

## LEGAL NEWS UPDATE – JULY 2016

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### 1. DELAYING THE EFFECT OF THE CRIMINAL CODE 2015

*On 29 June 2016, the National Assembly promulgated the Resolution No.144/2016/QH13 on delaying the effect of the Criminal Code No. 100/2015/QH13, the Criminal Procedure Code No.101/2015/QH13, the Law on organization of criminal investigation bodies No. 99/2015/QH13; the Law on temporary detention and custody No. 94/2015/QH13 which will be delayed on the effective date as from 01 July 2016 up to the date of the Law on amending and supplementing some articles of the Criminal Code No. 100/2015/QH13 being effective; and adding the law project on amending, supplementing a number of articles of the Criminal Code No. 100/2015/QH13 into the program to elaborate laws and ordinances in 2016.*

Continuing to apply the Criminal Code No. 15/1999/QH10 (a number of Articles amended and supplemented by Law No. 37/2009/QH12); the Criminal Procedure Code No. 19/2003/QH11; the Ordinance on Organization of Criminal Investigations No. 23/2004/PL-UBTVQH11 (a number of articles amended and supplemented by the Ordinance No. 30/2006/PL-UBTVQH11 and

the Ordinance No. 09/2009/PL-UBTVQH12); the Decree No. 89/1998/ND-CP promulgating Regulations on temporary custody, detention (a number of articles amended and supplemented by the Decree No. 98/2002/ND-CP and the Decree No. 09/2011/ND-CP of the Government) up to the date of the Law on amending and supplementing some articles of the Criminal Code No. 100/2015/QH13 being effective.

This Resolution is effective on 30 June 2016.

## **2. FINANCIAL INSTITUTIONS ARE NOT ALLOWED TO TAKE FOREIGN LOANS TO BUY CORPORATE BONDS**

*On 30 June 2016, the State Bank promulgated the Circular No.22/2016/TTNH-NN on the regulation of purchase of corporate bonds by credit institutions, branches of foreign banks.*

Accordingly, the purchase of corporate bonds by credit institutions and branches of foreign banks shall comply with the laws. The currency used in the purchase of corporate bonds must be Vietnamese Dong. The credit institutions and branches of foreign banks are not allowed to take loans from other credit institutions and branches of foreign banks to buy types of corporate bonds.

This Circular will become effective on 15 August 2016.

## **3. GUIDING THE TRANSFER OF INTERNET DOMAIN NAMES ASSIGNED WITHOUT AUCTION**

*On 30 June 2016, the State Bank promulgated the Circular No.22/2016/TTNH-NN on the regulation of purchase of corporate bonds by credit institutions, branches of foreign banks.*

Accordingly, in order to transfer of the right to use the domain name ".vn" individuals, organizations shall submit documents at a registrar in charge of transferred Internet domain name whose name is included in the list of registrars published on the website [www.nhadangky.vn](http://www.nhadangky.vn).

In case the re-registration of the transferred domain name is completed, if the Vietnam Internet Network Information Center or the registrar receives a notification of undischarged tax liability or fraud acts in tax liability incurred by the transfer parties sent by a tax authority, the results of domain name transfer shall be cancelled.

This Circular will become effective on 15 August 2016.

## **4. GUIDING ON INDIRECT INVESTMENT ABROAD**

*On 29 June 2016, the State Bank promulgated the Circular No. 10/2016/TT-NHNN on guiding a number of regulations of the Decree No. 135/2015/ND-CP dated 31 December 2015 of the Government on indirect investment abroad.*

Accordingly, self-operated organization and trusted organizations are allowed to make indirect investment abroad with the investment instruments as follows: Shares listed on abroad stock markets; securities investment fund certificates; Bonds, treasury bonds, bills of the Government and those issued by organizations that have been rated by international credit rating organizations such as Standard & Poor's, Moody's Investors Service and Fitch Ratings.

This Circular will become effective on 13 August 2016.

#### **5. NEW REGULATIONS ON CONSTRUCTION PERMITS**

*On 30 June 2016, the Ministry of Construction promulgated the Circular No. 15/2016/TT-BXD on guiding issuance of construction permits.*

Accordingly, the applicant for construction permits shall submit complete dossiers and construction permit fees; be responsible for the accuracy and truthfulness of application dossiers for the issuance of construction permit and particularly, shall make a written announcement on the construction starting date to the people's committee of the commune where the work shall be constructed within 7 working days before starting the construction.

The construction licensing authorities are not allowed to appoint organizations, individuals to design or establish its affiliates to design for organizations or individuals applying for

construction permits; issue the construction permits to the work exempted from the construction permits upon requested by the investors.

This Circular will become effective on 15 August 2016.

#### **6. CONDITIONS ON CREDIT INFORMATION RELATED ACTIVITIES**

*On 01 July 2016, the Government promulgated the Decree No. 57/2016/ND-CP on amendment and supplement of Article 7 of the Decree No. 10/2010/ND-CP of the Government dated 12 February 2010 on credit information related activities.*

Accordingly, the credit information companies must meet six conditions to be granted the certificate of eligibility for credit information related activities. In which, the companies shall have the charter capital of at least VND30 billion; have the enterprise manager and member of the Supervisory Board meet the conditions prescribed by laws; have feasible business plans and are not allowed to operate in business lines other than the contents of the information credit activities; have at least 20 commercial banks which commit to provide the credit information and make no similar commitment with other credit information companies.

