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## 1. Guidelines for pricing of assets, goods and services

**The Ministry of Finance has promulgated Circular No. 154/2010/TT-BTC dated October 1, 2010 regarding promulgation of the Regulations on pricing of assets, goods and services. This Circular is effective as of November 15, 2010.**

The Circular provides detailed guidelines for implementing Regulations providing for the principles and method of pricing of assets, goods and services valued by the State; goods and services under the categories of valorization, price registration, price declaration, and price negotiation as stipulated by laws.

The subjects of application include enterprises, cooperatives, organizations and individuals manufacturing and trading in assets, goods and services for preparing the pricing plans, price negotiation, price registration, price declaration; reporting the pricing plans for goods and services under the categories of control of elements constituting prices upon request by the competent State authorities in accordance with the laws on price management.

Specifically, regarding the principles of pricing of assets, goods and services, it is required to calculate accurately and sufficiently the reasonable actual production and operating expenses associated with the quality of assets, goods and services; in accordance with mechanisms, policies, econo-technical norms, expense norms issued by competent authorities; in accordance with the supply-demand relationship of assets, goods and services in the market and the buying power of the Vietnamese currency; in accordance with the local, regional, and world market prices and the competitiveness of goods and services at the time of pricing; in accordance with the socio-economic development policies of the State nationwide or in each region or locality.

The Circular also provides detailed guidelines on the method of pricing of assets, goods and services; the Steps of Valuation; the Cost Method; the Bases for Pricing; Valuation of assets, goods and services; Estimated Profits for Pricing, etc. Specifically, reasonable and valid actual production and operating expenses, which are necessary expenses for production of and trading in assets, goods and services which satisfy technical standards and quality standards, are determined on the basis of mechanisms, policies, econo-technical norms, expense norms issued by competent authorities; vouchers and invoices in accordance with the laws and in consistence with the market prices at the time of pricing or close to the time of pricing.

## 2. Licensing fee for mining business may reach to VND100 mil. per license

In implementation of Resolution No. 25/NQ-CP dated June 2, 2010 of the Government regarding simplification of 258 administrative procedures within the management scope of ministries and ministerial level agencies, the Ministry of Finance on October 11, 2010 promulgated Circular No. 155/2010/TT-BTC providing guidelines on the amounts to be collected, and the mechanism for collection, payment, management and use of the fees for licensing mining operations and fees for exclusive mineral exploration; superseding Circular No. 184/2009/TT-BTC dated September 15, 2009.



This Circular expressly provides for non-collection of fees for exclusive exploration for the following cases: the validity period of the exploration license, including the renewed period, is less than 12 months; the exploration activities in the areas where organizations and individuals are permitted for exploitation; in case of return of the exploration license or return of part of the area of exclusive mineral exploration licensed by the competent State authorities, it is not required to pay the fees for exclusive exploration for the remaining period from the date of return of the exploration license or it is not required to pay the fees for exclusive exploration for the area of exclusive exploration returned.

The amounts of licensing fees to be collected for the mineral exploration operations are as follows: for an area of exploration smaller than 100 ha, the amount of fee collected is VND4, 000,000 per license; for an area of 100 ha to 50,000 ha, the amount of fee collected is VND10, 000,000 per license; for an area larger 50,000 ha, the amount of fee collected is VND15, 000,000 per license. In case of renewal of a license, or relicensing upon assignment or inheritance, the person provided with licensing renewal, the assignee, or the heir must pay a fee equal to 50% of the aforementioned respective fee amounts.

Amounts of fees for exploitation operations are provided for in the “Table of amounts of fees to be collected for licensing mineral exploitation operations” attached to this Circular with the smallest amount collected being VND1 million per license for exploitation of sand and gravel in streams with exploitation capacity of less than 5,000 m<sup>3</sup>/year and the largest amount being VND100 million per license for exploitation of special and hazardous minerals.

This Circular is effective from November 25, 2010.

### 3. Guidelines for estimation of costs of legal assistance to enterprises

The Ministries of Finance and Justice on October 12, 2010 promulgated Joint Circular No. 157/2010/TTLT-BTC-BTP providing guidelines for estimation, management, use and finalization of state budget expenditures to ensure provision of legal assistance to enterprises.



The estimation, allocation, management and finalization of expenditures to ensure legal assistance to enterprises shall be performed in accordance with the provisions of the Law on State Budget, the Law on Accounting and documents guiding the implementation of such laws.

