



LEGAL NEWSLETTER

APRIL 2023

 TNTP & ASSOCIATES INTERNATIONAL LAW FIRM

Website: [/dsvc.com.vn/](https://dsvc.com.vn/) & [/tntplaw.vn/](https://tntplaw.vn/)

Contact: (+84) 93 179 8818

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Changes in bond offering and trading regulations under Government Decree 08/2023/NĐ-CP

Starting from March 5th, 2023, Government Decree 08/2023/NĐ-CP will come into effect, which will amend, supplement, and revoke certain provisions of previous decrees that regulate the offering and trading of corporate bonds in the domestic market and the offering of corporate bonds in the international market. The specific regulations are as follows:

1. Companies issuing bonds may negotiate with bondholders to pay the principal and interest of the bonds upon maturity using other assets if they are unable to fully pay them on time according to the issuance plan

According to Article 1 of Decree 08/2023/NĐ-CP, the Government has amended and supplemented Clause 3 of Article 34 of Decree 153/2020/NĐ-CP dated December 31st, 2020. Accordingly, in the case that a company issuing bonds cannot fully pay the principal and interest of the bonds in Vietnamese dong according to the announced issuance plan, the company may negotiate with bondholders to pay the principal and interest of the bonds upon maturity using other assets based on the following principles:

Comply with the provisions of civil law and related laws. Investment and business sectors with conditions must also comply with the provisions of laws on those investment and business sectors.

Must be approved by the bondholders.

The issuing company must disclose unusual information and take full responsibility for the legal status of the assets used to pay the principal and interest of the bonds according to the provisions of the law.

2. Companies issuing bonds may extend the term of the bonds by up to 2 years from the term announced in the bond issuance plan for investors

According to Article 2 of Decree 08/2023/NĐ-CP, the Government has amended and supplemented point b, clause 3, Article 3 of Decree No. 65/2022/NĐ-CP dated September 16, 2022, amending and supplementing some provisions of Decree No. 153/2020/NĐ-CP dated December 31, 2020, which regulates the issuance and trading of private corporate bonds in the domestic market and the offering of corporate bonds to the international market. Accordingly, companies issuing bonds are allowed to change the conditions and terms of the bonds but must ensure the following principles:

Comply with the regulations in Clause 3, Article 1 of this Decree;

In case of extending the term of the bonds, the maximum period shall not exceed 2 years from the term announced in the bond issuance plan for investors.



Changes in bond offering and trading regulations under Government Decree 08/2023/NĐ-CP

3. Companies are allowed to negotiate with bondholders to settle the change of conditions and terms of the bonds

One of the new regulations in Article 2 of Decree 08/2023/NĐ-CP is that in case bondholders do not agree to change the conditions and terms of the bonds, the issuing company is responsible for negotiating to ensure the investors' rights and interests. If a bondholder does not agree to the negotiation plan, the company must fulfil its obligations to the bondholder according to the bond issuance plan for investors (including the case where the change of conditions and terms of the bonds has been approved by bondholders representing 65% or more of the total number of bonds).

Therefore, from March 5, 2023, companies issuing bonds can negotiate with bondholders on the change of conditions and terms of the bonds, contributing to ensuring the rights and interests of both the issuing companies and the bondholders.

4. Suspend the validity of many regulations on bonds

In Article 3 of Decree 08/2023/NĐ-CP, the following regulations in Decree 65/2022/NĐ-CP will be suspended until December 31, 2023, specifically:

The regulation on determining the professional securities investor status of individuals at point d Clause 1 Article 8 of Decree No. 153/2020/NĐ-CP, which was amended at Clause 6 Article 1 of Decree No. 65/2022/NĐ-CP

The regulation on the time of bond distribution for each issuance period at point 7, point 8 Clause 1 Article 65/2022/NĐ-CP

The regulation on credit rating results for bond-issuing enterprises at point e Clause 2 Article 12 of Decree No. 153/2020/NĐ-CP, which was amended at Clause 9 Article 1 of Decree No. 65/2022/NĐ-CP

Therefore, amending and supplementing regulations according to the content of Decree 08/2023/NĐ-CP will create a great opportunity for enterprises, especially those operating in the real estate business that is currently under a lot of pressure due to the declining real estate market in Vietnam, coupled with the pressure of repaying principal and interest to investors. In addition, bondholders will also limit risks as they can choose to receive other assets to ensure the value of their bonds or negotiate to find a solution if the issuing company cannot repay the principal and interest when due. These are very timely regulations of the Government to ensure the stable operation of the economy in the current difficult situation.

