

CIRCULAR

GUIDANCE ON BUSINESS REGISTRATION

Pursuant to the Law on enterprises No. 68/2014/QH13 dated November 26, 2014;

Pursuant to the Law on Tax Administration No. 78/2006/QH11 dated November 29, 2006;

Pursuant to the Law amending and supplementing a number of articles of the Law on Tax Administration No. 21/2012/QH13 dated November 20, 2012;;

Pursuant to the Decree No. 78/2015/ND-CP on Business Registration dated September 14, 2015 by the Government;

Pursuant to the Decree No. 96/2015/ND-CP detailing a number of articles of the Law on Business Registration dated October 19, 2015 by the Government;

Pursuant to the Decree No. 116/2008/ND-CP regulating on functions, responsibilities, powers and organizational structure of the Ministry of Planning and Investment dated November 14, 2015 by the Government;

At the requests of the Director of Department of Business Registration,

The Minister of Planning and Investment issues this Circular on guiding on business registration.

Article 1. Scope of adjustment and regulated entities

1. This Circular issues forms of documents using for business registration, business household registration and releases guidelines on a number of contents related to business registration and business household registration.
2. This Circular shall apply to entities prescribed in Article 2 of this Decree No. 78/2015/ND-CP.

Article 2. Issuance and use of forms of business registration and household business registration

1. Forms of business registration and household business registration are enclosed in this Circular.
2. Forms of business registration and household business registration enclosed in this Circular shall consistently apply nationwide.

Article 3. Business household identification number

1. The business registration authority of the province shall write the business registration number on the Certificate of Household Business Registration as follows:
 - a) Province code: 02 characters, as per the Annex VII-2 of this Circular;

- b) District code: 01 character, as per the Annex VII-2 of this Circular;
 - c) Code of business types: 01 digit, 8= household business
 - d) The number of household business registration: 06 digits, from 000001 to 999999
2. Subsequent letters of the Vietnamese alphabet shall be used for the codes of districts and towns which are established after the day on which this Circular takes effect.
 3. In case of division of a district, province or city under a province after the day on which this Circular takes effect, the code of the divided one shall be the old code and the code of the divisor shall be inserted characters in the order of the Vietnamese alphabet.
 4. The Department of Planning and Investment shall announce the new code of the newly established district or divisor to the Ministry of Planning and Investment in writing.

Article 4. Application for business registration for an enterprise's ratification by ballot

If the Board of Members of a limited liability company or the General Meeting of Shareholders of a joint-stock company adopts a proposal by ballot as regulated in the Law on enterprises, the meeting minute enclosed in business registration application promulgated at Decree No. 78/2015/ND-CP may be replaced with a report on ballot results of the Board of Members of a limited liability company and a voting record of the General Meeting of Shareholder of a joint stock company.

Article 5. Changes in information of founding shareholders and shareholders being foreign investors

1. In case of changes in information of a founding shareholder, the enterprise shall send a notification to the Business Registration Office of the district where its headquarters is located as regulated in Article 51 of the Decree No. 78/2015/ND-CP. Only unlisted joint-stock companies may change their information on founding shareholders.
2. The decisions and valid copies of meeting minute of the General Meeting of Shareholders on information replacements of shareholders being foreign investors in the application for business registration regulated in clause 1, Article 52 of the Decree No. 78/2015/ND-CP are only required in the case founding shareholders who are concurrently foreign investors transferred their common shares to persons who are not founding shareholders of the company within 03 years from the date of issuance of the Certificate of Business Registration.

Article 6. Business registration of branches, representative offices and business location of an enterprise

1. After the receipt of the Certificate of Business Registration, if a state-owned enterprise has been changed into a limited liability company or joint-stock company, a limited liability company has been changed into a joint-stock company and vice versa, or a private enterprise has been changed into a limited liability company, its branches, representative offices and business location of the enterprise shall register for changes in business registration information as regulated in Article 48 of the Decree No. 78/2015/ND-CP.

