VDB | Loi

LEGAL DIGEST: BANGLADESH, CAMBODIA, LAOS, MYANMAR, VIETNAM

Legislative developments - **December 2022**

BANGLADESH

Laws and Regulations

Green Finance

*Circular No. 07 dated 7 December 2022 issued by the Sustainable Finance Department of Bangladesh Bank on "**Green Transformation Fund in Taka for Export and Manufacturing-Oriented Industries**"*

Bangladesh Bank has set up a Green Transformation Fund in the amount of BDT50 billion to finance environmentally friendly infrastructure for export and manufacturing-oriented industries. The fund, which will be administered by the Sustainable Finance Department, will provide long-term loans at a maximum interest rate of 5% for investment in areas such as water-efficient irrigation, water conservation and management, waste management, resource efficiency initiatives including recycling, renewable energy, energy efficiency initiatives including heat and temperature management and ventilation and wind flow efficiency, and working environment improvement initiatives.

Banking and Finance

*Circular Letter No. 54 dated 22 December 2022 issued by Bangladesh Bank on **"Letter of Credit ("LC") Margin on Import Financing"***

To help ensure uninterrupted power generation and industrial operations, Bangladesh Bank has relaxed the opening LC margin rate on imports of lubricants and engine oil, as well as on imports of their raw materials. Banks are now allowed to set the margin rate based on their agreement with their customers.

*Circular No. 37 dated 15 December 2022 issued by the FEPD of Bangladesh Bank on "**Discount Claims against Export Trade**"*

The circular clarifies that authorized dealers can submit applications for discounts claimed by importers against the export of readymade garments. Garment accessories can be considered as readymade garments.

Legislative developments - **December 2022**

BANGLADESH

LAWS AND REGULATIONS
A Discount Committee, which includes the Leather Goods and Footwear Manufacturers and Exporters Association of Bangladesh as a member, will consider applications for discounts for the export of leather goods. Authorized dealers should submit such applications to the committee through the FEPD at the head office of Bangladesh Bank.

* * *

CAMBODIA

LAWS AND REGULATIONS
Tax
*Instruction No. 015 MEF of the Ministry of Economy and Finance ("**MEF**") dated 9 December 2022 on "**The Implementation of Stamp Tax on Billboards for Branches**"* The instruction provides information for enterprises regarding stamp tax on billboards as follows: ▪ An enterprise's branch registered with the General Department of Taxation ("**GDT**") is allowed to have only one business signboard and it must be the same as the original enterprise. Other signboards in the branch will be considered as the branch's commercial billboards, which are subject to stamp tax at a higher rate. ▪ Signboard owners must submit their tax declaration and pay the stamp tax to the Phnom Penh Tax Office of the GDT or the relevant provincial tax branch, depending on where the signboards are posted.
*Instruction No. 30408 GDT of the General Department of Taxation dated 14 December 2022 on "**Implementation of Advance Tax on Dividend Distribution Obligations**"* This instruction provides information on the order of funds to be used for dividend distributions and gives examples of how to calculate the Advance Tax on Dividend Distributions ("**ATDD**"). Details regarding the order of funds to be used are as follows: **1. For a qualified investment project ("QIP"):** **Step 1:** Amounts for the dividend are to be taken out of the enterprise's retained earnings on which annual Tax on Income ("**TOI**") has been paid at the rate of 0%. **Step 2:** If further amounts are needed, they are to be taken out of the retained earnings on which annual TOI has been paid as per the following time-bound progressive rates compared to the total TOI amount:

LAWS AND REGULATIONS

- 25% for the first two years
- 50% for the subsequent two years
- 75% for the final two years

Step 3: If further amounts are needed, they are to be taken out of the retained earnings on which annual TOI has been paid at the normal rate of 20% or 30%.

Step 4: Finally, any additional amounts needed are to be taken out of the income earned in the current year before the annual TOI has been paid.

2. **For enterprises other than QIPs that are taxed at the normal rate of 20% or 30%:**

Step 1: Amounts for the dividend are to be taken out of the retained earnings on which annual TOI has been paid at the normal rate of 20% or 30%.

Step 2: If further amounts are needed, they are to be taken out of the income earned in the current year before the annual TOI has been paid.

