



LEGAL NEWS

Investment

229 sectors and trades subject to conditional business investment

The list of sectors and trades subject to conditional business investment is prescribed in the Law on Investment 2020, amended by the Law on Insurance business 2022 and the Law No. 03/2022/QH15 on amending and Supplementing a Number of Articles of the Law on Public Investment, Law on Investment in the Form of Public-Private Partnership, Law on Investment,



Housing Law, Bidding Law, Electricity Law, Law on Enterprises, Law on Excise Tax, and Law on Enforcement of Civil Judgments.

Additionally, amend and supplement the sector, trade with ordinal 29 and add the sector, trade with ordinal 29a after ordinal 29 of Appendix IV on the List of sectors and trades subject to conditional business investment as: “29. Insurance brokerage. 29a. Insurance auxiliary services”

Besides, add the sector/trade with ordinal number 132a below ordinal number 132 of Appendix IV on the list of sectors and trades subject to conditional business investment.

The conditional business investment takes an important role in the investment and business activities in Vietnam. the answer to the question “what are the sectors and trades subjected to conditional business investment?” helps investors and enterprises to meet the business conditions in national security, social ethics, and so on. [More](#)

5 cases of duty refund for import duty and export duty

A duty refund is the return of duty that is collected by authorized agencies from enterprises because the revenue is more than the payable tax amount or is not applicable to the payable objectives. Here are the cases of duty refund.

1. Duty refund for exports to be re-imported:

Clause 1, Article 33, Decree No.

34/2016/ND-CP prescribes that exports for which the export duty has been paid and which are re-imported are entitled to export duty refund and are not subject to import duty, comprising:

- Goods already exported which are re-imported to Vietnam;
- Exported goods sent by Vietnamese organizations or individuals to foreign organizations or individuals via the international post or express delivery service for which the export duty has been paid but which cannot be delivered to recipients and have to be re-imported.

A duty payer shall accurately and truthfully declare re-imported goods being previously exported goods in the customs declaration;

2. *Duty refund for imports subject to re-export*

Pursuant to Clause 1, Decree No. 134/2016/ND-CP, Imports for which the import duty has been paid and which have to be re-exported are entitled to import duty refund and are not subject to export duty, including:

- Imported goods subject to re-export to foreign countries, including goods to be exported back to the goods owners, goods already imported to be exported to foreign countries, or goods exported to non-tariff areas for use therein.

Goods shall be re-exported by the initial importer or a party authorized or entrusted by the initial importer;



- Imports sent by organizations or individuals overseas to organizations or individuals in Vietnam via the international post or express delivery service for which the duty has been paid and which cannot be delivered to the recipients and are subject to re-export;
- Imports for which the duty has been paid and which are sold to vehicles of foreign firms operating on international routes through Vietnam and to Vietnamese vehicles operating on international routes in accordance with regulations;
- Imports for which the import duty has been paid but which are stored in warehouses or storage yards of border gates, are under customs inspection, and are re-exported overseas.

Duty payers shall accurately and truthfully declare imports to be reexported in customs declarations; and contract numbers and dates and names of goods purchasers.

The customs office shall examine the duty payer's declaration and clearly write the examination result as a basis for the duty refund. [More](#)

Enterprise

Market access conditions applicable to foreign investors



Market access conditions applicable to foreign investors are the same with domestic investors, however, there are some exceptions.

Except for the sectors and trades in this List, foreign investors can access market as the domestic investors. The Government shall announce the List of sectors and trades in which foreign

investors are subject to market access restrictions, based on laws or resolutions of the National Assembly, ordinances or resolutions of the Standing Committee of the National Assembly, decrees of the Government, and treaties to which the Socialist Republic of Vietnam is a contracting party.

Including:

- Sectors and trades in which market access by foreign investors are not yet permitted



- Sectors and trades in which foreign investors are subject to conditional market access.

Besides, in accordance with Clause 3, Article 15, Decree No. 31/2021/ND-CP in addition to market access conditions for the sectors and trades specified in the List of sectors and trades in which foreign investors are subject to market access restrictions if wishing to carry out business investment activities in Vietnam.

Therefore, the market access conditions applicable to foreign investors are applied in accordance with the forms prescribed in Clause 3, Article 9 of the Law on Investment.

As above, one of the principles for market access conditions applicable to foreign investors always focuses:

Except for the sectors and trades on the List of sectors and trades in which foreign investors are subject to market access restrictions, foreign investors may access the market like domestic investors.

At the same time, pursuant to Article 17, Decree No. 31/2021/ND-CP, the market access conditions applicable to foreign investors is applied under the principles as follows:

- Foreign investors may not invest in sectors and trades in which market access is not yet permitted for them.
- For sectors and trades in which foreign investors are subject to conditional market access, foreign investors must satisfy market access conditions posted under regulations.
- Market access conditions for sectors and trades for which Vietnam has not yet made commitments on market access for foreign investors shall be applied as follows:
 - In case laws or resolutions have no provisions on market access restrictions for such sectors and trades, foreign investors may access the market like domestic investors;
 - In case Vietnam's law has provisions on market access restrictions for foreign investors in such sectors and trades, such provisions shall apply
 - Foreign investors in different sectors and trades must satisfy all the market access conditions for that sectors and trades.



