LEGAL NEWSLETTER

April/ 2022

# Dear Value Clients and Partners,

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

# Legal Spotlight

* 1. **Draft on peer-to-peer lending trial**

The State Bank of Vietnam has just published the second draft of the Decree on the Controlled Regulatory Sandbox of financial technology operations in the Banking Sector. Accordingly, the draft Decree allows the trial of a Fintech solution for peer-to-peer lending (P2P Lending) at the Regulatory Sandbox with several of outstanding regulations as follows:

1. Regarding the duration and scope of the peer-to-peer lending trial:

* The trial period for peer-to-peer lending can be up to two (02) years from the time it is granted the Certificate of Participation in the Regulatory Sandbox by the State Bank. Several factors are considered to determine the trial period including, but not limited to, the complexity, innovativeness of the peer-to-peer lending solution in the Fintech sector, and the specific proposal of the organization registering to participate in the trial.
* The scope of the peer-to-peer lending trial is decided by the State Bank based on the nature of the peer-to-peer lending solution and the specific proposal of the organization registering to participate in the trial.

1. A peer-to-peer lending company in the process of participating in the Regulatory Sandbox must not perform the following acts:

* Providing loan security measures;
* Providing information brokerage services for borrowing money for stock investment activities and other high-risk activities;
* Unauthorized use of money from customers;
* The founder, executive managers participate in borrowing and lending and are the securing parties or guarantors through the Fintech solution they operate, taking advantage of the management and operation to change the information through Fintech solutions, performing acts of fraud, fraudulent, appropriation of customers' assets;
* The managers and executives of the peer-to-peer lending company are also the owners, managers and executives of the financial service, credit, pawn, multi-level business enterprise, owners of the tontine, or they are either working in the banking sector or working in fields related to intermediary payment services, e-wallets.
  1. **Reduction of environmental protection tax rates for petrol, oil and grease**

On March 23, 2022, the Standing Committee of the National Assembly issues Resolution No. 18/2022/UBTVQH15 on environmental protection tax rates for petrol, oil and grease.

Accordingly, this Resolution regulates several outstanding contents as follows:

1. Reducing 50% of the environmental protection tax rates provided in Section I, Article 1.1 of Resolution No. 579/2018/UBTVQH14 for petrol (except ethanol), diesel oil, mazut, lubricant and grease from April 1, 2022 to the end of December 31, 2022. Thus, the tax rates for petrol (except ethanol), diesel oil, mazut, lubricant and grease are as follows:

* Petrol (except ethanol) will be reduced from 4,000 VND per liter to 2,000 VND per liter;
* Diesel oil will be reduced from 2,000 VND per liter to 1,000 VND per liter;
* Mazut will be reduced from 2,000 VND per liter to 1,000 VND per liter;
* Lubricant will be reduced from 2,000 VND per liter to 1,000 VND per liter;
* Grease will be reduced from 2,000 VND per liter to 1,000 VND per liter;

1. Reducing 70% of the environmental protection tax rate provided in Section I, Article 1.1 of Resolution No. 579/2018/UBTVQH14 for kerosene from April 1, 2022 to the end of December 31, 2022. In particular, the tax rate for kerosene is reduced from 1,000 VND per liter to 300 VND per liter.

**Resolution No. 18/UBTVQH15 takes effect from 01 April, 2022** and does not apply the environmental protection tax rates for petrol, oil and grease provided in Section I, Article 1.1 of Resolution No. 579/2018/UBTVQH14 from April 1, 2022 to the end of December 31, 2022.

* 1. **Increase the number of overtime working hours in the context of Covid-19 pandemic prevention and control**

The Standing Committee of the National Assembly has recently promulgated Resolution No. 17/2022/UBTVQH15 on March 23, 2022 on the number of overtime working hours in a year and a month for employees in the context of Covid-19 pandemic prevention, control and socio-economic recovery, development.