Financial Management

***2023 Law on Financial Management** issued by the National Assembly of the Kingdom of Cambodia on 10 December 2022*

The law sets the revenue for the national budget for 2023 at KHR34,165,163,000,000 (approximately US$8,332,966,586). Such revenue will be collected from, among others, taxes, contributions, VAT, and dividends.

The law also allows the Royal Government of Cambodia to:

- Receive loans from lenders amounting to SDR1,700,000,000.

Legislative developments – **December 2022**

VDB | Loi

CAMBODIA

LAWS AND REGULATIONS
▪ Lend to Electricite Du Cambodge a total of KHR406,500,000,000 (approximately US$99,146,341.47) to ensure that the price of electricity will not exceed the current price. ▪ Issue securities amounting to KHR813,000,000,000 (US$198,292,683) for the principal repayment of state securities issued in 2022.

* * *

LAOS

LAWS AND REGULATIONS#
Banking and Finance
*Law No. 15/NA dated 7 July 2022 issued by the National Assembly of the Lao PDR on "**Foreign Exchange Management**"* (Officially published November 2022). This law replaces the Law on Foreign Exchange Management No. 55/NA dated 22 December 2014. Below are highlights of the key changes. **Article 9 (Revised):** Foreign Currency Payments Individuals, legal entities, and organizations must exchange their foreign currency into Lao Kip before performing payment acceptance services and paying for goods, services, debt, dividends, salary or wages, and other state obligations. Such exchanges must be done at a commercial bank. The state budget income that is in foreign currency and is required to be used within the country must be sold to the Bank of the Lao PDR ("**BOL**") based on the daily exchange rate. Prices on price tags and in media advertisements, and the cost of goods and services, salaries and wages, and other items must be set in Lao Kip. All price structures for goods and services must use Lao Kip as the basis for the price calculation. The BOL conducts research and presents it to the government to set specific areas for allowing the use of foreign currency in the Lao PDR, such as in special economic zones, border trade zones, and duty-free stores, as well as for the payment of state obligations by legal entities that have income in foreign currency. The use of foreign currency in specific areas is specified in separate regulations. **Article 12 (New):** International Trade and Service Payments Residents of the Lao PDR who import and export goods and services must open a bank account with a commercial bank in the Lao PDR.

LAWS AND REGULATIONS#
Those who import goods and services must pay for them via a bank account with a commercial bank, through which they are allowed to request to buy foreign currency to make the payments. The commercial bank will consider selling foreign currency based on the prioritized goods and conditions specified in the relevant regulations. Those who export goods and services must transfer all income from their exports into an account opened in the Lao PDR at a commercial bank, and must sell any amounts of foreign currency received to the commercial bank where their account is held. If those who export goods and services require foreign currency to pay for raw materials, manufacturing materials, or production-related service fees, they are allowed to request to buy foreign currency from that commercial bank. **Article 15 (New):** Labor Earnings Labor earnings include salaries or wages, bonuses, welfare payments, and other legally earned income. Foreign employees who enter the Lao PDR legally for work are allowed to transfer their income to their home country through a payment service provider by providing the relevant documents as required by the BOL. Lao employees who work in foreign countries legally must transfer their income into the Lao PDR through a payment service provider that has opened a bank account with a commercial bank in the Lao PDR. The commercial bank must report all the transactions to the BOL. **Article 18 (Revised):** Capital Importation for Investment in the Lao PDR A foreign investor must import the registered capital and other capital into the Lao PDR in accordance with the relevant regulations. After enterprise registration, the investor must open a bank account with a commercial bank in the Lao PDR to support such capital. The investor must conduct all foreign currency transactions, such as capital importations, profit transfers, dividends, loan principal and interest payments to a foreign country, through this bank account. In cases where the importation of capital in cash is required, a cash declaration certificate and other relevant documents must be obtained from the customs authority at the border checkpoint.

LAWS AND REGULATIONS#

After the importation of such capital, a capital importation certificate must be obtained from the BOL within 30 days from the date the capital was imported.

Foreign investors that need to use the capital deposited in the bank account must sell the foreign currency to the commercial bank where the account is held, and the investor is allowed to request to buy foreign currency from the commercial bank to transfer payments overseas in accordance with BOL regulations.

