LEGAL NEWSLETTER

May/ 2022

# Dear Value Clients and Partners,

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

# Legal Spotlight

* 1. **Extension of time for paying value added tax, enterprise income tax, personal income tax and land rent in 2022**

On 28 May 2022, the Government issued Decree No. 34/2022/ND-CP extending the time for paying value added tax (“**VAT**”), enterprise income tax (“**EIT**”), personal income tax (“**PIT**”), and land rent in 2022. Accordingly, this Decree stipulates several notable contents as follows:

1. In terms of VAT:
   * Extending the time of tax payment for the arising VAT payable (including the tax amount allocated to other provincial-level localities where the taxpayer has a headquarter, the tax amount paid for each time of arising) of the tax period from March to August 2022 (for the case of monthly VAT declaration) and the first and second quarter of 2022 (for the case of quarterly VAT declaration) of enterprises and organizations as mentioned in Article 3 of this Decree;
   * The extension time is 06 months for the VAT amount from March to May 2022 and the first quarter of 2022, the extension time is 05 months for the VAT amount of June 2022 and the second quarter of 2022, the extension is 04 months for the VAT amount of July 2022, the extension time is 03 months for the VAT amount of August 2022. The extension time at this clause is counted from the ending date of paying VAT in accordance with the law on tax administration.
2. In terms of EIT:
   * Extending the time for tax payment for temporarily paid EIT amounts of the first and second quarter of the EIT period of 2022 of enterprises and organizations were the subjects stated in Article 3 of this Decree. The extension time is 3 months from the ending date of paying EIT in accordance with the law on tax administration;
   * In the case of enterprises and organizations stated in Article 3 of this Decree having branches and/or affiliated units proceeding with separate EIT declarations with the tax authority directly managing them, such branches and/or affiliated units are also subject to the extension of EIT payment. In the case branches and/or affiliated units of enterprises and/or organizations stated in Clauses 1, 2, and 3 Article 3 of this Decree not having production and business activities in economic sectors and/or fields are extended, then branches and/or affiliated units are not subject to the extension of EIT payment.
3. In terms of PIT: Extending the time for payment of VAT and PIT for the payable tax amount arising in 2022 of business households and individuals working in economic sectors and fields as mentioned in Clauses 1, 2, and 3 Article 3 of this Decree. Households and individuals business shall pay the extended tax amount in this clause by 30 December 2022.
4. In terms of land rent: Extending time for land rent payment for 50% of the arising land rent payable in 2022 of enterprises, organizations, households, business households, and individuals that are subjects specified in Article 3 of this Decree and directly leased land by the State under a decision or contract of a competent state agency in the form of annual land rental payment. The extension period is 06 months from 31 May 2022 to 30 November 2022.

**Decree No. 34/2022/ND-CP takes effect from 28 May 2022 to 31 December 2022.**

* 1. **Preventing tax loss in real estate transfer**

Ministry of Finance has recently issued Official Letter No. 3849/BTC-TCT regarding preventing tax loss in real estate business and transfer.

Accordingly, for resolving several obstacles causing problems in an affair of preventing tax loss from real estate business and transfer, the Ministry of Finance enacted guidelines to address specific problems as follows:

Pursuant to Article 2.11 of Decree No. 12/2015/ND-CP and Article 17 of Circular No. 92/2015/TT-BTC, a land price table regulated by the Provincial People's Committee is the basis of tax calculation for cases of non-prices on the transfer contract or prices on the transfer contract are lower than the land price prescribed by the Provincial People's Committee at the time of transfer.

According to Land Law 2013, the People's Committee of the Province enacted the Land Price Table every 5 years and a land price adjustment annually. For ensuring publicity and transparency in the affair of management of real estate business and transfer, requiring the People's Committees of Provinces and Cities to take care and provide the following noticeable contents:

