

## LEGAL UPDATES (April 14<sup>th</sup>, 2021)

In these legal updates, we would like to send clients the legal updates on some following issues:

- The promulgation of Decree 21/2021/NĐ-CP on guidance on Civil Code 2015 on security for performance of obligations;
- New notable points about electronic transactions in the tax field; and
- Instructions on dealing with false dossiers of implementation of investment procedures.

### **1. The promulgation of Decree 21/2021/NĐ-CP on guidance on Civil Code 2015 on security for performance of obligations**

On March 19<sup>th</sup>, 2021, the Government issued Decree 21/2021/ND-CP guiding on the Civil Code on security for performance of obligations. Accordingly, the Decree provides property that used for security for performance of obligations, specifically as follows:

- Existing properties or off-plan properties, unless otherwise prohibited by the Civil Code or other relevant laws from selling, purchasing, transferring or other transferring of ownership rights during the concluding time of the security contract, security measures;
- Properties sold in purchase contracts with the reserve of the title retention;
- Properties being the objectives of obligations in the bilateral contract with the infringement of the security measure of retention of property;
- Properties of the entire people in the event of being provided by relevant laws.

Decree 163/2006/ND-CP on security transactions and Decree 11/2012/ND-CP amending and supplementing Decree 163/2006/ND-CP will be out-of-date as of May 15<sup>th</sup>, 2021. However, these Decrees remain their full force and effect on security transactions or security measures established and performed prior to the effective date of Decree 21/2021/ND-CP.

Notwithstanding the above fact, parties have the right to negotiate to reach the amendment and supplementation of security transactions or security measures in line with Decree 21/2021/ND-CP to apply regulations of Decree 21/2021/ND-CP as of the applicable laws.

Decree 21/2021/ND-CP of the Government will be of full force and effect as of May 15<sup>th</sup>, 2021.

### **2. New notable points about electronic transactions in the field of taxation**

On March 18<sup>th</sup>, 2021, the Ministry of Finance issued Circular 19/2021/TT-BTC on guidance on electronic transactions in the tax field, specifically as follows:

- Circular provides principles for electronic tax transactions. Accordingly, taxpayers who conduct electronic tax transactions must be able to access and use the Internet, have an email address, have a digital signature or a mobile phone number granted by a telecommunications company in Vietnam for transactions with the tax authority, unless otherwise opted by the taxpayer for the electronic tax payment method under the regulations of banks or the intermediary payment service providers.
- There are many electronic tax transaction methods for taxpayers to opt for, such as the Portal of the General Department of Taxation; the National Public Service Portal, the Portal of the Ministry of Finance connected to the Portal of the General Department of Taxation; the Portal of other competent state authorities connected to the Portal of General Department of Taxation; the T-VAN service provider accepted by the General Department of Taxation to connect with the Portal of the General Department of Taxation; electronic payment service provided by banks or intermediary payment service providers to make an electronic tax payment.
- The Ministry of Finance stipulates that taxpayers can conduct electronic tax transactions 24/7, including off-days, public holidays and New Year holidays. By contrast, the time for the tax agency notifying and sending decisions and documents to the taxpayer shall be within the day if the dossier is consigned successfully within 24 hours per day;

Some notable points that are out of the governed scope of the Circular are as follows:

- Electronic transactions on invoice in accordance with Decree 123/2020/ND-CP dated October 19<sup>th</sup>, 2020 of the Government on invoices and records.
- Electronic transactions on tax of overseas providers of e-commerce service or running their digital-based business and other services with organizations or individuals in Vietnam, but without having any permanent presence in Vietnam.
- Electronic transactions on tax for goods in the stage of import and export at the customs offices.

Moreover, Circular also instructs on dossiers and procedures for electronic transactions in the tax field in following circumstances:

- Transactions in the tax field between taxpayers and tax authorities via electronic methods;
- Electronic transactions between tax authorities and competent management state authorities or organization involving in the receipt and provision of information and

handling of tax administrative procedure(s) of taxpayers under the Law on Tax Management and the inter-agency one-stop-shop mechanisms;

- The connection between the Portal of the General Department of Taxation and the system of information exchange of an organization providing VAT services on electronic transactions in the tax field; the implementation of electronic transactions in the tax field via organizations providing VAT services in the tax field;
- The provision and exchange of information on coordination between tax authorities and other state authorities, organizations, individuals involving in the receipt and handling of tax administrative procedures of taxpayers.

