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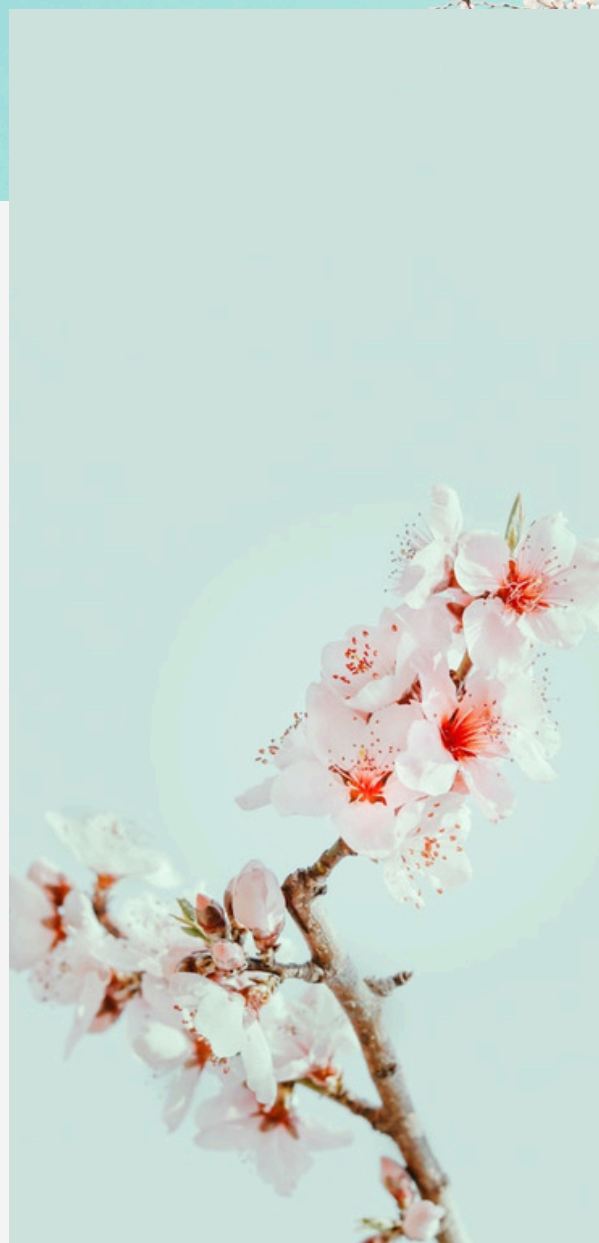
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NOTABLE ACTIVITIES IN MARCH 2025

The webinar “**Building an effective charter – Improving corporate governance**” was held by NHQuang&Associates on March 20, 2025, and attended by representatives of many enterprises, lawyers, and law students.

At the webinar, Ms. **Tran Thi Thanh Huyen** – Partner of NHQuang&Associates shared practical information related to the core reasons why enterprises need to build a charter and the role of a charter in the business model and governance. How shareholders, capital contributors, and corporate managers need to pay attention to the charter to ensure their rights as well as properly fulfill their obligations was also an issue raised in the webinar. In addition, Ms. Huyen presented a general practice of building and using charters in enterprises from her more than 20 years of professional experience. The next session was her advice from the legal practice of drafting the charter and advising clients on corporate governance and reorganization. The Q&A received many questions from guests (when registering) and directly at the session.

In 2025, NHQuang&Associates will organize various legal seminars/webinars with practical topics and share professional experiences to contribute to the promotion of the business environment and the spirit of law compliance in Vietnam.



