
Recent Legal Developments in Vietnam

1. New Law on Assistance for SMEs

On 12 June 2017, the National Assembly passed the Law on Assistance for Small and Medium Enterprises (coming into effect from 1 January 2018). This law sets forth the scope of assistance available to **SMEs**, being small or medium-sized enterprises with an annual average number of employees participating in social insurance being no more than 200 and satisfying one of the following criteria:

- The total capital is not greater than VND 100 billion; and
- The enterprise's revenue of the previous year is no greater than VND 300 billion.

Under this law, SMEs will receive assistance in respect of access to credit, credit guarantee funds, tax and accounting regimes, production areas, technologies, incubators, technical establishment and co-working spaces, market expansion, access to information, consultancy and legal issues and assistance in HR development.

For *innovative start-ups*, additional support may be provided.

The law currently sets forth in general terms the range of support available. However, the implementation and provision of such support and assistance remains to be elaborated by guiding decrees and circulars. Nevertheless, it marks the Vietnamese government's forward approach in developing Vietnam's innovative start-up ecosystem.

2. New Law on Technology Transfer

On 19 June 2017, the new Law on Technology Transfer was passed ("**LTT**"), which will supersede the existing Law on Technology Transfer (2006) from 1 July 2018.

The new LTT was passed for the purpose of increasing the country's production capacity and competitiveness in both domestic and foreign markets. Compared to the existing 2006 law which prescribed optional registration, the LTT now requires certain technology transfer agreements to be registered with the science and technology authorities. These include cross-border technology transfers (whether to or from Vietnam) and domestic transfers that uses state capital or the state budget.

The new LTT further specifies tax incentives that may be applied for certain subjects, including notably incubators for science and technology (including for innovative start-ups).

3. New Decree on Alcohol Trading

On 14 September 2017, the Government passed Decree 105/2017/ND-CP on alcohol trading to replace Decree 94/2012/ND-CP on the same area as from the effective date. Decree 105 comes into effect from 01 November 2017.

Under the new decree, the conditions for wine trading has been relaxed. For example, (i) the minimum warehouse area for alcohol distribution has been reduced to 150m² (compared to the existing 300m²), (ii) the requirements for the trader to demonstrate financial capacity has been abolished (being VND 1 billion for alcohol distribution and VND 300 million for alcohol wholesale license), and (iii) the requirement for the trader to have minimum sufficient transportation vehicles has been abolished

Those with an alcohol distribution license are now not just limited to selling their alcohol products to wholesalers in its distribution system, but also directly to retailers and entrepreneurs who sell wines for onsite consumption. There is also no limit on the number of alcohol trading licenses that a trader may have (e.g., a trader can hold a license for distribution, wholesale, retail sale, and retail sale for on-site consumption).

4. Online System for Issuance of Work Permits

On 15 August 2017, the Ministry of Labor, Invalids and Social Affairs issued Circular No. 23/2017/TT-BLDTBXH to guide the online issuance of work permits to foreign workers in Vietnam. This circular will come into effect from 2 October 2017.

Under this circular, the labour authorities have implemented an online system through which work permits may be processed. Particularly, if electing to use the online system, the work permit procedures are as follows:

- (i) At least 7 working days before the planned date on which foreign workers start working for the employer, the employer electronically submits the declaration and application for work permit to the labour authorities through the designated website.
- (ii) Within 05 working days from the receipt of a sufficient declaration and application for work permits, the labour authorities will response to the employer by the email to confirm the conformity of the application. If the application is sufficient, the employer will, in person or by post, submit the original work permit application to the labour authority for verification and retention.
- (iii) No later than 8 working hours from the receipt of the original work permit application, the labour authority will issue its result to the employer in person or by post at the employer's election.

However, note that while the application procedure has been streamlined, the circular does not change the type of supporting documents required for the work permit. Therefore, employers/employees are still required to prepare the required supporting documents in accordance with the law.

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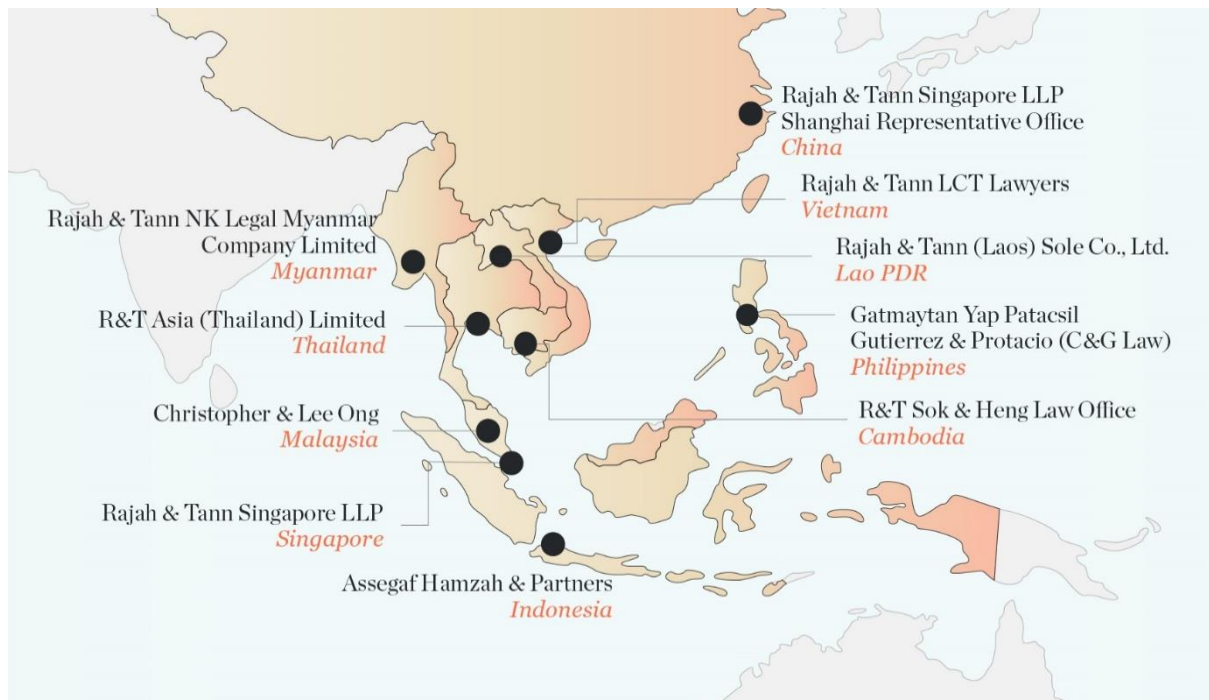
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