This Decree shall take effect from 01 July 2016.

#### **7. GUIDING THE IMPLEMENTATION OF THE LAW ON INSURANCE BUSINESS**

*On 01 July 2016, the Government promulgated the Decree No. 73/2016/ND-CP on the detailed regulations to implementation of the Law on Insurance Business and the Law on amendment and supplementation a number of Articles of the Law on Insurance Business.*

Accordingly, insurers, foreign affiliates shall be entitled to sell insurance products with the methods as follows: directly; via insurance agencies and insurance brokers; via auctions; via electronic transactions and other forms in compliance with the laws. Insurance enterprises, foreign affiliates must only sell insurance products in compliance with the contents and scopes of activities prescribed in the license.

For foreign organizations which want to establish the insurance limited liability companies, in addition to the general conditions, they must meet the conditions specified in this Decree.

This Decree will become effective on 01 June 2016.

## **8. CONDITIONS ON TRANSFER OF A COMMERCIAL HOUSE SALE CONTRACT**

*On 30 June 2016, the Ministry of Construction promulgated the Circular No. 19/2016/TT-BXD on guidelines for implementation of some contents of the Law on housing and the Decree No. 99/2015/ND-CP dated 20 October 2015 of the Government on the detailed*

*regulations and guidelines for implementation of some contents of the Law on housing.*

Accordingly, organizations, individuals who buy a house from the investor of a commercial housing construction project whether the house has been received or not, may transfer the sale contract to another entity as long as the application for the Certificate has not been submitted to a competent authority yet.

This Circular also regulates on the methods of transfer of a commercial house sale contract and will become effective on 15 August 2016.

## **9. A NUMBER OF NEW REGULATIONS ON NON-CASH PAYMENTS**

*On 01 July 2016, the Government promulgated the Decree No. 80/2016/ND-CP on amending and supplementing of some articles of the Decree No. 101/2012/ND-CP dated 22 November 2012 of the Government on non-cash payments.*

Accordingly, on-cash payment methods in payment transactions include: Cheques, payment orders, collection orders, bank cards and other payment methods as prescribed by the State Bank.

This Decree is effective on 01 July 2016.

## **10. CONDITIONS ON ISSUANCE OF SECURITIES PRACTICE CERTIFICATES**

*On 01 July 2016, the Government promulgated the Decree No. 86/2016/ND-CP on regulation of conditions on investment and trading in securities.*

Accordingly, a practice certificate of securities brokerage is issued to an individual who has full legal capacity and obtains at least a bachelor's degree, certificates of securities and passes a test of securities practice certificate in conformity with the type of securities practice certificate applied for issuance.

A practice certificate of financial analysis is issued to an individual who satisfies the above conditions as well as obtains certificates of securities, including: Certificates of financial consultancy and securities underwriting, certificates of corporate financial statement analysis.

The Decree is effective on 01 July 2016 and Clause 18 Article 2 of the Decree No. 58/2012/ND-CP dated 20 July 2012 is abolished.

## **11. GUIDELINES FOR PROCEDURES FOR VALUE ADDED TAX REFUND**

*On 29 June 2016, the Ministry of Finance promulgated the Circular No. 99/2016/TT-BTC providing guidelines for management of value added tax ("VAT") refund.*

Accordingly, each taxpayer eligible for VAT refund as prescribed in the Law on VAT shall determine the refundable VAT, and then

make a claim for VAT refund and send it to the tax department in charge.

Claim for VAT refund dossier consists of: request for refund of state budget revenues; other documents prescribed in Articles as from 50 up to 56 (excluding Article 53) of the Circular No. 156/2013/TT-BTC.

This Circular will become effective on 13 August 2016.

## **12. THE LIST OF DISEASES ELIGIBLE FOR LUMP-SUM SOCIAL INSURANCE PAYOUT**

*On 12 May 2016, Ministry of Health promulgated the Circular No. 14/2016/TT-BYT on the detailed regulations to implement some articles of the Law on Social Insurance.*

Accordingly, the employee gets a disease causing working ability reduced to 81% or more and no possibility of recovery or deadly diseases such as cancer, polio, cirrhosis ascites, leprosy, serious tuberculosis, HIV infection and developed to AIDS, may be considered to enjoy the one-time social insurance regime.

This Circular is effective on 01 July 2016.

## **13. GUIDELINES FOR THE REGISTRATION OF MORTGAGE OF LAND-USE RIGHTS**

*On 23 June 2016, the Ministry of Justice, the Ministry of Natural Resources and Environment has issued the Joint Circular No.*

*09/2016/TTLT-BTP-BTNMT guiding on the registration of mortgage of land-use rights and any assets attached to the land.*

Accordingly, there are 08 cases being allowed to register the mortgage of the land use rights and any assets attached to the land are specified therein.

This Joint Circular also regulates the cases of Land Registration Office refuses registration only if the detected information in the registration dossiers do not match the information archived by such office.

This Joint Circular will become effective on 08 August 2016.

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