

# LEGAL UPDATE VIETNAM

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# Decree 115/2024/ND-CP on selecting investors for investment projects involving land use

Decree 115/2024/ND-CP, which took effect on September 16, 2024, details bidding regulations for selecting investors executing investment projects involving land use. It provides guidance on various conditions, sectors involved, and incentives for specific types of projects.

**1. Projects Subject to Bidding:** The decree mandates that projects specified in Article 126.1(a) and Article 126.1(b) of the Land Law must undergo a competitive bidding process.

These types of projects include:

- Urban area development projects (with mixed-use functions, synchronizing technical infrastructure systems, social infrastructure with housing according to the provisions of law on construction to build new or renovate and embellish urban areas);
- Rural residential area projects, and
- Projects in specific sectors, including:
  - Domestic solid waste treatment facilities.
  - Clean water supply facilities.
  - Markets.
  - Roadside stations.
  - Aviation service facilities at airports.
  - Investment projects in the fields of education, health, culture, sports, and environment that require bidding as prescribed in regulations of law on the promotion of private sector involvement if at least 02 investors register for project execution.
  - Projects on investment in and construction of social housing; projects on renovation and re-construction of apartment buildings; and projects on investment in and construction of housing for People's Armed Forces, which require bidding as prescribed in law regulations on housing if at least 02 investors register for project execution. Some exclusions to the bidding requirement apply per Housing Law No. 27/2023/QH15.
  - Investment projects involving horse and dog race courses that also provide horse and dog race betting services requiring bidding per regulations of law on betting on horse and dog races and international football if at least 02 investors register for project execution and investment guidelines have been approved by the Prime Minister under regulations of law on investment and specialized sector or industry law.

- Projects on investment in and construction of energy works require bidding under law regulations on electricity if at least 02 investors register for project execution.
- Projects that fall into cases of land recovery for socio-economic development for national and public interests per Article 79 and Article 126.1(b) of the Land Law.

**2. Specific Conditions for Land:** The land for implementing projects must fall into cases of land recovery per Article 79 of the Land Law and included in the list of land plots for bidding for investment projects using land decided by the Provincial People's Council according to the provisions of the land laws.

**3. Investor Incentives:** Investors applying advanced, high-tech, or eco-friendly technologies get a 5% incentive to their score during the bid evaluation process. Another incentive of 2% goes to those investors committed to technology transfer in high-priority sectors.

**4. Project Transfer Rules:** Winning investors who wish to transfer projects, shares, or capital in the project company before operation must meet several conditions, including obtaining approval from relevant authorities and ensuring the transferee has equal capacity and experience.

**5. Paying for the Land:** Regarding financial contributions during the bidding process, bidders must commit to paying a minimum rate to the State budget based on a formula in Article 48 of Decree 115 rather than a fixed sum as previously.

**6. Foreigner investors must establish a Vietnamese company.** If the winning bidder for a land project is a foreign investor, they must establish a Vietnamese economic organization to execute the project. This entity must be 100% owned by the winning investor and is subject to relevant Vietnamese laws governing enterprises, investments, land use, and real estate. For domestic investors, the establishment of a business organization is optional.

## Decree 123/2024/ND-CP on administrative sanctions for violations in the land sector

This Decree, which took effect on October 4, 2024, provides guidelines for administrative violations in the land sector, such as the forms of sanctions, amount of monetary penalties, remedial measures, authority to make records, persons subject to sanctions, and the competent authority issue administrative sanctions in the land sector, including violations in land use and violations in the provision of land services.

### **1. Fines and Remedial Measures:**

Depending on the severity and authority involved, fines can be imposed at various levels. Commune-level officials can impose penalties of up to 5 million VND, district-level officials up to 100 million VND, and provincial-level officials up to 500 million VND.

Remedial actions include restoring the land to its original condition and confiscating any falsified or altered documents used in land usage.

### **2. Authority of Local Committees:**

Chairpersons of People's Committees at different levels have varying powers to handle violations. In addition to fines, they can temporarily revoke land service permits or suspend land service activities.

