



# AUGUST 2024

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# LAW BULLETIN

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VU THI THU HA

MANAGING PARTNER – ATS LAW FIRM



## — WELCOME —

### WORDS FROM MANAGING PARTNER

We are committed to providing an effective, reliable and responsive service to each of our clients.

Our approach is client-focused, solution-oriented and innovative. We have a dedicated and experienced team providing a comprehensive range of services to meet the needs of our clients.

We strive to do whatever it takes in order to resolve the legal issues that face clients, allowing them to minimize administrative overheads and focus on their core business activities.

# ASSOCIATION – TRUST – SUCCESS

At ATS Law Firm, our deeds reflect our creed – to provide the very best professional legal services, and to gain and maintain our clients' trust and satisfaction

To become a top-level legal services provider on domestic and international matters, we have formed associations with many local, national and international organizations to exchange knowledge, experience and skills.

We pride ourselves on our ability to build client trust and support them in navigating applicable laws. We have a very high rate of success in accomplishing our clients' objectives, consistently exceeding expectations.

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## Rights and performance of responsibilities of the state owner's representatives from September 10, 2024

The Government issued Decree No. 97/2024/ND-CP on amending & supplementing Decree No. 10/2019/ND-CP on the exercise of rights and performance of responsibilities of the state owner's representatives.

Firstly, the owner's representative agencies shall exercise rights and perform the responsibilities of the state owner's representatives by the Law on Management and Use of State Capital Invested in Production and Business at Enterprises and other relevant laws for:

- Enterprises established under decisions of the owner's representative agencies;
- Enterprises assigned to the owner's representative agencies for management or for acting as the owner's representatives, including also enterprises established under

the Prime Minister's decisions before the effective date of the Law on Management and Use of State Capital Invested in Production and Business at Enterprises and not on the List provided in Appendix I;

- State capital amounts invested in joint-stock companies or limited liability companies with two or more members.”

Besides, based on the size of an enterprise, the owner's representative agency shall decide to establish a Supervisory Board composed of between 1 supervisor and 5 supervisors. If the Supervisory Board has only 1 supervisor, this supervisor may concurrently act as the Head of the Supervisory Board and must satisfy the criteria for the Head of the Supervisory Board.

➤ [Decree No. 97/2024/ND-CP](#)

## Three laws related to land get early entry into force

The National Assembly on June 29 passed the Law Amending and Supplementing a Number of Articles of Land Law 31/2024/QH15, Housing Law 27/2023/QH15, Law 29/2023/QH15 on Real Estate Business, and Law 32/2024/QH15 on Credit Institutions (the Law).

Consisting of five articles, the Law amends Article 252.1 of the Land Law, Article 197.1 of the Housing Law, and Article 82.1 of the Law on Real Estate Business, saying that these three laws are set to take effect on August 1 this year, five months earlier than their effective date previously resolved by the National Assembly.

The Law also makes amendments to Article 209.2 of the Law on Credit Institutions, permitting its Articles 200.3 and 210.15 to take effect right from August 1, instead of July 1 next year.

Revising Article 251.2 of the 2024 Land Law, the Law says, that the National Assembly's Resolution 132/2020/QH14 dated November 17, 2020, on pilot implementation of many policies to remove obstacles and backlogs in the management and use of land for national defense and security purposes combined with production and economic development activities, will be annulled from January 1, 2025.

▶ [Law No. 43/2024/QH15](#)





## Use duration of condominiums contains no provision thereon

On November 27, 2023, the National Assembly approved the Law on Housing No. 27/2023/QH15.

Firstly, the Law only prescribes the use duration of condominiums. Accordingly, the use duration of condominiums shall be determined on the basis of design documents and practical use duration of condominiums as stated in inspection conclusions of competent agencies.

The use duration of a condominium based on design documents shall be clearly stated in the competent agency's appraisal document in accordance with the construction law.

Additionally, principles on sale, lease-purchase and lease of social houses is changed Within 5 years from the date the

social house purchaser makes full payment for the purchase of the house and wishes to sell this house, he/she may only resell the house to the social housing investment project owner or a subject eligible to purchase social houses at a sale price not exceeding the sale price of this social house stated in the purchase and sale contract signed with the social housing investment project owner.

The owner of an investment project on renovation and reconstruction of condominiums is exempted from land use levy and land rental for land areas subject to land use levy or land rental within the project's scope.

➤ [Law on Housing 2023](#)



## Notable points of the Law on Roads 2024

The Law on Roads, which was passed by the National Assembly in June 2024, will take effect on January 1, 2025.