Article 19 (Revised): Capital Exportation for Investment in a Foreign Country

Residents of the Lao PDR that need to export capital to invest in foreign countries must comply with the Investment Promotion Law and obtain approval from the BOL based on its policy and capital importation plan.

They must also open a bank account with a commercial bank in the Lao PDR for the purpose of transferring the capital to invest in the foreign country and the income obtained from the investment back to the Lao PDR.

Article 26 (Revised): International Loans of Private Sectors

International loans of private sectors consist of loans between financial institutions, individuals, legal entities, and organizations in the Lao PDR with non-residents in the Lao PDR.

Financial institutions, individuals, legal entities, and organizations in the Lao PDR that need to extend or obtain an international loan must obtain permission from the BOL and report the debt repayment to the BOL on a regular basis until the loan is paid off completely. Extending or obtaining an international loan must be done through the banking system.

Article 37 (New): Exchange Services

LAWS AND REGULATIONS#
Only commercial banks located in the Lao PDR are allowed to provide currency exchange services, which must be done based on the exchange rate set by the BOL. When exchanging one foreign currency for another foreign currency, it must first be converted into Lao Kip. The BOL determines the policy, principles, and regulations including the scope of currency exchange service activities. **Article 60 (Revised):** Effectiveness This law entered into force on 1 October 2022.

* * *

Legislative developments - **December 2022**

VDB Loi

MYANMAR

LAWS AND REGULATIONS
Export & Import

*Notification No. 90/2022 dated 2 November 2022 issued by the Ministry of Planning and Finance on "**Reduction of the Tariff Rate for the Importation of Battery Electric Vehicles**"*

Based on this notification, the tariff rate for the importation of the electric vehicles listed below is reduced to 0% for the period **2 November 2022 to 31 March 2023**. The 0% rate applies to completely built up ("**CBU**"), completely knocked down ("**CKD**"), and semi-knocked down ("**SKD**") vehicles.

- Road tractors for semi-trailers
- Trucks
- All motor vehicles for the transport of passengers including bus the transport of 10 or more people, including the driver
- Three-wheeled vehicles for the transport of passengers
- Three-wheeled vehicles for the transport of goods
- Electric motorcycles
- Electric bicycles
- Ambulances
- Prison vans
- Hearses
- Accessories (such as charging stations and charging system-related items) and spare parts for the electric vehicles listed above imported with the technical recommendation of the Ministry of Electric Power

Laws and Regulations

*Notification No. 62/2022 dated 11 November 2022 issued by the Ministry of Commerce on "**Rules for the Importation of Electric Vehicles** (including battery electric vehicles such as electric buses and electric cars) **under the Pilot Project**"*

The notification specifies the following rules with regard to the electric vehicle pilot project:

1. If a company that will import electric vehicles does not hold a certificate for opening a showroom, it must:
   - Be registered with the Directorate of Investment and Company Administration and owned by Myanmar citizens or jointly owned by Myanmar citizens and foreign investors.
   - Provide the sale and purchase agreement with the supplier for each brand of electric vehicles that are to be imported.
   - Have obtained the permission of the National Electric Vehicles and Related Business Development Steering Committee.
2. Companies must comply with the import quota for electric vehicles and the standards as specified by the National Electric Vehicles and Related Business Development Steering Committee.
3. Companies must provide warranties and make the necessary arrangements to have spare parts available for the electric vehicles to be imported and for the provision of after-sales services.
4. Companies must provide a bank guarantee showing that it is able to deposit MMK50 million at any bank recognized by the Central Bank of Myanmar.
5. Companies that are granted permission to import and sell electric vehicles must apply for a permit from the Ministry of Commerce to purchase the electric vehicles that have been imported in order to register the vehicles with the Road Transport Administration Department.

The notification is in effect from 1 January to 31 December 2023.