2. With regard to business locations of an enterprise under its branches, a person who signs the announcement of foundation of a business location, changes in business registration information, suspension in operation, and resumption of business ahead of schedule or shutdown of a business location shall be the legal representative of the enterprise or the head of the branch.
3. Re-issuance of the Certificate of Branch/Representative Office Registration, the Certificate of business location shall be done under Article 58 of Decree No. 78/2015/ND-CP.
4. Shutdown of an overseas branch/ representative office shall be conducted in accordance with laws of the host country. Within 30 working days from the day on which the overseas branch/ representative office is officially shut down, the enterprise shall inform shutdown of these overseas branch/ representative office in writing to the Business Registration Office where the enterprise is situated. The notification of shutdown of an overseas branch/ representative office shall be made as per the form II-23 enclosed in this Circular.

Article 7. Expungement of fully divided companies, consolidating companies and acquired companies

1. If the business registration information of an acquirer company remains constant after the acquisition, the acquirer shall submit a notification of expungement of the acquired company made according to the form in the Annex II-E of this Circular to the Business Registration Office where the acquirer's headquarters is situated within 10 working days from the date of completion of acquisition. The notification shall be enclosed with relevant papers as regulated in clause 5, Article 195 of the Law on enterprises.
2. In case, the acquired company is located in a different province or central-affiliated city other than that where the acquirer is headquartered, the Business Registration Office where the acquirer is headquartered shall cooperate with the Business Registration Office where the acquired company's headquarters is placed in expunging the acquired company as regulated in clause 3, Article 61 of the Decree No. 78/2015/ND-CP.
3. Prior to expungement of a transferor company, consolidating company and acquired company as regulated in clause 1 and clause 3 of Article 61 of the Decree No. 78/2015/ND-CP, the Business Registration Office shall shut down all branches, representative offices, and business locations of such companies.

Article 8. Issuance of Certificate of Business Registration as a replacement for Investment Licenses, Investment Certificates or the equivalent

1. If an enterprise applies for Certificate of Business Registration to replace the Investment License, Investment Certificate or the equivalent (hereinafter referred to as Investment Certificate) and the contents of business registration remain constant, the enterprise shall submit its application to the Business Registration Office where its headquarters is located. An application for the Certificate of Business Registration shall include:
 - a) Valid copies of the Investment Certificate;
 - b) Valid copies of the Certificate of Tax Registration;

c) An application for update of business registration information using the form in the Annex II-18 of this Circular;

2. If an enterprise applies for branch/representative office/business location operation registration to replace the Investment Certificate or the Certificate of branch/representative office operation registration issued by investment registration authorities without any changes in the business registration information, the enterprise shall submit its application to the Business Registration Office where its branch/representative office/business location is headquartered. An application for business operation registration shall include:

a) Valid copies of the Investment Certificate or Certificate of branch/representative office/business location operation registration issued by investment registration authorities;

b) Valid copies of the Certificate of Tax Registration;

c) An application for update of business registration information using the form in the Annex II-19 of this Circular;

3. In case of business registration, announcement of changes in business registration information, business suspension, business resumption ahead of the schedule, dissolution, seal design announcement, the enterprise shall submit its application to the Business Registration Office where its headquarters is situated. The application includes relevant papers as regulated in the Decree No. 78/2015/ND-CP and other papers in clause 1 of this Article.

4. In the event of business registration, registration for changes in branch/representative office registration information, business resumption ahead of schedule, business termination, announcement of seal design of the branch/representative office, the enterprise shall submit its application to the Business Registration Office where its branch/representative office's headquarters is situated. The application includes relevant papers specified in the Decree No. 78/2015/ND-CP and the application for supplement and update on business registration information using the form in the Annex II-19 enclosed in this Circular.

If the branch operates under an Investment Certificate, the enterprise's application shall include valid copies of the Investment Certificate and valid copies of the Certificate of Tax Registration of this branch besides the above-mentioned papers.

5. In the event of registration of business establishment, changes in business registration information, business suspension, business resumption ahead of schedule, shutdown of business location of the enterprise, the enterprise shall submit its application to the Business Registration Office where its headquarters is situated. The application includes relevant papers as regulated in the Decree No. 78/2015/ND-CP and the application for update of business registration information using the form in the Annex II-19 enclosed in this Circular.

