



LEGAL NEWS

Bidding - Competition

New Law on Bidding

Composed of 96 articles arranged in 10 chapters, the 2023 Law on Bidding (the Law) regulates the state management of bidding activities; competence and responsibility of agencies, organizations and individuals in bidding activities; and selection of contractors to implement bidding packages and selection of investors to implement business investment projects.



Effective from the beginning of 2024, the Law supersedes its 2013 predecessor with revisions made in 2016, 2017, 2019, 2020 and 2022 (the 2013 Law).

The Law creates a complete and consistent legal framework on bidding, procurement and use of state capital.

Compared to the 2013 Law, the Law has noteworthy changes.

Scope of regulation and subjects of application

The scope of regulation, subjects of application and principles of application of the Law inherits and improves the 2013 Law with three new contents.

First, the Law adds enterprises with charter capital wholly held by state enterprises to its subjects of application in order to more closely manage bidding activities of enterprises with capital invested by state enterprises.

Second, the Law improves regulations on selection of investors to implement business investment projects, including land-using investment projects subject to organization of

bidding in accordance with the land law; and investment projects subject to organization of bidding to select investors in accordance with the relevant specialized laws.

Third, the Law clarifies principles of application of the Bidding Law, relevant laws, treaties and international agreements on official development assistance and concessional loans of foreign donors.

At the same time, the Law introduces new provisions to enhance the autonomy and self-responsibility of agencies, organizations and enterprises for selection of contractors on the basis of ensuring publicity, transparency and economic efficiency and accountability for procurement using capital acquired from production and business activities of state enterprises; and selection of contractors to provide oil and gas services and goods serving oil and gas activities under oil and gas contracts, and other special procurement activities.

Forms of contractor selection

Under Article 20 of the Law, forms of contractor selection include: open bidding; restricted bidding; contractor appointment; competitive offer; direct procurement; self-execution; community participation in execution; and price negotiation; and contractor selection in special cases.

The Law adds a number of cases of applying contractor appointment to speed up the implementation of a number of large, important, urgent projects and other special cases of procurement.

The Law empowers ministers and chairpersons of provincial-level People's Committee to decide on forms of contractor selection in special cases. The Prime Minister will only decide on the selection of contractors for bidding packages subject to requirements on national defense and security, external affairs and territorial borders.

Noticeably, lawmakers puts into the Law the provisions on application of forms of contractor selection in special cases specified in Prime Minister Decision 17/2019/QĐ-TTg dated April 8, 2019, on a number of bidding packages and procurement contents to maintain routine operations, which are eligible for contractor selection in special cases specified in Article 26 of the Bidding Law. In addition, the regulations on limits of bidding package prices for application of contractor appointment specified in Decree 63/2014/ND-CP dated June 26, 2014, detailing a number of articles of the Bidding Law regarding contractor selection, are also included in the Law.

Incentives in contractor selection

The Law introduces incentive policies for businesses producing goods of Vietnamese origin and innovative startups in order to promote technology transfer, provide support for goods of domestic origin, and innovative products, thus helping these businesses better access the market.

Article 10 of the Law specifies subjects eligible for incentives in contractor selection, including:



- Goods of Vietnamese origin;
- Environmentally friendly products and services specified by the law on environmental protection;
- Domestic contractors producing goods of Vietnamese origin in conformity with bidding dossiers;
- Foreign contractors entering into joint-name entities with domestic contractors in which the domestic contractors undertake 25 percent or more of the value of jobs of a bidding package;
- Domestic contractors participating in bidding as independent contractors or entering into joint-name entities with other domestic contractors when participating in international bidding;
- Contractors being micro-enterprises or small-sized enterprises specified by the law on support for small- and medium-sized enterprises;
- Contractors being innovative startups specified by law; and,
- Contractors that employ female workers, war invalids and people with disabilities, or ethnic minority people accounting for 25 percent or more of their total employees.

