

SEPTEMBER 2016

▶ **Hanoi Office:**

6th Floor, ATS Tower
252 Hoang Quoc Viet
Bac Tu Liem District, Hanoi
Tel: 84-4-3751 1888
Fax: 84-4-3754 3888

▶ **Ho Chi Minh Office:**

16th Floor, Saigon Tower
29 Le Duan, Ben Nghe Ward
District 1, Ho Cho Minh City
Tel: 84-8-3520 7764
Fax: 84-8-3524 7604

Email: partners@atslegal.vn

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SECURITIES BUSINESS IS ALLOWED TO INDIRECTLY INVEST OFFSHORE UP TO 30% OWNERSHIP

According to Circular No. 105/2016/TT-BTC dated June 29, 2016 of the Ministry of Finance guiding offshore indirect investment activities of securities businesses, funds investing in securities, securities investment companies, insurance businesses, only securities businesses licensed to undertake securities dealing are allowed to invest or undertake offshore indirect investment with the total investment, entrustment of offshore indirect investment is not over 30% of the ownership according to the most recent audited financial statements.

With regard to fund management company, it's only permitted to invest at most 20% of owner's capital in the most recent audited financial statement or semi-annual financial statement and the financial statement of recent quarter and should not exceed registered dealing rate that are confirmed by the State Bank.

Funds investing in securities, securities investment companies are only permitted for offshore indirect investment into investment equipments as stipulated under the charter of Funds investing in securities, securities investment companies and be in accordance with regulations of the State Bank; the total investment is not over 20% of net asset value in the most recent investment operation report and should not exceed registered dealing rate that are confirmed by the State Bank.

This Circular takes effect on August 15, 2016.

See more:

[Circular No. 105/2016/TT-BTC](#)

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NATIONAL SINGLE-WINDOW MECHANISM FOR INSPECTION OF QUALITY OF IMPORTED GOODS

On June 03, 2016, the Ministry of Finance and the Ministry of Science and Technology issued Joint Circular No. 77/2016/TTLT-BTC-BKHCN guiding the implementation of the national single-window mechanism with respect to procedures for State inspection of quality of goods imported into Vietnam under the management of the Ministry of Science and Technology.

The Vietnam National Single Window has the function in receiving e-documents and relevant information; to certify digital signatures of declarants and processing agencies; forward e-documents and other information of declarants to processing agencies and designated conformity assessment organizations selected by enterprises, and concurrently store declarants' information for search and statistical purposes; receive notices from processing agencies; return e-documents to declarants...

The Vietnam National Single Window shall receive information around the clock. To carry out the procedure, declarants shall make an electronic single window administrative file directly on the Vietnam National Single Window or make a file according to data standard by using the details and format in accordance with law and send to the Vietnam National Single Window. A declarant who conducts administrative procedures using paper documents shall submit paper documents in accordance with specialized legal documents.

This Circular takes effect on June 15, 2016.

See more:

[Joint Circular No. 77/2016/TTLT-BTC-BKHCN](#)

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NEW PROVISION ON LAND RENTAL EXEMPTION AND REDUCTION

The Government issued Decree No. 135/2016/ND-CP dated September 09, 2015 amending and supplementing a number of articles on collection of land rental and water surface rental, within that prescribed land rental exemption or reduction is not applied in the case of auction on land lease rights.

Similarly, land use levy exemption and reduction is not applicable if auction for land use rights to allocate the land that has to be paid land use levy for auction winning people under subjects of land use levy exemption and reduction. Land use levy exemption and reduction when allocating the land to subjects being under the policy of housing improvement shall be implemented according to related policies and not through auction for land use rights.

In case the State leases land with annual land rental payment and it is still in the period of enjoying land rental exemption and reduction if transferring assets under its ownership attached with leased land as stipulated and that buyer shall continue to be leased land by the State for the remaining period with purposes of use in accordance with purposes of transferring, person who transfers shall not be included land rental that is exempted into transferring price; person receiving transfer shall continue to enjoy land rental exemption and reduction for the remaining incentive period. In case persons receiving transferred land shall not use land use purposes in accordance with purpose of land and use with other purposes, they shall implement financial obligations according to the law.

This Decree takes effect on November 15, 2016.

See more:

[Decree No. 135/2016/ND-CP](#)

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THE MINIMUM AMOUNT OF CAPITAL REQUIRED FOR AN AIRLINE

This is the content prescribed at the Decree No. 92/2016/ND-CP dated July 1, 2016 of the Government providing for conditional business sectors or activities in the civil aviation industry and takes effect on July 01, 2016.