The changes regarding value-added Tax and Tax management regulations in Circular 13/2023/TT-BTC of the Ministry of Finance

On February 28, 2023, the Minister of Finance issued Circular 13/2023/TT-BTC to guide Decree 49/2022/ND-CP amending Decree 209/2013/ND-CP guiding the Law on Value Added Tax as amended by Decree 12/2015/ND-CP, 100/2016/ND-CP, and 146/2017/ND-CP and amending Circular 80/2021/TT-BTC.

Accordingly, certain provisions related to taxes have been amended, supplemented, or replaced, specifically:

1. Regulations on VAT pricing

Amendment and supplementation of Clause 10 Article 7 of Circular No. 219/2013/TT-BTC dated December 31, 2013, of the Ministry of Finance as follows:

Amendment and supplementation of Clause 13 Article 7 of Circular No. 219/2013/TT-BTC as follows:

Replacement of Clause 2 and Clause 3, Article 18 of Circular No. 219/2013/TT-BTC with new content as follows:

Regarding real estate transfer, the taxable price shall be determined in accordance with regulations in Clause 1 Article 1 of Government's Decree No. 49/2022/ND-CP dated July 29, 2022.

Taxable prices for electricity generation by Vietnam Electricity (EVN) shall comply with regulations in Clause 1 Article 1 of Government's Decree No. 49/2022/ND-CP.

Cơ sở kinh doanh được hoàn thuế giá trị gia tăng đối với dự án đầu tư theo quy định tại khoản 3 Điều 1 Nghị định 49/2022/ND-CP.



The changes regarding value-added Tax and Tax management regulations in Circular 13/2023/TT-BTC of the Ministry of Finance

2. The related documents in the case of value-added tax refund for investment projects

Amendments to Point a.4 Clause 2 Article 28 of Circular No. 80/2021/TT-BTC dated September 29, 2021, of the Ministry of Finance. Accordingly, the related documents in the case of value-added tax refunds for investment projects include:

Copy of the Certificate of Investment Registration or Investment Certificate or Investment License in case the Certificate of Investment Registration is mandatory;

If the project has construction work: Copy of the Land Use Right Certificate, land allocation decision or land lease contract of a competent authority; the construction license;

Copy of the charter capital contribution certificate;

Regarding investment projects of business establishments having conditional business lines in the investment stage that have been granted licenses for conditional business lines by competent state agencies according to regulations of laws on investment and specialized laws under regulations in Clause 3 Article 1 of Government's Decree No. 49/2022/ND-CP dated July 29, 2022: Copy of one of the licenses, certificates, or written confirmation or approval for these conditional business lines;

A list of invoices and documentary evidence for purchases according to Form No. 01-1/HT in Appendix I hereof, unless the taxpayer has sent electronic invoices to the tax authority;

The decision on the establishment of the Project Management Board, the project owner's decision on the assignment of project management tasks, regulations on organizational structure and operation of the branch or Project Management Board (if the tax refund is applied by the branch or Project Management Board).

3. Entry into force

This Circular comes into force as of April 14, 2023.



Thus, the issuance of Circular 13/2023/TT-BTC has ensured the consistency among legal documents regulating value-added tax and tax management, thereby contributing to enhancing the effectiveness of the legal provisions' application.

New points of Circular 01/2023/TT-BLĐTBXH

On January 3, 2023, the Ministry of Labor, War Invalids and Social Affairs issued Circular 01/2023/TT-BLĐTBXH effective from February 20, 2023 ("Circular 01"). Accordingly, Circular 01 stipulates the adjustment of salary and monthly income for which social insurance has been paid. Specifically:

1. Subjects eligible for adjustment of salary paid for social insurance

According to the provisions of Clause 1, Article 1 of Circular 01 on the subjects of application, accordingly, the subjects of salary adjustment who have paid social insurance according to the provisions of Clauses 1 and 2, Article 10 of Decree No. 115/2015/ ND-CP includes:

Employees subject to the salary regime prescribed by the State start participating in social insurance from January 1, 2016, onwards, enjoy lump-sum social insurance, or die and their relatives are entitled to a lump-sum survivorship allowance for the period from January 1, 2023, to December 31, 2023.

Employees pay social insurance according to the salary regime decided by the employer, receive a pension, a lump-sum allowance upon retirement, lump-sum social insurance or death whose relatives are entitled to a lump-sum survivorship allowance for the period from January 1, 2023, to December 31, 2023.

2. Who can adjust their monthly income for which social insurance has been paid?

According to Clause 2, Article 1 of Circular 01, the subjects who have adjusted their monthly income for which social insurance has been paid according to the provisions of Clause 2, Article 4 of Decree No. 134/2015/ND-CP are:

Voluntary social insurance participants enjoy pensions, lump-sum benefits upon retirement, and lump-sum social insurance; or

A voluntary social insurance participant dies and his/her family member is entitled to a lump-sum survivorship allowance.

These 02 subjects apply from January 1, 2023, to December 31, 2023.