Bidding process and procedures

To ensure transparency and prevent collusion and fraud in bidding activities, the Law's provisions are aimed at promoting online bidding.

The Law abolishes some procedures for appraisal and approval procedures in intermediary stages and allows prior deployment of some bidding activities. It also sets the minimum time limit for contractors and investors to prepare bid dossiers and clarify bid dossiers and the maximum time limit for competent persons, project owners and bid solicitors to post information in bidding.

The Law has new provisions on connection and sharing of information between the Vietnam National E-Procurement System and relevant portals and systems to shorten the time periods for contractors to prepare bid dossiers and for project owners to evaluate bid dossiers.

Transitional provisions

The 2013 Law and guiding documents still apply to:

- (i) The selection of contractors for inclusion in the shortlists, selection of contractors, conclusion of contracts and management of contract performance, for bidding packages for contractor selection for which dossiers of invitation for expression of interest, dossiers of invitation to prequalification, bidding dossiers, and dossiers of requirements have been approved and issued before January 1, 2024;

(ii) The selection of investors, conclusion of contracts and management of contract performance, for business investment projects for which bidding dossiers have been approved and issued before the above date.

The Government will issue transitional provisions applicable to these projects.

(iii) The selection of investors to implement land-using investment projects during the period from January 1, 2024, to the effective date of the amended Land Law.

Particularly, contracts for which bid winners of supplies and chemicals are obliged to supply medical devices for use of these supplies and chemicals and which are signed before January 1, 2024, may continue to be performed till their expiry dates but for no more than five years from that date.

Tax – Fee – Charge

New tax policies applicable from January 01, 2024



From January 01, 2024, several new policies including tax policies shall be applied.

1. VAT reduction policy to June 30, 2024

On December 28, 2023, the Government issued Decree No. 94/2023/ND-CP providing the value-added tax reduction policy,

VAT tax reduction policy shall be applicable to goods and service groups currently subject to the VAT rate of 10% (to 8%), except the following goods and service groups:

- Telecommunications, finance, banking, securities, insurance, real estate business, metals, precast metal products, mineral products (excluding coal exploitation), coke, refined petroleum, and chemical products.
- Goods and services liable to excise tax.
- Information technology

By Resolution No. 110/2023/QH15 dated November 29, 2023, the National Assembly approves the VAT reduction policy of 2%.

Accordingly, the Resolution prescribes that:



VAT on goods and services specified in Point a Section 1.1 Clause 1 Article 3 of the National Assembly’s Resolution No. 43/2022/QH15 on fiscal and monetary policies for supporting socio-economic recovery and development program is reduced by 2% from January 01, 2024, to June 30, 2024, inclusively.

Therefore, the VAT reduction policy shall be applied from January 01, 2024, to June 30, 2024.

2. Increase 50% environmental protection tax on petrol, oil, grease

Resolution No. 42/2023/UBTVQH15 takes effect on January 01 2024 applies the reduction of 50% of environmental protection tax rates applicable to petrol, gas, and grease from January 1, 2024, to the end of December 31, 2024, in comparison with the regulations provided in Resolution No. 579/2018/UBTVQH14.

The environmental protection tax on petrol, oil, grease

No.	Goods	Unit	Tax rate (VND/unit)
1	Petrol, except ethanol	liter	2,000
2	Jet fuel	liter	1,000
3	Diesel oil	liter	1,000
4	Kerosene	liter	600
5	Fuel oil	liter	1,000
6	Lubricant	liter	1,000
7	Grease	kg	1,000

From January 01, 2025, the environmental protection tax on petrol, oil, and grease is implemented under the regulations prescribed in Section I, Clause 1, Article 1, Resolution No. 579/2018/UBTVQH14.

3. Formally impose the global minimum tax regulations

In accordance with Clause 1, Article 8 of Resolution No. 107/2023/QH15, Vietnam shall formally impose the global minimum tax regulations from the financial year 2024.