In the event of registration for business establishment, changes in business registration information, business suspension, business resumption ahead of schedule, shutdown of business location of the enterprise, the enterprise shall submit its application to the Business Registration Office where the branch is headquartered.

6. If the enterprise registers for its business as regulated in clause 4 and clause 5 of this Article in another province other than that of its headquarters is situated, the Business Registration Office where the branch/representative office's headquarters is placed shall cooperate with the Business Registration Office where the enterprise is headquartered to receive and process the enterprise's application.

7. After receipt of the application, the Business Registration Office send the enterprise a Receipt and review the eligibility and validity of the application to grant the Certificate of Business Registration, the Certificate of Business Operation, Certificate of changes in business registration information and other relevant certificates as regulated in the Decree No. 78/2015/ND-CP.

Article 9. Notification of information related to withdrawal of the Certificate of Business Registration and recovery of enterprise's legal status on National Business Registration Portal

1. Within 02 working days from the date of notification of the enterprise's violations which result in withdrawal of the Certificate of Business Registration and Decision on withdrawal of the Certificate of Business Registration, the Business Registration Office shall notify the enterprise's headquarters of the decision and update this information on The National Business Registration Portal.

2. Within 02 working days from the date of issuance of decision on revocation of the decision on cancellation of the Certificate of Business Registration, the Business Registration Office shall announce the recovery of legal status of this enterprise and update such information on the National Business Registration Portal.

Article 10. Cases of unregistration for changes in business registration information

1. Police authorities regulated in point c, clause 1, Article 56 of the Decree No. 78/2015/ND-CP includes investigation authorities, the Heads, Deputy Heads of investigation authorities and Investigators under the Criminal Law.

2. The enterprise can continue to register for changes in business registration in cases stipulated in clause 2, Article 56 of the Decree No. 78/2015/ND-CP and cases approved by police authorities in clause 1 of this Article.

Article 11. Use of information of the National Business Registration Portal

1. Information is complimentary posted on the National Business Registration Portal (www.dangkykinhdoanh.gov.vn) including: the name of enterprise, enterprise identification number, the address of the headquarters, business lines, full name of the legal representative, seal design and enterprise legal status.

2. In addition to such complimentary information in clause 1 of this Article, organizations and individuals may request additional information on contents of business registration, financial statements and types of business on the National Business Registration Portal and shall be charged under its regulations.

3. Organizations and individuals may request information prescribed in clause 2 of this Article at the Ministry of Planning and Investment (help and support center under the Department of business registration management), or in the Business Registration Office or the National Business Registration Portal.

The Help and Support Center in business registration shall provide information of all enterprises on the national business registration database. The business Registration Offices of provinces shall provide information about enterprises within its administration.

4. Provision of information in clause 2 and clause 3 of this Article shall be charged as stipulated in Vietnam's regulations of laws.

Article 12. Recovery of enterprise's legal status on National Enterprise Registration Database after the withdrawal of the Certificate of Business Registration.

1. If an enterprise is eligible to have its legal status recovered as regulated in Article 64 of the Decree No. 78/2015/ND-CP, the Business Registration Office shall releases decision on revocation of the decision on cancellation of the Certificate of Business Registration as the form in the Annex V-17 of this Circular.

At the requests of the Business Registration Office, the Ministry of Planning and Investment (the Department of Business Registration) shall provide technical assistance in converting the enterprise's legal status as "withdrawn" or "dissolved" to "operating" on the National Business Registration Portal. The enterprise has its legal status recovered at the time of conversion to "operating"

The Business Registration Office shall be responsible for its decision on revocation of the decision on withdrawal of the Certificate of Business Registration and recovery of then enterprise's legal status on the National Business Registration Database.

2. The enterprise's legal status shall be recovered as regulated in clause 2, Article 64 of the Decree 78/2015/ND-CP within 180 days from the date of issuance of decision on withdrawal of the Certificate of Business Registration and the enterprise's legal status has not changed into "dissolved" on the National Business Registration Database.