NOTICE OF E-IDENTIFICATION REGISTRATION FOR ENTERPRISES

TRAN THI THUY MAI

Currently, most administrative procedures are carried out online, including the procedures for business registration and change of business registration contents. Regarding this matter, on February 13, 2025, the Business Registration Office – Ha Noi Department of Planning and Investment (now the Business Registration and Corporate Finance Office – Ha Noi Department of Finance) issued Notice 207/TB-DKKD to guide the supplement and update of Identity Card/Citizen Identity information of legal representatives, heads of subordinate units, owners of private enterprises, data cleaning for issuance of electronic identification for enterprises within Ha Noi. Accordingly, it is requested by Ha Noi Business Registration and Corporate Finance Office as follows:

Firstly, regarding the subjects that must update information and the relevant deadline. In Section 1, Notice 207/TB-DKKD stipulates that enterprises, organizations, and individuals must carry out registration procedures for supplementing and updating information on personal data (Identity Card/Citizen Identity) of the *legal representatives, capital contributing members, owners of private enterprises, and owners of single-member limited liability companies* on the National Enterprise Registration Database. The deadline for completion is before June 30, 2025.

Secondly, regarding the application for an E-identification account for enterprises. The legal representative of an enterprise needs to use their e-identification account at level 2 to log in to the National Identification Application (VneID), provide the information as instructed, and send the application for an e-identification account for the enterprise before June 30, 2025.

In fact, before applying for E-identification accounts, enterprises need to complete the update of information on personal data (Identity Card/Citizen Identity) of *legal representatives, capital contributing members, owners of private enterprises, and owners of single-member limited liability companies* on the National Enterprise Registration Database.

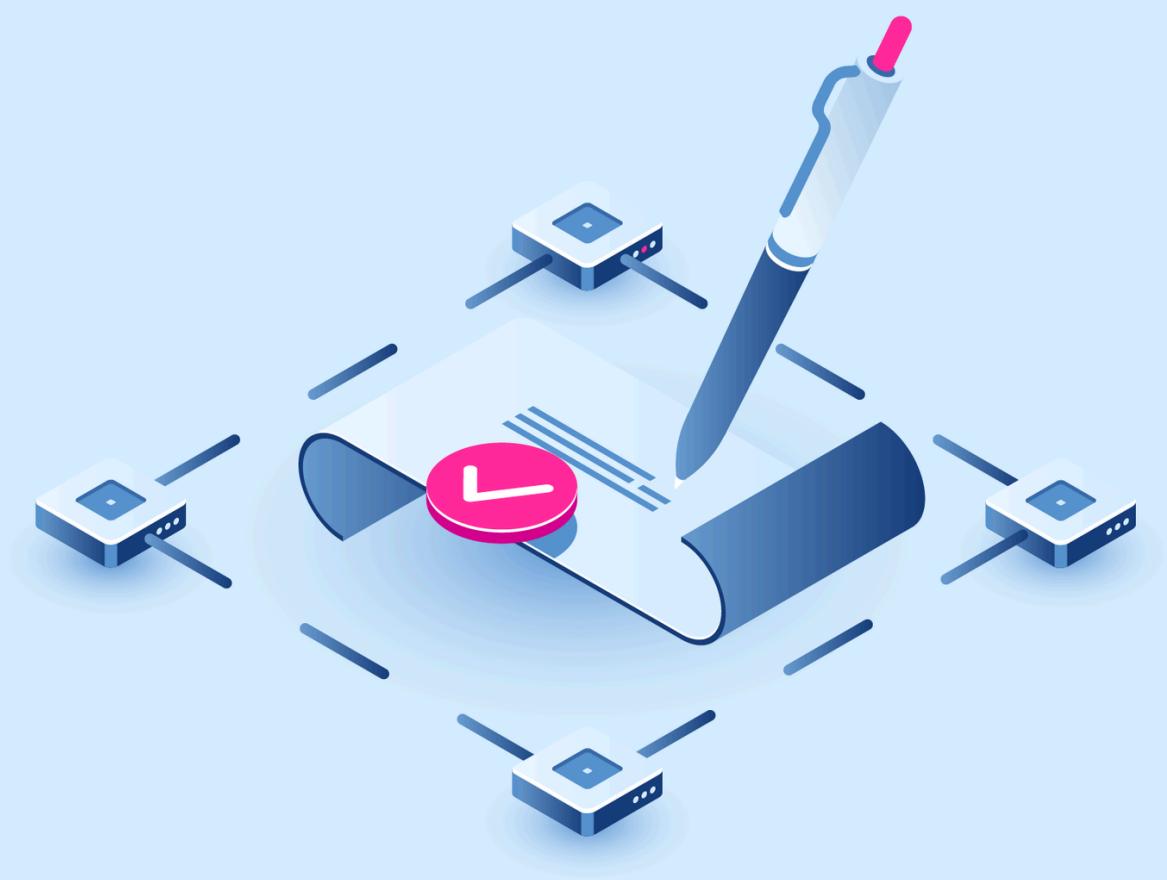
In addition, it should be noted that, according to clause 4, Article 40 of Decree 69/2024/ND-CP dated June 25, 2024 on E-identification and authentication, *"the account created by the National Public Service Portal, the information system for handling administrative procedures at ministerial level, provincial level issued to agencies and organizations will be used until the end of June 30, 2025"*. Thus, from July 1, 2025, organizations must have an E-identification account to enable the implementation of procedures for business registration as well as other administrative procedures with state management agencies in the electronic environment. In the case that an enterprise does not register and is not granted an E-identification account within the above time limit, its implementation of administrative procedures may face difficulties, and possibly be prolonged or rejected.