Constituent entities of multinational enterprise (MNE) Groups that earn an annual revenue of EUR 750 million or more as stated in the consolidated financial statements of the ultimate parent companies in at least two out of the four fiscal years preceding the fiscal year.

The minimum tax rate is 15%.

4. Deadline for the reduction of registration fee rates applicable to domestically manufactured and assembled automobiles





The Decree No. 41/2023/ND-CP prescribes registration fee rates for automobiles, trailers or semi-trailers pulled by automobiles and vehicles like domestically manufactured and assembled automobiles.

From July 01, 2023, through December 31, 2023: The registration fee rates are equal to 50% of those prescribed in the Government's Decree No. 10/2022/ND-CP of January 15, 2022, on the registration fee.

From January 1, 2024, onward: The registration fee rates shall further comply with the Government's Decree No. 10/2022/ND-CP of January 15, 2022

Buyers of domestically manufactured and assembled automobiles do not apply to the reduction of registration fee rates.

LEGAL UPDATES

Culture – Sport - Tourism

More stringent measures to ensure transparency of belief, religious activities

From March 30, fund raising activities of belief and religious establishments will be put under stricter control to ensure publicity and transparency, according to Decree 95 recently issued by the Government.

Worthy of note, the new regulation requires fund raising for belief and religious activities to be carried out by domestic organizations and individuals on a voluntary basis.

Representatives or management boards of belief establishments, religious organizations and dependent religious organizations are required to notify in writing competent state agencies of the fund raising, clearly stating its purpose, location, method and duration as well as how donated assets will be managed and used.

The new Decree clearly states that donated assets must be managed and used for the announced purpose(s) to serve belief and religious activities, stressing that any acts of using names of belief establishments, religious organizations, and dependent religious organizations for raising funds for self-seeking purposes or for purposes other than those specified in this Decree are prohibited.

As for the belief and religious activities of foreigners lawfully residing in Vietnam, if such foreigners wish to change representatives of their religious practicing groups, they are required to submit registration dossiers to the provincial-level People's Committees where their group practice their religions.

Within 30 days after receiving such a dossier, the provincial-level People's Committee will issue a written reply.



In case of change of the religious practicing location, the group's representative will also have to submit a dossier to the provincial-level People's Committee. In case the new place is located in a different province, the dossier will be submitted to the People's Committee of such province.

Within 10 days after getting approval for relocation, the group will have to stop its activities in the former place and notify such in writing to the local People's Committee.

Education – Training – Vocational Training

Ministry tightens requirements for foreigners teaching English in Vietnam

A training program will be provided to foreigners teaching English language at foreign language and information technology centers in Vietnam, under Decision 4159/QĐ-BGDĐT issued by the Ministry of Education and Training on December 6.

Accordingly, the program aims to train and issue English teaching certificates to foreigners, including native speakers (English language) with a college degree or higher, foreigners with a college degree in English language or higher, foreigners with a college degree or higher and a foreign language proficiency certificate of level five or higher in accordance with Vietnam's 6-level foreign language competency framework or equivalent.

It also helps trainees develop English teaching skills effectively and flexibly, and by the culture and context of Vietnam, thus meeting training and training certificate granting needs, and contributing to ensuring the quality of English teaching at foreign language centers, and foreign language and information technology centers.

After completing the training program, trainees need to meet the English teaching competency requirements at these centers through applying knowledge, methods and approaches in teaching English language; and analyzing, evaluating, and adjusting contents and methods to suit learners, culture, and the context of teaching and learning English language in Vietnam.

The training program includes 10 topics on knowledge, methods and skills and one internship period with the duration of 160 lessons (45 minutes each).-

Intellectual property

New guidelines for intellectual property protection introduced

With 125 articles, Decree 65 dated August 23 introduces a series of guiding texts for the 2005 Law on Intellectual Property, which was revised in 2009, 2019 and most recently 2022.