New points of Circular 01/2023/TT-BLDTBXH

3. Adjustment of monthly salary for which social insurance has been paid in 2023

Those who are subject to adjustment of salary for which social insurance has been paid according to the provisions of Clauses 1 and 2, Article 10 of Decree 115/2015/ND-CP will be calculated the salary paid for social insurance as follows:

$$\begin{array}{|c|} \hline \text{Monthly salary on} \\ \text{which social} \\ \text{insurance is based} \\ \text{after adjustment of} \\ \text{each year} \\ \hline \end{array}
 =
 \begin{array}{|c|} \hline \text{Total monthly salary on} \\ \text{which social insurance} \\ \text{is based} \\ \hline \end{array}
 \times
 \begin{array}{|c|} \hline \text{Adjustment of salary for} \\ \text{which social insurance} \\ \text{has been paid in the} \\ \text{corresponding year (*)} \\ \hline \end{array}$$

In which, the adjustment of the salary for which social insurance has been paid in the corresponding year (*) is made according to the Table of Slippage coefficients of social insurance in 2023 below:

Table of Slippage coefficients of social insurance in 2023:

Year	Before 1995	1995	1996	1997	1998	1999	2000	2001	2002	2003
Adjustment level	5,26	4,26	4,09	5,26	3,08	3,64	3,70	3,71	3,57	3,46
Year	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Adjustment level	3,21	2,96	2,76	2,55	2,07	1,94	1,77	1,50	1,37	1,28
Year	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Adjustment level	1,23	1,23	1,19	1,15	1,11	1,08	1,05	1,03	1,00	1,00

For employees who both have time to pay social insurance and are subject to the salary regime prescribed by the State and have time to pay social insurance according to the salary regime decided by the employer, the monthly salary on which social insurance is based for employees who start participating in social insurance according to the salary regime prescribed by the State from January 1, 2016, onwards and the monthly salary for which social insurance have been paid according to the salary system decided by the employer adjusted according to the above.

New points of Circular 01/2023/TT-BLDTBXH

4. How is the adjustment of monthly income for which social insurance has been paid in 2023?

Subjects whose monthly income has paid social insurance according to the provisions of Clause 2, Article 4 of Decree No. 134/2015/ND-CP will be calculated their monthly income for which social insurance have been paid according to the following formula:

$$\begin{array}{|c|} \hline \text{Monthly income for} \\ \text{the payment of} \\ \text{voluntary social} \\ \text{insurance after} \\ \text{adjustment each year} \\ \hline \end{array}
 =
 \begin{array}{|c|} \hline \text{Total monthly income} \\ \text{on which social} \\ \text{insurance is based each} \\ \hline \end{array}
 \times
 \begin{array}{|c|} \hline \text{Adjustment of monthly} \\ \text{income for which social} \\ \text{insurance has been} \\ \text{paid in the} \\ \text{corresponding year (**)} \\ \hline \end{array}$$

In which, the adjustment of monthly income for which social insurance has been paid in the corresponding year (**) is made according to the Table of Slippage coefficients of social insurance in 2023 below:

Table of Slippage coefficients of social insurance in 2023:

Year	2008	2009	2010	2011	2012	2013	2014	2015
Adjustment level	2,07	1,94	1,77	1,50	1,37	1,28	1,23	1,23
Year	2016	2017	2018	2019	2020	2021	2022	2023
Adjustment level	1,19	1,15	1,11	1,08	1,05	1,03	1,00	1,00

For employees who both have time to pay compulsory social insurance and have time to pay voluntary social insurance, then:

The monthly income for which voluntary social insurance has been paid shall be adjusted according to the above regulations; The monthly salary for which compulsory social insurance has been paid shall be adjusted according to the provisions of Article 10 of Decree 115/2015/ND-CP and the above contents.

The average salary and monthly income for which social insurance has been paid as a basis for the calculation of pension, lump-sum allowance upon retirement, lump-sum social insurance and lump-sum survivorship allowance are calculated according to the provisions of Clause 4, Article 11 of the Decree. 115/2015/ND-CP and Clause 4, Article 5 of Decree 134/2015/ND-CP.

Thus, Circular 01/2023/TT-BLDTBXH was issued to adjust the salary paid for social insurance and the monthly income on which social insurance is based to support and create the best conditions for employees when paying social insurance. Employees as well as Employers need to pay attention to implementation.

Is it appropriate to use ChatGPT in law practice?

ChatGPT is currently one of the most famous chatbot software in the world because of its intelligent communication ability and its ability to answer complex questions in just a few minutes. Many industries in society have begun using ChatGPT as a tool to assist humans in solving problems. So, is using ChatGPT in the legal profession appropriate for current trends? Let's find out about TNTP in this article.

