LEGAL NEWSLETTER

February/ 2022

# Dear Value Clients and Partners,

ADK Vietnam Lawyers would like to introduce to you the February 2022 Legal Newsletter with the following main contents:

# Legal Spotlight

* 1. **National Assembly issues Law No. 03/2022/QH15 amending and supplementing a number of articles of the Law on Investment, the Law on Enterprises and a number of other laws**

On January 11, 2022, the National Assembly issued the Law No. 03/2022/QH15 amending and supplementing a number of articles of the Law on Public Investment, the Law on Investment in the form of public-private partnership, the Law on Investment, and the Law on Housing, Law on Bidding, Law on Electricity, Law on Enterprises, Law on Special Consumption Tax and Law on Civil Judgment Execution.

Accordingly, this Law amends and supplements a number of notable contents as follows:

1. For the Law on Investment 2020: Supplementing the business lines of network security products and services (excluding trading in network information security products and services; trading in civil cryptography products and services) to the list of conditional business lines and industries;
2. For the Law on Enterprises 2020: Amend the titles of Articles 49 and 50 from rights and obligations of “*members of the board of members*” to “*members of the company*”;
3. For the Law on Special Consumption Tax 2008: Amending and supplementing special consumption tax rates for electric cars (point g, Clause 4, Section I of the Special Consumption Tax Tariff in Article 7 of Law on Special Consumption Tax 2008), specifically as follows:
	* Adjust the tax rate for passenger cars with 9 seats or less from 25% to:

 + 3% (From March 1, 2022 to the end of February 28, 2027) and 11% (From March 1, 2027) for battery electric cars;

+ 15% for other electric cars.

* + Adjust the tax rate for passenger cars from 10 to under 16 seats from 15% to:

+ 2% (From March 1, 2022 to the end of February 28, 2027) and 7% (From March 1, 2027) for battery electric cars;

+ 10% for other electric cars.

* + Adjusting the tax rate for passenger cars from 16 to under 24 seats from 10% to:

+ 1% (From March 1, 2022 to the end of February 28, 2027) and 4% (From March 1, 2027) for battery electric cars;

 + 5% for other electric cars.

* + Adjusting the tax rate for cars of both passenger and cargo transport from 10% to:

 + 2% (From March 1, 2022 to the end of February 28, 2027) and 7% (From March 1, 2027) for battery electric cars;

+ 10% for other electric cars.

1. For the Bidding Law 2013: Supplement regulations on pre-implementation activities for projects using official development assistance funds or concessional loans in Article 33 of the Law on Bidding 2013;
2. For the Law on Housing 2014: Amending regulations on legal land use rights in Clause 1, Article 23 of the Law on Housing 2014;
3. For the Law on Civil Judgment Execution: Amending and supplementing a number of regulations on entrustment of judgment enforcement and entrustment for handling of assets.

Law No. 03/2022/QH15 will take effect from March 1, 2022.

* 1. **Pausing the temporary import and re-export business of medical masks, medical gloves and anti-epidemic uniforms**

On January 18, 2022, the Minister of Industry and Trade issued Circular No. 03/2022/TT-BCT on pausing the temporary import and re-export business of medical masks, medical gloves, and anti-epidemic uniforms.

Accordingly, this Circular regulates a number of notable contents as follows:

1. Pausing the business of temporary import and re-export of medical masks, medical gloves, and anti-epidemic uniforms stated in the list of Appendix issued with Circular No. 03/2022/TT-BCT includes:

Chapter 39: Code 3926.20.90 (Item description: Medical gloves);

Chapter 40: Code 4015.11.00 (Item description: Medical gloves); Code 4015.19.10 (Item description: Medical gloves);

Chapter 62: Code 6210.10.90 (Item description: anti-epidemic uniform includes: gown, glasses, medical mask, helmet, gloves, and shoes);

Chapter 63: Code 6307.90.40 (Item description: Medical masks); Code 6307.90.90 (Item description: Medical masks);

1. For consignments of medical masks, medical gloves and anti-epidemic uniforms processed customs procedures for temporary import from 1 January 2022 to 15 March 2022, shall be re-exported in accordance with provisions of Decree No. 69/2018/ND-CP.

Circular No. 03/2022/TT-BCT will take effect from 15 March 2022 to 31 December 2022.

* 1. **Draft** **Circular regulating methods of constructing electricity generation price bracket, determining electricity generation price, and power purchase agreement value for solar power plant, transitional wind power plant projects**

The Ministry of Industry and Trade has recently issued a Draft Circular regulating methods of constructing electricity generation price bracket, determining electricity generation price, and power purchase agreement value for solar power plant, transitional wind power plant projects. When this draft is completed, issued, and taken effect, it will be applied to wind power and solar power projects failing to complete the schedule in time to receive the fixed selling price of electricity (FIT) in accordance with provisions of Decision No. 13/2020/QD-TTg and Decision No. 39/2018/QD-TTg.