Specifically, the new Decree modifies the current registration forms for marks, inventions, industrial designs, and layout designs.

Notably, it adds two forms, namely the “Application for confirmation of delay in registration procedures for initial circulation of pharmaceuticals” and “Declaration requesting compensation due to delay in licensing the initial circulation of pharmaceuticals manufactured under patents”.

With these new forms, patent holders may request competent authorities to compensate when their delayed the grant of free-sale licenses for pharmaceuticals is detected.

In addition, the application form for mark registration adds one type of protected mark called “sound mark”, a non-traditional form of mark protection, first recognized and protected in Vietnam under the 2022 Law.

The new Decree also tightens security control for inventions. Article 14 of and Appendix VII to it provides specific procedures and the scope of security control for inventions in Vietnam, particularly technical patents that are likely to affect national defense and security.

The Ministry of National Defense’s and Ministry of Public Security’s participation in the invention examination process will help guarantee national security interests and prevent the development of potentially harmful technologies.

In case invention owners intend to submit patent applications abroad, they are required to prove that their inventions do not contain state secrets.

Medical - Health

Incentives proposed for development of pharmaceutical industry

The Ministry of Health (MOH) has released a draft Law Amending the 2016 Law on Pharmacy, providing many attractive incentives for boosting the development of the pharmaceutical industry.

The draft law, which is scheduled to come into force in 2025, adds two new articles to the 2016 Law, revises 36 articles, and annuls one article.

The draft law covers noteworthy contents such as incentives for investment in drug manufacturing technology transfer, marketing authorization of drugs and medicinal ingredients, management of drug price, drug import and export, and pharmaceutical business of foreign-invested enterprises in Vietnam.

Incentives for drug manufacturing technology transfer

In order to attract investment and boost domestic manufacture of drugs and medicinal ingredients, the MOH proposes a set of incentives and special incentives for new drugs, brand-name drugs, herbal drugs and traditional drugs produced from domestically



available medicinal ingredients, and hi-tech drugs, biotechnology drugs and specialty drugs produced in Vietnam under technology transfer contracts.

These incentives cover preferential tax and land rental rates, easier credit access, and application of simpler procedures for settlement of administrative procedures related to investment and business, grant of certificates of eligibility for pharmaceutical business and marketing authorization of drugs and medicinal ingredients, among others.

The MOH also proposes the adoption of a mechanism to promote the research into, and acquisition of, drug manufacturing technologies and attract foreign investment in the manufacture of medicinal ingredients, new drugs, brand-name drugs, specialty drugs, biological drugs and national-branded herbal drugs.

Online trading of cosmetics to be placed under strict management

The Ministry of Health (MOH) is making a draft decree on management of cosmetics, proposing adding regulations on online trading of cosmetics and identification of origin of cosmetics serving tracking, inspection and verification for state management purposes.

Accordingly, organizations and individuals selling cosmetics on social media sites and e-commerce platforms would have to meet conditions regarding origin and quality of cosmetics as well as declaration of cosmetic products.

Under the draft, each cosmetic product would be granted an identification code based on the serial number of the cosmetic self-declaration receipt.

Businesses that distribute cosmetics on the market would print bar codes or quick response (QR) code or DataMatrix Code (DMC) on the outer packaging of products for management, identification, and traceability of cosmetics. Labels must also specify the name and address of producers, instead of only country of manufacture as provided currently.

In addition, cosmetics manufacturers would have to satisfy several conditions on personnel, physical foundations and quality control systems. They must also make a checklist for self-inspection and competent bodies' assessment.

Cosmetics manufacturers would be subject to periodical inspection and those failing to satisfy prescribed conditions would have certificates of eligibility for manufacture revoked.

