**LEGAL UPDATES**

**VOL 45, JULY 2022**

**Dear Valued Clients and Partners,**

ADK Vietnam Lawyers would like to introduce to you the Legal Updates, Vol 45 of July 2022 with new legal provisions with notable contents as follows:

1. **The Law on Insurance Business has many new features**

The Law on Insurance Business (amended) (hereinafter referred to as “**Law**”) was approved by the National Assembly at its 3rd session and the Office of the President has just announced the Presidential Order on this Law. The Law on Insurance Business (amended) has 7 Chapters, 157 Articles with many new features to match reality. Some of the highlights are:

1. In order to implement Vietnam's international commitments, the law has supplemented provisions on establishing the branches of foreign reinsurance enterprises in Vietnam; ensuring that foreign investors are allowed to own shares or contributed capital up to 100% of charter capital of insurance and reinsurance enterprises (according to Vietnam's WTO Commitments and other trade agreements in the insurance services, Vietnam does not limit the percentage of foreign capital contribution);
2. Regarding insurance contracts, the law has revised and supplemented regulations on the principles of entering and implementing insurance contracts, canceling insurance contracts, invalid contracts, unilaterally terminating contract performance, deregulating statute of limitations for lawsuits, the time when the contract's liability arises... to ensure synchronization with the Civil Code, convenient application in practice;
3. In particular, the law has supplemented regulations on products and organizations providing microinsurance to have a legal basis for the development of microinsurance;
4. The new approach of the law on regulation of investment fields of insurance enterprises, instead of stipulating by listing the fields that are allowed to invest, the law (amended) stipulates by excluding the areas that are not allowed, insurance enterprises can invest in the remaining fields;
5. Insurance enterprises are not allowed to invest in real estate business due to its high risk. Such regulation ensures that the insurance enterprise has ability to pay and rights of the insurance participant.

In addition, the law has been amended and supplemented to improve the quality of state management, such as supplementing the duties, powers of the Ministry of Finance in management, supervision, inspection, handling violations on insurance business; supplementing the regulation that the Ministry of Finance cooperates with foreign insurance management authorities in the management, supervision, inspection and examination of branches of foreign insurance enterprises in Vietnam; creating a mechanism to share information on management and supervision with the State Bank of Vietnam and other ministries related to insurance business.

1. **Preferential export tariff to implement EVFTA Agreement from 14.8% - 7.5%**

The Ministry of Finance is collecting comments on the draft Decree on Preferential Export Tariffs and Special Preferential Import Tariffs of Vietnam to implement the Free Trade Agreement between the Socialist Republic of Vietnam and the European Union in the 2022 – 2027 period (“**EVFTA Agreement**”).

Regarding the preferential export tax rate:

1. The average tax rate is 14,8% in 2022; 10,1% in 2023; 9,6% in 2024; 8,4% in 2025; 8% in 2026 and 7,5% in 2027.
2. Regarding the conditions for applying preferential export tax rates under the EVFTA Agreement, there are no specific regulations, however, in order to control the actual goods imported into the territories and avoid commercial fraud, the draft Decree requires to provide the copies of transport documents and import customs declarations with destinations in the territories specified in the Decree.
3. Regarding the procedure for applying preferential export tax rates under the EVFTA Agreement, the draft Decree requires two additional documents (copies of transport documents and copies of import customs declarations) to avoid commercial fraud. The addition of copies of transport documents and copies of import customs declarations is in accordance with the provisions of Article 71 of the Law on Tax Administration No. 38/2019/QH14 dated June 13, 2019.

According to the draft, Vietnam's preferential export tariff schedule for the implementation of the EVFTA Agreement includes codes, descriptions, and tax rates for each year, takes effect from the date of signing to the end of December 31, 2027, applicable to 737 tax lines.

Regarding the special preferential import tax rates:

1. The average special preferential import tax rate is 6,3% in 2022; 4,7% in 2023; 3,5% in 2024; 2,3% in 2025; 1,7% in 2026 and 1% in 2027.
2. The special preferential import tax rates specified in Appendix II for tariff quotas goods in the following groups: 04.07 (poultry eggs), 17.01 (sugar), 24.01 (tobacco leaves) and 25.01 (salt) is the tariff rate in the quota.
3. Conditions for applying the special preferential import tax rate under the EVFTA Agreement, including: (1) Listed in the tariff schedule specified in Appendix II; (2) Imported into Vietnam from the territories specified in the Decree, and goods imported from the non-tariff zone into the domestic market; (3) Meet the regulations on origin of goods and have a certificate of origin according to the provisions of the EVFTA Agreement.

EVFTA special preferential import tariff according to AHTN (Asean Harmonised Tariff Nomenclature) 2022 period 2022 - 2027 including codes, descriptions of goods, tax rate for each year, takes effect from the date of signing to the end of December 31, 2027.

1. **The cost frame for the aviation service operation franchise**

The Ministry of Transport issues Circular 13/2022/TT-BGTVT on the cost frame for the aviation service operation franchise (hereinafter referred to as “**Circular**”).

According to the Circular, the cost frame for the aviation service operation franchise is regulated as follows:

1. Franchise to operate international passenger terminals: 15% - 24%;
2. Franchise to operate terminals and warehouses: 1,5% - 4,5%;
3. Franchise to operate ground commercial technical service: 1,5% - 4,5%;
4. Franchise to operate repair and maintain aviation vehicles and equipment: 1% - 3%;
5. Franchise to operate aviation technique: 1% - 3%;
6. Franchise to operate airline catering meals: 75,000 VND/flight - 225,000 VND/flight;
7. Franchise to operate aviation fuel supply: 28,000 VND/ton - 84,000 VND/ton.

The above franchise costs do not include value added tax. The percentage franchise costs specified in (i) to (v) are calculated on the revenue (excluding value added tax) of the enterprises operating to provide the corresponding services. Revenue or output to determine franchise cost does not include revenue or output of enterprises providing services for themselves and subsidiaries with 100% charter capital owned by the parent company providing services to the parent company.

Airport enterprises and aviation service providers at airports and terminals shall negotiate the service costs in the above cost frame.

Circular 13/2022/TT-BGTVT takes effect from September 1, 2022.

We hope you found this brief legal update informative.

Kind regards./.

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