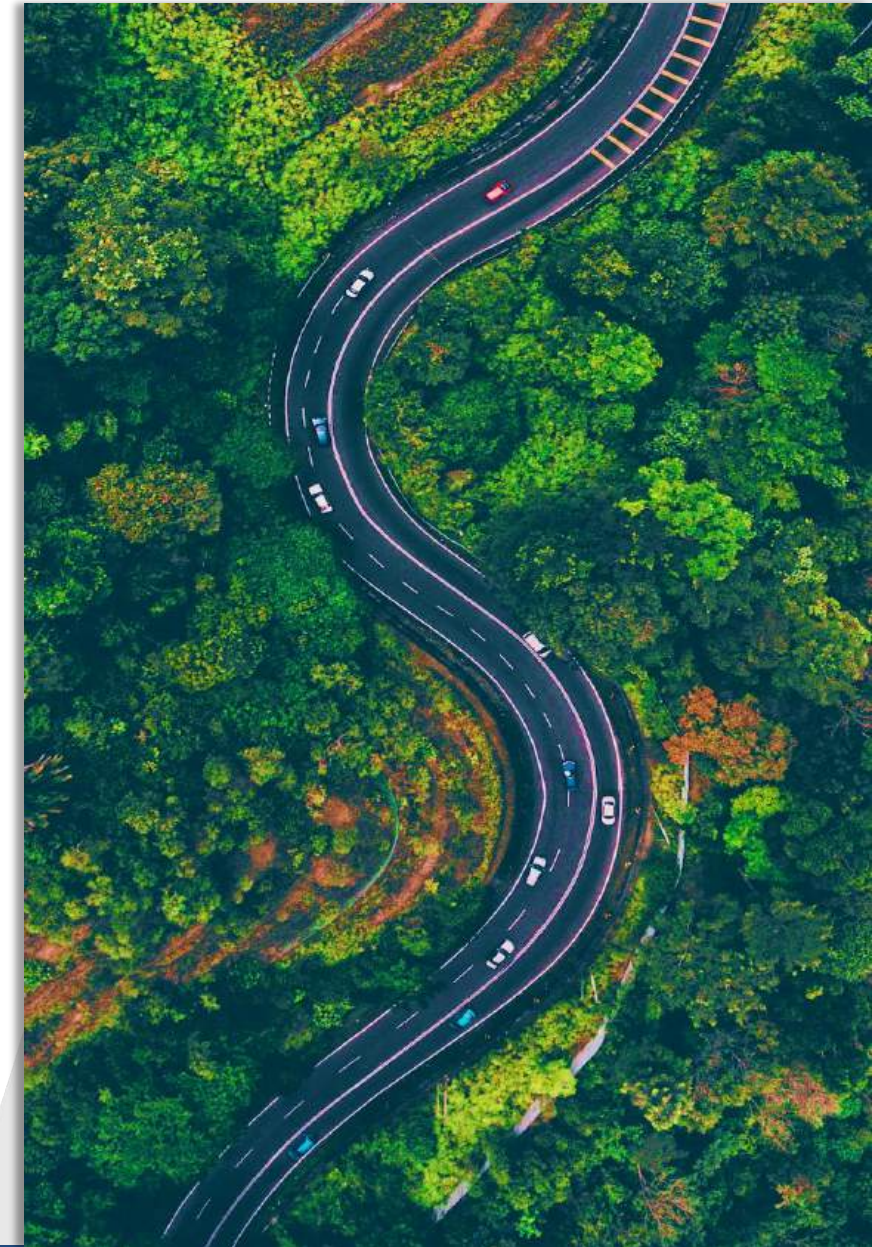
The new Law has three specific noteworthy provisions regarding major policies on mobilizing social resources investment for construction of road infrastructure such as decentralization and delegation of powers to provincial-level People's Committees in construction, management, operation and maintenance of roads and identification of funding sources for road construction and maintenance and revenues from operation of road infrastructure facilities.

Under the Law, the Prime Minister has the competent to assign provincial-level People's Committees to manage certain national highways to meet socio-economic development requirements and ensure

national interests and national defense and security on the basis of localities' resource-arranging capacity.

Notably, the Law devotes a chapter to specifying expressways, allowing the collection of tolls on state-invested or -operated expressways. It provides the collection of tolls on expressways under projects on expansion and upgrading of expressways or expressways upgraded from roads and lays down principles for encouraging organizations and individuals to invest in road infrastructure facilities. It also sets the requirement that expressways must be built in synch with auxiliary facilities such as intelligent transport systems, rest areas, and vehicle load check stations so as to provide utility services to traffic participants.

