

Asia Counsel Insights provide an overview of the key trending legal and business issues in Vietnam and how they may impact your business. Please enjoy your read.

Key Dates

- Election Day is on 22 May 2016 for delegates to the 14th National Assembly and People's Council for the period 2016 -2021.
- US President Barack Obama will visit Vietnam 22-25 May.

Asia Counsel is the Official Legal Partner of the Vietnam Basketball Association



Press

New Law on Press

The National Assembly passed the new Law on Press on 5 April 2016. Notable points of the new law are below.

- Press organizations and reporters are obliged to keep confidential the identity of their source unless there is a written request from the Prosecutor General of the People's Procuracy and the Chief Judge of the People's Court at the provincial level or above requiring disclosure for the purpose of investigating and prosecuting very serious and exceptional serious offences.
- Press organizations and reporters are prohibited from reporting on news that aim to conclude any criminal offence without final judgement of a competent court – this aims to prevent trial by media.

The Law on Press takes effect from 1 January 2017.

Resources

Circular on Gas Business

The Ministry of Industry and Trade issued Circular 03/2016/TT-BCT on 10 May 2016 implementing the Government decree on gas business. The key provisions are below.

- Circular 03 regulates the content of a LPG gas agency agreement for the retail supply of LPG gas.
- A producer or processor of LPG/LNG gas which exports or imports LPG/LNG for such purpose must obtain a license from the MOIT.
- An enterprise carrying on the bottling of LPG gas, the transportation of LPG/LNG/CNG gas, agency for the distribution of LPG/LNG gas must obtain a certificate of satisfaction of conditions to conduct such activity. The certificate is issued by the local department of industry and trade.

Health

Public pharmaceutical pricing

On 5 May 2015, the Ministry of Health ("MoH") issued Circular 09/2016/TT-BYT promulgating the lists of medicines subject to public tender and centralized tender at national and local levels, and the list of medicines authorized for negotiable pricing. These lists are applicable to medicine procurement by public hospitals.

On the same day, the MoH issued Circular no. 10/2016/TT-BYT promulgating the list of domestically produced medicines satisfying requirements of treatment, pricing and supply capability. The list includes those qualified for treatment based on their technical criteria, having reasonable price and availability for nationwide supply. Exported products cannot be offered in public tender for supply of these medicines.

The two circulars take effect as of 1 July 2016.

About Asia Counsel

Asia Counsel is a dynamic international corporate and commercial law firm dedicated to serving clients in Vietnam. Our partners have over eight years of experience in working on complex and challenging matters in Vietnam. We are committed to helping clients achieve their business strategies and providing outstanding legal services.

If you have any questions on any of the items discussed above, please do not hesitate to contact us.

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Energy

New regulation on electricity wholesale price bracket

On 12 May 2015, the Minister of Industry and Trade issued Decision no. 1797/QĐ-BCT regulating the wholesale price in the electricity market for power corporations in 2016.

EVN must apply this to all power corporations.

The wholesale pricing is below.

- Northern Power Corporation from 1,107 to 1,172 dong/kWh;
- Southern Power Corporation from 1,310 to 1,346 dong/kWh;
- Central Power Corporation from 1,119 to 1,200 dong/kWh;
- Hanoi Power Corporation from 1,360 to 1,422 dong/kWh;
- Ho Chi Minh City Power Corporation from 1,508 to 1,562 dong/kWh.

The wholesale electricity price can only be within the above range. The above price is exclusive of VAT.

If there is an adjustment to the price bracket then EVN must report to the MOIT for approval.

The pricing is valid up to 31 December 2016.

Tax

New Law to amend Value Added Tax (VAT) and Excise Tax (ET)

The National Assembly passed Law No. 106/2016/QH13 on amendments to the Law on Value Added Tax ("VAT Law"), Law on Excise Tax ("ET Law") and Law on Tax Management. The laws will take effect on 1 July 2016. The key provisions are below.

- The VAT Law adds more items to the list of VAT exemptions, including (i) services of caring for the elderly and disabled people; and (ii) export products with a total value of natural resources or minerals and energy expenses accounting for 51% or more of the cost price of the product.
- The selling price of the importer is used as the taxable price for the excise tax on imported goods.
- Lower tax rates are applicable for motor cars of up to nine seats and a small cylinder capacity of 2,000 cu cm and below.
- A lower rate payment charge at 0.03% per day will apply for late tax payment compared with the previous 0.05% and 0.07%;

Food Safety

Penalties for Breach of Food Safety

Vietnam penalizes breach of food safety laws through Government Decree No. 178/2013/ND-CP dated 14 November 2013.

Penalties can go up to VND100 million (about USD4,500) and belligerent offenders can face revocation of their business license. There are also criminal penalties where serious health issues and death are involved.

Offences for breach of food safety laws include:

- Using chemicals that are banned in the processing of food products.
- Restaurants may be penalized if they do not: have food preparation spaces above ground; separate fresh food from cooked food; have hygienic kitchens or dispose rubbish daily.
- There are fines if food establishments do not train their staff on food safety and hygienic food handling.

Vietnam Fact Box

2016 National Assembly Elections

There are 870 candidates in 184 electorates across Vietnam. 500 candidates will be elected to be the next members of the 14th National Assembly.

There are 50 candidates in each of Ha Noi and Ho Chi Minh City, 30 of them in each of the two cities will be elected.

35-40% of the delegates must be women according to the Resolution No. 11 of Vietnam Politburo. Candidates must be approved by the Fatherland Front.

Each province has at least three delegates and the rest shall be based on the population.

Labour

New Law on Children

The National Assembly passed the Law on the Child No. 102/2016/QH13 dated 5 April 2016 providing regulations regarding child labour. Here are some key points.

- A "child" is defined as a person under 16 years old.
- Any child is protected against labour exploitation, working before the suitable age or overtime or under heavy, toxic and dangerous situations. Moreover, the employer is also prohibited to require the employee to work under the jobs or workplaces which may adversely affect their personal growth.
- However, the law encourages employers from providing vocational training to children.
- The Law also require setting up the manufacturing establishments and polluted or toxic factories far away from places frequented by children (eg schools).

The Law takes effect from 1 June 2016.

