

Legal Update

June 2022



1. Decree on interest rate subsidies from the State bank of Vietnam for loans of enterprises, cooperatives and household businesses

On 20 May 2022, the Government issued Decree No. 31/2022/NĐ-CP on interest rate subsidies for loans denominated in Vietnamese Dong arising from commercial bank lending activities to clients that are enterprises, cooperatives, or household businesses ("Decree 31"). Decree 31 came into effectiveness from its issuance date.

Accordingly, enterprises, cooperatives, household businesses satisfying all conditions as listed out below will be entitled to a supportive interest rate of 2%/year, calculated based on the actual outstanding balance and loan term subject to interest rate subsidies (in the period from the loan disbursement date to the date the enterprises, cooperatives and household businesses make full repayment of the loan principal and/or the loan interests as agreed between the commercial bank and the client, in line with the source of notified interest rate subsidies, but in all cases not exceeding 31 December 2023 (i.e. a 2% reduction on the interest payable amount):

- having a loan agreement denominated in Vietnamese Dong, signed and disbursed between 1 January 2022 and 31 December 2023, using the loan capital in accordance with the loan purpose, with an obligation to pay the interest on a scheduled interest payment period, of which the payment due date occurs within the period of 20 May 2022 and 31 December 2023, and not benefiting from interest rate subsidies provided by the state budget via any other policy.
- having a loan use purpose that (i) belongs to the following business sectors: aviation, transport and warehouse (H), tourism (N79), accomodation, food and beverage services (I), education and training (P), agriculture, forestry and fishery (A), processing and manufacturing industry (C), software publising (J582), computer programming and relevant activities (J62), information service activities (J63); construction activities which directly support the aforementioned sectors, except for construction activities serving real estate trading as mentioned under economic sector code (L); **or** (ii) for the implementation of social housing projects; residential houses for workers, renovation of old appartments which belongs to the list of projects consolidated and announced by the Ministry of Construction.

2. Draft Law on Electronic Transaction

On 4 May 2022, the Ministry on Information and Communication announced the Draft Law on Electronic Transaction, amending and supplementing Law No. 51/2005/QH11 on Electronic Transaction passed by the 11th National Assembly on 29 January 2005 with effect from 1 March 2006, including 11 Chapters and 104 Articles, and expanding the governing scope to all electronic transactions arising in social life.

One of the important features of the Draft Law on Electronic Transaction is the development of a legal framework for the management of digital platforms, digital services, as well as the entities registering and operating digital platforms and digital services in electronic transactions. In particular:

- Providing compulsory requirement on registration, notification to the competent authorities of Vietnam to organisations and enterprises providing and operating digital platforms in Vietnam, including both Vietnamese organisations, enterprises and foreign providers who provides cross-border services to Vietnamese users.

- Detailing the responsibilities of digital platform and digital service providers in collecting, storing and processing data, including personal data; the obligations of intermediary digital platforms to provide censoring solutions for information posted by users and cooperation mechanisms to prevent and remove illegal contents at the requests of the competent authorities.
- Categorizing and promulgating the operating conditions of certain digital platforms, including platforms for social networks; information searching and analysing, online digital content sharing, digital application sharing (e.g. appstore, information portals); online communication platform; platforms for e-commerce, e-finance, online banking, online payment; cloud computing; operating systems; and online cooperative sharing economic platform.
- Defining “large digital platform” (i.e. having a large number of regular users, collecting and managing data on many individuals and organisations in Vietnam) and “dominant digital platform” (i.e. having a dominant position, contributing to the connection between service and goods providers to a large number of people in Vietnam). These digital platforms, and their suppliers, are also subject to additional obligations, such as censoring and monitoring by large digital platforms, and applying limitation to recommendable algorithm in dominant digital platforms.

3. Draft Circular providing guidance on one-way remittance from Vietnam to overseas and payment and remittance for other one-time transaction of residents who are individuals or organisations

On 4 May 2022, the State Bank of Vietnam announced a Draft Circular providing guidance on one-way remittance from Vietnam to overseas and payment and remittance for other one-time transactions of residents who are either individuals or organisations (the “**Draft**”).

The Draft incorporates the above provisions into an unified document, creating favourable conditions for businesses operations by individuals and organisations, as well as the foreign exchange management of the competent authorities. In particular:

- Residents who are organisations may purchase foreign currency for remittance overseas for sponsorship or aid purposes, or other purposes, such as paying rewards to non-residents who are overseas individuals, organisations participating in programs and contests in Vietnam; or to make one-way remittances overseas from the funding sources of non-residents being overseas organisations.
- Residents who are Vietnamese citizens are permitted to purchase foreign currency to remit or to carry abroad for the one-way remittance purposes permitted by laws.

In addition, residents who are organisations, individuals may carry out payment and remittance activities for other current transactions including payment transaction and remittance abroad related to:

- Temporary import for re-export; temporary export for re-import; transit; commercial intermediary activities; order of overseas processing of goods.
- Collection and payment of income tax, asset tax, payment of social insurance premium, non-life insurance premium.
- Implementation of the effective decisions/judgments of the court/arbitration; compensation for property damage, or breach of contracts.

The one-way overseas payment and remittance from Vietnam and payment and remittance activities for other current transactions must be carried out through banks licensed to provide foreign exchange services.

4. Decision on approval of the strategy on foreign investment cooperation in the 2021 – 2030 period

On 2 June 2022, the Prime Minister approved Decision No. 667/QĐ-TTg approving the strategy on investment cooperation in the 2021 – 2030 period (“**Decision 667**”) with the following notable features:

- To approve the specific targets on investment cooperation, including:
 - Raising the ratio of registered investment capital of the countries and territories in a number of regions to the total national foreign investment capital to over 70% in the 2021 – 2025 period, and to 75% in the 2026 – 2030 period, including: the Republic of Korea, Japan, Singapore, China, Taiwan (China), Malaysia, Thailand, India, Indonesia, the Philippines, France, Germany, Italy, Spain, the Russian Federation, and the United States of America.
 - Increasing the number of multi-national corporations under the Fortune Global 500, published by the Fortune magazine (USA), which establish its presences and operation in Vietnam, by 50%.

- Targeting to be among the three leading countries in the ASEAN and among the 60 leading countries globally according to the World Bank's business environment ranking by 2030.
- To improve the efficiency of the state management of foreign investment. In particular:
 - Ensuring efficiency in the registration, amendment, revocation, and termination procedures applicable for foreign investment projects. Constructing transparent investment procedures which are controllable by legal tools.
 - Properly solving investment projects which cause harm to the environment, use land inefficiently, loss making for many years, projects which have not yet implemented or implemented not in line with the registered objectives.
- To outline the action plan to attract and compete for foreign investment through infrastructure solutions, including but not limited to:
 - Promulgating a list of priority investment projects to attract investment in infrastructure development.
 - Finalizing the legal framework for the establishment, protection and commercialization of intellectual property rights; developing a synchronous legal document system for the implementation of policies to support enterprises to invest in technological innovation.
 - Developing policies and management regimes for economic zones, industrial parks, high-tech parks, concentrated information technology zones, hi-tech agricultural parks and other similar models.
 - Reviewing and restructuring the system of existing investment promotion agencies in a professional, independent, non-overlapping and non-duplicating with other competent state agencies having foreign investment management function.
 - Developing a set of criteria to evaluate the effectiveness of investment promotion activities at central and provincial levels.
 - Completing the national database and information system on investment in synchronization and connection with other areas including labor, land, construction, tax, customs, banking, foreign exchange, securities sectors, and the local provinces.

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