### **3. Statute of Limitations:**

The statute of limitations for land-related violations is 2 years. It begins when the violation ends, or the authorities detect it in ongoing cases.

### **4. Other Regulations:**

Violators may also have to hire consulting firms to determine the violated land area, and they can pay for it if disputes arise over the measurement.

## **Decree 125/2024/ND-CP on conditions for investment and operation in the education sector**

Decree 125/2024/ND-CP, effective November 20, 2024, outlines detailed regulations for conditions related to investment and operation within Vietnam's education sector. It applies to various educational institutions, including preschools, general education schools, vocational schools, higher education institutions, and organizations offering educational services such as study abroad consultancy and quality assessment.

**1. Scope and Applicability:** The decree applies to various educational institutions, including preschools, general education schools, vocational schools, higher education institutions, and organizations providing educational services like study abroad consultancy and educational quality assessment.

### **2. Establishment and Operation:**

- Provides detailed guidance on establishment, operation, suspension, and dissolution procedures.
- Institutions must comply with legal requirements related to land use, facilities, and investment capital. For example, preschools must provide proof of legal land use and a lease agreement of at least five years.



**3. Educational Service Providers:** Businesses offering services such as overseas study consultancy or educational quality assessment must meet specific conditions to register, operate, and maintain their licenses. Non-compliance can lead to suspension or revocation of business registration certificates.

**4. Suspension and Dissolution:**

- The decree lists reasons for suspension of operations, such as fraudulent activity, failure to operate within one year of receiving permission, or violations of educational regulations.
- Procedures are outlined for the reinstatement of institutions once violations are corrected.

**5. Investment in Higher Education:** The decree regulates the establishment and operation of universities, including procedures for setting up branches and recognizing foreign educational quality accreditation organizations operating in Vietnam.

## Decree 110/2024/NĐ-CP on social work

Decree 110/2024/ND-CP on social work, which took effect October 15, 2024, outlines fundamental principles and regulations regarding social work in Vietnam. The decree applies to individuals and organizations involved in providing social work services and defines the rights, responsibilities, and conditions for those working there. Here are some of the key provisions:

**1. Scope of Social Work:** Social work involves supporting individuals, groups, families, and communities in resolving social issues. The decree establishes various services, including emergency protection, psychological counseling, intervention, rehabilitation, and community development.

**2. Professional Requirements:** Social workers must meet specific conditions, including educational qualifications in social work or related fields, good health, and adherence to ethical standards. Additionally, a valid certificate for practicing social work is required.

**3. Prohibited Activities:** The decree bans practices such as exploiting social work for personal gain, violating the privacy of individuals receiving social work services, and refusing urgent protection services without legitimate reasons.

These regulations aim to professionalize social work in Vietnam and ensure that vulnerable groups receive proper healthcare, education, and rehabilitation support.

# Response Letter 4136/TCT-QLN of the General Taxation to Lao Cai Province Tax Department on payment of overdue tax debts and temporary suspension of exit from the country

Response Letter, 4136/TCT-QLN from the General Department of Taxation to the Lao Cai Province Tax Department, dated September 18, 2024, addresses the payment of overdue tax debts and the temporary suspension of exit from the country, with specific reference:

- 1. Payment of Overdue Tax Debts:** The General Department of Taxation allows businesses with outstanding tax obligations to apply for a deferred payment plan. The taxpayers must submit a formal application to settle their tax debts in installments, and the Lao Cai Tax Department is instructed to process these applications following the established legal framework.
- 2. Temporary Suspension of Exit:** The General Taxation clarifies cases of temporary suspension of exit from the country, in which if an individual is no longer the legal representative of an enterprise that is being enforced to pay overdue tax debts, they are not subject to enforcement measures such as the temporary suspension of exit from the country.

Although the letter is to respond to Lao Cai Tax Department, it can be used to indicate what other provincial tax authorities might do in similar situations.



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