In particular, the minimum amount of capital required for establishment and maintenance of an airline shall comply with the following regulations with regard to an airline operating up to 10 airplanes, the minimum amount of capital shall be VND 700 billion required for an airline providing international air transport services; VND 300 billion required for an airline only providing domestic air transport services; with regard to an airline operating from 11 to 30 airplanes, the minimum amount of capital shall be VND 1,000 billion required for an airline providing international air transport services; VND 600 billion required for an airline only providing domestic air transport services; with regard to an airline operating up to 30 airplanes, the minimum amount of capital shall be VND 1,300 billion required for an airline providing international air transport services; VND 700 billion required for an airline only providing domestic air transport services. The minimum amount of capital required for establishment and maintenance of a general aviation enterprise shall be VND 100 billion.

A foreign-invested airline must conform to the requirements as foreign ownership shall not exceed 30% of the charter capital; there is at least one Vietnamese natural or legal entity owning the highest share of charter capital. In cases where a Vietnamese legal entity has foreign investment capital, the foreign share of equity participation shall not exceed 49% of the charter capital of that entity. Transfer of shares, portions of equity participation from airlines that do not have foreign investment capital to foreign investors shall be allowed only after 02 years from the date of issuance of a license for air transport service business.

See more:

[Decree No. 92/2016/ND-CP](#)

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GUIDANCE ON COMPLICATED BANKRUPTCY CASES

In accordance with the Resolution No. 03/2016/NQ-HDTP dated August 26, 2016 of the Supreme People's Court 's Council Of Justices guiding the implementation of a number of articles of the law on bankruptcy, In course of settling bankruptcy cases, judges must consider applying precedents recognized by the Council of Justices of the Supreme People's Court as regulated in the Resolution No. 03/2015/NQ-HDTP; at the same time, judges may refer to the Court's bankruptcy decision, which has been already in force, or case precedents which are analogous to the case currently being handled, in order to ensure the consistent application of laws to the handling of bankruptcy cases.

Besides, the Resolution also has regulations on complicated bankruptcy cases. Accordingly, complicated bankruptcy cases includes bankruptcy cases other than those mentioned in Points a, b, c Clause 1 Article 8 of the Law on bankruptcy, and cases where an enterprise or cooperative requested to initiate bankruptcy proceedings has at least 300 (three hundred) employees, or has at least VND 100,000,000,000 (one hundred billion dong) of charter capital of; is a credit institution, or a business or cooperative providing public utility products and services, or a business servicing national defense and security defined in laws; is a state corporation, general company or a foreign invested business; has debts guaranteed by the Government or gets involved in the implementation of international treaties to which the Socialist Republic of Vietnam is a signatory, or written agreements on investment with foreign agencies or organizations; and has a transaction subject to any claim for being declared invalid as referred to in Article 59 of the Law on bankruptcy.

This Resolution takes effect on September 16, 2016

See more:

[Resolution No. 03/2016/NQ-HDTP](#)

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THE LATE PAYMENT INTEREST AT 0.03% PER DAY ON THE OUTSTANDING AMOUNT

This is the important content prescribed at the Decree No. 100/2016/ND-CP dated July 01, 2016 of the Government on elaboration and guidelines for some articles of the law on amendment of the law on value-added tax, the law on special excise duty and the law on tax administration.

On particular, a taxpayer who fails to pay tax by the deadline or extended deadline or deadline written in the notice or tax decision issued by the tax authority shall fully pay tax and late payment interest at 0.03% per day on the outstanding amount. Regarding outstanding tax incurred before July 01, 2016, including tax arrears discovered after inspections by competent authorities, the late payment interest rate shall be charged from July 01, 2016. While paying the tax arrears in installments, the taxpayer still have to pay late payment interest at 0.03% of the tax arrears per day. The taxpayer shall fully pay tax and late payment interest.

Besides, the Government also emphasizes to get the exemption and reduction of special excise tax, resource royalty, personal income tax granted to a taxpayer who suffers from a natural disaster, fire or unexpected accident and consequently is not able to pay tax in accordance with law; exemption of tax on non-agricultural land, tax on agricultural land, land rent, water surface rent, registration fee granted to taxpayers; tax exemption granted to a household or individual that pays less than VND 50,000 in annual non-agricultural land tax.

This Decree takes effect on July 01, 2016.

