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# Legal News

January 2021

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## Highlight

### 1. New guideline for classification of construction works

*This content is specified in Decree No. 06/2021/ND-CP dated 26 January 2021 on quality management, construction and maintenance of building works (“Decree 06”).*

Building works are classified on the basis the nature of the structure and the use of the works, specifically as follows:

- (a) Based on the nature of structure, building works are classified as follows [*Decree No. 46/2015/ND-CP dated 12 May 2015 (“Decree 46”) did not so classify*]:
  - (i) Houses, house-shaped structures;
  - (ii) Bridges, roads, tunnels, ports;
  - (iii) Pillars, towers, tanks, silos, retaining walls, dykes, dams, embankments;
  - (iv) Pipeline structures;
  - (v) Other structures.
- (b) Based on the use of the works, building works are classified as follows:
  - (i) Works used for civil purposes;
  - (ii) Works used for industrial production purposes;
  - (iii) Works providing technical infrastructure facilities and utilities;
  - (iv) Works used for transportation;
  - (v) Works used for agricultural production and rural development;
  - (vi) Works used for national defense and security purposes.

The classification of works according to their using functions is detailed in Appendix I accompanying Decree 06/2021.

Decree 06 shall take effect on 26 January 2021 and replace Decree 46.

### 2. Time for submission of proof of origins under EVFTA

*On 25 January 2021, Ministry of Finance issued Circular No. 07/2021/TT-BTC, determining the time for submission of proof of origins of imported goods (hereinafter referred to as “Documents”) under EVFTA (“Circular 07”).*

The time for submission is prescribed as follows:

- (a) Customs declarant submit the Documents at the time of performing customs procedures pursuant to Article 7.1.(a) of Circular No. 38/2018/TT-BTC dated 20 April 2018.
- (b) Where the Documents are not available at the time of performing customs procedures, in order to enjoy the special preferential import tax rates: The customs declarant shall declare late submission in the customs declaration and shall be allowed additional declarations and submit additional declaration documents within a time-limit of 02 years from which the custom declaration is registered for import and within the validity period of the Documents.
- (c) General Department of Customs shall decide on application of special preferential tax rate in the cases where customs declarant submit the documents after the above-mentioned time-limit due to a force majeure event or other legitimate reasons beyond the importers' control or other cases of late submission.

For other cases of late submission, goods must be imported within the validity period of the Documents.

Circular 07 shall take effect on 11 March 2021.

### **3. When imported or exported goods are not required to declare tax every time arisen**

*On 22 January 2021, Ministry of Finance issued Circular No. 06/2021/TT-BTC, providing guidelines for implementation of some articles of Law on Tax Administration 2019 on imported or exported goods ("Circular 06").*

Accordingly, where exported or imported goods are not required to declare tax whenever arisen, including:

- (a) Imported or exported electricity products under Article 93 of Circular No. 38/2015/TT-BTC dated 25 March 2015 ("**Circular 38**");
- (b) Goods sold in isolation areas at international airports (except duty-free goods) under Article 93 of Circular 38;
- (c) Goods provided for passengers on international flights under Article 93 of Circular 38;
- (d) Aviation fuel for outbound flying aircrafts under Article 93 of Circular 38;
- (e) Exports, imports that are delivered many times in a day or a month as prescribed in Article 86 of Circular 38.

Circular 06 shall take effect on 8 March 2021.

#### **4. Compulsory motor vehicle insurance: Compensation up to VND150 million/person/case**

*On 15 January 2021, Ministry of Finance issued Circular No. 04/2021/TT-BTC, detailing some articles of Decree No. 03/2021/ND-CP, on compulsory insurance for motor vehicle owner's civil liability ("Circular 04").*

Accordingly, the insurance liability level for health and life damage caused by a motor vehicle is VND 150 million per person in an accident (Pursuant to the currently-applicable Circular No. 22/2016/TT-BTC dated 16 February 2016, the amount is VND 100 million per person in an accident).

Liability for property damage caused by two-wheeled motorcycles, three-wheeled motorcycles or motorbikes is VND 50 million/accident.

Liability for property damage caused by an automobile, tractor, trailer or semi-trailer pulled by an automobile or tractor; specialized motorbikes is VND100 million/ accident.

