LEGAL NEWSLETTER

August/ 2022

# Dear Value Clients and Partners,

ADK Vietnam Lawyers would like to introduce to you the August 2022 Legal Newsletter with the following main contents:

# Legal Spotlight

* 1. **New regulations on VAT refund for investment projects**

On July 29, 2022, the Government has just issued Decree 49/2022/ND-CP amending and supplementing Decree 209/2013/ND-CP guiding the amended and supplemented Law on Value-Added Tax according to Decree 12/2015/ND-CP, Decree 100/2016/ND-CP and Decree 146/2017/ND-CP.

Decree 49/2022/ND-CP has added regulations stating that business establishments in conditional business lines in the following cases shall be entitled to a value-added tax refund for the investment project:

1. Investment projects in the investment stage, according to the provisions of the investment law, specialized laws, have been granted the license for conditional business lines by a competent state agency in one of the following forms: License or certificate or written confirmation, approval.
2. Investment projects in the investment stage, according to the provisions of the investment law and specialized laws, are not required to request the competent state agency to grant a license for conditional business lines in one of the following forms: License or certificate or written confirmation, approval.
3. Investment projects, according to the provisions of the investment law, specialized laws, are not required to have a license for conditional business lines in one of the following forms: License or certificate or written confirmation, approval.

**Decree 49/2022/ND-CP takes effect from September 12, 2022.**

* 1. **Officially reduce 10% of preferential import tax on gasoline products**

On August 8, 2022, the Government issued Decree 51/2022/ND-CP amending the preferential import tax rates for gasoline products in group 27.10 in the Preferential Import Tariff according to the List of goods subject to tax issued in conjunction with Decree 57/2020/ND-CP.

Accordingly, the import tax rate for motor gasoline, unleaded (HS code from 2710.12.21 to 2710.12.29) is adjusted from 20% to 10%.

Specifically, gasoline products eligible for preferential import tax rates are:

1. RON 97 and higher, not prepared or prepared with ethanol or other
2. RON 90 and higher but below RON 97 not prepared or prepared with ethanol or other
3. Other RON not prepared or prepared with ethanol or other

# Decree 51/2022/ND-CP takes effect from August 8, 2022.

* 1. **Peculiar process on appointment of contractors according to the Resolutions of the National Assembly**

On August 8, 2022, the Ministry of Planning and Investment has just issued Official Letter 5520/BKHDT-QLDT guiding the specific mechanism of contractor appointment according to the Resolutions of the National Assembly.

Accordingly, the process of appointment of contractors for transport and health infrastructure packages under the Socio-economic Recovery and Development Program will be implemented according to Article 55 of Decree 63/2014/ The ND-CP as follows:

1. **Step 1: Preparing for contractor selection**

* Making the request dossier
* Appraising and approving dossiers of request and identifying the contractor recommended for appointment of contractor

1. **Step 2: Selecting the contractor**

* Dossiers of request are issued to the identified contractors
* The contractors shall prepare and submit the proposal as requested in the request dossiers

1. **Step 3: Evaluating the proposal and negotiating**

* The evaluation of proposals must be carried out according to the evaluation criteria specified in the request dossiers.
* A contractor is recommended for appointment of a contractor when fully satisfying the following conditions: Having a valid proposal; have the capacity, experience and technical proposals to meet the requirements of the request dossier; whose price proposed for appointment of a contractor does not exceed the approved bid package.

1. **Step 4:Submitting, appraising, approving and publicizing contractor appointment results**

* On the basis of the report on the evaluation results of the proposals, the bid solicitor shall submit the contractor selection results, clearly stating the opinions of the bid solicitor on the evaluation contents of the expert group.
* The contractor selection results must be appraised according to clauses 1 and 4, Article 106 of Decree 63/2014/ND-CP.

1. **Finalizing and concluding the contract:** The contract signed between the parties must be consistent with the decision approving the contractor appointment result, contract negotiation minutes, proposals, dossier of request and other relevant documents.

# Featured Articles of ADK Lawyer in August

# The article “Security investment fund". The article has given an overview of the types of securities investment funds as well as the conditions and procedures for establishing a securities investment fund in accordance with current laws.

To read the above articles in more detail, please visit our website at: <https://adk-lawyers.com/en/legal-articles>

# Some prominent legal documents take effect from September 2022

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| **No** | **Text name** | **Date issued** | **Date of Effective** |
| **DECREE** | | | | |
|  | Decree 47/2022/ND-CP of the Government amending and supplementing a number of articles of the Government's Decree 10/2020/ND-CP dated January 17, 2020 on auto transport business and conditions for auto transport business | 19/7/2022 | 01/9/2022 |
|  | Decree 49/2022/ND-CP of the Government amending and supplementing a number of articles of the Government's Decree 209/2013/ND-CP dated December 18, 2013, detailing and guiding a number of articles of the Law on Value-Added Tax, which was amended and supplemented under Decree No. 12/2015/ND-CP, Decree No. 100/2016/ND-CP and Decree No. 146/2017/ND-CP | 29/7/2022 | 12/9/2022 |
| **CIRCULAR** | | | | |
|  | Circular 13/2022/TT-BGTVT of the Ministry of Transport on prescribing the cost frame for the aviation service operation franchise | 30/06/2022 | 01/9/2022 |
|  | Circular 41/2022/TT-BTC of the Ministry of Finance on guiding the accounting regime applicable to social and charity activities | 05/7/2022 | 01/9/2022 |
|  | Circular 08/2022/TT-NHNN of the State Bank of Vietnam on prescribing the order and procedures for banking supervision | 30/6/2022 | 01/9/2022 |
|  | Circular 11/2022/TT-BGDĐT of the Ministry of Education and Training on prescribing regulations on jointly organizing examinations for grant of foreign certificates of foreign-language proficiency | 26/7/2022 | 10/9/2022 |
|  | Circular 01/2022/TT-BTTTT of the Ministry of Information and Communications amending 1:2022 QCVN 102:2016/BTTTT National technical regulation on structure of identifiers and format of serving packet data connecting document management and operating systems | 17/2/2022 | 15/9/2022 |
|  | Circular 17/2022/TT-BGTVT of the Ministry of Transport on amending and supplementing a number of articles of the Minister of Transport's Circular No. 12/2020/TT-BGTVT dated May 29, 2020, providing regulations on the organization and management of by-automobile transport activities and road transport support services | 15/7/2022 | 15/9/2022 |
|  | Circular 10/2022/TT-NHNN of the State Bank of Vietnam on guiding the foreign exchange management regarding the issuance of bonds to international market by enterprises not entitled to government guarantee | 29/7/2022 | 15/9/2022 |
|  | Circular 08/2022/TT-BKHDT of the Ministry of Planning and Investment on Stipulating in detail the provision and posting of information on bidding, and selection of contractors via the National E-Public Procurement system | 31/5/2022 | 16/9/2022 |

We hope this Legal Newsletter has a lot of useful information.

Best Regards.

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