LIST OF UPDATED LEGAL NORMATIVE DOCUMENTS

Investment		
1	Law No. 24/2023/QH15 dated November 24, 2023 of the National Assembly on Telecommunications	Issuing date: 24/11/2023 Effective date: 01/07/2024 Effect status: Not yet applied
2	Decision No. 33/2023/QD-TTg dated December 29, 2023 of the Prime Minister providing dossiers, order and procedures for assessment of quality and value of machinery, equipment and technological lines of investment projects	Issuing date: 29/12/2023 Effective date: 15/02/2024 Effect status: Not yet applied
3	Decree No. 78/2023/ND-CP dated November 07, 2023 of the Government amending and supplementing a number of articles of the Government's Decree No. 32/2017/ND-CP dated March 31, 2017, on state investment credit	Issuing date: 07/11/2023 Effective date: 22/12/2023 Effect status: In force
Finance – Banking		
4	Circular No. 16/2023/TT-NHNN dated December 15, 2023 of the State Bank of Vietnam amending and supplementing a number of articles the Governor of the State Bank of Vietnam's Circular No. 28/2015/TT-NHNN	Issuing date: 15/12/2023 Effective date: 01/07/2024 Effect status: Not yet applied
5	Circular No. 18/2023/TT-BNV dated December 08, 2023 of the Ministry of Home Affairs partially repealing regulations of the Minister of Home Affairs' Circular No. 04/2020/TT-BNV	Issuing date: 08/12/2023 Effective date: 01/02/2024 Effect status: Not yet applied
6	Circular No. 14/2023/TT-NHNN dated November 20, 2023 of the State Bank of Vietnam on internal control systems of non-bank financial institutions	Issuing date: 20/11/2023 Effective date: 01/10/2024 Effect status: Not yet applied
Land – Housing		
7	Housing Law No. 27/2023/QH15 dated November 27, 2023 of the National Assembly	Issuing date: 27/11/2023 Effective date: 01/01/2025 Effect status: Not yet applied
Medical - Health		
8		Issuing date: 30/12/2023



	Circular No. 31/2023/TT-BYT dated December 30, 2023 of the Ministry of Health on competence to revoke certificates of food safety eligibility under the Ministry of Health's management	Effective date: 15/02/2024 Effect status: Not yet applied
9	Circular No. 30/2023/TT-BYT dated December 30, 2023 of the Ministry of Health providing the list of diseases and disease status eligible for telehealth	Issuing date 30/12/2023 Effective date: 01/01/2024 Effect status: In force
10	Circular No. 29/2023/TT-BYT dated December 30, 2023 of the Ministry of Health providing instructions on the presentation of nutrition facts labels	Issuing date 30/12/2023 Effective date: 15/02/2024 Effect status: Not yet applied
11	Circular No. 28/2023/TT-BYT dated December 29, 2023 of the Ministry of Health on the scope of medical examination and treatment provision, and professional contents of the training	Issuing date 29/12/2023 Effective date: 01/01/2024 Effect status: In force
Enterprise		
12	Decree No. 02/2024/ND-CP dated January 10, 2024 of the Government on the transfer of electricity works being public assets to the Vietnam Electricity	Issuing date 10/01/2024 Effective date: 01/03/2024 Effect status: Not yet applied
Transport		
13	Decree No. 01/2024/ND-CP dated January 01, 2024 of the Government amending and supplementing a number of articles of the Government's Decree No. 11/2010/ND-CP	Issuing date: 01/01/2024 Effective date: 01/01/2024 Effect status: In force
14	Decree No. 91/2023/ND-CP dated December 14, 2023 of the Government amending and supplementing a number of articles of the Government's Decree No. 65/2018/ND-CP	Issuing date 14/12/2023 Effective date: 30/01/2024 Effect status: Not yet applied
Commerce – Advertising		
15	Circular No. 42/2023/TT-BCT dated December 28, 2023 of the Ministry of Industry and Trade amending and supplementing a number of articles of the Minister of Industry and Trade's Circular No. 37/2019/TT-BCT	Issuing date 28/12/2023 Effective date: 16/02/2023 Effect status: Not yet applied



Thank you for your reading!

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