

## LEGAL NEWS UPDATE – JANUARY 2016

### **BROSS & PARTNERS**

**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](mailto:contact@bross.vn)

HCMC: [saigon@bross.vn](mailto:saigon@bross.vn)

### **PART I: REGULATION HIGHLIGHTS**

#### **1. REGULATION ON INDIRECT INVESTMENT ABROAD**

*On 31 December 2015, The Government promulgated the Decree No. 135/2015/ND-CP on regulation on indirect investment abroad.*

Accordingly, the Decree stipulates the implementation of indirect investment abroad in the form of Self-operated indirect investment abroad and trust indirect investment abroad.

Self-operated organization and trusted organizations are allowed to make indirect investment abroad with the methods as follows: Direct purchase and sale of securities and valuable papers in foreign countries; and investment through the purchase and sale of securities investment fund in foreign securities, investment trust for other intermediary foreign financial institutions.

The Investors are not allowed to use loans in Vietnamese Dong from credit institutions and foreign banks' branches to purchase foreign currency for indirect investment abroad. In addition, the Investors are not allowed to use local and overseas loans in foreign currency for indirect investment abroad except the economic organizations are owned by State more than 65% of charter capital, other economic organization's outward portfolio investment from VND800 billion.

This Decree is effective from 15 February 2016.

## **2. GUIDING ON SECURITIES LISTING ON STOCK EXCHANGE**

*On 18 December 2015, The Ministry of Finance promulgated Circular No. 202/2015/TT-BTC guiding on securities listing on Stock Exchange.*

Accordingly, conditions to list securities on the Ho Chi Minh City Stock Exchange shall conform to Article 53 of the Decree No. 58/2012/ND-CP as amended in Clause 15, Article 1 of the Decree No. 60/2015/ND-CP; conditions to list securities on the Hanoi Stock Exchange shall conform to Article 54 of the Decree No. 58/2012/ND-CP.

The Circular also stipulates the swap ratio and the method for determination of such ratio for enterprises engaging in consolidation, merger or conversion.

The Circular is effective from 01 March 2016, substitutes for the Circular No. 73/2013/TT-BTC dated 29 May 2013.

## **3. GUIDELINES FOR THE ADJUSTMENT RATE OF THE MONTHLY SALARY AND INCOME HAVING CONTRIBUTED SOCIAL INSURANCE**

*On 29 December 2015, the Ministry of Labor - Invalids and Social affairs promulgated the Circular No. 58/2015/TT-BLDTBXH on stipulating the adjustment rate of the monthly salary and income having contributed social insurance.*

Accordingly, the entities are adjusted monthly salary having contributed social insurance shall conform to Clause 2 Article 10 of the Decree No. 115/2015/ND-CP and entities who are adjusted monthly income having contributed social insurance shall conform to Clause 2, Article 4 of the Decree No. 134/2015/ND-CP.

The Circular is effective from 15 February 2016.

## **4. THE DETAILED REGULATION ON VOLUNTARY SOCIAL INSURANCE**

*On 29 December 2015, The Government promulgated the Decree No. 134/2015/ND-CP on the detailed regulation a number of Articles of Law on the Social Insurance on voluntary social insurance.*

The entities who participate in voluntary social insurance are Vietnamese citizens from full 15 years old or older and are not subject to social insurance.

The entities who participate in voluntary social insurance are entitled to pay once for missing years applicable to entities participating in social insurance satisfied full conditions on age to enjoy pensions according to the Laws, but in case of the people having missing period of paying social insurance premium no more than 10 years (120 months) then they are entitled to pay full 20 years of social insurance to enjoy pensions.

The Decree is effective from 15 February 2016, the Decree No. 190/2007/ND-CP dated 28 December 2007 and the Decree No. 134/2008/ND-CP dated 31 December 2008 are abolished.

