

monthly legal update

June 2010

Limiting the use of online business registration

The Ministry of Planning and Investment has issued Circular No 14/2010/TT-BKH guiding Decree No 43/2010/ND-CP on business registration.

Decree No 43 provided that business registration could be completed online using the National Enterprises Registration Information Gate. However, Circular No 14 limits online registration to companies that have registered an electronic signature – in practice, a procedure with which it is difficult to comply and applicable to only a limited number of companies. Without this registered electronic signature, after online registration, application dossier must still be submitted in paper form.

The new circular also contains provisions on enterprise names and registered addresses, now requiring firms to complete tax procedures with tax authorities prior to registering a change of address with the provincial business registrar.

The circular also introduces a new form of enterprise registration certificate, combining the old business and tax registration certificates. The new form will be issued whenever a firm changes the content of its business registration.

Guides to foreign experts implementing ODA projects

The Ministry of Planning and Investment and the Ministry of Finance issued the Joint Circular No. 12/2010/TTLT-BKHDT-BTC on 28 May, to provide guidelines for the implementation of the regulations on foreign experts implementing ODA programs and projects in Vietnam. The regulations were issued in conjunction with the Decision No.119/2009/QD-TTg of Prime Minister.

Accordingly, within 30 working days from the valid date the expert employment contract, the project owner shall send request to the governing body (i.e. the investment decision making body of investment project or technical support project approval body) to certify the expert status. For the certification purpose, certain documents must be submitted.

For personal income tax exemption purpose, the project owner or contractor (who signed contract with foreign expert) shall send application dossier to the local tax authority, including supporting documents relating to the income of the foreign expert.

Lawmakers pass new law on state bank of Vietnam

The 7th session of the 12th National Assembly approved the amended Law on state bank of Vietnam last Wednesday. The law includes a number of new provisions relating to the legal status and operations of State Bank of Viet Nam ("SBV").

The most remarkable change from the current law is the abolition of the prime interest rate structure. Under the new law, SBV will announce interbank and other rates to manage monetary policy. The prime rate was eliminated as unreflective of the supply-demand relationship on the market and was viewed as interventionist by financial markets.

The law no longer requires commercial banks to maintain a compulsory reserve ratio of 20 per cent of total deposits. Instead, the SBV is granted the power to set the compulsory reserve rate.

Another new point is that, from now on, the SBV will have the right to invest and buy shares in other credit institutions and serve as the representative of State capital in credit institutions. It also gains the right to use its legal capital for the establishment of enterprises to carry out the functions and obligations of the State Bank as assigned in the Decision of the Prime Minister.

The new law, which takes effect next January 1, also provides for the functions, powers and organisation of bank inspections and oversight under the SBV.

Road construction works exempt from land use fees

The Government issued Decision No 44/2010/QĐ-TTg on June 10, exempting land-use fees and rentals for construction works for national highways, as well as supporting works such as car parks, emergency telephone boxes, toll booths, vehicle maintenance stations and rest stops.

For area of land used for other purposes shall be paid land use fee or land rent in accordance with provision of the laws.

Area of land used for supporting construction works contrary to defined purposes may be recovered as stipulated by laws

This Decision takes effect on 1 August, 2010.

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