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# LEGAL UPDATES



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## Law on the provision of assistance for small and medium-sized enterprises

Law No. 04/2017/QH14 dated June 12, 2017 of the National Assembly on the provision of assistance for small and medium-sized enterprises.

This Law provides regulations on subjects, principles and policies of assistance for small and medium-sized enterprises including a micro-enterprise, small enterprise or medium-sized enterprise.

"Small enterprise or medium-sized enterprise" is the enterprise having the total employees who are engaged in social insurance no more than 200 people and having total capital not exceeding 100 billion VND or total revenue of the preceding year shall not exceed 300 billion VND (Article 4).

If the above criteria are met, the enterprise shall be supported by the State through policies such as: direct support by the capital from the state budget; support access to credit; exemption or reduction of taxes, charges, fees, land rent, land use fee and other amounts payable to state budget (Article 6).

Especially, the enterprise is entitled to enjoy the low rate of the corporate income tax (CIT) in a certain period, if the enterprise is the micro-enterprise; the enterprise is allowed to apply the simpler tax procedures and accounting systems (Article 10).

In addition, the enterprise also receives the assistance in rent in industrial zones, hi-tech zones and industrial clusters with the maximum period of the assistance is 5 years, exception for the enterprise with foreign direct investment (FDI), enterprise with State Capital (Article 11).

For household business converted into small and medium sized enterprises, it will be exempt from the fees for procedures, registration fees of establishing enterprise, fee for the first business license, 3-year license tax and it also receives the exemption and reduction of CIT, land use in a certain period (Article 16).

The Law shall take effect since January 01, 2018.



## Regulation on examination of corporate finance at foreign-direct-invested (FDI) enterprises

Decision No. 1381/QĐ-BTC dated July 24, 2017 of the Minister of Finance on promulgation of "regulation on coordination in examination of performance of mechanisms, policies on corporate finance at foreign-invested economic organizations and foreign-invested projects".

This Regulation prescribes the forms and contents of the coordination between the Ministry of Finance and agencies involved in the examination of performance of mechanisms, policies on corporate finance at foreign-invested economic organizations and foreign-invested projects in Vietnam.

Accordingly, the Department of Corporate Finance (belongs to the Ministry of Finance) shall assume the prime responsibility for coordinating with involved units such as the General Department of Customs, Department of Tax Policy, Department of Investment, Department of Finance Inspectorate, etc. to perform the periodic examination and irregular examination of the implementation of financial policies in the FDI enterprises.



In the course of summarizing and reporting to the Prime Minister on the financial status of the foreign-invested enterprises nationwide, if the Ministry of Finance detects suspicious signs of enterprises such as they still expand business and production activities regardless of suffering from losses, make depreciation account not appropriate to guidelines, transfer investment capital to other places when incentives are no longer given, etc. the Ministry of Finance (the Department of Corporate Finance and units affiliated to the Ministry of Finance) will coordinate with local Departments of Finance, Departments of Planning and Investment, Departments of Taxation, etc. in order to examine to clarify and report to the authorities according to the provisions of this Regulation.

Contents of examination include 08 following issues:

1. Value of assets contributed as capital by parties (value of land use rights, value of tangible assets such as machinery, equipment, manufactories, etc. intangible fixed assets, etc.).
2. Use of machinery and equipment imported free of duty to create fixed assets for proper purposes.
3. Performance of loans (bank loans, issuance of corporate bonds, etc.).
4. Setting up and use of provisional funds, fixed asset depreciation, accounting of exchange rate differences.
5. Share of profits from state-contributed capital in foreign-invested economic organizations or projects.
6. Preservation of capital contributed by state-invested economic organizations and projects.
7. Transfer of capital, projects of parities contributed capital to enterprises.
8. Implementation of commitments and satisfaction of conditions for enjoyment of financial incentives and investment support (exclusive of tax - related incentives) after projects commence operation.

Periodic examination plans shall be sent to agencies, units for the examination coordination including: units in the Ministry of Finance, Departments, Departments and branches in localities where enterprises are examined before January of the year of examination. In addition, the examination plan shall be announced and publicized on websites of the Ministry of Finance, the Ministry of Planning and Investment and the Foreign Investment Agency's Portal.

The examination period at an economic organization or a project must not exceed 5 working days.

This Decision takes effect from the date of its signing.





## Reduction of the charges and fees for the enterprises

That is one of the contents under Resolution No. 75/NQ-CP dated August 09, 2017 of the Government on the Government's regular meeting - July 2017.