1. Potential of ChatGPT

As mentioned above, ChatGPT is a chatbot that can answer any user's questions by searching and synthesizing information in a huge database quickly. Unlike traditional search tools like Google which provide a list of answers based on user questions, ChatGPT proactively selects the most suitable answer to the user's question and synthesizes it into a text. Even when users continue to interact with ChatGPT, it will continue to answer them with very intelligent and reasonable language, very "human-like" compared to previous search tools or AI, which has made ChatGPT's popularity explode on the Internet.

Many people have tried using ChatGPT to reduce the workload in their work, and the fact has shown that many tasks have been improved with the help of ChatGPT, such as many programmers who have used this tool as a bug-fixing machine for their code and given very positive feedback that ChatGPT detected and fixed about 80% of the programming errors, but with a much faster time than usual.

2. The dark side of ChatGPT

Many American students have applied the ChatGPT tool to solve college entrance exams and have produced worrying results. According to some sources, ChatGPT can pass the final exam of the Wharton School of Business at the University of Pennsylvania, four exams of the Law School of the University of Minnesota, and a part of the United States Medical Licensing Examination, which has led many university leaders in the United States to apply various methods to eliminate or ban students from using this chatbot because if ChatGPT's power is used for cheating in exams, it will seriously affect the quality of education in the country.

Furthermore, many people have started using this tool to write articles or participate in contests on poetry or literature, making it difficult to distinguish human works from ChatGPT. According to AI researcher Alan Mackworth at the University of British Columbia - Canada, only 52% of the writing can be identified as being written by AI or humans, and this rate is even lower if the AI-generated content has been edited by humans. This shows that the use of ChatGPT, in addition to the visible benefits, also poses significant challenges to society. We used to think that machines could only replace human manual labour, but ChatGPT may force us to seriously consider whether intellectual work can also be replaced by machines soon.

Is it appropriate to use ChatGPT in law practice?

3. How does ChatGPT affect the legal profession?

With its powerful information synthesis capabilities and vast database, many law firms have begun using ChatGPT in their legal profession. This is understandable because ChatGPT's strength can be effectively utilized in legal work that requires fast, continuous processing of a wide range of information. In theory, tasks that require lawyers to search and synthesize legal regulations in dozens of legal documents and take several days to study can be solved by ChatGPT in just a few hours if provided with appropriate questions. However, in reality, ChatGPT is having a serious problem with the accuracy of the information it provides, some laws have even been changed or completely wrong. If legal work uses this content, it will directly affect work performance and may provide incorrect information, affecting the interests of clients.

Furthermore, if users implicitly consider ChatGPT's answers as the final solution, their legal thinking will be dependent on this program, because using ChatGPT to provide solutions to all problems instead of reasoning and evaluating issues themselves will leave their brain with no chance to think and develop. This is particularly dangerous in legal work, which always requires constant thinking to solve work and develop professional skills.

However, the power of ChatGPT cannot be denied, if used correctly, it may provide unreliable and verifiable information, but a quick lookup of information will build a sufficient basic framework. version to solve the problem. With legal issues, if asked the right questions, ChatGPT can give useful suggestions to solve the problem and save a lot of time for lawyers. This is the undeniable benefit of ChatGPT that can be applied in the legal field if we know how to use it.

Similar to the previous industrial revolution in history, the advent and development of new technology create challenges but also create new opportunities for the development of society. ChatGPT is also a technology that will soon have a significant impact on the current law practice of Vietnam and the world. However, as history has proven, it is always better to catch up and use technology to your advantage instead of denying the value of technology and being eliminated, we believe that ChatGPT and AI platforms If used properly, will also be useful and bring high value to the legal profession in particular and to society in general.



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TNTP & ASSOCIATES INTERNATIONAL LAW FIRM

Ho Chi Minh Office:

Suite 1901, 19th Floor, Saigon Trade Building, 37 Ton Duc Thang Street, Ben Nghe Ward, District 1, Ho Chi Minh City, Vietnam

Contact: (+84) 903 503 285 - (+84) 282 220 0911

Email: tra.nguyen@tntplaw.com

Ha Noi Office:

No. 2, Alley 308, Tay Son Street, Nga Tu So Ward, Dong Da Dist, Hanoi City, Vietnam

Contact: (+84) 931 798 818

Email: ha.nguyen@tntplaw.com

Da Nang Office:

31 Tran Phu Street, Hai Chau District, Da Nang, Vietnam

Contact: (+84) 903 503 285

Email: tra.nguyen@tntplaw.com

 [/dsdc.com.vn/](https://dsdc.com.vn/) & [/tntplaw.vn/](https://tntplaw.vn/)

 [/giaiquyettranhchapvathuhoino/](https://giaiquyettranhchapvathuhoino/)