In addition to Ha Noi, other provinces and cities have also issued implementation guidelines for the issuance of E-identification accounts for enterprises. Still, the implementation may vary among provinces and cities. Should you need more information on the updates and issuance of E-identification accounts for enterprises and other business registration matters nationwide, kindly contact NHQuang&Associates for legal advice and support.



WHAT IS TO BE HEEDED WHEN ENTERPRISES USE PUBLIC DIGITAL SIGNATURES?

LE HAI LINH



The promulgation of the Law on E-Transactions 2023 has created a new legal framework for e-signatures including public digital signatures which are now widely used by enterprises in procedures relative to tax, customs, and social insurance and in signing e-contracts. Accordingly, public digital signatures are digital signatures used in public activities and secured by public digital signature certificates. Guiding public digital signatures, Decree 23/2025/ND-CP regulating e-signatures and trust services (**Decree 23**) will take effect from April 10, 2025, replacing Decree 130/2018/ND-CP guiding the regulations of the Law on Electronic Transactions on digital signatures and digital signature authentication services, amended and supplemented by Decree 48/2024/ND-CP (**Decree 130**). In this Legal Newsletter, NHQuang&Associates will analyze certain contents of businesses' concerns related to public digital signatures in Decree 23.

Firstly, Decree 23 regulates public digital signature certificates. Public digital signature certificates are provided by organizations providing public digital signature authentication services *to verify that the authenticated agency, organization, or individual is the signer of the public digital signature*. A public digital signature certificate provides the name of the organization issuing the digital signature certificate, the validity period of the digital signature certificate, the purpose and scope of use of the digital signature certificate, etc. The validity period of a public digital signature certificate is 3 years in maximum and can be extended under the procedures in Article 39 of Decree 23 before the expiration date of the certificate. According to Decree 130, the maximum validity period of a public digital signature certificate is 5 years for the initial issuance and a maximum of 3 years for the renewal, and organizations and individuals must renew the certificate at least 30 days before the expiration date.

To be issued a public digital signature certificate, individuals and organizations shall prepare a set of application documents according to Article 34, Decree 23. For organizations, the application documents include the certificate of business registration or investment registration, identity documents of the organization's legal representative such as the citizen identity card, etc. After receiving the application documents, the organization providing public digital signature authentication services checks and reviews the documents, enters into a contract with the subscriber and issues the public digital signature certificate to the subscriber. Compared to the provisions of Decree 130, the process of issuing public digital signature certificates prescribed in Decree 23 is more detailed and specific, creating a transparent process and favorable conditions for individuals and organizations involved in registering and using public digital signatures.

Secondly, Decree 23 stipulates the obligations of signers before using digital signatures, specifically:

- Checking the status of digital signature certificates, including the status of their digital signature certificates on the information system of the agency or organization that generates and issues that digital signature certificates, and the status of the digital signature certificate of organization that generates, issues their digital signature certificates *on the trust service authentication system of the National Electronic Authentication Center* instead of “the technical system of the National Digital Signature Authentication Service Provider” as prescribed in Decree 130.
- Using digital signature software that complies with technical standards for digital signatures on data messages, with functions such as authenticating the signer and digital signature, and storing and deleting information attached to digitally signed data messages. This is the new content of Decree 23 compared to Decree 130.

