

Vietnam Laws on Enterprise

(NEW POINTS OF LAW NOW MEET THE YEAR 2014 EXPECTATIONS LARGE BUSINESS COMMUNITY WORKERS DURING WORLD ECONOMIC INTEGRATION IN VIETNAM)

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It can be affirmed that: In Vietnam, after the groundbreaking institutional paragraph entitled "Business Law" in 1999, the Enterprise Act 2014 is considered to be the second institution breakthrough and is longing , waiting for people and businesses.

Recognized under the legal science, reality shows, if state agencies can not listed statistics and all the business lines allowed, then why not choose the plan only trades statistics Business registration ban? Not until today, when the amendments to the Law on Enterprises are defined on the issue: corporate or individual business lines not banned by law. In 1999, the Law on Enterprises had strong breakthrough to bring this provision into, if not groundbreaking, it is difficult to get figures about 400,000 businesses are operating at present, but the economy of Vietnam Men may have turned in a different direction.

The breakthrough idea of the Enterprise Law in 1999 have formed the basis for much subsequent legislation "say no to license", which is viewed in terms of administrative reform in the licensing business in Vietnam. On 03/02/2000, the Prime Minister issued Decision No. 19/2000 / QD-TTg on the abolition of permits contrary to the provisions of the Enterprise Law, according to which 84 licenses were abolished. Looking at this figure, not from many startled and surprised with the existence that would not require the kind of pure license such as typewriter, photocopier, trims books or dancing, for rented sound, instrument repair, selling crafts souvenirs ... Six months later, the Government issued Decree 30/2000 / ND-CP of the Government dated 08.11.2000 to abolish 27 licenses and transferred 34 licenses to business conditions. Two years later, the Government issued Decree No. 59/2002 / ND-CP dated 04/06/2002 annulled four license categories and replace some of the licenses by other management methods.

Enterprises Law of 2005 is a document of legal provisions the legal status of the type of enterprise in the market economy-oriented sectors of the Socialist Republic of socialism Vietnam. As the legal framework confirms corridor lines ready integration and promote the socio-economic development of the country in the process of economic integration with other countries in Asia Pacific and around the World instructions.

2005 Enterprise Law was amended, continue to create breakthrough, moving from thinking, the "rent-seeking" into thinking of respect and ensure the implementation of the business freedom of the people. According to the Law on Enterprises 2005 all licenses, trading conditions are not specified in laws, ordinances, decrees will automatically expire from 01/09/2008. War "say no to license" seems to prevail and make the business environment more open, to help enterprises more favorable in establishing new and expanding operations. However, after nearly 9 years of implementation of the Enterprise Law in 2005 has revealed many deficiencies when entering the business market as well as to withdraw from the business market in Vietnam becomes more complex and costly necessary.

Institutional breakthrough this second, many people and businesses waiting for the Enterprise Law 2014 was passed in the National Assembly for an 8th session Lock XIII with new features active. These rules have to comply with the spirit of the 2013 Constitution of the business freedom of citizens and the business, according to which, what the law does not prohibit the people, businesses are free to invest, business , the new point of this document include the following details :

First: Separate procedures for the establishment of enterprises with investment procedures for project:

Enterprise Law 2014 has separate business establishment procedures with the procedures of investment projects, as well as with the relevant procedures of shares and shares. For foreign investors, the Law has established separate certificate business and investment certificates. The law also creates greater opportunities for market entry capability, certificates of business registration forms to the State's recognition of forming and joining of the business market. At the time of the establishment of enterprises, production and business of enterprises do not arise, thus separation between law has established business procedures and business registration procedures, business conditions. Before there were some ambiguous lines between established businesses and business conditions such as the health sector, mandatory personal business establishment, the manager must have a practicing certificate. But according to the 2014 Law on Enterprises and individuals established themselves now, and conditions of business and individuals must comply with the newly made. Regulations that create more friendly to entrepreneurship and business in general.