LEGAL UPDATES

Investment

7 losses not liable to be indemnified in construction investment activities

This is the new content prescribed in the Circular No. [50/2022/TT-BTC](#) dated August 11, 2022 of the Ministry of Finance on compulsory insurance in construction investment activities.

An insurance enterprise is not liable to indemnify for the following losses:

- Loss caused by war, riots, strikes and acts of hostile forces, rebellion, malicious acts on behalf of or in connection with political organizations, confiscation, expropriation, requisition, confiscation or destruction or damage caused by order of competent state agencies.
- Loss caused by terrorism.
- Loss caused by nuclear reaction, nuclear radiation or radioactive contamination.
- Loss from intentional violations committed by the insurance buyer or the insured (not apply to compulsory insurance for workers on construction sites in case such workers take any self-defense act or save people or assets or use stimulants under doctor's prescriptions).
- Loss in case an insurance buyer has no insurable interests as prescribed in Clause 9, Article 3 of the Law on Insurance Business.
- Loss from the cessation of construction work or consequential loss of construction work.
- Loss to data, software and computer programs.

Land – Housing

Draft of Land Law focuses on amending 10 problems

On August 30, 2022, the Government issues Resolution No. 111/NQ-CP at the seminar meeting on law-making on August 2022. Accordingly, the project of the Land on amending the Land Law on finishing 10 problems as follows:

- Auction of land use rights, bidding the project of using land (Article 63, 64, 65)
- The State recovers land (Article 67, Article 68)
- Open the limitation of transfer of agricultural land (Article 146)



- Expand the objectives of transfer of land for paddy land for organizations and individuals who are not involved in agricultural production (Article 124)
- Regarding the establishment of a support fund for people whose land has been recovered and has limited working capacity (Article 94)
- Regarding the responsibility of the investor in the industrial zone, spend the land area for the State to implement the land policy (in Article 168).
- Transfer, mortgage “lease rights in the land lease contract of annual payment” (Article 198, Article 212).
- Regarding the mechanism of agreement on receiving the transfer of land use rights for the implementation of urban and commercial housing projects (in Article 66)....

Tax – Fee – Charge

Management procedure of e-invoice registration generated from cash registers

The General Department of Taxation issues Decision No. 1391/QĐ-TCT, accordingly, the receipt and processing of the Declaration of registration/change of information using e-invoices of taxpayers who are organizations and individuals using e-invoices with codes, e-invoices without codes, and use e-invoices generated from cash registers.

In particular, the management procedure of e-invoice registration generated from cash registers includes 05 steps as follows:

Step 1. The objectives of information management for using e-invoices generated from cash registers shall fill in the declaration submitted to the authorized agencies.

Step 2. Within 01 working days from receiving the notification of receiving (Form No. 01/TB/TNĐT), if the taxpayers register to use e-invoices, the e-invoice, and e-receipt systems will automatically compare the information in the declaration.

Step 3. After steps (1) and step (2), the officials who are responsible for receiving registration information and e-invoice data shall accept or refuse with the reasons, and the e-invoice and e-receipt system shall automatically create a notification on receipt/non-receipt of registering/changing the information of e-invoice uses (Form No. 01/TB-DKĐT).

Step 4. Issue the notification in accordance with Form No. 01/TB-DKĐY in the appendix issued to the taxpayers.

Step 5. Update the taxpayers who use/stop using e-invoices generated from cash registers.

LIST OF UPDATED LEGAL NORMATIVE DOCUMENTS

Investment		
1	Circular No. 50/2022/TT-BTC dated August 11, 2022 of the Ministry of Finance guiding the implementation of a number of articles of the Government's Decree No. 119/2015/ND-CP and Decree No. 20/2022/ND-CP	Issuing date: 11/08/2022 Effective date: 01/10/2022 Effect status: Not yet applied
2	Resolution No. 68/NQ-CP dated May 12, 2022 of the Government on continuing to innovate, improve operational efficiency and mobilize resources of State-owned enterprises	Issuing date: 12/05/2022 Effective date: 12/05/2022 Effect status: In force
Organizational structure		
3	Decree No. 56/2022/ND-CP dated August 24, 2020 of the Government defining the functions, tasks, power and organizational structure of the Ministry of Transport	Issuing date: 24/08/2022 Effective date: 01/10/2022 Effect status: Not yet applied
Transport		
4	Decree No. 54/2022/ND-CP dated August 22, 2022 of the Government amending and supplementing a number of articles of the Government's Decree No. 78/2016/ND-CP and the Government's Decree No. 08/2021/ND-CP	Issuing date: 22/08/2022 Effective date: 01/11/2022 Effect status: Not yet applied
Industry		
5	Circular No. 13/2022/TT-BCT dated August 25, 2022 of the Ministry of Industry and Trade annulling Clause 6 Article 7 of the Circular No. 05/2021/TT-BCT	Issuing date: 25/08/2022 Effective date: 18/10/2022 Effect status: Not yet applied
Medical - Health		
6	Resolution No. 104/NQ-CP dated August 15, 2022 of the Government on the route to increasing the number of vaccines in the Expanded Immunization Program for the period of 2021 - 2030	Issuing date: 15/08/2022 Effective date: 15/08/2022 Effect status: In force



Thank you for your reading!

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