➤ [Law on Roads 2024](#)





## Customs procedures applicable to repurposed imports eligible for tax exemption

Official Dispatch No. 3701/TCHQ-TXNK on replying the Official Dispatch No. 65/CV/06/2024 dated June 20, 2024 of the Siam City Cement (Vietnam) Limited for requesting guidance on the procedures for import declaration for imports eligible for tax exemption under an investment project repurposed to the liquidation sale to domestic enterprises and declaration of customs value in case the original declaration is lost.

Pursuant to the above-mentioned regulations, imports are exempted from import duty and have been cleared from customs procedures but then there are changes in the purposes for which goods are exempted from duty, new customs declaration forms shall be filled in. The customs procedures shall comply with Article 21 of Circular No. 38/2015/TT-BTC,

amended and supplemented by Clause 10, Article 1 of the Ministry of Finance's Circular No. 39/2018/TT-BTC. Accordingly, the customs declaration must clearly specify the number of the initial customs declaration, repurposing or domestic sale method (the item Note of the electronic declaration or the item Other of the physical declaration).

If the imports that are repurposed or sold domestically are exempt from import duties or not subject to import duties, the customs dossier retention period (05 years) has expired by the date of repurposing or domestic sale, the importer is not required to provide the declaration number upon repurposing or domestic sale.

▶ [Official Dispatch No. 3701/TCHQ-TXNK](#)

## Expanded Coverage for Compulsory Social Insurance

Under the revised law, employees participating in compulsory social insurance now encompass those working under labor contracts lasting one month or more. This includes scenarios where the employment relationship - despite using different terminology - clearly involves paid work, salary arrangements, and managerial oversight.

Additionally, the scope of compulsory participation extends to representatives of enterprise capital and key personnel such as Board members, General Directors, and other executives that receive or do not receive salary, except in the case of those over the retirement age. The monthly social insurance contribution level of the above subjects are

regulated at 3% of salary used as the basis for social insurance contributions to the sickness and maternity fund, and 22% to the retirement and death fund.

Regarding the calculation of Social Insurance contributions, employers must base compulsory social insurance contributions on an employee's salary, which includes not only the basic wage but also salary allowances and other regular stipends. The contribution amount is determined by referencing a government-defined threshold. Specifically, the salary used for calculation purposes must be at least equal to this reference level and cannot exceed 20 times that level at the time of contribution.

▶ [Law on Social Insurance 2024](#)





## Enhancing social protection for certain individuals

### (i) Social pension for elderly citizens:

The new law introduces a social pension policy for individuals aged 75 and above who lack a monthly pension or social insurance benefit and have made a request to receive this benefit. The specific amount of the monthly social pension allowance will be adjusted every 3 years as regulated by the government.

### (ii) Monthly allowance for certain individuals:

Employees who have reached retirement age and have contributed to social insurance, but are not eligible for a pension and disqualifies for social pension benefits can now receive a monthly allowance from their own contributions.

The duration and level of this allowance depend on the payment history and the basis

of social insurance contributions. The minimum monthly allowance corresponds to the social pension allowance.

### (iii) Maternity and Child-related benefits:

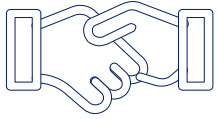
Pregnant female employees are entitled to up to five days of leave for prenatal check-ups, with each leave period not exceeding two days.

One-time allowances (commonly referred to as “diaper allowances”) are granted to employees upon childbirth, surrogacy, or adoption of a child under six months old. These allowances are calculated at twice the reference level.

► [Law on Social Insurance 2024](#)

# OUR EXPERTISE

We are always at your service



## Mergers & Acquisitions

We provide an end-to-end service to our clients, in cross-border as well as domestic M&A transactions, and are committed to providing pragmatic advice



## Taxation

Our practice covers all types of taxes (commercial/sales, individual and VAT, among others) and we advise on matters ranging from compliance issues to the tax implications of particular transactions



## Investment

We provide legal services to investors and foreign-invested enterprise. We always well understand the requirements of investors, financial institutions and stakeholders in large-scale investment projects in Vietnam.



## Litigation

We always discuss thoroughly with customers and review the provided documents to propose optimal solutions which is best protect the rights and legitimate interests of customers in each specific case.



## Banking & Project Finance

We have the expertise necessary to properly handle the risks in financial and banking activities and provide services such as: identifying potential risks, loan contracts, mortgage contracts, establish internal procedures of the banks



## Labour

Our diverse service range from consulting employee recruitment, employee benefits, performance evaluation, contract signing and termination, personal income tax, and human resource management to, resolving labor dispute



## Civil Matters

We strive to assist our clients in resolving legal issues in the area of civil, land, marriage and family



## Contracts & Agreements

We provide service on consulting and reviewing contracts and agreements, to support clients to negotiate with their partners, to protect their legal rights and interests to settle contractual dispute



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**PROFILES**



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