Thirdly, Decree 23 stipulates recipients’ obligations when receiving digitally signed data messages. Accordingly, a recipient has to check the information such as the status of the digital signature certificate, scope of use, limits of liability, and information on the digital signature certificate of the signer. The status of digital signature certificates must be checked according to the procedure in clause 2, Article 16, Decree 23; for example, for a public digital signature certificate issued by a public digital signature authentication service provider, the recipient has to check the status of the public digital signature certificate of the organization that issues the certificate at the time the signature is digitally signed on the trust service authentication system of the National Electronic Authentication Center. In addition, the recipient must use the digital signature verification software that meets relevant technical standards.

Decree 23 has provided more detailed regulations on e-signatures in general and public digital signatures in particular, which are consistent with the Law on Electronic Transactions 2023, while meeting development requirements of the society, creating favorable conditions for individuals and organizations in the use of e-signatures, but also ensuring the legal validity of e-signatures. Enterprises should update and study the provisions of Decree 23 and other guiding documents that may be promulgated in the near future to use public digital signatures in accordance with legal regulations, ensuring the legal validity of public digital signatures. Should you need more information about the legal regulations and the use of e-signatures and digital signatures in practice, kindly contact NHQuang&Associates for legal support and advice.



CASES OF EXIT SUSPENSION FOR LEGAL REPRESENTATIVES OF ENTERPRISES DUE TO TAX ARREARS

NGUYEN QUOC DZUNG

The Law on Tax Administration 2019, as amended and supplemented in 2024, has supplemented the provisions regarding exit suspension for certain groups of subjects (including individuals being legal representatives of enterprises (**Legal Representatives**)) who have yet to complete their tax payment obligations with the tax arrears and the overdue period threshold as prescribed by the Government. Accordingly, on February 28, 2025, the Government promulgated Decree No. 49/2025/ND-CP on the thresholds for the application of exit suspension (**Decree 49**) with some notable points as follows:

Firstly, regarding the subjects of application of Decree 49, in addition to the groups of subjects enumerated in clause 1 Article 66 of the Law on Tax Administration 2019, as amended and supplemented in 2024 (e.g., Legal Representatives subject to coercive enforcement of tax administration-related administrative decisions),

Decree 49 has specified in detail the group of subjects comprising “*individual business owners, business household owners, **individuals being legal representatives of enterprises**, cooperatives, and cooperative unions that no longer operate at the registered address*”. This regulation is deemed necessary as it assists tax authorities in collecting tax arrears, particularly from taxpayers who have yet to fulfill their tax payment obligations or no longer operate at the registered address.

Secondly, regarding the thresholds for tax arrears and overdue period in cases of exit suspension, the Legal Representative of an enterprise will be subject to exit suspension in one of the following cases:

- Case 1: The enterprise is subject to coercive enforcement of administrative decisions on tax administration with tax arrears of 500 million Viet Nam dong or more, which has been overdue for more

than 120 days from the payment deadline as prescribed.

The basis for this tax debt threshold is determined based on statistical data on enterprises' tax arrears amount in combination with references to the experience of Taiwan. Accordingly, the Government has established the threshold for tax arrears for enterprises at 500 million Viet Nam dong (which is ten times higher than the threshold applicable to individuals). Furthermore, the stipulation of the threshold for an overdue period of more than 120 days aims to ensure the effective collection of tax arrears, enhance taxpayers' compliance, and ensure the feasibility of immediate implementation (given that debts overdue for more than 120 days are already categorized into a separate debt monitoring group).

- Case 2: The enterprise that no longer operates at the registered address has overdue tax arrears as prescribed, and has not fulfilled its tax payment obligations after 30 days from the date of the tax authority's notification about the application of exit suspension measures.