In this Resolution, the Government has asked the Ministries, industries, localities to focus on implementing measures to reduce input costs for the enterprises, such as:



- Immediately eliminate the procedures and regulations that give rise to unofficial expenses;
- Review and reduce the costs associated with business conditions, abolish unnecessary business conditions which increase costs for businesses;
- Simplify and improve the inspection, quarantine, surveillance, evaluation and test procedures and order, and other activities related to the issuance of permits and other papers, thereby reducing the charge rate;
- Reduce specialized inspection procedures with a view to reducing the ratio of imported goods subject to specialized inspection at clearance stage down to 15% from the current ratio of 30 - 35%;
- Remove at least 50% of the commodities in the list subject to state inspection before customs clearance ;
- Reduce road tolls collected at BOT stations;
- Reduce logistic costs to 25% of GDP by 2018, and 20% of GDP by 2020;
- Temporarily not increase the level of health insurance premiums to avoid creating pressure and cost on enterprises and workers.



## Regional minimum wage for the year 2018: An average increase of 6.5% compared to the year 2017

On August 07, 2017, the National Wage Council agreed to fix the salary schemes of regional minimum wage in 2018 with the following levels:

- Region I: VND 3,980,000 per month, which is VND 230,000 (6.1%) higher than the current regulation;
- Region II: VND 3,530,000 per month, which is VND 210,000 (6.3%) higher than the current regulation;
- Region III: VND 3,090,000 per month, which is VND 190,000 (6.6%) higher than the current regulation;
- Region IV: VND 2,760,000 per month, which is VND 180,000 (7.0%) higher than the current regulation.

Hence, on a four-region average basis, the increase level of minimum wage in 2018 which was proposed by the National Wage Council is 6.5% higher than that of the year 2017.

The plan to increase the regional minimum wage of 2018 will be submitted to the Government for adoption to issue the new Decree on the regional minimum wage of 2018.

The new Decree will replace the Decree No. 153/2016/ND-CP on the regional minimum wage for employees working under the labor contracts (taking effect since January 01, 2018).

## Products being animal feed which expire circulation effect from November 20, 2016 to November 20, 2017 shall be further circulated for another 18 months

Decree No. 100/2017/ND-CP dated August 18, 2017 of the Government on the amendment and supplement of Decree No. 39/2017/ND-CP dated April

04, 2017 of the Government on management of animal feed and feed for aquaculture.

The Decree supplements Clause 5a of Article 29 Decree No. 39/2017/ND-CP in order to increase the circulation term for another 18 months for the products being animal feed and feed for aquaculture, which expire the circulation effect from November 20, 2016 until November 20, 2017.

Therefore, those products being animal

feed and feed for aquaculture, which expire the circulation effect from November 20, 2016 to November 20, 2017 shall have the chance to be circulated for another 18 months.

This Decree takes effect from the date of its signing.



## Since 2018, the salary base used for calculating to pay social insurance shall include other additional pays



After "Salary allowance" was added into the salary base on which to pay the social insurance since 2016, "other additional pays" is continually included in the calculation for paying social insurance since 2018 in compliance with the schedule outlined earlier at Clause 2 Article 17 Decree No. 115/2015/ND-CP.

According to Article 21 of Decree No. 05/2015/ND-CP, the salary stated in the labor contract shall include:

- Salary;
- Salary allowance;
- Other additional pays.

According to the explanation at Clause 3 Article 4 of Circular No. 47/2015/TT-BLDTBXH, other additional pays are understood as:

Measured extra payments and the contractual salary mentioned in the labor contract that **are being paid regularly in each period of salary payment.**

Unmeasured extra payments and the contractual salary mentioned in the labor contract that are paid regularly or irregularly in each period of salary payment **concerning the working progress and output** of the employee.

However, the following pays shall not be considered as "other additional pays" if they are stated in the Private section of the labor contract:

- Bonus stipulated in Article 103 of the Labor Code, initiative bonus;
- Meals between shifts;
- Gasoline, telephone, travel, accommodation and childcare allowances;
- Assistance upon the death of employees' relatives, the marriage of employees' relatives, employees' birthday;
- Subsidy to the employees in difficult situation in case of work accident;
- Other allowances and assistance.

(Clause 2 Article 30 of Circular No. 59/2015/TT-BLDTBXH dated December 29, 2015).

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