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The background image is an aerial night view of a city skyline. Several tall skyscrapers are illuminated with lights, and their reflections are visible on the water in the foreground. The sky is dark with some clouds. The text "LEGAL UPDATES November 2020" is overlaid in the center of the image in a bold, red font.

LEGAL UPDATES
November 2020

BIDDING

Circular No. 06/2020/TT-BKHDT of Ministry of Planning and Investment dated 18 September 2020 Guiding the Implementation of Government's Decree No. 25/2020/ND-CP Elaborating Implementation of A Number of Articles of the Law on Bidding on Bidder Selection ("Circular 06").

Effective date: 5 November 2020

1. Investment projects that must comply with the procedures specified in Circular 06 include:
 - 1.1 Projects in the form of public-private partnership (PPP) defined by regulations of laws on PPP;
 - 1.2 Projects that involve use of land for construction of commercial housing, commercial and service works; multipurpose works or complex for commercial purposes;
 - 1.3 Projects other than those mentioned in items 1.1 and 1.2 above which still have to undergo bidding in accordance with the specialised law or the law on socialisation.
2. Issued in conjunction with Circular 06 are the forms of invitation for prequalification, invitation to bid, request for proposal for a PPP project; preliminary qualification and experience requirements, invitation to bid or request for proposal for an investment project using land. In addition, Circular 06 also provides guidance on the determination of the floor price paid to the state budget for investment projects using land (m3).
3. There are also some certain key points as below:
 - 3.1 In case there is only one investor meeting preliminary qualification and experience requirements, the Chairmen or Chairwomen of provincial People's Committees shall consider issuing decisions on the implementation of either of the following plans:
 - (a) Notifying and guiding that sole investor to submit documents to apply for investment policy decisions in accordance with the law; and
 - (b) Extending the deadline or time limit for registration for execution of a project.
 - 3.2 Supplementing new provisions on the extension of the deadline for submitting the application for registering investment projects using land in case of the e-procurement system's failure. In particular, when such failure is corrected and the e-procurement system resumes:
 - (a) during the time from (except as prescribed in item 3.2(b) below)
 - from 0h00' to 12h00', the new deadline shall be 15h00' on the same date;
 - later than 12h00' to 24h00', the new deadline shall be 09h00' on the subsequent date;
 - (b) on Saturdays, Sundays or public or national holidays, the new deadline shall be 9h00' of the working day right after those days.

COMMERCE

Circular No. 26/2020/TT-BCT of Ministry of Industry and Trade Guiding Pilot Auction of Tariff-rate Quota for Sugar in 2020

Effective period: from 11 September 2020 until 31 December 2020

1. Auctioned tariff-rate quota for sugar in 2020, including:
 - 1.1 72,000 tonnes of raw sugar;
 - 1.2 31,000 tonnes of refined sugar.
2. Auction rules
 - 2.1 Rules and procedures for property auction shall be carried out in accordance with regulations of law on property auction and characteristics of the property subject to auction.
 - 2.2 The Ministry of Industry and Trade shall establish a council holding the auction for pilot auction of tariff-rate quota for sugar in 2020.
 - 2.3 The head of the auction council shall promulgate the regulations on pilot auction of tariff-rate quota for sugar in 2020.
3. Notification of granting the right to use tariff-rate quota
 - 3.1 After receipt of the report on auction results from the auction council, the Ministry of Industry and Trade shall issue a written notification on granting the right to use the tariff-rate quota for sugar to the successful bidder(s).
 - 3.2 The notification on granting the right to use the tariff-rate quota for sugar to the successful bidder(s) shall be used for customs procedures according to customs regulations.

COMMERCE (cont.)

Decision No. 27/2020/QD-TTg of Prime Minister on List of Imported Goods Banned from Storage in Bonded Warehouses (“Decision 27”),

Effective date: 15 November 2020

1. According to the Decision 27, the list of imported goods banned from storage in bonded warehouses includes
 - 1.1 Cigarettes of tobacco or tobacco substitutes

Cigarettes containing tobacco with the 555 or Esse brand and not originating in Vietnam with the Code No. 24.02.20.
 - 1.2 Spirits

Whiskies of a capacity exceeding 50 ml not originating in Vietnam with the Code No. 22.08.30.00.
2. In case the shipments have been moved into bonded warehouses before the effective date of this Decision 27, the prevailing laws in connection with the period of bonded warehouse storage period shall be applied. In case of failing to export such shipments upon expiry of period for storage in the bonded warehouse as specified in Article 61 of the Law on Customs, those shipments will have to be re-exported through the initial checkpoint of import.

MEDICAL FIELD

Decree No. 117/2020/ND-CP of Government dated 28 September 2020 on Penalties For Administrative Infringement of Medical Field (“Decree 117”)

Effective date: 15 November 2020

Decree 117 shall replace Decree No. 176/2013/ND-CP on Regulations on Penalties for Administrative Infringement of Medical Laws. Below are the notable points of Decree 117.

1. Decree 117 additionally sets out penalties for infringement of selling, supplying, carrying out sales promotion of, advertising, and sponsoring alcoholic beverages. Monetary penalties applied in case of those infringements vary from VND2 million to VND80 million.
2. In addition, as from 15 November 2020, violations of organizations on health insurance contribution (e.g. failure to contribute or contribute in full health insurance, late payment of health insurance, health insurance evasion) shall be subject to a fine of up to VND80 million while under Decree No. 176/2013/ND-CP, the same violations are subject to a fine of up to VND70 million.

TAX

Decree No. 125/2020/ND-CP dated 19 October 2020 on Penalties For Administrative Infringement of Tax and Invoices (“Decree 125”)

Effective date: 5 December 2020

Regulations on penalties for tax and invoices infringement under Decrees No. 129/2013/ND-CP and No. 109/2013/ND-CP, Circulars No. 166/2013/TT-BTC, No. 10/2014/TT-BTC, and No. 176/2016/TT-BTC are consolidated into Decree 125.

1. Under Decree 125, monetary penalties of tax offence are in general much higher than current range of penalties for the same violation in Decree No. 129/2013/ND-CP and Circular No. 166/2013/TT-BTC. For instance, infringement of tax registration deadline shall be subject to a fine of up to VND10 million compared to VND2 million under current regulations.
2. Besides, Decree 125 provides more cases under which infringement of tax and invoices shall not be sanctioned, as follows:
 - 2.1 Tax offenses, administrative infringement of invoices falling under cases which are not sanctioned according to the law on handling administrative infringement (e.g. under emergency circumstances, legitimate defence, unexpected event, force majeure, insufficient administrative liability capacity);
 - 2.2 Late implementation of online tax and invoices procedures due to technical problems of information technology announced on the portal of tax authorities;
 - 2.3 Tax offenses, late payment of tax due to compliance with documents guiding decisions issued by tax authorities;
 - 2.4 False declarations but the taxpayer has additionally declared the tax return and has voluntarily paid the amount of tax payable prior to (i) an inspection decision announced by the tax authorities; or (ii) the time when tax agencies detect such false declarations without tax inspection or examination at taxpayers' offices; or (iii) detection from other competent authorities;
 - 2.5 Late submission of personal income tax finalization dossiers of individuals who directly carry out personal income tax finalization but have enjoyed tax refunds;
 - 2.6 Violating the deadline of submitting the tax declaration for the period during which the taxpayer is entitled to extension of such tax declaration submission.

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