#### **5. GUIDELINES FOR THE IMPLEMENTATION OF SICKNESS BENEFITS ENTITLEMENT TO SOCIAL INSURANCE**

*On 29 December 2015, the Ministry of Labor - Invalids, and Social Affairs promulgated the Circular No. 59/2015/TT-BLĐTBXH on the detailed regulation and guidelines for the implementation of a number of Articles of the Social Insurance Law on compulsory social insurance.*

Accordingly, the maximum period to enjoy the sickness benefits in a year is calculated based on working days excluding public holidays, New Year holidays and weekends according to the laws on labor. This period is calculated from 01/01 to 31/12 of the calendar year.

In case the employees suffer from a disease belonging to List of disease with required long-term treatment and have enjoyed 180 days and continue their treatment, they shall enjoy the sickness benefits with lower levels but the maximum time is equal to the time of compulsory social insurance payment.

This Circular is effective from 15 February 2016.

#### **6. AMENDING, SUPPLEMENTING A NUMBER OF REGULATIONS ON GOLD TRADING**

*On 31 December 2015, The State Bank of Vietnam promulgated the Circular No. 38/2015/TT-NHNN on amending and supplementing a number of Articles of the Circular No. 16/2012/TT-NHNN dated 25 May 2012 of the Governor of State Bank of Vietnam on guiding a number of Articles of the Decree No. 24/2012/ND-CP dated 03 April 2012 of the Government on management of the gold trading activities.*

Accordingly, The enterprise which is eligible for granting a License of gold material import shall satisfy the conditions as follow: (1) Having a certificate of eligibility for manufacture of gold jewelry and fine arts issued by The State Bank of Vietnam; (2) Demand of gold material import conforms to plan on manufacture of gold jewelry and fine arts; (3) Not violating provisions of applicable laws on management of gold trading activities, provisions of applicable laws on quality of jewelry gold, fine arts circulated on the market in 12 consecutive months prior to the time of applying and up to the time of issuing of gold material import license.

In addition, the Circular also supplements regulations on dossier, procedure for the termination of trading activities of gold bars, activities of producing jewelry gold, fine arts.

This Circular is effective from 15 February 2016.

## **PART II: LIST OF NEW LEGAL DOCUMENTS**

<b>No.</b>	<b>NAME OF DOCUMENT</b>	<b>EFFECTIVE DATE</b>
<b>THE MINISTRY OF FINANCE</b>		
1	<i>Circular No. 204/2015/TT-BTC</i> dated 21 December 2015 of the Ministry of Finance on regulation on the application of risk management in taxation management	04/02/2016
2	<i>Circular No. 204/2015/TT-BTC</i> dated 21 December 2015 of Ministry of Finance on regulation on the application of risk management in taxation management	04/02/2016
3	<i>Official Letter No. 19145/BTC-TCT</i> dated 23 December 2015 of Ministry of Finance on the use of invoice in medical examination and treatment activities of public health care units	23/12/2015
4	<i>Official Letter No. 19132/BTC-CST</i> dated 23 December 2015 of the Ministry of Finance on the power to make records on administrative violations of Police, Market surveillance agencies	23/12/2015
5	<i>Official Letter No. 19039/BTC-TCHQ</i> dated 22 December 2015 of Ministry of Finance on VAT for ships rented from overseas to serve oil and gas operation	22/12/2015
6	<i>Official Letter No. 18645/BTC-TCT</i> dated 15 December 2015 of Ministry of Finance on the customs dossier to VAT refund	15/12/2015
<b>THE GENERAL DEPARTMENT OF TAXATION</b>		
1	<i>Official Letter No. 5593/TCT-KK</i> dated 25 December 2015 of the General Department of Taxation on the deadline for receiving the 06/GTGT form	22/12/2015
2	<i>Official Letter No. 5538/TCT-CS</i> dated 23 December 2015 of the General Department of Taxation on VAT	23/12/2015
3	<i>Official Letter No. 5521/TCT-KK</i> dated 22 December 2015 of the General Department of Taxation on registering tax for science and technology organizations	22/12/2015
4	<i>Official Letter No. 5514/TCT-CS</i> dated 22 December 2015 of the General Department of Taxation on transferring dossier.	22/12/2015
5	<i>Official Letter No. 5513/TCT-CS</i> dated 22 December 2015 of the General Department of Taxation on tax policy	22/12/2015
6	<i>Official Letter No. 5509/TCT-KK</i> dated 22/12/2015 of the General Department of Taxation on deferment of payment of granting the mineral exploitation right	22/12/2015
7	<i>Official Letter No. 5501/TCT-DNL</i> dated 21 December 2015 of the General Department of Taxation on declaration and payment of centralized VAT	21/12/2015