Thirdly, regarding the notification about exit suspension and cancellation of exit suspension, to implement the notification requirements on the application of exit suspension measures stipulated under clause 1 Article 66 of the Law on Tax Administration 2019, as amended and supplemented in 2024, Decree 49 provides the methods for notifying Legal Representatives about the application of exit suspension measures, including:

- For a Legal Representative under Case 1, the tax authority directly managing the taxpayer shall provide electronic notification via the taxpayer's electronic tax transaction account or by publishing a notice on its official website.
- For a Legal Representative under Case 2, the tax authority directly managing the taxpayer shall notify on its website.

After 30 days from the date of sending the notification, the tax authority shall issue a document of exit suspension, and send it to the immigration authority to apply exit suspension to the Legal Representative. However, in the event that the Legal Representative has fulfilled tax payment obligations, the tax authority shall immediately issue a notification on cancellation of exit suspension to send to the immigration authority. Consequently, the Legal Representative subject to exit suspension will be permitted to exit the country once the immigration authority cancels the exit suspension.

Decree 49 is anticipated to raise taxpayers' awareness of compliance with the legal framework governing tax administration, whilst augmenting the effectiveness of collecting tax arrears, in line with tax administration practices. Therefore, enterprises are obligated to ensure full compliance with their tax payment obligations to preclude the imposition of sanctions under the laws on tax administration. Furthermore, to mitigate potential disadvantages arising from any lack of awareness regarding the application of exit suspension measures, Legal Representatives of enterprises should regularly monitor the relevant information by:

- Accessing the official website of gdt.gov.vn/wps/portal/Home/nt/xc and inputting the required information fields to check their own exit suspension status; or
- Accessing the eTax Mobile application via their VNeID electronic identification account to check notifications on the application of exit suspension measures by tax authorities.

NHQuang&Associates is willing to provide answers and advice to any question or request raised by valued Clients and readers regarding the new provisions of Decree 49 as well as tax and finance-related matters.

SOME ISSUES TO BE NOTED BY ENTERPRISES FROM THE DRAFT DECREE GUIDING COMPULSORY SOCIAL INSURANCE

NGUYEN THI THANH MAI



The Law on Social Insurance 2024 (**Law on Social Insurance**) approved by the 15th National Assembly at the 7th session will officially take effect from July 1, 2025, replacing the Law on Social Insurance 2014. However, the documents guiding the implementation of the Law on Social Insurance are currently based on the provisions of the Law on Social Insurance 2014. Therefore, on November 12, 2024, the Prime Minister issued Decision 1370/QĐ-TTg approving the Plan for implementation of the Law on Social Insurance 2024 and Resolution 142/2024/QH15. After consulting relevant ministries, sectors, localities, and appraisal opinions of the Ministry of Justice, the Ministry of Labour, Invalids and Social Affairs (now merged into the Ministry of Home Affairs) has submitted to the Government a draft Decree detailing and guiding the implementation of a number of articles of the Law on Social Insurance on compulsory social insurance (**Draft Decree**). The below are some specific analyses related to the outstanding contents of the Draft Decree that enterprises need to pay attention to.

Firstly, regarding the subjects of employees participating in compulsory social insurance, they include the employees stipulated in points a, b, c, e, g, h, i, k, l m and n, clause 1, Article 2 of the Law on Social Insurance (for example, people working

under labor contracts, cadres, civil servants, public employees, employees working abroad under contracts, business managers, business household owners with registered business) and clause 2, Article 2 of the Law on Social Insurance (foreigners working in Viet Nam under a fixed-term labor contract of 12 months or more, not subject to internal transfer, or of retirement age). In the case that the employees specified at points a, b, c, i, k, l, clause 1 and clause 2, Article 2 of the Law on Social Insurance are sent to study, do an internship, or work domestically and internationally but still enjoy salary in their home country, they are subject to compulsory social insurance.

Secondly, regarding salary as the basis for compulsory social insurance payment, it is the monthly salary, including salary based on job or title, salary allowances, and other additional amounts, in which:

(i) The salary based on job or title is calculated by the time (by month) of the job or title according to the salary scale and payroll developed by employers according to Article 93 of the Labor Code, and it is agreed upon in labor contracts.

