**LEGAL UPDATES**

**VOL 44, JUNE 2022**

**Dear Valued Clients and Partners,**

ADK Vietnam Lawyers would like to introduce to you the Legal Updates, Vol 44 of June 2022 with new legal provisions with notable contents as follows:

1. **Amendment of regulations on issuance and management of APEC business travel cards**

 On September 9, 2005, Vietnam officially joined the APEC Business Travel Card Program (“**ABTC card**”). On that basis, on February 28, 2006, the Prime Minister signed Decision No. 45/2006/QD-TTg on the Regulation on issuance and management of APEC business travel cards, amended and supplemented in Decision No. 54/2015/QD-TTg dated October 29, 2015. After 15 years of implementation, besides the recent positive results, the above regulation was inadequate and caused some problems.

The Ministry of Public Security is collecting comments to finalize the Prime Minister's Draft Decision on the issuance of a new Regulation on procedures, authority to issue and manage APEC business travel cards ("**Draft**") to overcome current problems.

The Draft consists of 04 articles, issued together with a draft Regulation (including 08 Chapters 33 Articles) on procedures, authority to issue and manage APEC business travel cards.

The ABTC card is valid for entry and exit into the countries and territories of the member participating in the ABTC Card Program with the name on the card when the cardholder presents it with a valid passport. Vietnamese businessmen and foreign businessmen holding ABTC card are responsible for presenting their ABTC card and passports to the person in charge of immigration control upon exiting and entry at the airport of their members countries of the program.

A new point of the Draft, for some cases related to socio-political organizations or VCCI who need to use ABTC cards, they must be allowed to use ABTC card by the leaders of socio-political organizations or the President of VCCI. In case of necessity, the Minister of Public Security has the authority to decide to issue ABTC card to other subjects who are suitable and in need.

In addition, the Draft also stipulates that ABTC cards are valid for 5 years from the date of issue and cannot be extended. When the ABTC card expires, if the cardholder still needs to travel within the APEC region, the procedures for applying for a new card must be carried out.

Procedures for issuing ABTC cards to Vietnamese businessmen at the Ministry of Public Security are specified in Chapter IV of the draft Regulation, to Vietnamese businessmen at the Ministry of Public Security are specified in Chapter IV of the draft Regulation, in which, businessmen who are in the country, if they apply for a new or re-issued ABTC card, can apply directly at the Immigration Department, the Ministry of Public Security or or online at the Public Service Portal of the Ministry of Public Security.

1. **Solving problems in reducing VAT to 8%**

On June 20, 2022, the Government issued Decree 41/2022/ND-CP amending and supplementing a number of articles of the Government's Decree No. 123/2020/ND-CP dated October 19, 2020 on invoices and records and Decree No. 15/2022/ND-CP dated January 28, 2022 of the Government on tax exemption and reduction under Resolution No. 43/2022/QH15 of the National Assembly on fiscal and monetary policies for supporting socio-economic recovery and development program.

In order to solve problems in issuing invoices for goods and services that are subject to VAT reduction, ensuring compliance with the contents of the invoice, the Government issued Decree 41/2022/ND -CP with the following modifications:

1. In case business establishments using the VAT deduction method apply different tax rates when selling goods or providing services, their VAT invoices must state the tax rates of each commodity and service.
2. In case business establishments use the VAT % on revenue method when selling goods or providing services, their sales invoices must state the reduced money when selling goods and providing services.

Decree 41/2022/ND-CP comes into force as of its date of signing. From February 1, 2022 to when Decree 41/2022/ND-CP comes into force, business establishments that have followed regulations prescribed in Article 2 of Decree 41/2022/ND-CP are still eligible for VAT reduction, exemption from invoice adjustment, and not subject to administrative violations of tax and invoices.

1. **Issue of people with a lot of real estate and high tax rate**

Recently, the Central Committee of the Communist Party issued a Resolution of the 5th Plenum of the 13th Central Committee on "Continuing to innovate and complete the institutions and policies, improve the effectiveness and efficiency of land management and use, contribute to turning our country into a high-income developed country”. Accordingly, Resolution No. 18-NQ/TW points the view on land ownership; institutions, policies on land, etc. Along with that, there are a series of specific goals and solutions for implementation in the near future. In particular, the content thatpeople with a lot of real estate will be taxed at a high rate is the most noticeable.

In the section “Completing financial mechanisms and policies on land”, Resolution No. 18-NQ/TW clarifies: Prescribing higher tax rates for users of large areas of land, many houses, land speculation, low land use, and abandoned land.

The reason for this regulation is the fact that many people rush to trade land and speculate on land, which leads to unreasonably high land prices. The money in the society flowing into real estate will not create motivation and there will be no capital for investment in economic development. Collecting land and waiting for an increasing price to sell does not create any benefits for society. Limiting the real estate speculation will create fairness among land users and help develop real estate effectively.

High tax rates for people who have a lot of real estate helps limit spending too much money on real estate and increase capital for production and business investment. Moreover, high taxes on people who have a lot of real estate contribute to reducing the demand for land, bringing housing prices to a reasonable level and more opportunities for those who are really in need.

However, in order to implement this policy, it is necessary to specify the regulations to avoid unfairness to those who have a lot of real estate in a legitimate way as well as avoid cases of breaking the law, for example:

1. distinguish between people who have many rights to use real estate for legitimate purposes and those who own real estate for speculation;
2. solution in case of using someone else to avoid paying high taxes;
3. build a complete and unified land database to have information on the number of real estates each person.

In addition, Resolution 18-NQ/TW with the goal of amending and supplementing the 2013 Land Law and other legal documents related to 2023, in which the important content is the State's implementation of the land allocation, land lease through auction of land use rights, bidding for projects using land, ensuring synchronization, consistency, and meeting new development requirements.

We hope you found this brief legal update informative.

Kind regards./.

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