

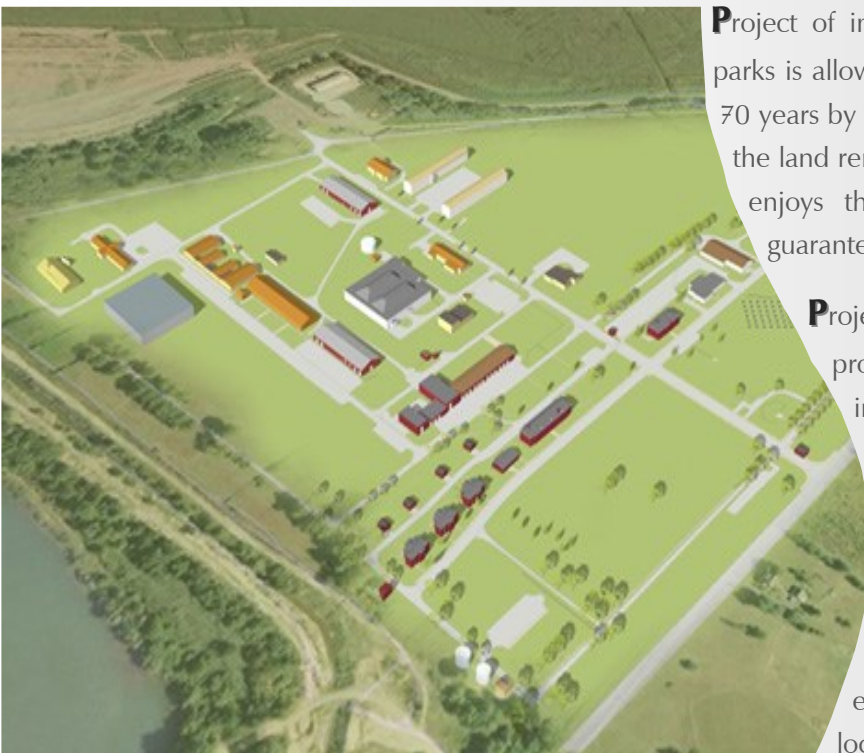
LEGAL UPDATES

05 / 2018

NEW REGULATIONS ON EXPORT PROCESSING ZONES, INDUSTRIAL PARKS, AND ECONOMIC ZONES

Decree No. **82/2018/ND-CP** dated May 22, 2018 of the Government provided the regulations on the management of industrial parks and economic zones. Accordingly, the Decree stipulates in detail of the planning, establishment, operation, policies and the State's management of the industrial parks and the economic zones.

One of the new features of this Decree is to supplement provisions for encouraging the establishment of supporting industrial parks and ecological industrial parks. Accordingly, 'supporting industrial park' means those that specialize in manufacturing the supporting industrial products, implementing the services for the manufacture of supporting industrial products. "Ecological industrial park" means an industrial park in which the enterprises are engaged in cleaner manufacturing operation and more efficient use of resources, link and cooperate in the production to perform industrial symbiotic operation in order to improve economic efficiency, environment and society.



Project of investment of infrastructure of the supporting industrial parks is allowed to have a land lease with the maximum term up to 70 years by the State and is entitled for deduction and exemption of the land rental fee according to the Law on land. In addition, it also enjoys the priority of ODA fund, receives the government guarantee for foreign loans (Article 35).

Project of investment for producing supporting industrial products in the supporting industrial parks is entitled to the incentives of corporate income tax, import and export duties and other supports under the provisions of the laws on taxation, development of supporting industry.

Enterprises having the investment projects in the ecological industrial park will be certified as ecological enterprises and enjoy the preferential loans from the environmental protection funds as well as from other local and overseas organizations, banks and funds.

Furthermore, the Decree also supplements the provisions on the establishment and preferential policies for the industrial-urban-service zone. Details can be referred to Section 3 Chapter IV of the Decree.

The Decree takes effect since July 10, 2018, replaces Decree No. 29/2008/ND-CP dated March 14, 2008, Decree No. 164/2013/ND-CP dated December 11, 2013 and Decree No. 114/2015/ND-CP dated November 09, 2015.

DOSSIERS REQUIRED FOR IMPORTING ALREADY-USED EQUIPMENT

Official letter No. **1406/GSQL-GQ1** dated May 14, 2018 of the General Department of Vietnam Customs provided the guidelines on the import of already-used machinery and equipment.