This Joint Circular provides further guidelines on a number of specific points with respect to the Program of Legal Assistance to Enterprises provided by ministries, agencies, local authorities and the Inter-branch Program of Legal Assistance. For the program of legal assistance to enterprises provided by ministries, agencies, local authorities: pursuant to the program of legal assistance to enterprises provided by ministries, agencies, local authorities as approved by Ministers of respective Ministries, the Chairmen of the provincial People's Committees, the agencies entrusted with the duties of coordinators in organization and implementation of the activities legal assistance to enterprises under ministries, agencies, local authorities in accordance with Decree No. 66/2008/ND-CP dated May 28, 2008 shall prepare cost estimates for implementation of such program for incorporation into the annual budget estimates of ministries, agencies, local authorities, and reporting to competent authorities in accordance with provisions of the Law on State Budget and guiding documents.

Expenditures for implementation of the inter-branch program of legal assistance to enterprises

(with respect to the central budget source) shall be allocated in the annual budget estimates of ministries and central agencies in charge of the Program's activities. Annually, based on the action plan of the program prepared by the Steering Committee of the Program within the scope of activities of the Program approved by the Prime Minister, the agency in charge of the Program's activities shall prepare a detailed cost estimate for implementation and incorporate the same into the agency's own budget estimate for submission to the competent authorities in accordance with the Law on State Budget and guiding documents.

Local authorities shall, in accordance with guidance of the Steering Committee of the Program, prepare cost estimates for activities assigned for coordination in implementing the Program in their locality for the purpose of incorporation of the same into the budget estimate of the local authorities. The allocation of budget for the purpose of implementation of the Inter-branch Program of Legal Assistance shall ensure not to be overlapping with expenditures allocated to the Program of Legal Assistance provided by ministries, agencies and local authorities and expenditures from other funding or sponsoring sources (if any) used for the provision of legal assistance to enterprises.

This joint circular shall take effect 45 days after the date of signing thereof.

#### **4. Regulations on application of codes and standards in construction activities**

The Ministry of Construction recently promulgated Circular No. 18/2010/TT-BXD dated October 15, 2010 regarding the Regulations on application of codes and standards in construction activities.

Accordingly, the Circular stipulates the application of national technical codes, national standards, basic standards and foreign construction standards (hereinafter referred to collectively as codes and standards) in construction activities in Vietnam.



Domestic and foreign organizations and individuals, upon application of codes and standards to their construction activities in Vietnam, must comply with regulations. Specifically, national technical codes must be applied in construction activities, including surveying and testing in construction; construction planning and urban planning; preparation and appraisal of projects for investment in construction; design, construction, and final acceptance of construction works; production, import and export and circulation of products and goods being construction materials.

National standards, basic standards, and foreign construction standards shall be applied in construction activities on the voluntary basis, except for the standards cited in the codes or legal documents. Application of standards must satisfy the requirements on ensuring synchronism and feasibility of the system of standards to be applied to a project in the whole processes of surveying, testing, design, production and manufacture, construction and final acceptance of construction works; must be in accordance with the requirements of national technical codes on construction and other relevant fields in accordance with the laws; in case national technical codes are unavailable, basic standards and foreign construction standards must be in accordance with the requirements set forth in the obligatory national standards as stipulated by ministries and ministerial agencies.

For State-funded projects for investment in construction, priority shall be given to use of national standards. In case national standards are unavailable, the investment decision-making authority may consider and approve foreign standards.



The Circular also stipulates that standards shall be directly applied in construction activities. It is encouraged to apply the latest version of standards. Also, standards may be applied indirectly through implementation of regulations in technical documents and guidelines in which such standards are referred to in whole or in part.

This Circular is effective as of the date of its promulgation.

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## Legal Advice

### **QUESTION:**

**Background tests – how workable/ reliable are background tests in Vietnam.**

### **RESPONSE:**

There are many ways to test the background of employees in Vietnam.

In general, Vietnam labour law does not require or prohibit such tests. However, the company may require the following legal documents to “test” the background of employees:

- (i) Judicial Record issued by the provincial Department of Justice where the employee resides. Such Judicial Record will show previous criminal conviction(s) and previous offence(s) of the employee (if any) unless the offence has been deleted from the records by law;
- (ii) Curriculum Vitae with the confirmation under seal of the local police where the employee is living;
- (iii) Notarised degrees, certificates and/or diplomas;
- (iv) Undertaking or other evidence of the employee regarding to his/her background with the confirmation of local police or other relevant authorities;
- (v) Comments or recommendations of the employee’s previous employer(s).



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