8	<i>Official Letter No. 5483/TCT-CS</i> dated 21 December 2015 of the General Department of Taxation on Tax policy	21/12/2015
9	<i>Official Letter No. 5483/TCT-CS</i> dated 21 December 2015 of the General Department of Taxation on Tax policy	21/12/2015
10	<i>Official Letter No. 5407/TCT-CS</i> dated 16 December 2015 of the General Department of Taxation on Tax policy	16/12/2015
11	<i>Official Letter No. 5634/TCT-CS</i> dated 29 December 2015 of the General Department of Taxation on the policy of the land rental collection	13/12/2015
12	<i>Official Letter No. 5634/TCT-CS</i> dated 29 December 2015 of the General Department of Taxation on the policy of the land rental collection	29/12/2015
13	<i>Official Letter No. 5619/TCT-CS</i> dated 28 December 2015 of the General Department of Taxation on VAT	28/12/2015
14	<i>Official Letter No. 5599/TCT-KK</i> dated 28 December 2015 of the General Department of Taxation on VAT refund	28/12/2015
15	<i>Official Letter No. 5567/TCT-CS</i> dated 25 December 2015 of the General Department of Taxation on tax policy	25/12/2015
16	<i>Official Letter No. 5566/TCT-CS</i> dated 25 December 2015 of the General Department of Taxation on tax policy	25/12/2015
17	<i>Official Letter No. 5565/TCT-CS</i> dated 25 December 2015 of the General Department of Taxation on tax policy	25/12/2015
18	<i>Official Letter No. 5560/TCT-KK</i> dated 24 December 2015 of the General Department of Taxation on declaration and deduction of VAT	24/12/2015
19	<i>Official Letter No. 81/TCT-DNL</i> dated 07 January 2016 of the General Department of Taxation on the guidelines for declaration of VAT	07/01/2016
20	<i>Official Letter No. 75/TCT-CS</i> dated 07 January 2016 of the General Department of Taxation on declaration and paying Value Add Tax and Corporate Income Tax	07/01/2016
21	<i>Official Letter No. 60/TCT-CS</i> dated 07 January 2015 of the General Department of Taxation on the policy of land use levy	07/01/2016
22	<i>Official Letter No. 59/TCT-CS</i> dated 07 January 2016 of the General Department of Taxation on registration fees	07/01/2016
23	<i>Official Letter No. 58/TCT-CS</i> dated 07 January 2016 of the General Department of Taxation on provisions	07/01/2016
24	<i>Official Letter No. 57/TCT-CS</i> dated 07 January 2016 of the General Department of Taxation on provisions	07/01/2016

**THE MINISTRY OF INDUSTRY AND TRADE**

1	<i>Circular No. 01/2016/TT-BTC</i> dated 05 January 2016 of the Ministry of Industry and Trade on regulating the import of raw tobacco under the tariff quota in 2016	05/01/2016
---	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------

*Please note that the information presented in this legal news update is provided for reference purposes only. Information contained herein is not used as legal advice or substitute for legal counsel of BROSS & Partners and is subject to change at any time without notice. BROSS & Partners is not responsible for any activity conducted on basis of this information.*