



LEGAL UPDATE

Our monthly Legal Update is to provide the summary of key regulatory news that potentially impact your investment and business activities in Vietnam.

This Legal Update covers the following:

- *VAT is cut by 2 percent from 01 July 2023.*
- *Stricter lending regulations.*
- *Foreign standard to design and test fire prevention and fighting systems and equipment.*

1. VAT is cut by 2 percent from 01 July 2023

On 30 June 2023, the Government issued Decree 44/2023/NĐ-CP, approving the application of 8% value added tax (VAT) rate for a number of goods and services.

The tax reduction is consistently applied from the stages of importing, producing, processing, and trading of goods and services, according to the decree.

The reduced VAT rate does not apply to **(i)** goods and services in the groups of telecommunications, financial and banking activities, securities, insurance, real estate business, metal and cast metal products, mining products (except coal), coke, refined petroleum, and chemical products; **(ii)** goods and services subject to excise tax and **(iii)** those in information technology field.

Details about the goods and services not entitled to the VAT cut can be found in appendices of the decree.

The decree is valid from 01 July until 31 December of this year.

2. Stricter lending regulations

On 28 June 2023, the State Bank Governor issued Circular 06/2023/TT-NHNN revising a number of articles of Circular 39/2016/TT-NHNN, on lending operation by credit institutions and foreign bank branches ("*Circular 06*").

Circular 06 adds 04 cases in which potential clients are not eligible for bank loans. Accordingly, the credit institutions shall not be allowed to approve the following loan demands:

- a) Loans used for doing business or investing in sectors or activities prohibited by the Investment Law.
- b) Loans used for paying expenses or meeting financial demands of business or investment in sectors or activities prohibited by the Investment Law and other transactions or activities prohibited by laws.
- c) Loans used for purchasing or using goods or services in the list of prohibited sectors and activities under the Investment Law.
- d) Loans used for buying gold bullion.
- e) Loans used for repaying loans owed to credit institutions, except those used for paying loan interests arising during the construction process which are

accounted for in the total construction cost estimate approved by a competent authority in accordance with regulations of law.

- f) Loans used for repaying foreign loans (excluding those in the form of deferred payment for goods) or repaying loans owed to other credit institutions, except for a loan used for making early repayment of an existing loan that meets the following conditions:
 - The term of the new loan does not exceed the remaining term of the old one;
 - The old loan has not yet undergone any debt rescheduling.
- g) Loans used for sending money to deposit accounts (*newly added regulation*).
- h) Loans used for capital contribution or acquisition of capital contributions to limited liability companies or partnerships; capital contribution or purchase of shares or acquisition of shares of joint-stock companies that have not been listed on the stock market or registered for trading on the Upcom trading system (*newly added regulation*).
- i) Loans used for making capital contributions under capital contribution contracts, investment cooperation contracts or business cooperation contracts for implementation of investment projects ineligible for being put into business in accordance with law at the time the credit institution decide to provide such loans (*newly added regulation*).
- j) Loans used for financial offsetting purposes, except for those meeting the following conditions (*newly added regulation*):
 - The customer has used their own funds for paying costs incurred from their business project for a period of less than 12 months by the time the credit institution decides to provide the loan;
 - Costs paid by the customer's funds used for implementing a business project are costs to be covered using the fund borrowed from the credit institution under the plan to use borrowed fund submitted to the credit institution when applying for a medium-term or long-term loan for that business project implementation.

In addition, pursuant to Article 1.11 of Circular 06, the credit institutions may provide loans by electronic means suitable to their business operation conditions and loan characteristics, provided that they are able to ensure security and safety, protect data messages and keep confidential information in accordance with law. At

the same time, information systems used for e-lending activities must ensure information safety at level 3 or higher under the Government's regulations. It also requires credit institutions to store and preserve information and data and ensure their safety and confidentiality in accordance with law. They must also make backup copies of files so that data can be accessed and used when necessary or for the purposes of inspection, collation, and settlement of complaints and disputes, or for provision to competent authorities when so requested.

Circular 06 shall come into effect as from 01 September 2023.

3. Foreign standard to design and test fire prevention and fighting systems and equipment

On 15 June 2023, the Ministry of Public Security issued Decision No. 4158/QĐ-BCA-PCCC&CNCH approving the application of foreign and international standards ("*Foreign Standards*") on fire prevention and fighting in Vietnam to design and test fire prevention and fighting systems and equipment.

Accordingly, 15 approved Foreign Standards include: 05 standards of the International Organization for Standardization; 04 standards of the National Fire Protection Association; 02 standards of the People's Republic of China; 01 standard of Underwriters Laboratories; 01 standard of the Federal Republic of Germany; 01 standard of the Russian Federation; 01 standard of Korea Fire Institute.

These above Foreign Standards apply on the basis of compliance with Article 1.4 of the Law amending and supplementing a number of articles of the Law on Fire Prevention and Fighting 2013, and in case of a new version as its replacement, it will be considered and approved to apply according to regulations.

With 15 Foreign Standards approved to be applied in Vietnam, enterprises will have more legal basis for choosing to apply standards on fire prevention and fighting suited to each of their works and projects. In addition, this regulation also helps enterprises save production costs and time to put works and projects into production and business activities.

The decision will take effect from 15 June 2023.

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