* * *

LAWS AND REGULATIONS
National Master Planning
*Promulgation of Conclusion No. 45-KL/TW dated 17 November 17, 2022, of the Central Executive Committee of the Communist Party on "**Orientation of the National Master Plan for the Period 2021-2030 with a Vision towards 2050**"* Below are some of the most important principles and viewpoints taken into consideration in constructing the latest National Master Plan. ▪ Organize the national development space nationwide in a scientific and uniform manner that ensures intra-regional and inter-regional linkages on the basis of six socioeconomic regions and use the advantages of each area in the region and the whole region. ▪ Mobilize, allocate, and effectively use resources to improve Vietnam's competitiveness. ▪ Focus development on areas with advantages such as geography, socioeconomic infrastructure, human resources to stimulate growth in the region. ▪ Ensure feasibility and connectivity for the next phases of development as appropriate in terms of the economy's capability to balance resources.
*Resolution No. 154/NQ-CP dated 23 November 2022 of the Government on "**The Action Program for Implementing Resolution No. 24-NQ/TW on Socioeconomic Development and National Defense and Security Assurance in the Southeast Region by 2030 with a Vision Towards 2045**"* Below are some of the notable infrastructure construction projects that will be done in the Southeast Region under Resolution No. 24-NQ/TW during the 2022-2030 period. ▪ Port logistics development in Ba Ria-Vung Tau and Ho Chi Minh City ▪ Ring Road No. 4 construction in Ho Chi Minh City ▪ Construction of the Ho Chi Minh City–Chon Thanh expressway

LAWS AND REGULATIONS

- Construction of the Dau Giay–Lien Khuong expressway
- Ho Chi Minh City–Trung Luong expressway upgrade and expansion
- Relocation of ports on the Saigon River
- Completion of the first phase of the Long Thanh International Airport project
- Expansion of Con Dao Airport

Oil and Gas

*The Petroleum Law 2022 approved on 14 November 2022 of the National Assembly stipulating "**The Regulation on the Criteria for Petroleum Lots and Fields to Receive Benefits from Investment Incentive Policies**"*

Under the Petroleum Law 2022, petroleum lots and fields must meet one of the following criteria to be eligible for investment incentive benefits:

- Petroleum lots that are located in deep-water, offshore areas, or areas with extremely difficult geographical conditions and complicated geology.
- Ordinary petroleum lots that have been tendered under the proper petroleum contract technical and economic conditions but for which no proposals have been received.
- Petroleum lots that are formed from returned areas under petroleum contracts for ordinary petroleum lots.
- Ordinary petroleum lots that have been returned by contractors before expiry of the contract.
- Petroleum lots formed by consolidating returned areas (as specified under the third bullet point above) and petroleum lots returned by contractors (as specified under the fourth bullet point).

LAWS AND REGULATIONS
▪ Petroleum fields that are allowed to maintain their operations at the end of petroleum contracts but fail to achieve the minimum investment efficiency when applying the technical and economic conditions of concluded ordinary petroleum contracts. ▪ New petroleum objects that have not been searched, explored, or petroleum discovered in sedimentary basins. The Petroleum Law 2022 enters into force on 1 July 2023 and replaces the Petroleum Law 1993.
Import - Export
*Decision No. 28/2022/QD-TTg dated 20 December 2022 of the Prime Minister on "**Amendments to Decision No. 18/2019/QD-TTg on the Import of Used Machinery and Devices**"* This decision supplements the regulation on the simplified procedure for importing used technological production lines, specifically: ▪ As an enterprise imports various goods for the production, it can put them into storage after submitting their import dossiers and documents. Import procedures for the production line must be done at only one customs clearance location. ▪ An inspection certificate for the imported production line must be obtained before it can be put into operation. The inspection certificate must be provided to the customs authorities within 12 months from the date of putting the first consignment into storage. ▪ Until the inspection certificate is obtained, goods can be installed and operated only for inspection purposes. ▪ If an enterprise needs more time for installation, operation, and inspection, then no later than 30 days before the deadline, it should submit a written request for extension (using Form No. 3) with confirmation from the assigned inspection organization to the Ministry of Science and Technology of Vietnam and the customs authority where the import procedures were performed. The deadline may only be extended once for up to six months. ▪ If an inspection finds that the prescribed requirements have not been met, the enterprise will be penalized for customs offenses and forced to re-export the goods.

LAWS AND REGULATIONS

- Within five working days after customs clearance is granted or rejected, reports must be submitted to the Ministry of Science and Technology of Vietnam and the People's Committee of the province where the project is being implemented using Form No. 4.