Circular 04 shall take effect on 1 March 2021.

#### **5. Conditions for science and technology enterprises to enjoy corporate income tax exemption or reduction**

*On 11 January 2021, Ministry of Finance issued Circular No. 03/2021/TT-BTC, providing guidelines for exemption from and reduction of Corporate Income Tax applicable to science and technology enterprises as prescribed in Decree No. 13/2019/ND-CP dated 01 February 2019 ("Circular 03").*

Accordingly, science and technology (S&T) enterprises meeting the following conditions are eligible for tax exemption from and reduction of Corporate Income Tax (CIT):

- (a) Having certificate of S&T enterprise issued by a competent State management agency.
- (b) Annual revenue from production of and trading in products derived from S&T results reaches a minimum rate of 30% of the total annual revenue of the enterprise.
- (c) Revenues generated from services applying S&T results in information technology is those from new services, excluding services already available on the markets.

- (d) Income generated from S&T results must be separately accounted for in the period; If the income cannot be separately accounted, it will be distributed according to Clause 2, Article 18 of the Law on Corporate Income Tax 2008.
- (e) The enterprise must comply with the accounting, invoices and accounting source documents required by law and pay taxes in accordance with the declaration.

Circular 03 shall take effect on 1 March 2021.

## **6. Requirements for online enterprise registration documents**

***On 4 January 2021, the Government issued Decree No. 01/2021/ND-CP on enterprise registration (“Decree 01”).***

Electronic enterprise registration (ER) documents are approved when all the following requirements are met:

- (a) Having all the required documents and their contents are declared fully in accordance with the law; and which are the same as the paper records and presented in the form of an electronic document;
- (b) Electronic document must be named corresponding to the name of the paper document; the signature may be digital signature or scanned copy of handwritten signature.
- (c) Information on ER listed on the National Business Registration Portal must be complete and accurate in accordance with that in the paper documents; *including information on the applicant’s telephone number and email (a new provision);*
- (d) Online submitted ER documents must be authenticated by the digital signature or the business registration account of the person having authority to sign on the ER application or an authorized person.

Decree 01 took effect on 4 January 2021.

**Other Sectors:****Finance - Banking**

- Decision No. 25/QD-BTC dated 11 January 2021 of Ministry of Finance, cancelling administrative procedures in the field of Management of Public Properties within the scope of management functions of the Ministry of Finance.
- Decision No. 05/QD-NHNN dated 6 January 2021 of the State Bank of Vietnam, on Evaluation form and scoring method in handling administrative procedures of the State Bank of Vietnam.
- Circular No. 02/2021/TT-BTC dated 8 January 2021 of the Minister of Ministry of Finance, on collection levels and system for collection, payment, management and use of fire prevention and fighting equipment inspection fees.
- Circular No. 01/2021/TT-BTC dated 7 January 2021 of Ministry of Finance, on collection levels and system for collection, payment, management and use of fees for assessment and issuance of licenses for karaoke and discotheque business.

**Audit**

- Decision No. 68/QD-KTNN dated 18 January 2021 of the State Audit Office of Vietnam, on functions, duties and powers of bureaux and divisions of the State Audit Office of Vietnam.
- Decision No. 67/QD-KTNN dated 18 January 2021 of the State Audit Office of Vietnam, on functions, duties and powers of bureaux of the State Audit Inspectorate.
- Decision No. 66/QD-KTNN dated 18 January 2021 of the State Audit Office of Vietnam, on functions, duties and powers of bureaux of Department of Organization and Personnel.
- Decision No. 65/QD-KTNN dated 18 January 2021 of the State Audit Office of Vietnam, on functions, duties and powers of bureaux of Department of Audit Policy and Quality Control.
- Decision No. 47/QD-KTNN dated 14 January 2021 of the State Audit Office of Vietnam, providing guidelines for auditing construction investment project.

**Trade**

- Decision No. 38/QD-TTg dated 12 January 2021 of the Prime Minister, approving

Scheme on Reforming the model of quality inspection and food safety inspection for imported goods.

- Decision No. 01/2021/QD-TTg dated 5 January 2021 of the Prime Minister on List of export or import services of Vietnam.

