

LEGAL UPDATES (January 7th, 2020)

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

- Our Prominent Legal Article And News In December;
- Remarkable Legislations In December 2019;
- The Executed Legislations In December 2019.

I. Our Prominent Legal Article And News In December

On December 12th, 2019, Apolat Legal Has Officially Joined Lawasia – The Law Association For Asia And The Pacific. Lawasia Is The Association Of Lawyers, Judges, Legal Organizations And Focuses On The Interests And The Concerns Of Legal Professionals In Asian And The Pacific. Joining This Association, Apolat Legal Will Have The Opportunity To Strengthen Knowledge, Expand Diplomatic Relations As Well As Connect The Regional And International Law Community.



In December, Our Lawyer - Mr. Pham Hong Manh Had A Standing Out Article Addressing The Legal Issues Related To Profits That Vietnamese Investors Get From Offshore Investment Activities, Namely Investing In Singapore And How-To Determine The Tax Obligation For The Aforementioned Profit. In This Article, Mr. Manh Clarified The Regulations On Handling Profits As Well As The Tax Calculation Method And Determinating The Time Of Tax Calculation Income.

To Read The Entire Article, Please Visit [Here](#)

II. Remarkable Legislations In December 2019

1. New Updates On Policy Of Applying The Incentive Regulations Of Fit-In Tariff (Fit) Price For The Solar Power Projects In Vietnam

After The Prime Minister Promulgated The Decision No. 11/2017/Qd-Ttg Dated April 11th, 2017, The Investment Activities In The Solar Power Projects In Vietnam Have Increased Rapidly, Up To Now, There Have Been 154 Solar Power Projects Whose Total Capacity Of 10,600mw Have Been Approved For Master Planning, Of Which, About 4,500mw Has Completed Building And Put Into Commercial Operation. The Applicable Price Mechanism For The Trade On Electricity Product Agreement Between Solar Power Projects And The

Vietnam Electricity Corporation Before June 30th, 2019, Is The Fit Price With The Incentive Purchase Price Of 9.35 Cents / Kwh.

However, According To The Official Notice No. 402/Tb-Vpcp Dated November 22rd, 2019, Of The Government Office On The Conclusions Of Prime Minister Nguyen Xuan Phuc At The Regular Meeting Of The Government About The Draft Of Solar Power Encouragement Mechanism From July 1st, 2019 To Replace Decision No. 11/2017/Qd-Ttg ("Notice No. 402/Tb-Vpcp"), Fit Tariff Shall Only Apply To Projects That Have Already Signed The Trade On Electricity Product Agreement And Will Have Been Constructed And Put In Operation In The Year Of 2020.

Following The Above-Mentioned Notice No. 402/Tb-Vpcp, The Ministry Of Industry And Trade Also Issued Official Dispatch Number 9608/Bct-ĐI Dated December 16th, 2019, In Which The Ministry Of Industry And Trade Requested The Provincial-Level People's Committees And Vietnam Electricity Corporation Considers Suspending To Propose And Sign Trade On Electricity Product Agreements For Solar Power Projects Under The Fit Mechanism Until Having New Instructions From The Competent Authorities.

Therefore, Investors Who Intend To Invest In Solar Power At This Moment Should Pay Attention To Getting Legal Advice On The Latest Policy, Guidelines, And Statutory Regulations From Competent State Agencies To Avoid Business Damages/Losses While Investing.

2. Some Highlights On The Draft Decree Amending Decree No.101/2012/Nd-Cp On Non-Cash Payments

The Draft Decree Amending Decree No.101/2012/Nd-Cp On Non-Cash Payment Has Some Remarkable Points As Follow:

a. Supplementing The Definition Of Electronic Money

According, Electronic Money Is A Form Of Monetary Value Stored On Electronic Devices (Electronic Means) Guaranteed By A 1:1 Deposit Value Ratio At Banks, Has The Right To Recourse From Supply Organizations, And Used As A Means Of Payment In Payment Transactions. Additionally, This Draft Also Identifies The Entities Which Are Allowed To Supply Electronic Money, Namely Licensed Banks, Branches Of A Foreign Bank In Vietnam (Debit Card), And Payment Intermediary Service Providers (Digital Wallets).

b. Non-Bank Entities Are Permitted To Provide Foreign Payment And International Money Transfer Service

Banks That Are Licensed To Provide Foreign Exchange Services On International Markets May Cooperate With Abroad Payment Service Providers To Support Banks Permitted To Conduct International Payment Transactions. This Cooperate Must Be

Approved In Writing By The State Bank Of Vietnam, And Written Approval Must Comply With The Regulations Of The State Bank Of Vietnam.

- c. Introducing Regulations On The Ownership Ratio Of Foreign Investors In A Payment Intermediary Service Provider

The Draft Indicates That The Foreign Investor May Invest In Intermediary Payment Service Providers Under The Form Of Capital Contribution, Share Purchase, Capital Contribution. Under Article 29.2 Of The Draft, The Maximum Contributed Capital Rate For Foreign Investors, Including Both Direct And Indirect Investment, Is 49% Of The Charter Capital Of A Payment Intermediary Service Providers.

It Is Worth Noting That, As Of November This Year, Vietnam Had 30 Payment Intermediary Service Providers Licensed By The State Bank, Including Momo, Moca, Payoo, Senpay, Zalopay, Airpay, Vnpay, Monpay, Viettelpay, 1pay, Nganluong, Vtcpay, Mpay Và Wepay. Most Of The Payment Intermediary Service Providers In Vietnam Are Now Owned By Foreign Investors.

III. The Executed Legislations In December 2019

No.	Document Title	Execution Date	Effective Date
1	Decree 78/2019/Nd-Cp Amends And Supplements Decree No. 148/2016/Nd-Cp Dated 04 th November 2016 Of The Government On Guiding Some Articles Of Market Surveillance Ordinance	14/10/2019	10/12/2019
2	Circular No.21/2019/-Bct Dated November 8 th , 2019 Of Ministry Of Industry And Trade On Prescribing Rules Of Origin In The Asean-Hong Kong, China Free Trade Agreement	08/11/2019	23/12/2019
3	Circular No.155/2019/Tt-Bqp Dated October 15 th , 2019, Guiding The Transformation From The State-Owned Enterprises And One-Member Limited Liability Enterprises, Whose 100% Charter Capital Owned By The Ministry Of Defence, To Joint-Stock Companies	15/10/2019	01/12/2019
4	Decision No.3357/Qd-Bct Dated November 8 th , 2019 Of Ministry Of	08/11/2019	01/12/2019

	Industry And Trade Stipulated On New Administrative Procedures In The Field Of Trade Promotion Under The Management Of The Ministry Of Industry And Trade		
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We hope this short Letter of legal updates would bring you useful information.

Best regards.

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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.

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