Second: Business Register and cancel the provisions proposed business providing industry codes when making business registration:

Article 9, LDN current provisions now obliged "business operations in accordance lines recorded in the certificate of business registration (GCNDKDN). This law is now tied up in the professions that State devised, lists and allows businesses to register. Ultimately, it is the gift business development from the State authorities.

However, once the limit has been banned by the clarification, the business listing, which means determining the right business activities of enterprises, will be meaningless.

According to Article 29 of the Law on Enterprises in 2014 has dropped regulations on business to business activities in strict accordance with the lines of business written in the certificate of business registration, in addition to just prescribed certificate of business registration (GCNDKDN) will be only four content: business name and business identification numbers; head office address; information on legal representatives and members of the company; and capital. In the right business right now trades recorded in the certificate of business registration for the meet business conditions as business investment industries business conditions prescribed by law and protected maintaining eligible make business investments that during operations. Operating standpoint, businesses will no longer have to worry whether the work they are doing with matching trades posted or whether the contract would have been signed or partners to court petition wealth Brand content citing work not within professions registered or not.

According to this law, corporate business autonomy and choice of forms of business organization; actively select business lines and geographical areas, business forms; actively adjust the scale and lines of business, thus, provides for the proposal now provides industry codes when making business registration has been abolished. Enterprises will not limit the number of business sectors. The trading company and distributor will not need to provide thousands of code branches for its commercial products as before, including the products they intend in the future business.

Thirdly, important reform of stamp:

On the issue of corporate seal, although can not completely stop the use of seals, but has made significant reforms. Previously the granting and use of the seal of the enterprise by the Ministry of Public Security, now under Article 44 of the Enterprise Act 2014, now has the right to decide on the form, amount and content of corporate seals under prescribed by law; simultaneously, have the obligation to notify specimen with business registration agency to publish publicly on the National Portal of enterprise registration. This provision helps businesses help troublesome, expensive in cost, time. However, not all of the corporate documents must stamp only stamp the text prescribed by law or by the partners require a stamp. According to the development trend of electronic trading methods, the use of seals would make no sense anymore. Therefore, the reform of the seal is fully consistent with the general trend of the world. Currently, under the provisions of the Enterprise Act 2005, the seal now also bound by many regulations on transactions in some jurisdictions, if altogether would generate huge amount of work and can not ensure tight management.

Fourth: Regarding social enterprise:

Social enterprise is not a particular type of private enterprises which are like regular businesses, are organized and operate under one of the types of enterprises (joint stock companies, limited liability company ...) only distinction in purpose of distributing and using the profits. Accordingly, social enterprises are now registered, established under the provisions of

this Act, the operational objectives to address social issues, the environment for the benefit and use community at least 51% of profit The annual profit of the business to reinvest in order to achieve the objective of social, environmental as registered. Enterprise Law stipulates modify the contents of principle to legally recognize the existence and as the basis for issuing the documents stipulated in detail later.

Fifthly: State Enterprise is an enterprise owned by the State holds 100% of the charter capital:

Instead of providing state enterprises are enterprises in which the State owns more than 50% of charter capital, as stipulated in Clause 22, Article 4 of the Law on Enterprises 2005. According to Article 88 of the Law on Enterprises 2014 amended regulations now The State is now the State holds 100% charter capital. Thus, in practice in Vietnam, enterprises with 100% state capital only count on the fingers, rest up equitization of all to equality of status, equality of opportunity and equality of protection of State. Law also modifies some new content to more clearly define the legal status of corporations, additional regulations more clearly form the parent company - subsidiary; prohibit the subsidiaries within a group of companies together to contribute capital and purchase shares for mutual cross-ownership; Additional provisions for transparency of the structure and the relationship between the companies in the economic group, as a public charter or agreement on the regulation on general corporate activities. Besides, the Act also modifies some content related to the abolition of regulations limiting merger, consolidation, division, separation of the company for various companies and organizations. Allow companies to own the same nature may consolidation, merger or division, be defined more clearly and more logical order and procedures for dissolution of the enterprise; unified a clue and enhance coordination among agencies for business registration, tax and police in solving enterprise dissolution procedure.

