles, footwear, electrical components, construction of economic - social infrastructure works.This Decree takes effect as from December 20, 2011. **GUIDELINES ON PREVENTION AND COMBAT OF MONEY LAUNDERING IN REAL ESTATE BUSINESS***On September 01, 2011, the Ministry of Construction issued the Circular No. 12/2011/TT-BXD guiding some provisions of the Government’s Decree No. 74/2005/ND-CP of June 7, 2005, on prevention and combat of money laundering in real estate business.*In this Circular, the Ministry of Construction requests reporting organizations to elaborate and issue their own internal anti-money laundering regulations in pursuance to Decree No. 74/2005/ND-CP, this Circular and relevant legal documents so as to detect and prevent organizations and individuals from conducting money laundering activities via their organizations.When detecting a suspicious transaction, reporting organizations shall report it in to the Anti-Money Laundering Office under the Banking Inspection and Supervision Agency - the State Bank of Vietnam and the House and Real Estate Market Management Department - the Ministry of Construction. When necessary, reporting organizations may report it to these agencies via fax or telephone but they shall send a written report later.This Circular takes effect from October 15, 2011. **AMENDING VIETNAMESE SHIP REGISTRATION PROCEDURES***The Government issued the Decree No. 77/2011/ND-CP dated September 01, 2011 amending and supplementing a number of articles of the Government’s Decree No. 29/2009/ ND-CP dated March 26, 2009, on seagoing ship registration, purchase and sale.*As stipulated in this Decree, Vietnamese ship registration certificates shall be granted to seagoing ships satisfying all conditions and registered in the national ship register according to the order and procedures stated in this Decree. It is valid from the date of its gram to the date of deregistration of the ship concerned.Apart from documents as defined previously, ship registration dossier must contain documents proving the payment of registration fee according to regulations including: one set comprising the original registration fee declaration bearing the tax office’s certification, and the original document on payment of registration fee to the state budget. For seagoing ships not liable to registration fee, it is required to submit the original registration fee declaration bearing the tax office’s certification.Ships can be also provisionally registered and sailed under Vietnamese flag, Vietnamese ship provisional registration certificates shall be granted in case of having not yet paid prescribed charges and fees as stipulated, having no ship deregistration or registration suspension certificates or ship owners operating on a trial basis newly built ships or receiving newly built ships and taking them to the place of registration under shipbuilding contracts.Besides, this Decree also details Vietnamese ship re-registration procedures, ship renaming registration procedures, ship owner name change registration procedures, ship owner change registration procedures, ship structure and technical specifications change registration procedures, regional ship registration agency change registration procedures, ship registry-change registration procedures…These amends and supplements take effect from October 15, 2011. **REGULATIONS ON THE COPYRIGHT TO COMPUTER PROGRAMS ARE AMENDED***On September 20, 2011, the Government issued the Decree No. 85/2011/ND-CP amending and supplementing a number of articles of the Government’s Decree No. 100/ 2006/ND-CP of September 21, 2006, detailing and guiding a number of articles of the Civil Code and the Intellectual Property Law regarding copyright and related rights, including amendments related to copyright to computer programs.*Specifically, authors of computer programs defined at Point m, Clause 1, Article 14, and Article 22 of the Intellectual Property Law are entitled to moral rights specified in Clauses 1, 2 and 4, Article 19 of the Intellectual Property Law. Organizations or persons that provide funds and physical and technical foundations for creation of computer programs and authors of such programs may reach agreement on the right to title such programs when signing contracts on creation of computer programs as specified by Law.Organizations or persons that provide funds and physical and technical foundations for creation of computer programs are copyright holders and entitled to the publication right and exclusive economic rights as regulated.  Authors of computer programs are entitled to royalty and other material benefits as agreed with copyright holders.Principles and methods of payment of royalty, remuneration and material benefits are also regulated in this Decree. Accordingly, royalty, remuneration and material benefits specified in the Intellectual Property Law shall be determined as follows: the payment of royalty, remuneration and material benefits must assure the interests of authors, users and the public and suit national realities.Also in this Decree, authors of works and organizations or persons that carry out performances or make phonograms, video recordings or broadcasts for children or ethnic minority people; Vietnamese creating works in foreign languages, Kinh persons creating works in ethnic minority their mother tongues; persons creating works under difficult or dangerous conditions or in other special cases are entitled to additional royalty, remuneration or material benefits as consolation..The use of copyright and related rights and payment of royalties, remuneration and material benefits must be carried out under written contracts according to law.This Decree takes effect on November 10, 2011. **ALLOW TO TRADE GOLD, SUPPLY SOURCES INCREASE SHARPLY***Allowing commercial banks to convert mobilized and currently kept gold amounts into cash and open overseas gold accounts to offset gold-price fluctuation risks is the next solution of the State Bank of Vietnam to pull domestic gold price to the international gold price.*On October 06, 2011, the State Bank of Vietnam formally issued the Circular No. 32/2011/TT-NHNN amending and supplementing a number of articles of the State Bank of Vietnam’s Circular No. 11/2011/TT-NHNN of April 29, 2011, on termination of mobilization of deposits and provision of loans in gold by credit institutions.Commercial banks may be considered and allowed by the State Bank to convert untraded gold amounts into cash and open overseas gold accounts when fully meeting the conditions: having conducted gold trading, mobilization or lending for years or more; having an effective internal control system; having issued regulations on risk management in gold trading; operating mainly in centrally run cities; committing no violation of regulations on gold trading management.Commercial banks may convert a maximum 40 % of their untraded gold amounts into cash at the time of submitting the application dossier. A commercial bank may open at most 2 (two) overseas gold accounts. Commercial banks may purchase gold on their overseas accounts only after converting into cash untraded gold amounts not exceeding gold amounts converted domestically.This Circular takes effect on October 6, 2011. |
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