1. In regards to land locations, road sections, and roads that had prices pursuant to Land Price Table and land price adjustment coefficient issued by the Provincial People's Committee: the Provincial People's Committee is required to issue the Price Land Table (including land price adjustment coefficient) in order to facilitate tax calculation according to the above-mentioned regulations.
2. In regards to land locations, road sections, and roads have not had prices comply with the Land Price Table issued by the People's Committee of the province: the Provincial People's Committee is required to command the Department of Natural Resources and Environment to cooperate with the equivalent agencies to review for advising the Provincial People's Committee to immediately enact the Decision on adjustment and supplement Land Price Table for each location being complied with the real transaction price on the market and the selling price of investor. In cases of non-issuing it, investors are required to publicize the selling prices and notify the equivalent individuals and organizations when proceeding with transactions on real estate formed in the future as well as performing financial obligations regarding real estate transfers.
3. The application for real estate transfer shall be submitted to competent authorities through a one-stop-shop mechanism (the Natural Resources and Environment Agency, the Land Registry, the One-Stop-Shop Section of the People's Committee...): the agency receiving dossiers through the one-stop-shop mechanism is responsible for disseminating laws, propagating and guiding taxpayers on the location, street, and how to identify and apply specific prices of each type of real estate (including the land price adjustment coefficient as prescribed by the Provincial People's Committee) for organizations and individuals acknowledge and comply with regulations when performing financial registration regarding real estate transfers.
   1. **The requirements for enterprises to be supported for loan interest rates of 2%/year**

On May 20, 2022, the Government issued Decree 31/2022/ND-CP on interest rate support from the State budget for loans of enterprises, cooperatives and business households, in which, support interest rate 2%/year.

Accordingly, enterprises, cooperatives and business households that want to receive 2%/year interest rate support must meet the following requirements:

1. Must be the regulated entities to interest rate support as prescribed in Article 2 of Decree 31/2022/ND-CP (collectively referred to as Client);
2. Clients request for interest rate support, meet loan requirements in accordance with current laws on loans of credit institutions, branches of foreign bank;
3. The loan with interest rate support is a loan in Vietnam Dong, signed a loan agreement and disbursed during the period from January 1, 2022 to December 31, 2023;
4. Clients use capital for proper purposes as prescribed in Clause 2, Article 2 of Decree 31/2022/ND-CP and have not received interest rate support from the state budget according to other policies.

The loan will not continue to receive interest support in the following cases:

1. Loans with overdue principal balance and/or late payment interest balance is not eligible for interest support for interest payment obligation at the interest payment term that the time of repayment is within the period of the overdue principal balance and/or the late payment interest balance. The loan can only continue to receive interest support for the next interest payment terms after the clients have fully paid the overdue principal balance and/or the late payment interest balance.
2. Loan extension will not be supported with interest for the debt extension period.

Decree 31/2022/ND-CP takes effect from May 20, 2022.

# Featured Articles of ADK Lawyer in May

# 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.

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 June 2022

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| **No** | **Text name** | **Date issued** | **Date of Effective** |
| **DECREE** | | | |
|  | Decree No. 23/2022/ND-CP on establishment, rearrangement, ownership transformation, transfer of the right to represent the owner in enterprises held by the State with 100% charter capital | 05/4/2022 | 01/6/2022 |
|  | Decree No. 24/2022/ND-CP amending the Decree stipulating conditions for investment and operation in the field of vocational education | 06/4/2022 | 01/6/2022 |
|  | Decree No. 25/2022/ND-CP amending Decree 47/2011/ND-CP guiding the Postal Law | 12/4/2022 | 01/6/2022 |
|  | Decree No. 26/2022/ND-CP on foreign honorary consular officers in Vietnam | 14/4/2022 | 01/6/2022 |
| **CIRCULAR** | | | |
|  | Circular No. 19/2022/TT-BTC stipulating the collection rate, mode of collection, payment, management and use of service fees for maintaining the digital certificate status check system | 23/3/2022 | 01/6/2022 |
|  | Circular No. 03/2022/TT-BKHCN stipulating judicial expertise in scientific and technological activities | 20/4/2022 | 15/6/2022 |
|  | Circular No. 19/2022/TT-BCA stipulating the receipt, classification and handling of complaints, petitions and reports in the People's Police | 29/4/2022 | 15/6/2022 |
|  | Circular No. 16/2021/TT-BXD promulgating QCVN 18:2021/BXD National Technical Regulation on Safety in Construction | 20/12/2021 | 20/6/2022 |
|  | Circular No. 06/2022/TT-BKHDT guiding Decree 80/2021/ND-CP guiding the Law on Supporting Small and Medium Enterprises | 10/5/2022 | 25/6/2022 |

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

Best Regards.

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