As prescribed at Point a Clause 1 Article 6 of Circular No. 23/2015/TT-BKHCHN, already-used equipment is only allowed to be imported when the equipment's lifetime does not exceed 10 years.

Apart from the customs dossiers as prescribed, the enterprise must additionally provide one of the following documents when importing already-used equipment (Clause 2 Article 7 of Circular No. 23):

- ▲ 01 original Certificate of manufacturing year and manufacturing standard issued by the manufacturer of the already - used equipment in accordance with regulations; or

- ▲ 01 original assessment Certificate of manufacturing year and manufacturing standard issued by an assessing organization of the already - used equipment in accordance with regulations.

The Customs bases on the prescribed documents as mentioned above in order to settle customs procedures for the enterprises.

FOREIGNERS ARE NOT ALLOWED TO BUY HOUSES DIRECTLY FROM VIETNAMESE INDIVIDUALS

Official letter No. **66/BXD-QLN** dated April 11, 2018 of the Ministry of Construction provided the guidelines on housing transactions of foreign individuals.

As prescribed at Clause 2 Article 76 of Decree No. 99/2015/ND-CP, foreigners who are eligible to own houses in Vietnam are only allowed to sign the contract for buying a house from the following subjects:

- ▲ The investor of the project of building commercial houses that such project does not belong to areas of national defense and security assurance;
- ▲ Foreign organizations and individuals who currently owned houses wish to re-sell such houses before the expiration of the ownership period.

Therefore, foreigners are not allowed to buy houses from the Vietnamese organizations (not the project owner of commercial houses) and individuals. In other words, Vietnamese organizations and individuals are not allowed to sell houses to foreigners.

GUIDELINES ON DUTIES AND CUSTOMS PROCEDURES WHEN FDI ENTERPRISES (WITH REGISTERED IMPORT-EXPORT RIGHT) PURCHASE GOODS FROM EXPORT PROCESSING ENTERPRISES FOR EXPORT

Official letter No. **2765/TCHQ-TXNK** dated May 21, 2018 of the General Department of Customs provided the guidelines on laws on duties and customs procedures applicable to export processing enterprises (EPE). For the cases where FDI enterprises purchase goods from the EPE to sell abroad, the customs declaration and tax policies shall be implemented as follows:

The contract signed with the EPE has the agreement that the FDI enterprise does not perform the procedures of receiving the goods, and the FDI enterprise assigns the EPE as the undersigned name and directly export to foreign businessmen as assignment:

- ▲ Customs procedures: when the EPE implements the goods export procedures to foreign businessmen, the EPE declares the information items as guided at Appendix II of Circular No. 38/2015/TT-BTC. In which, the name of the exporter should be declared with the name of the EPE, the name of the FDI enterprise that assigns the EPE shall be declared at the Note section.
- ▲ Tax policy: The goods exported abroad from the EPE is not subject to export duties and it is entitled to VAT 0%.

The FDI enterprise receives goods from the EPE, then directly exports to foreign businessmen, but the FDI enterprise assigns the EPE to directly deliver goods to the export gate:

- ▲ Customs procedures: when purchasing goods, the FDI enterprise and the EPE perform the procedures of in-place import and export under Clause 3 Article 75 of Circular No. 38/2015/TT-BTC. When selling goods, the FDI enterprise shall implement customs procedures as the customs procedures for business export.
- ▲ Tax policy: the FDI enterprise must pay the import duties, the value added tax when purchasing goods from the EPE and the FDI enterprise is allowed to receive the refund upon selling abroad.

FROM JANUARY 15, 2018, FDI ENTERPRISES ARE EXEMPTED FROM APPLICATION FOR LICENSING OF IMPORT-EXPORT RIGHT BUT HAVE TO DO THE REGISTRATION

Official letter No. **1282/GSQL-GQ2** dated May 04, 2018 of the General Department of Customs provided the guidelines on the performance of import-export right. Accordingly, at Clause 1 Article 5 of Decree No. 09/2018/ND-CP, from January 15, 2018, FDI enterprises do not need to apply for the license of the import-export right.

However, FDI enterprises are only allowed to perform the import-export right after the registration of these activities as prescribed by the Law on Investment and the Law on Enterprises.

For the case that there is no content regarding to the issue that the FDI enterprises are allowed to perform the import-export right on the investment registration certificates or related dossiers, then FDI enterprises must additionally register before implementation.

NOTICE:

"The purpose of this news is to provide the clients with further information.

Although we have focused much on the ensure of accuracy, the information that is given on this news is not absolutely thorough and the clients would better consult professional opinions before application".