3. Within 02 working days from the time of the enterprise's legal status is recovered on the National Business Registration Database, the Business Registration Office shall notify tax authorities and this enterprise of the recovery of the enterprise's legal status.

Article 13. Rectification of business registration information on Certificate of Business Registration

1. If any discrepancies of business registration information between the Certificate of Business Registration and the application for business registration are found by the enterprise, the enterprise shall send a written request for rectification using the form in the Annex II-14 enclosed in this Circular to the Business Registration Office where the enterprise is registered.

If information in the written request for rectification is accurate, the Business Registration Office shall examine the application and re-issue a new Certificate of Business Registration within 03 working days from the date of receipt of the written request for rectification.

2. If any discrepancies of business registration information between the Certificate of Business Registration and the application for business registration are found by Business Registration Office, the Business Registration Office shall send the enterprise a notification of rectification of the Certificate of Business Registration using the form in

the Annex V-6 of this Circular and re-issue a new Certificate of Business Registration within 03 working days from the date of notification.

3. Rectification of information in the Certificate of changes in business registration information, the Certificate of branch/representative office operation registration, the Certificate of business locations of the enterprise and information on the National Enterprise Registration Database shall be conducted as regulated in clause 1 and clause 2 of this Article.

Article 14. Information rectification on National Enterprise Registration Database if Certificate of Business Registration is issued improperly or information provided in the application for business registration is unreliable or inaccurate.

1. In case that an application for business registration is approved with an improper application and procedure, the Business Registration Office shall deal with in accordance with regulations in clause 2, Article 58 of the Decree 78/2015/ND-CP. The Business Registration Office shall rectify the information in the National Enterprise Registration Database based on the valid and complete application prior to re-issuance of a new Certificate of Business Registration and Certificate of changes in business registration information.

2. In case of declaration of unreliable or inaccurate information in the application for business registration, the Business Registration Office shall process in accordance with regulations in clause 3, Article 58 of the Decree 78/2015/ND-CP. After decision on penalties for violations is issued by State competent authorities, the Business Registration Office shall rectify information on National Enterprise Registration Database based on the valid and complete application prior to re-issuance of a new Certificate of Business Registration and Certificate of changes in business registration information.

Article 15. Update on business registration information on Certificate of Business Registration and application for business registration

1. The enterprise shall submit a complete application for business registration once changes in business registration information occur, including following information: phone number, fax, email address (email), the enterprise's website (website). The enterprise must provide its phone number in its application for business registration. In case the enterprise's phone number is not provided, the application for changes business registration information is considered invalid under regulations in clause 15, Article 4 of the Law on enterprises

2. According to data about an enterprise on the National Enterprise Registration Database, the enterprise shall update and provide additional information in the Certificate of Business Registration and application for business registration under clause 7, Article 8 of the Law on enterprises.

a) If the enterprise updates and provides additional information on its phone number, fax, email, website and address due to changes in administration division, the ID card and address of persons motioned in the Certificate of Business Registration, the enterprise shall send a notification using the form in the Annex II-5 of this Circular to the Business Registration Office where the enterprise is headquartered. The Business Registration Office shall receive the notification and issue Certificate of Business Registration.

b) If the enterprise only updates further information on the application for business registration without any changes in the contents of the Certificate of Business Registration and is not required to notify changes in business registration information according to Article 49 through Article 54 of the Decree 78/2015/ND-CP, the enterprise shall send a notification made as per the form in the Annex II-5 of this Circular to the Business Registration Office where the enterprise is headquartered.

The Business Registration Office shall add such information on the enterprise's dossier, update the National Enterprise Registration Database and issue a certification as regulated in the Decree No. 78/2015/ND-CP. In this case, the enterprise shall not be charged.