Accordingly, this Draft Circular stipulates a number of notable contents as follows:

* Article 7.4 of the Draft Circular prescribes that the investor shall negotiate the electricity generation price and sign the power purchase agreement with the power buyer based on the data of the feasibility study report or the technical design granted by the authority at the time of negotiation. The price of the power purchase agreement that shall be negotiated, agreed and agreed by the parties, must not exceed the maximum price of the electricity generation price bracket applying to the transitional solar and wind power plants;
* Article 7.1 of the Draft Circular provides the electricity generation price of solar power plants and transitional wind power plants shall be constructed on the basis of:
* Reasonable expenses of the Investor in the whole economic life of the project;
* The maximum of the financial internal rate of return (IRR) is 12%.

Therefore, for the approved and investment policy projects until 26 January 2022 and remaining unqualified to apply FIT according to Decision No. 13/2020/QD-TTg and Decision No. 39/2018/QD-TTg, this Draft Circular allows the investor to negotiate with the electricity of Vietnam (EVN) to determine the electricity purchase and sale price within the electricity generation price bracket with the financial internal rate of return (IRR) maximizes to 12%.

# Featured Articles of ADK Lawyer in February

# The article “Transfer of capital in foreign-invested enterprise and some notes”. The article analyzes the conditions for carrying out the capital transfer, the capital transfer procedure, the price in the capital transfer transaction, and the account used in the capital transfer transaction.

To read the above articles in more detail, please visit our website at: <https://adk-lawyers.com/en/legal-articles>

# Some prominent legal documents take effect from March 2022

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| **No** | **Text name** | **Date issued** | **Date of Effective** |
| **LAW** |
| 1.
 | Law amending, and supplementing Law on Public Investment, Law on Public - Private Partnership Investment, Law on Investment, Law on Housing, Law on Bidding, Electricity Law, Law on Enterprises, Law on Excise Tax, and Law on Enforcement and Civil Judgments | 11/01/2022 | 01/3/2022 |
| **DECREE** |
|  | Decree No. 02/2022/ND-CP on Elaboration of Certain Articles of the Law on Real Estate Trading | 06/01/2022 | 01/03/2022 |
|  | Decree No. 10/2022/ND-CP on Registration Fees | 15/01/2022 | 01/3/2022 |
|  | Decree No. 13/2022/ND-CP amending, and supplementing Decree No. 132/2008/ND-CP, Decree No. 74/2018/ND-CP Providing Specific Guidance on Enforcement of the Law on the Quality of Products and Goods, and Decree No. 86/2012/ND-CP guiding the Law on Metrology | 21/01/2022 | 15/3/2022 |
| **CIRCULAR** |
| 1.
 | Circular No. 27/2021/TT-BLDTBXH Guiding on Instructions on Contents, Program, and Organization of Training, Professional Assessment of Safety and Hygiene Assessment, Organization of Contents of Assessment, Content Labor Hygiene; Guidelines for Calculation of Occupational Accident Rate and a number of Implementation Measures | 28/12/2021 | 01/3/2022 |
|  | Circular No. 28/2021/TT-BLDTBXH Elaborating a Number of Provision of Law on Occupational Safety and Hygiene Regarding Regulations for Employees Successful Occupational Accidents and Occupational Diseases | 28/12/2021 | 01/3/2022 |
|  | Circular No. 28/2021/TT-NHNN Amendments to Circular No. 40/2011/TT-NHNN dated December 15, 2011 of the Governor of the State Bank of Vietnam on the Issuance of Licenses and the Organization, Operation of Commercial Banks, Foreign Bank Branches, Representative Offices of Foreign Credit Institutions, other Foreign Organizations Having Banking Activities in Vietnam | 31/12/2021 | 01/3/2022 |
|  | Circular No. 12/2021/TT-BKHDT Regulations on Logistics Indicators System | 31/12/2021 | 01/3/2021 |
|  | Circular No. 01/2022/TT-BCT Amending and Supplementing Circular No. 47/2014/TT-BCT Regulations on Management of E-Commerce Websites, and Circular No. 59/2015/TT-BCT Prescribing the Management of E-Commerce Activities Via Applications on Mobile Equipment | 18/01/2022 | 08/3/2021 |
|  | Circular No. 03/2022/TT-BCT on pausing the temporary import and re-export business of medical masks, medical gloves, and anti-epidemic uniforms.  | 28/01/2022 | 15/03/2022 |

We hope this Legal Newsletter has a lot of useful information.

Best Regards.

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