

## monthly legal update

August 2009

### 1. New rules clarify income tax exemptions

The Ministry of Finance issued Circular No 160/ 2009/TT-BTC on exemptions of the personal income tax in 2009, and Circular No 161/ 2009/TT-BTC guiding income taxes on gifts, inheritances and transfers of real property.

Under Circular 160/2009/TT-BTC, issued on August 12, resident individuals and non-resident individuals receiving income from capital gains and royalties are exempt from personal income tax from Jan 01 to Dec 31, 2009. Under Circular 161/2009/TT-BTC, the tax rate applicable to income and capital gains from the transfer of real property is set at 25 per cent. If costs and expenses which serve as a basis for determining taxable gains are unidentifiable, or the real property is transferred at a price lower than the land values stipulated by the provincial-level People's Committees at the time of the transfer, gains shall be taxed at a rate of 2 per cent of the values set by the committees.

### 2. Banks face tighter rules for issuing bonds

The State Bank of Viet Nam issued Circular No 16/2009/TT-NHNN on August 11 on the issuance of bonds by credit institutions. To issue bonds, an institution must have registered a profit in the previous business year. To issue convertible bonds, the

institution's bad debts must not exceed 5 per cent of total liabilities and must be lower than in the previous year.

### 3. Foreign investment in private security firms

The Ministry of Public Security issued Circular No 45/2009/TT-BCA on July 14 guiding the implementation of Decree 52/2008/ND-CP on private security services. Under Decree 52, security services are a business conditional to foreign investment. The new circular clarifies the conditions for foreign investors to form a joint venture with domestic entities. Accordingly, the foreign company must have been professional in the security service business for at least five consecutive years without any other lines of business and must obtain a certificate from a provincial Department of Science and Technology certifying equipment to be used by the joint venture is not otherwise available in Viet Nam. The circular takes effect on August 28.

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