### **Labour**

- Decision No. 1921/QD-TLD dated 12 January 2021 of Vietnam General Confederation of Labour, on providing support for union members and employees affected by COVID-19 and natural disasters in 2020 during the Lunar New Year 2021.
- Decision No. 23/QD-BHXH dated 8 January 2021 of Vietnam Social Security, amending regulations on form of Specialized Inspectorate Card of social insurance branch under Article 5 on Granting, managing and using cards and costumes of persons assigned to perform specialized inspection tasks on paying social insurance, unemployment insurance and health insurance accompanying Decision No. 102/QD-BHXH.

### **Health**

- Resolution No. 10/NQ-CP dated 29 January 2021 of the Government, on accession to the Budapest Treaty on the international recognition of the deposit of microorganisms for the purposes of patent procedures.
- Decision No. 973/QD-BYT dated 31 January 2021 of Ministry of Health, on conditional approval of vaccines for emergency in prevention and control of COVID-19 pandemic.
- Directive No. 05/CT-TTg dated 28 January 2021 of the Prime Minister, on urgent measures to prevent and control the COVID-19 pandemic.
- Decision No. 700/QD-BYT dated 28 January 2021 of Ministry of Health, publishing cancelled administrative procedures within the management functions of the Ministry of Health as provided for in Circular No. 29/2020/TT-BYT.
- Decision No. 682/QD-BYT dated 28 January 2021 of Ministry of Health on connection and data sharing platform LGSP (Local Government Service Platform) of Ministry of Health.
- Decision No. 457/QD-BYT dated 22 January 2021 of Ministry of Health, publishing List of legal documents wholly or partially expired in the fields under

the State management of Ministry of Health until 31 December 2020.

- Decision No. 198/QD-BYT dated 13 January 2021 of Ministry of Health, on list of data format standards for interconnecting grass-root level healthcare facilities with the grass-root level health information management platform V20.
- Decision No. 142/QD-BYT dated 12 January 2021 of the Minister of Ministry of Health, on Regulation on coordination between HIV/AIDS prevention and control program and tuberculosis (TB) disease prevention and control project.
- Decision No. 116/QD-BYT dated 11 January 2021 of Ministry of Health, promulgating Regulation on organization of meetings in direction and administration activities of Ministry of Health.
- Decision No. 122/QD-BYT dated 11 January 2021 of Ministry of Health, on National guidelines for Pharmacovigilance.
- Decision No. 28/QD-BYT dated 5 January 2021 of the Minister of Ministry of Health, on a set of information technology criteria for implementation of remote medical activities.
- Consolidated Document No. 01/VBHN-BYT dated 13 January 2021 of the Minister of Ministry of Health, combining Circulars providing guidelines for continuous training for health workers.

## **Transport**

- Decree No. 05/2021/ND-CP dated 25 January 2021, on management and operation of airports.
- Decision No. 149/QD-BGTVT dated 15 January 2021 of the Minister of Ministry of Transport, publishing a List of expired legal documents on transportation in the last 6 months of 2020.

## **Land**

- Decision No. 02/2021/QD-UBND dated 25 January 2021 of the People's Committee of Hanoi on the land price adjustment coefficients in 2021 according to the laws as a basis for calculation in: Land rent collection; determination of the starting price for auction of leased land use rights; collection of land use levies from households and individuals that have land use rights recognized by the State, and permission for change of land use purpose for the area of residential land exceeding the quota in the area of Hanoi.

- Decision No. 01/2021/QD-UBND dated 25 January 2021 of the People's Committee of Hanoi, on Land price adjustment coefficients in 2021 for cases where the coefficients are applied according to the laws as a basis for calculation in: Land use levy collection upon land allocation without auction; land use levy collection when organizations are recognized with land use rights, conversion of land use purposes; collection of land use levies upon resale of social houses; determination of the starting price for auction of residential land use rights in the area of Hanoi.

### Natural Resource - Environment

- Decision No. 75/QD-BTNMT dated 14 January 2021 of Ministry of Natural Resources and Environment, on a List of electronic identifiers of agencies and units of the Ministry of Natural Resources and Environment; offices of agencies and units established under the decision of the Prime Minister at the Ministry of Natural Resources and Environment for the purpose of data connection and sharing with information systems and databases of ministries, branches and localities and internal information systems of the Ministry of Natural Resources and Environment.
- Decision No. 72/QD-BTNMT dated 14 January 2021 of Ministry of Natural Resources and Environment, publishing a List of legal documents wholly and partially expired in the fields under the State management of the Ministry of Natural Resources and Environment in the last 6 months of 2020.