See more:

[Decree No. 100/2016/ND-CP](#)

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DEACTIVATE THE TIN OF THE BUSINESS ENTITY OF NON-OPERATION AT REGISTERED ADDRESS

In accordance with the Circular No. 95/2016/TT-BTC dated June 28, 2016 of the Ministry of Finance on guidelines for tax registration, the taxpayer shall be imposed sanctions for TIN usage as prescribed by relevant law provisions. After one year from the date on which the tax authority issued a notification of non-operation at the registered address, the tax authority shall deactivate the TIN and cooperate with business registration authority in revocation of enterprise registration certificate.

Also in accordance with this Circular, when a business entity, other entity, or household business suspends business or resumes business ahead of schedule specified in the notification, it must send a notification to the supervisory tax authority and the authority issuing establishment and operation license or certificate of household business registration at least 15 working days before the business suspension or resumption of business ahead of schedule. If a household business is exempted from business registration, it must send a notification of business suspension to the supervisory tax authority at least 1 working day before the business suspension.

The suspension duration must not exceed 1 year. When the period mentioned in the notification is overdue, if the business entity, other entity, or household business still

suspend business, it must send another notification to the supervisory tax authority and the authority issuing establishment and operation license or certificate of household business registration at least 15 working days before the following period of business suspension. If a household business is exempted from business registration, it must send a notification of business suspension to the supervisory tax authority at least 1 working day before the business suspension. Total consecutive period of business suspension time must not exceed 2 years.

This Circular takes effect on August 12, 2016.

See more:

[Circular No. 95/2016/TT-BTC](#)

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ENCOURAGE TO PROVIDE FOR THE VOLUNTARY SUPPLEMENTAL RETIREMENT PROGRAM

At the Decree No. 88/2016/ND-CP dated July 01, 2016 of the Government on voluntary supplemental retirement program. The Government encourages developing voluntary supplemental retirement programs by means of incentive policies provided for in laws on taxation and investment results and payment rates made by retirement funds shall not be guaranteed by the Government.

Also in accordance with this Decree, Each individual may have one or several individual retirement accounts issued at the same time and managed by different retirement fund management companies. An individual retirement account shall be used for receiving contributions made by the fund participant and the employer (if any); receiving earnings from investment after deducting the retirement fund's operating expenses which must be incurred by each individual retirement account as determined in accordance with the retirement fund's charter; making payment of payables to the State budget as regulated; making payments to fund participant and the employer. Particularly, it is not allowed to use the individual retirement account for transfer; mortgage and handle bankruptcy procedures of the retirement fund management company, the supervisory bank or the depository institution.

The retirement fund management company must clarify investment policies in the retirement fund's charter, the retirement fund's portfolios shall consist of deposits at

commercial banks that meet requirements on the retirement fund's investment policies specified in the retirement fund's charter; government bonds, government backed bonds and local authority bonds; securities investment fund certificates under conditions on investment policies specified in the retirement fund's charter. The proportion of investments in government bonds must be at least 50% of total asset value of the retirement fund.

This Decree takes effect on July 01, 2016.

See more:

[Decree No. 88/2016/ND-CP](#)

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VALIDITY OF CONSTRUCTION PRACTICE CERTIFICATES

According to the Circular No. 24/2016/TT-BXD dated September 01, 2016 of the Ministry of Construction on amending a number of articles of the Circular regarding construction project management, person who has construction practice certificates issued before September 01, 2016 shall be entitled to use it until its expiry date.

If the validity period is not specified on the practice certificate, the certificate holder shall be entitled to use it until June 30, 2018 inclusive. Especially, entities whose practice certificate expires after March 01, 2016 are entitled to continue to practice up to December 31, 2016 inclusive.

Besides, this Circular also postpones the application of provisions on testing and issue of practice certificate until December 01, 2016, within the application date according to current provision is September 01, 2016.

This Circular takes effect on September 01, 2016.

See more:

[Circular No. 24/2016/TT-BXD](#)



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For more information about our Law Bulletin and Legal Services, please contact us:

Mr. Tran Gia The - Managing Partner

Email: thetg@atslegal.vn

Mrs. Vu Thi Thu Ha - Partner | Director

Email: havtt@atslegal.vn

► **Hanoi Office:**

6th Floor, ATS Tower, 252 Hoang Quoc Viet

Bac Tu Liem District, Hanoi

Tel: 84-4-3751 1888

Fax: 84-4-3754 3888

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16th Floor, Saigon Tower, 29 Le Duan

Ben Nghe Ward, District 1, HCM City

Tel: 84-8-3520 7764

Fax: 84-8-3524 7604

Email: partners@atslegal.vn

Website: atslegal.vn

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