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Vietnam
Finance

Vietnam: New Law Guiding the Order of and Procedures for Recovery and Disposal of Finance Leased Assets by Finance Leasing Companies

Summary

On 10 December 2007, the State Bank of Vietnam, the Ministry of Public Security and the Ministry of Justice issued Joint-Circular No. 08/2007/TTLT-NHNN-BCA-BTP relating to the recovery and disposal of finance leased assets by finance leasing companies ("**Circular 08**"). Circular 08 applies to finance leasing companies set up and operating under the Law on Credit Institutions, state agencies, Vietnamese organisations and individuals, and foreign organisations and individuals engaged in finance leasing activities in Vietnam. Circular 08 became valid on 26 December 2007.

Full Update

According to Circular 08, finance leasing companies may immediately recover leased assets without having to obtain a court judgment, and request the lessee to pay immediately the contractual rent amount not yet paid, if the lessee fails to pay the remaining rent money after the finance leasing company has given an 'ahead-of-schedule' notice of termination of the lease contract in one of the following cases:

- The lessee fails to pay rent money as agreed upon in the finance leasing contract;
- The lessee breaches the terms of the finance leasing contract;
- The lessee dissolves or falls bankrupt;
- The guarantor dissolves or falls bankrupt and the lessee rejects the lessor's request for guarantee termination or arrangement of another guarantor.

Within 30 (thirty) days after receiving an asset recovery request, the lessee must hand over the leased asset and related documents to the finance leasing company.

After the expiry of the 30 (thirty) day period, if the lessee still fails to hand over leased assets and related documents, the finance leasing company may directly recover or authorise a third party to recover the leased assets.

If the lessee is present at, but representatives of competent authorities are absent from, the recovery of a leased asset, the finance leasing company may still conduct the recovery but in the presence of a witness and shall record it in writing. If the lessee is absent, the finance leasing company may only recover the leased asset in the presence of a representative of a competent authority.

Within 60 (sixty) days after recovering a leased asset, the finance leasing company shall complete the disposal thereof as agreed in writing by the involved parties. If there is no such agreement, or the asset cannot be disposed of as agreed, the finance leasing company may dispose of the leased asset as follows:

- Selling the leased asset;
- Leasing the asset to another lessee;
- Directly using the leased asset;

- Re-exporting the leased asset;
- Other methods which are not contrary to law.

The finance leasing company has a responsibility to submit an application to request removal of registered finance leasing contract at the National Registration Department under the Ministry of Justice.

The issuing of Circular 08 has solved a lot of difficulties in the recovery and handling of leased assets caused by lessees not co-operating in returning leased assets to finance leasing companies and a lack of support from competent authorities in this area.

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