Accordingly, this Resolution regulates several outstanding contents as follows:

1. In case the employers need and get the employee's consent, the employers may have the right to request the employees to work overtime for more than 200 hours but not exceed 300 hours in one (01) year and thereby, have the right to request employees to work overtime for more than 40 hours but not exceed 60 hours in one (01) month.
2. However, the above provisions do not apply to the case of employees aged 15 years old to under 18 years old; employees with work capacity reduction of at least 51%, serious or very serious disabilities; employees doing laborious, toxic or dangerous works, or highly laborious, toxic or dangerous works; female employees reach her seventh month of pregnancy; or her sixth month of pregnancy when working in upland, remote, border and island areas; female employees who are raising children under 12 months of age.
3. When organizing overtime work according to the above provisions, the employers must notify in writing the specialized labor authority under the provincial People's Committee. In addition, the employers are responsible for applying measures to improve labor productivity and other measures to reduce overtime work; in the case of overtime work, the employer shall implement welfare regimes to ensure that the employees have more favorable conditions than prescribed by the law of Labor.

**Resolution No. 17/2022/UBTVQH takes effect from April 1, 2022**, except for the provision on overtime work in one (01) year following Article 1.1 of this Resolution which shall take effect from 01/01/ 2022.

# Featured Articles of ADK Lawyer in April 2022

# The article “Procedures for issuing the bill of lading, through bill of lading”. This article provides legal basis, procedures for issuing the bill of lading, through bill of lading.

# The article “Legal regulations on receiving the non-refundable sponsorship by a subsidiary in Vietnam from its foreign parent company”. The article analyzes the method of receiving non-refundable funding from the foreign parent company and the regulations on exemption and reduction of value-added tax and corporate income tax for this transaction.

# The article “Comparison between VIAC rules and SIAC rules”. This article focused on comparing two procedural rules of two famous arbitration centers, Vietnam International Arbitration Center (VIAC) and Singapore International Arbitration Center (SIAC).

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 May 2022

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| **No** | **Text name** | **Date issued** | **Date of Effective** |
| **DECREE** | | | |
|  | Decree No. 22/2022/NĐ-CP amended Decree No. 32/2012/NĐ-CP on the export and import management of cultural products for non-commercial purposes | 25/3/2022 | 10/5/2022 |
| **CIRCULAR** | | | |
|  | Circular No. 11/2022/TT-BTC amending Circular No. 256/2016/TT-BTC on receiving levels, modes of receiving, paying, management and use fee for license for use of radio frequency and charge for use of reverse frequency | 21/02/2022 | 01/5/2022 |
|  | Circular No. 12/2021/TT-BTTTT “National technical regulation on Internet Protocol Television service quality (IPTV)” | 29/10/2021 | 01/5/2022 |
|  | Circular No. 11/2021/TT-BTTTT National technical regulation on 5GHz wireless access device | 28/10/2021 | 01/5/2022 |
|  | Circular No. 07/2022/TT-BCT elaboration of implementing Trade Remedies of Regional Comprehensive Economic Partnership | 23/3/2022 | 08/5/2022 |
|  | Circular No. 23/2022/TT-BTC elaboration of state financial management for foreign non-refunded sources of state budget revenue | 06/4/2022 | 20/5/2022 |
|  | Circular No. 02/2022/TT-NHNN amended, supplemented a number of articles of Circular No. 08/2021/TT-NHNN dated on July 06, 2021 issued by the Governor of The State Bank of Vietnam prescribing grant of special loans to credit institutions placed under special control | 31/3/2022 | 24/5/2022 |
|  | Circular No. 24/2022/TT-BTC amended, supplemented a number of articles of Circular No. 48/2019/TT-BTC dated on August 8th, 2019 issued by Minister of Finance providing guidance on making and settlement of provisions for devaluation of inventory, losses of financial investments, bad debts and warranty at enterprises | 07/4/2022 | 25/5/2022 |

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

Best Regards.

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