(ii) Salary allowances are compensation for such factors as working conditions, work complexity, living conditions, and level of labor attraction which have not been taken into account or have not been fully calculated in the salary, and are agreed upon in labor contracts; excluding salary allowances that depend on or fluctuate according to labor

productivity, working process and work performance quality of employees.

(iii) Other additional amounts that can be fixed, together with the salary, are agreed upon in labor contracts and paid regularly and stably in each salary payment period; excluding other additional amounts that depend on or fluctuate according to labor productivity, working process, and work performance quality of employees.

The salary used as the basis for compulsory social insurance payment **does not** include other regimes and benefits such as bonuses as prescribed in Article 104 of the Labor Code, initiative bonuses; mid-shift meal allowances; allowances for gasoline, telephone, travel, housing, childcare, small children raising; allowances for the death or marriage of employees' relatives, allowances for employees' birthday, allowances for employees in difficult circumstances when suffering from occupational accidents, occupational diseases, and other supports and allowances recorded as separate items in labor contracts in accordance with the labor laws.

Thirdly, regarding the cases and amounts of requested collection and payment of compulsory social insurance arrears, according to the Draft Decree, requested collection and payment of the compulsory social insurance arrears shall apply to:

(i) Employees entitled to a salary increase, which increases compulsory social insurance premiums with retroactive effect;

(ii) Vietnamese employees working abroad and having their contracts extended or signing new labor contracts in the receiving country will be subject to requested collection and payment upon returning to their home country;

(iii) Subjects under points m and n, clause 1, Article 2 of the Law on Social Insurance, who pay insurance premiums after the latest deadline for paying social insurance (the last day of the month following the payment cycle).

The amount of requested collection and payment of social insurance arrears for groups (i) and (ii) is the payable compulsory social insurance premiums according to Articles 33 and 34 of the Law on Social Insurance (8%, 14%, or 22% of the salary to pension and survivorship fund, 3% of the salary to sickness and maternity fund, depending on specific cases). In the case that by the end of the last day of the month following the month of the decision on salary increase adjustment or the month of returning to the home country, the employer and the employees have not yet made the payment of compulsory social insurance arrears, the social insurance agency will have the right to apply measures to handle acts of late payment or acts of payment evasion according to Article 40, Article 41 of the Law on Social Insurance. For group (iii), the amount of requested collection and payment of social insurance arrears is 3% of the salary used as the basis for compulsory social insurance payment to sickness and maternity fund, 22% of the salary used as the basis for compulsory social insurance payment to pension and survivorship fund, and the amount equal to 0.03%/day calculated on the payable compulsory social insurance premium and the number of days from the latest deadline to the actual day of payment (the last day of the month following the payment cycle).

Fourthly, regarding the responsibilities of employers when delaying compulsory social insurance payment for employees who are eligible for social insurance or laid off, terminate labor contracts and working contracts. In accordance with the Draft Decree, employers are responsible for paying the full amount of compulsory social insurance premiums specified in clause 1, Article 40 and clause 1, Article 41 of the Law on Social Insurance for employees who are eligible for social insurance or laid off, terminate labor contracts or working contracts to promptly settle social insurance benefits for the employees. In the case that the employers have not paid the full compulsory social insurance premiums, the social insurance benefits shall be settled based on the period with paid social insurance premiums for employees eligible for social insurance benefits, and the social insurance payment period will be confirmed up to the time of full social insurance payment for employees being laid off, terminating their labor contracts or working contracts. After collecting the payable amount of compulsory social insurance, the additional time of social insurance payment shall be confirmed and the level of entitlement to social insurance benefits shall be adjusted.

In general, the provisions of the Draft Decree are developed in the direction of ensuring social security, developing the social insurance system towards diversity, flexibility, and ensuring the interests of employees. In addition to the contents analyzed above, the Draft Decree also stipulates other important issues such as the roadmap for participation in compulsory social insurance for business household owners (clause 2, Article 3), adjustment of salaries as the basis for compulsory social insurance payment (Article 16), etc. NHQuang&Associates is willing to provide answers and further legal advice to issues raised by valued Clients and readers related to the new policies and regulations of the Draft Decree and matters related to social insurance in general.