**LEGAL REMARKS ON BUSINESS DISSOLUTION**

Dissolution is understood as the process of terminating the existence of an enterprise as a legal entity. Enterprise dissolution must comply with the conditions and procedures prescribed by law. Currently, the enterprise dissolution procedure has also been specified more clearly in the Law on Enterprise 2020 and guiding documents, however, businesses need to pay attention to the following points for the implementation of the procedure. Dissolve the enterprise under the provisions of law.

***Legal grounds:***

*Law on Enterprise 2020;*

*Decree 01/2021/ND-CP.*

1. **What case does the law prescribe for the dissolution of an enterprise?**

Dissolution is understood as the process of terminating the existence of an enterprise as a legal entity. Enterprise dissolution must comply with the conditions and procedures prescribed by law. Article 207.1 of the Law on Enterprises 2020 stipulates the following cases of enterprise dissolution:

* The operation term stated in the company's charter expires without a decision on extension;
* According to resolutions and decisions of the business owner, for private enterprises, of the Members' Council, for partnerships, of the Members' Council, of the company owner, for limited liability companies, of the General Meeting of Shareholders for joint-stock companies;
* The company no longer meets the minimum number of members as prescribed by this Law for 06 consecutive months without carrying out procedures for transformation of enterprise type;
* The certificate of the enterprise registration certificate (ERC) is revoked unless otherwise provided by the Law on Tax Administration.

1. **What conditions do enterprises need to meet when dissolving by the law?**

Article 207.2 of the Law on Enterprise 2020 stipulates that an enterprise can only be dissolved when:

1. The enterprises have paid all debts and other property obligations;

Enterprises must fulfill tax obligations at the district Tax Departments and carry out the procedures to lock the tax code before submitting the application for enterprise dissolution at the Business Registration Office where the company's head office is located. In addition, the enterprise must also pay debts and other financial obligations.

1. The enterprise is not in the process of dispute settlement at Court or Arbitration.
2. **Prohibited activities when the enterprise is dissolved**

Since the enterprise has decided to dissolve, enterprises and business managers should note the activities that are strictly prohibited under Article 211 of the Law on Enterprise 2020 including:

* Concealing or dispersing assets;
* Relinquish or reduce the right to collect the debt;
* Converting unsecured debts into debts secured by assets of the enterprise;
* Sign a new contract, except for the case of enterprise dissolution;
* Pledge, mortgage, gift, or lease of property;
* Termination of performance of an already effective contract;
* Mobilizing capital in any form.

If enterprises commit any of the above violations, depending on the nature and seriousness of the violation, it may be administratively sanctioned or examined for penal liability; If damage is caused, compensation must be made.

1. **Before applying for dissolution of the enterprise, what should enterprises remark?**

According to Article 70, Article 72 of Decree 01/2021/ND-CP, enterprises should note the following points:

* Before submitting the dissolution registration dossier to the Business Registration Office, the enterprise must, in addition, having to pay debts and other property obligations, the enterprise must also carry out procedures for terminating the operation of its branch, representative office, business location at the Business Registration Office where the branch, representative office, business location is located if enterprises have a branch, representative office, or business location.
* Before notifying the termination of operation of a branch, representative office, or business location, the enterprise, branch or representative office must register with the tax authority to fulfill the tax payment obligation as prescribed by the regulations on laws on tax.

***ADK & Co Vietnam Lawyers***