Circular 19/2021/TT-BTC of Ministry of Finance will be of full force and effect as of May 03<sup>rd</sup>,/2021.

### **3. Instructions on dealing with false dossiers of implementation of investment procedures**

On March 26<sup>th</sup>, 2021, the Government issued Decree 31/2021/ND-CP on detailed regulations and guidance on the implementation of the Law on Investment 2020. Accordingly, Decree 31/2021/ND-CP provides the procedures for investment registration authorities to follow when a false dossier of implementation of investment procedures is found out by competent authorities or individuals, specifically as follows:

- Notifying in writing investors of the violation;
- Cancelling or reporting to competent authorities or individuals for considering the cancelation of the Decision on approval for investment guidelines, the Decision on approval for investors, Investment Registration Certificate, Certificate of outward investment registration and other relevant documents issued for the first time or removing contents of documents recorded on the basis of false information;
- Recovering documents issued on the basis of the most recent valid dossiers and at the same time, handling or reporting to competent authorities and individuals to handle in accordance with the laws.

Investors shall be responsible for all damages and losses incurred by the act of faking contents of documents and dossiers under the laws.

Decree 31/2021/ND-CP on detailed regulations and guidance on the implementation of the Law on Investment 2020 is of full force and effect as of the signing date of March 26<sup>th</sup>, 2021.

We hope this short Letter of legal updates would bring you useful information.

Best regards.

**Contributor(s):****Mr. LE TIEN DAT****Senior Partner****M** (+84) 939 107 387 | **E** [dat.le@apolatlegal.com](mailto:dat.le@apolatlegal.com)**Mr. TRAN CHAU HOAI HAN****Associate****M** (+84) 988 787 285 | **E** [han.tran@apolatlegal.com](mailto:han.tran@apolatlegal.com)**Mr. DANG NGUYEN NGUYEN THANH****Paralegal****M** (+84) 905 161 450 | **E** [thanh.dang@apolatlegal.com](mailto:thanh.dang@apolatlegal.com)

**Disclaimer:** All materials have been prepared for general information purposes only. The information is not intended as, and should not be taken as, legal advice. Do not act or refrain from acting based upon information provided herein without first consulting our lawyers about your particular factual and legal circumstances. Apolat Legal can accept no responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication. On any specific matter, reference should be made to the appropriate adviser.

**ABOUT US,**

Apolat Legal is a professional law firm with its offices in Ho Chi Minh city and Ha Noi city. The firm's lawyer team specializes in almost all legal practice areas in Vietnam including Enterprise and Investment; Labor and Employment; Intellectual Property; Dispute Resolution; Real Estate and Construction; Information and Communication; Natural Resources and Environment; Transport; Industry and Trade; Education and Training; Finance and Banking; Agriculture; Legal Document Translation; Legal Training.

Our reputation and the quality of its services are reflected by our clients. We are serving nearly 1,000 clients both local and multi-national companies.

We are also honored to receive numerous recognitions and/or articles posted by world-leading and local organizations and publications including: The Law Association for Asia and the Pacific (LawAsia, 1966), The Legal500, IP Link, IP Coster, Lexology, Global Trade Review (GTR), The Saigon Times, etc.

**Contacts:****HO CHI MINH CITY (Head office)**

5<sup>th</sup> Floor, IMM Building  
99-101 Nguyen Dinh Chieu, District 3  
Ho Chi Minh City, Vietnam

Tel: +84-28-3899 8683

Email: [info@apolatlegal.com](mailto:info@apolatlegal.com)Website: [www.apolatlegal.com](http://www.apolatlegal.com)**SINGAPORE (Affiliated office)**

#26-10, SBF Center,  
160 Robinson Road  
Singapore 068914

Tel: +84-93-2014 986

Email: [info@apolatlegal.com](mailto:info@apolatlegal.com)Website: [www.apolatlegal.com](http://www.apolatlegal.com)