



# LEGAL, LABOR AND TAX UPDATES

**December 2019**



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## **A. NEW LEGAL INSTRUMENT**

### **❖ CONGRESS**

**20 November 2019 | Labor Code No. 45/2019/QH14**

#### **Scope of adjustment**

The Labor Code sets forth labor standards; rights, obligations and responsibilities of employees, employers, internal representative organizations of employees, representative organizations of employers in labor relations and other relations directly related to labor relations; and state management of labor.

#### **Regulated entities**

1. Employees, trainees, apprentices and other workers without labor relations.
2. Employers.
3. Foreign employees who work in Vietnam.
4. Other organizations and individuals directly related to labor relations.

From 01 January 2021, employment contracts will be concluded in one of the following categories:

- An indefinite-term employment contract
- A fixed-term employment contract is a contract in which the two parties fix the term of the contract for a duration of up to 36 months from the date of its conclusion.

On the one hand, if compared to the current regulations of Labor Code 2012, there will be no longer the seasonal labor contract.

On the other hand, the Labor Code 2019 allows employees to unilaterally terminate the labor contract without prior notice in some cases such as:

- He/she is not assigned to the job or workplace or is not given the working conditions as agreed in the labor contract;
- He/she is not paid in full or on time as agreed in the labor contract, except the case stated in Clause 4 of Article No. 97 of the Labor Code.
- He/she is maltreated, sexually harassed or is subject to forced labor;

*(This Law shall come into effect from 01 January 2021)*

## **26 November 2019| Law on Securities No. 54/2019/QH14**

**Pursuant to Law on Securities, a joint stock company wishing to offer shares to the public for the first time must meet the following conditions:**

- The offering enterprise has a charter capital contributed at the time of offering registration of VND 30 billion or more accounted according to the book value; (At present, the amount of charter capital needs to contribute for offering registration is only VND 10 billion);
- Its business operation in the two years preceding the year of offering registration is profitable and, at the same time, it has no accrued loss up to the year of offering registration;
- Its issuance plan and plan on the use of capital generated from the sale offering are adopted by the Shareholders' General Assembly.
- In addition, the Company shall meet some new conditions as following:
  - At least 15% of the voting shares of the issuing company must be sold to at least 100 investors who are not major shareholders (this rate is 10% if the charter capital is VND 1,000 billion or more);
  - Shares of organizations issued must be listed or registered for stock trading on the system of securities trading after the end of the share offering ...

*(This Law shall take effect from 01 January 2021)*

## **❖ GOVERNMENT**

### **19 November 2019| Decree No. 96/2019 / ND-CP on administrative sanctions relating to land**

#### **Scope of adjustment**

This Decree prescribes administrative violations, forms of sanctions, amount of sanctions, rectifying measures, authority to make records of the violations and authority to impose administrative sanctions on violations related to land including land use violations and violations in operation of land services.

#### **Regulated entities**

1. This Decree applies to entities subject to administrative sanctions including entities below committing administrative violations specified in this Decree on territory of the Socialist Republic of Vietnam, unless otherwise specified by international agreements to which Vietnam is a signatory:

a) Households, community, domestic individuals, foreign individuals, Vietnamese living abroad (hereinafter referred to as “individuals”);

b) Domestic and foreign organizations, foreign-invested enterprises and religious establishments to administrative (hereinafter referred to as “organizations”).

2. Competent agencies and persons imposing sanctions, and organizations and individuals related sanctions according to this Decree.

**Some notable contents:**

Within 50 days from the time of handing over the apartment to the buyer, the investor must carry out the procedures for requesting a certificate for the buyer, except the case that the buyer requests to do the procedure by himself.

If the investor fails to submit or to provide or fully provide documents for the purchaser to complete the procedures in accordance with the above provisions, the investor will be fined and must have recitification measures depending on the time and seriousness of the violation.

From exceeding 12 months:

- A fine ranging from VND 100,000,000 to VND 300,000,000 shall be imposed if less than 30 buildings, constructions and land plots are involved in the violation;
- A fine ranging from VND 300,000,000 to VND 500,000,000 shall be imposed if from 30 to less than 100 buildings, constructions and land plots are involved in the violation;
- A fine ranging from VND 500,000,000 to VND 1,000,000,000 shall be imposed if 100 or more buildings, constructions and land plots are involved in the violation.

*(This Circular shall take effect from 05 January 2020)*

**19 December 2019| Decree No. 96/2019 / ND-CP regulates the land price bracket.**

**Scope of adjustment**

This Decree prescribes the price bracket for each type of land use, basing on each region specified in Article No. 113 of the Land Law.

**Regulated entities**

1. Agencies performing the function of State management on land; agencies having the function of elaborating, adjusting and appraising land price brackets as well as land price lists.

2. Organizations having the function of consultancy on land price determination or individuals working as land valuation consultants.

3. Other entities involved in the administration and use of land

In accordance with the Decree, the land price bracket will remain unchanged the two groups of land:

- Agricultural land: land for annual crops, perennial trees, production forest, aquaculture and salt making.
- Non-agricultural land: residential land in rural and urban areas; commercial and service land in rural and urban areas; Non-agricultural land for production and business activities which is not the commercial and service land in rural and urban areas.

*(This Circular shall come into effect from 19 November 2019)*

## **B. OFFICIAL INSTRUCTIONS**

### **✚ GENERAL DEPARTMENT OF TAXATION**

#### **27 November 2019 | Official Letter No. 4885 / TCT-KK on tax registration**

If Telecon Vina single-member limited liability company (hereinafter referred to as the Company) changes its business activities from domestic business to export processing enterprise, the Company is not required to make tax finalization and does not have to fulfill the tax obligation to the time of change. The tax authorities do not have to check the tax finalization to the time of change because the Company still retains the type of enterprise, form of ownership and tax code. The tax authorities base on the changes of information on the business registration (tax calculation method, address, business lines, investment certificate, etc.) supplied by the national information system on business registration and incorporate with the local state management agencies to manage taxation for export processing enterprises as prescribed.

#### **04 December 2019 | Official Letter No. 90749 / CT-TTHT on CIT deuction for projects in Myanmar**

In case the Fecon Underground Construction Joint Stock Company (hereinafter referred to as the Company) generates income from the construction of projects in Myanmar:

- If the Company conducts business activities through a **permanent establishment in Myanmar**, the Company must pay CIT in Myanmar. When

declaring CIT in Vietnam, the income from the construction of the project in Myanmar will be included in the taxable income in Vietnam in accordance with the current law on tax in Vietnam. Furthermore, **the amount of already paid CIT in Myanmar will be deducted from the tax payable in Vietnam**, if the Company meets the conditions and complies in accordance with the principles in Article 48 of Circular No. 205/2013 / TT-BTC.

In terms of procedures for deducting already paid CIT in Myanmar into the tax payable in Vietnam, the Company is suggested to follow the instructions in Clause 4, Article 44, Chapter V of Circular No. 156/2013 / TT-BTC.

- If the Company conducts business activities in Myanmar **without a permanent establishment in Myanmar**, the Company must contact the Myanmar tax authorities to request a refund of the already paid CIT of the Company. With the refundable CIT, the Company **is not allowed to deduct from the CIT payable in Vietnam and is not included in deductible expenses when determining taxable income.**

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