### Science - Technology

- Decision No. 130/QD-TTg dated 27 January 2021 of the Prime Minister on National high-tech development program to 2030.
- Decision No. 127/QD-TTg dated 26 January 2021 of the Prime Minister, on National Strategy on Research, Development and Application of Artificial Intelligence until 2030.
- Decision No. 193/QD-BCT dated 21 January 2021 of Ministry of Industry and Trade, on correction of National Technical Regulations accompanying Circular Nos. 45/2020/TT-BCT, 46/2020/TT-BCT, 47/2020/TT-BCT, 48/2020/TT-BCT, 49/2020/TT-BCT, 50/2020/TT-BCT issued by the Ministry of Industry and Trade.

**Information - Communications**

- Decision No. 77/QD-BTTTT dated 22 January 2021 of Ministry of Information and Communications, publishing replaced administrative procedures in the field of journalism within the scope of management functions of the Ministry of Information and Communications.
- Decision No. 60/QD-BTTTT dated 20 January 2021 of Ministry of Information and Communications, publishing a List of legal documents wholly and partially expired in the fields under the State management of the Ministry of Information and Communications in the year of 2020.
- Decision No. 29/QD-BTTTT dated 13 January 2021 of Ministry of Information and Communications, on inspection duties of the Ministry of Information and Communications.

**Administration - Judiciary**

- Decision No. 551/QD-UBND dated 26 January 2021 of the People's Committee of Hanoi, publishing a List of administrative procedures within the scope of the State management functions of Hanoi Inspectorate.
- Decision No. 56/QD-BNV dated 21 January 2021 of the Ministry of Home Affairs, publishing a List of legal documents wholly and partially expired in the fields under the State management of the Ministry of Home Affairs in 2020.
- Decision No. 70/QD-BTP dated 19 January 2021 of Ministry of Justice, publishing a List of legal documents wholly and partially expired in the fields under the State management of Ministry of Justice in 2020.
- Circular No. 06/2021/TT-BCA dated 23 January 2021 of Ministry of Public Security, on form of citizen's identification card.
- Joint Circular No. 08/2021/TTLT-BQP-BCA-VKSNDTC dated 14 January 2021 of Ministry of National Defence, Ministry of Public Security and the Supreme People's Procuracy, on coordination in arrest, custody and supervision of the arrest and custody among agencies and persons assigned to conduct investigation activities of the Border Guards and Coast Guard.
- Guidance No. 10/HD-VKSTC dated 14 January 2021 of the Supreme People's Procuracy, on the practice of prosecution rights and inspection procuracy, first instance procuracy of security cases in 2021.
- Guidance No. 07/HD-VKSTC dated 11 January 2021 of the Supreme People's

Procuracy, on procuracy of settlement of civil, marriage and family cases in 2021.

- Guidance No. 03/HD-VKSTC dated 6 January 2021 of the Supreme People's Procuracy, on procuracy of custody, detention and criminal judgment execution in 2021;
- Guidance No. 01/HD-VKSTC dated 4 January 2021 of the Supreme People's Procuracy, on procuracy of settlement of administrative, business, commercial and labour cases as well as other matters in accordance with the laws in 2021.

### Agriculture

- Decision No. 03/2021/QD-TTg dated 25 January 2021 of the Prime Minister, amending Decision No. 22/2019/QD-TTg on implementation of policies to support agricultural insurance.
- Decision No. 300/QD-BNN-TT dated 18 January 2021 of Ministry of Agriculture and Rural Development, on approving internal procedures for settlement of administrative procedures in the field of Cultivation within the scope of management functions of the Ministry of Agriculture and Rural Development.
- Decision No. 39/QD-TTg dated 12 January 2021 of the Prime Minister on the List of the State Secrets of the Vietnam Farmers' Association.

### Miscellaneous

- Decree No. 04/2021/ND-CP dated 22 January 2021, on sanctioning administrative violations in the field of Education.

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