

New decree on enterprise registration



By **Luu Xuan Vinh**

On November 26, 2014 the National Assembly of Vietnam adopted a new law on enterprise (2014 Enterprise Law) which takes effect on July 1, 2015 and replaces the law on enterprise 2005. Together with the new law on investment, the 2014 Enterprise Law is considered another historic milestone to improve the legal framework in Vietnam.

Decree No. 78/2015/ND-CP on enterprise registration (Decree 78) has recently been issued to reinforce the spirit of “business freedom” of the 2014 Enterprise Law, providing detailed instructions and guidance on enterprise registration. Some of the notable changes compared to the current decree on enterprise registration (Decree No. 43/2010/ND-CP) are as follows:

Firstly, Decree 78 no longer requires the investor to submit the documents confirming the legal capital by the authority in case the new business line requires legal capital or a valid copy of the certificate of practising for individual according to the specialised areas when the investor submits the dossier for setup of the enterprise operating in conditional business lines.

Secondly, the investor is now able to register their operation online. Accordingly, the investor can register their operation via the National Information Portal on Enterprise Registration. Online enterprise registration dossier includes the same documents as required for the paper dossier and are converted into the electronic form. Decree 78 also stipulates that online enterprise registration dossier has the same validity as the paper one.

Thirdly, Decree 78 provides that the Enterprise Registration Certificate (ERC) also serves as the Tax Registration of the enterprise. In the event of any inconsistency between the electronic ERC, Branch Registration Certificate, Representative Office Registration Certificate, Certificate on business locations and the paper ones, the one which records information in the enterprise registration dossier shall prevail.

Fourthly, Decree 78 simplifies registration procedure by stating that the enterprise registration authority is not allowed to request

additional documents or other documents not required in the enterprise registration dossier by the law. In this regard, the number of required documents in the application dossier is also reduced significantly and the time to obtain the ERC following submission of a valid dossier is shortened from five working days to three working days.

Furthermore, Decree 78 clarifies and classifies cases where the enterprise is required to notify and register change to the licensing body when there is any change to the enterprise registration content.

Accordingly, the enterprise is required to register change to the enterprise registration, including register change to headquarters, name, partnership, legal representative, charter capital, contribution capital, member (limited liability with two members or more), owner (the sole proprietorship) and change to operation registration of the branch, representative office and business locations. The enterprise is only required to notify in writing to the licensing bodies when there is any change to the business lines, investment capital of the owner of the sole proprietorship, information of the founding shareholders (for joint stock company), the shareholders being the foreign investors in

unlisted joint stock companies, tax registration and other contents which are not required to carry out registration procedures.

Decree 78 comes into force from November 1, 2015 and replaces Decree No. 43/2010/ND-CP and Decree No. 05/2013/ND-CP.

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