

LEGAL UPDATE (November 24th, 2022)

In this issue, we would like to bring to your attention to the following:

- Converting a State-owned company operating under the Law on State-owned Enterprises into a Single-member limited liability company operating under the Enterprise Law.
- New method of determining electricity generation prices for new power plants.

1. Converting a State-owned company operating under the Law on State-owned Enterprises into a Single-member limited liability company operating under the Enterprise Law

The Ministry of Planning and Investment is publishing a draft Decree regulating the conversion of state-owned companies established and operating under the Law on State Enterprises into single-member limited liability companies organized and operated in accordance with the Law on Enterprises.

Regarding regulations on the conversion of state-owned companies operating under the Enterprise Law: On March 19th, 2010, the Government issued Decree No. 25/2010/ND-CP stipulating the successful conversion of state-owned companies into single-member limited liability companies and the management organization of single-member limited liability companies owned by the State. In which, a number of contents are specified on the subjects, conditions, order and procedures for conversion of state-owned companies into types of enterprises organized and operated under the Enterprise Law 2005 (joint-stock companies, limited liability company). Up to now, there has been no legislation regulating the conversion of state-owned companies into single-member limited liability companies in Decree No. 25/2010/ND-CP, which has expired.

However, the implementation of the provisions of Decree No. 25/2010/ND-CP is no longer consistent with current regulations and operational practices of operating state-owned enterprises that have not yet been converted. The current law does not have any regulations allowing the conversion of ownership (equitization, transformation into a two-member limited liability company, sale of the entire enterprise), rearrangement (separate, split, consolidation, merger and dissolution of enterprises) of state-owned companies organized and operated in accordance with the Law on State Enterprises 2003; State enterprises established and operating under the provisions of the Law on State Enterprises 1995 have not yet converted into the type of enterprises specified in the Law on Enterprises.

In order to have a basis for the state agencies representing the owner, an enterprise may register an enterprise for enterprises that have not yet been converted according to the provisions of the Enterprise Law 2020, as a basis for the rearrangement, ownership conversion for these enterprises, the promulgation of the Decree on converting state-owned companies established and operating

under the Law on State Enterprises into single-member limited liability companies organized and operated in accordance with the Law on Enterprises is necessary.

2. New method of determining electricity generation prices for new power plants

The Ministry of Industry and Trade has issued Circular 31/2022/TT-BCT amending Circular 57/2014/TT-BCT stipulating the method and order of formulating and promulgating the electricity generation price and Circular 57/2020/TT - The MOIT stipulating methods of determining electricity generation prices and electricity purchase and sale contracts.

In which, Circular 31/2022/TT-BCT amends and supplements Clause 4, Article 3 of Circular 57/2020/TT-BCT on principles of determining electricity generation prices for new power plants.

The electricity purchase and sale contract price must be within the electricity generation price bracket of the base year promulgated by the Minister of Industry and Trade, in which the electricity purchase price of the thermal power plant to be compared with the electricity generation price bracket of the base year is calculated on the basis of cost components corresponding to the cost components of electricity generation price bracket calculation.

We hope this Newsletter would bring you useful information.

Best regards.

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