Decision No. 28/2022/QD-TTg enters into force on 1 March 2023.

Tax and Accounting

*Resolution No. 74/2022/QH15 dated 15 November 2022 of the National Assembly on "**Accelerating the Implementation of Policies and Laws on Thrift Practices and Waste Prevention**"*

Under the resolution, the Government of Vietnam is responsible for accelerating the road map for reforming tax policies.

For 2023, this includes:

- Implementing the review and handling of official dispatches and decisions promulgated improperly with respect to tax exemptions, reductions, and refunds.
- Strengthening the prevention of transfer pricing by foreign-invested enterprises.
- Settling cases where financial obligations have not been fulfilled with regard to the management and use of land, natural resources, and minerals.
- Improving how tax arrears are handled and organizing and summarizing an assessment of the results.
- Promulgating legislative documents elaborating on and guiding the implementation of laws related to thrift practices and waste prevention.
- Reviewing and promulgating national standards and regulations, unit prices, and socioeconomic norms in investment, construction, and public services that are lacking, overlapping, or conflicting.

LAWS AND REGULATIONS

- Amending the norms for public expenditure usage of public property and public vehicles, and applying fixed funding and budgeting for the use of public property.

- Issuing comprehensive regulations and guidance on payroll costs and the management and use of natural resources, land, and minerals.

*Circular No. 74/2022/TT-BTC dated 22 December 2022 of the Ministry of Finance on "**Forms and the Deadline for the Collection, Payment, and Declaration of Fees and Charges under the Jurisdiction of the Ministry of Finance**"*

Organizations and individuals must pay government fees and charges by one of the following four methods:

- By transfer to a fee collector's account opened at a credit institution exclusively for the collection of fees and charges. For fees and charges collected by the State Bank of Vietnam, transfer can also be made to the fee collector's account opened at the State Bank of Vietnam.

- By deposit into a fee collector's account opened at the State Treasury pending transfer to the state budget.

- By deposit into the account of a collecting organization other than a fee collector (applicable to online public services or administrative procedures according to the regulations of the Government of Vietnam).

- By cash paid directly to a fee collector.

Fee collectors must transfer all of the collected fees to fee accounts opened at the State Treasury pending transfer to the state budget, which must be done on a monthly basis, according to the laws on tax administration.

Circular No. 74/2022/TT-BTC entered into force on 22 December 2022.

Insurance

*Circular No. 69/2022/TT-BTC dated 16 November 2022 of the Ministry of Finance on "**Guidelines on Insurance Certificates, Insurance Agent Certificates, Insurance Brokerage Certificates, and Certificates of Insurance Auxiliary Services**"*

Domestic and foreign insurance training institutions are defined as follows:

LAWS AND REGULATIONS

- Domestic insurance training institutions include:
  - Training institutions established by state agencies: institutes, academies, and universities.
  - Training institutions of, or affiliated with, units established by state agencies.
  - Other training institutions with legal status to operate in Vietnam.

- Foreign insurance training institutions include:
  - Training institutions of, or affiliated with, insurance management and supervision agencies, or training institutions authorized by insurance management and supervision agencies to provide training and issue certificates in the insurance sector.
  - ASEAN Insurance Training and Research Institute (AITRI); Societies of Actuaries that are official members of the International Society of Actuaries.
  - Training institutions of nations that have mutual recognition agreements on insurance certificates with Vietnam.
  - Training institutions of foreign insurers and foreign reinsurers.
  - Other international training institutions, such as Australian and New Zealand Institute of Insurance and Finance (ANZIIF); Chartered Insurance Institute (CII); Insurance Institute of Canada (IIC); Institute of Risk Management (IRM); Risk Management Institute of Australia (RMIA); Chartered Institute of Loss Adjusters (CILA); Australian Institute of Chartered Loss Adjusters (AICLA); Lloyd's Maritime Institute; Life Office Management Association (LOMA); Life Insurance Marketing and Research Association (LIMRA).

Circular No. 69/2022/TT-BTC entered into force on 1 January 2023 and replaces Circular No. 125/2018/TT-BTC and Circular No. 65/2019/TT-BTC.

* * *