Article 16. Update business registration information on National Business Registration Database

1. The Business Registration Office shall digitalize applications for business registration, upload and fully store them on the National Business Registration Database.
2. Digitalization of the application for business registration shall be conducted as regulated in clause 11, Article 3 of the Decree 78/2015/ND-CP. With regard to applications for business registration which are submitted before the day on which this Circular takes effect and have not digitalized yet from the date of issuance of business registration, The Business Registration Office shall make plans and estimate budgets for such application conversion into electronic documents and archives them on the National Business Registration Database.

Article 17. Rectification of business registration information due to document conversion to National Business Registration Database

1. If the enterprise discovers that its digitalized business registration information is incomplete and inaccurate in comparison with the business registration information on the physical copies of its Certificate of Business Registration, Certificate of tax registration (hereinafter referred to as the Certificate) due to the conversion of information to the National Enterprise Registration Database, the enterprise shall send a written request for rectification using the form in the Annex II-16 of this Circular to the Business Registration Office where the enterprise is headquartered. A valid copy of the Certificate shall be enclosed with the written request for ratification.

Within 03 working days from the date of receipt of the written request for rectification, the Registration Office shall rectify the business registration information on the National Business Registration Portal.

2. If the Business Registration Office finds that there is no converted business registration information or the converted business registration information in digital database is inaccurate in comparison with that in physical copies of the Certificates, the Business Registration Office shall add and rectify the business registration information on the National Enterprise Registration Database within 03 working days from the date of discovery of such issues.

Article 18. Standardization of business registration information on National Business Registration Database

1. With regard to business registration information converted to the National Enterprise Registration Database from information that is stored at the Business Registration Office and Investment Registration Authorities, according to stored information on the National Business Registration Database, the Business Registration Office shall send the enterprise a notice for examination of the business registration information, operation status, request the enterprise to compare information and:

a) Give feedback to the Business Registration Office within 90 days from the date of receipt of the requests from the Business Registration Office and the enterprise shall be responsible for validity and accuracy of registered information as regulated in clause 7, Article 8 of the Law on enterprises.

b) If the enterprise fails to give its feedback on due date regulated in point a, clause 1 of this Article, the Business Registration Office shall require the enterprise to make a report under point c, clause 1 of Article 209 of the Law on enterprises. If the enterprise fails to give its feedback as regulated in point c, clause 1, Article 209 of the Law on enterprises, the Business Registration Office shall withdraw the Certificate of Business Registration in accordance with procedures regulated in clause 4, Article 63 of the Decree 78/2015/ND-CP.

2. According to stored business registration information on the National Enterprise Registration Database under its administration and annual plans, the Business Registration Office shall take charge of and cooperate with tax authorities and other relevant agencies to develop a plan for examination of the enterprise operation. Process and procedures for enterprise operation examination shall be in accordance with the regulation in clause 1 of this Article.

3. At least once every year, the Business Registration Office shall take charge of and cooperate with tax authorities and other relevant agencies to develop a plan(s) for standardization of business registration information and draw a budget(s) for this plan(s).

4. Forms of notification of examination of business registration information and operation status, notification of result feedback on examination of business registration information shall be made using the forms V-7 and II-15 enclosed in this Circular.

Article 19. Addition of business registration information to National Business Registration Database

1. According to business registration information stored in the Business Registration Office, Investment Registration Authorities and the existing information on the National Business Registration Portal, the Business Registration Office shall examine and compare to add further information to the National Business Registration Database.

2. The Business Registration Office shall fully update data on enterprises, their affiliates, business locations from local database to the National Enterprise Registration Database and ensure the consistency between additional information and original information.

Article 20. Implementation organization

1. This Circular comes into effect from January 15, 2016 and replaces for the Circular No. 01/2013/TT-BKHĐT guiding on business registration dated January 21, 2013 by the Ministry of Planning and Investment.

2. The Departments of Planning and Investment of provinces, business registration authorities, enterprises established under the Law on Enterprises, enterprise founders, business households, relevant organizations and individuals shall implement this Circular.

3. Any arising issues or concerns during the execution of this Circular, relevant organizations and individuals shall promptly report to the Ministry of Planning and Investment.

MINISTER

Bui Quang Vinh