

Asia Counsel Insights



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

In this **November 2023 edition**, we provide new updates on the new policy on reducing land rental, electricity price bracket for renewable energy projects and the new requirement for insurance products.

NEW POLICY ON REDUCING LAND RENTAL

On 3 October 2023, the Prime Minister of Vietnam issued Decision No. 25/2023/QĐ-TTg on reducing land rental in 2023, effective from 20 November 2023 ("**Decision 25**").

Corporations and persons who are leasing land from the State in the form of annual land rental payments will receive a 30% reduction in land rental payable in 2023. Tenants who already have an existing land reduction or deduction in some cases will also have a further 30% reduction.

The land tenants are required to apply for the reduction by 31 March 2024 with the appropriate tax authority. The tax authority is required to respond within 30 days after receiving a proper application with a determination on the amount of the land rent required to be paid in 2023.

The land rental deduction does not apply to any outstanding land rental amounts accrued prior to 2023. Tenants who have already paid their land rental for 2023 can apply to offset against land rental payments for the following year and if the lease expired then an application for a refund can be made to the tax authority.

ELECTRICITY PRICE BRACKET FOR RENEWABLE ENERGY PROJECTS

On 1 November 2023, the Ministry of Industry and Trade ("**MOIT**") issued Circular 19/2023/BTC on the method of formulation of the electricity price bracket ("**Bracket**") for solar and wind power plants ("**Circular 19**"). This circular will take effect from 19 December 2023.

Circular 19 applies to solar and wind power plants that (i) are not subject to the transitional electricity price scheme under Circular No. 15/2022/TT-BCT dated 3 October 2022 and (ii) are not bound by an in-effect electricity price with Vietnam Electricity ("**EVN**") under an existing PPA. Applicable project companies must negotiate electricity purchase prices with EVN within the Bracket.

The Bracket will range from 0 VND/kWh to a ceiling price ("**Ceiling Price**"). The Ceiling Price is the electricity generating price of standard solar and wind power plants selected by EVN. The calculation is based on several factors relating to the standard plants, including but not limited to investment costs and expenses, the capacity of the plants, discount rate and the project life cycle. Annually, EVN and the Electricity Regulatory

Authority of Vietnam will compute the Ceiling Price and propose the Bracket for MOIT approval. There has not been any projection for the Ceiling Price for 2023-2024.

The Bracket for the electricity purchase price now is still unpredictable and depends on the calculation of EVN. The conditions for a project to achieve the Ceiling Price have not been addressed. It also appears that the payment currency for electricity sold to EVN must be in VND since the Bracket is denominated in this currency, which results in foreign exchange risk for foreign invested projects.

We will provide updates on further developments of the Ceiling Price once available.



NEW REQUIREMENTS FOR INSURANCE PRODUCTS

On 2 November 2023, the Ministry of Finance (“**MOF**”) issued Circular 67/2023/TT-BTC guiding Law on insurance business and Decree 46/2023/ND-CP taking effect on date of issuance (“**Circular 67**”). Below are the two key highlights of this circular.

(a) Online insurance services

Circular 67 introduces new requirements for online insurance services.

Insurers and insurance brokers must (i) notify the MOF on the provision within 7 working days from the date that they provide online insurance services, and for those that already have an online presence they must provide details of the insurance services and products to the MOF by no later than 31 January 2024; (ii) file an annual report to the MOF on its online operations; and (iii) publish its operational rules, details of insurance products and transaction process on its website.

The prescribed forms for the reporting and notification requirements are attached to Circular 67.

(b) Insurance agents

Circular 67 regulates the advisory activities of investment-linked insurance, a type of life insurance in which the insurance premiums, after deducting insurance costs, will be used for investment at the insurer’s associated funds. This is in response to recent news reports

of unscrupulous agents selling these types of products.

Insurance agents must comply with the following requirements when advising clients on investment-linked insurance products:

- (i) The advising sessions must be recorded by the insurance agent, then confirmed by the client and independently checked by the insurer. The insurer must store the recording for at least five years;
- (ii) Insurance agents must not compare or promise better investment results between different funds or insurance companies;
- (iii) Insurance agents must explain to clients that buying insurance is not mandatory to access other products and services offered by insurance agents;
- (iv) Insurance agents must not create or unilaterally modify product catalogs provided by insurance companies;
- (v) Insurance agents must on a monthly basis compare data regarding new insurance contracts, effective contracts, and premium revenue with the insurer; and
- (vi) Insurance agents must not advise or offer investment-linked insurance contracts with clients within 60 days before and after disbursing the entire loan amount to such clients. This rule applies for bancassurance only.



About Asia Counsel

Asia Counsel is a dynamic international corporate and commercial law firm dedicated to serving clients in Vietnam. Our partners have over 15 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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