

# LEGAL UPDATE

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**JUNE 2022**

*Welcome to this week's edition of the BLawyers Vietnam's Legal Update, a news update for who wants to stay on the edge of Vietnam's legal policies and guidelines*

*On this week's Legal Update, we will lead you explore 03 following issues:*

- 1. Strengthening the review and inspection to detect taxpayers having signs of risks on invoices, combating VAT refund fraud;**
- 2. New minimum wage for employees working under labor contracts; and**
- 3. Summary of articles published in June 2022**



## STRENGTHENING THE REVIEW AND INSPECTION TO DETECT TAXPAYERS HAVING SIGNS OF RISKS ON INVOICES, COMBATING VAT REFUND FRAUD

**The General Department of Taxation has issued Official Letter 1873/TCT-TTKT dated 01 June 2022 to strengthen the review and inspection to detect taxpayers having signs of risk on invoices, combating VAT refund fraud. The notable content includes:**

- The General Department of Taxation requires tax authorities at all levels:
  - ◊ Implementing synchronous measures to spread and exchange experiences on signs and violations in invoice management: Illegal issuance, use, purchase and sale of invoices.
  - ◊ Organizing the review, assessment, and classification of enterprises having signs of risks on invoices through suspicious signs.
- Some typical signs and violations in the Appendix attached to this Official Letter include:
  - ◊ Enterprises have large turnover and input and output VAT but do not generate payable tax amounts and have negative VAT for many periods;
  - ◊ Enterprises have no fixed assets, or the value of fixed assets is very low;
  - ◊ Enterprises have suspicious transactions via banks (money being transferred or withdrawn on the same day);
  - ◊ Enterprises employ workers that are inconsistent with its size and industry;
  - ◊ An individual in his name (the legal representative) establishes and operates many enterprises; ect.
- Other signs and violations are specified in this Official Letter.

## NEW MINIMUM WAGE FOR EMPLOYEES WORKING UNDER LABOR CONTRACTS

**On 12 June 2022, the Government issued Decree No. 38/2022/ND-CP to issue regulations on the minimum wage for employees working under labor contracts. The notable content includes :**

- The new minimum wage is regulated as follows :

Region	Monthly minimum wage (Unit: VND/month)	Hourly minimum wage (Unit: VND/hour)
Region I	4.680.000	22.500
Region II	4.160.000	20.000
Region III	3.640.000	17.500
Region IV	3.250.000	15.600

- The list of geographical areas in Region I, Region II, Region III, and Region IV is specified in the Appendix attached to this Decree.
- The Decree provides guidance on converting weekly or daily wages, wages by-product, or package wages for employees to monthly or hourly wages to ensure the application of the minimum wage for these groups of employees.
- There is no longer a regulation on a higher minimum wage for employees who have undergone vocational training or vocational training.
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## SUMMARY OF ARTICLES PUBLISHED THIS MONTH

Below are the articles that were published on the BLawyers Vietnam's website in this month. Please click on the links below to see more.

1. **Commercial agencies and 03 notes under Vietnamese laws:** Commercial agency is one of 04 commercial intermediary activities of a trader regulated by Vietnamese laws (along with trader representative, commercial brokerage, purchase, and sale of goods by mandated dealers). BLawyers Vietnam would like to explain this definition and 03 notes under Vietnamese laws.

2. **06 groups of people who have the right to request the opening of bankruptcy proceedings under Vietnamese law and a brief overview of exercising their rights:** During business operations, an enterprise may fall into a status of a crisis affecting its solvency. BLawyers Vietnam would like to present to you information on this issue.

3. **Tax obligation imposed to asset selling of a Vietnam-based enterprise:** A Vietnam-based enterprise that sold its assets shall obligate to declare and pay the value-added tax and the corporate income tax to State. BLawyers Vietnam would like to briefly raise 2 issues regarding tax obligation imposed to asset selling of a Vietnam-based enterprise.

4. **Is Vietnam tightening the recruitment and employment of foreign workers?** The recruitment and employment of foreign workers in Vietnam are clearly regulated in the prevailing Labor Code and guiding documents. So, is Vietnam tightening the use of foreign workers, and to what extent? BLawyers Vietnam will analyze accordingly.

5. **How can Vietnam-based enterprises prevent the risk of being disclosed trade secrets by employees?** Trade secret is especially important in determining the success of an enterprise. Therefore, along with the development, enterprises must find ways to prevent competitors from accessing their trade secret. One of the subjects that can disclose TS is employees because they are the ones accessing trade secret directly. So how can enterprises prevent the risk of being disclosed trade secret by employees?

6. **Notes of the law of Vietnam to develop the non-disclosed agreement (NDA) and non-compete agreement (NCA) between the enterprise and employees:** Currently, the non-disclosed information and non-compete agreement to the employees give many enterprises concerns, especially the enterprises specializing in information technology. So, which regulations of Vietnam that the enterprise must consider developing such agreements?

7. **Which incomes of an enterprise shall be entitled to the corporate income tax exemption by the laws of Vietnam?** Corporate income tax directly affects the business of an enterprise, thus knowing which incomes shall be entitled to corporate income tax exemption o plays an important role. BLawyers Vietnam would like to which incomes are entitled to corporate income tax exemption and application dossiers and orders to request a such an exemption.

8. **Provisional Emergency Measures – Proper understanding and usage in dispute settlement according to Vietnamese law:** During the resolution of lawsuits under civil procedures, provisional emergency measures (also called interim injunctive relief/ interim relief orders) may be a “turning point”. Such a “turning point” may speed up or suspend/ prolong the case settlement. Thus, how can involved parties apply provisional emergency measures?