Sixth: On the issue of legal representatives of businesses:

According to Article 13 of the amended Law on Enterprises, the legal representative of the personal business enterprise represents the exercise of rights and obligations arising from the transaction of business, representing business as the plaintiff, the defendant, who has the rights, obligations related in arbitration, court and other rights and obligations prescribed by law. The company can fully decide, appoint a legal representative. Where necessary, have the autonomy to decide on the many legal representative; scope of rights and obligations of each representative must be specified in the company charter. Depending on the content transactions, legal representative of the enterprise with the corresponding competence is stipulated in the charter will conduct transactions with partners.

Seven: Reduce the proportion of shareholders present and decisions adopted in the session:

Under the Enterprise Law in 2014, against two Member Limited Company, meeting the Council members (HDTV) will be conducted when the number of participating members owning at least 65% of charter capital (1), while then, the ratio is 75% under the current Enterprise Law (2). Proportion to the decision of the Member Board adopted remains to be agreed by representatives of at least 65% of the total capital of the attending members, or at least 75% for important decisions such as selling assets production of high value; amendments and additions to the charter; reorganization and dissolution of companies (3). However, in the case of companies consulted in writing, the decision will be adopted when the number of members holding at least 65% of the charter capital - ratio current Enterprise Law is 75% (4). The new regulation seems to encourage the adoption of a decision of the Council members (BOM) in writing; this is a specified line with reality. Because, according to the provisions of the Enterprise Law, the Board member is the highest organ of power in two member limited liability Company.

For joint stock companies, the changes are deeper than usual and reach in the joint-stock company in the world. Shareholders minimum ratio required to be present for the first meeting of the General Assembly of Shareholders (AGM) is now just too sold (51% of voting shares), compared with 65% as the Company Law Current. If the meeting can not take place for the first time, the meeting will be valid for the second time in the presence of shareholders representing at least 33% of voting shares in the ratio prescribed current is 51% . In addition, the number of votes needed to agree decisions of General Meeting of Shareholders adopted the corresponding also lowered (just 51% instead of 65% as at present, except for some special issues), billions This percentage dropped significantly when the vote in writing: 51% compared with 75% today.

In addition, the Enterprise Law 2014 also awarded additional business for the right to choose appropriate organizational model. At the same time, officially recognized the role of the independent members of the Board of Directors (BOD) It

can find the legislators have found the optimal way to make the right decisions balancing law of large shareholders and the transparency of its activities to protect small shareholders.

Eighth: Not required accompanying judicial history card in business registration dossier:

Enterprises Act 2014 regulations, in case the business registration agency requests, the registrant established enterprises must submit judicial history card for business registration agency. Thus, the judicial history card is not compulsory in the document registration dossier established enterprises by if required will add time established businesses generate compliance cost burden for both very large government agencies and businesses, will have a favorable impact on the investment climate and business in our country. This is a highly regulated ventilation and flexibility from state agencies competent in the renewal of certification procedures for business registration, but this time the amendment was brought to satisfy demand, the legitimate aspirations of the people.

Summary: Enterprise Law in 2014 by the National Assembly of the Socialist Republic of Vietnam adoption and effective July 1, 2015 is an important event marked a very important innovations relating to business, reflect the will and aspirations of the majority of businesses and citizens. To the provisions of law innovation soon come to life, the Government, ministries, sectors and localities, enterprises will quickly coordinate deployment develop guidance documents, first of all in terms of the Law stated that the Government Affairs guiding as new problems which the author mentioned above in order to bring tangible benefits for enterprises, citizens and the public interest of the Republic of society SR Vietnam.

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