
Recent Legal Developments in Vietnam

New Decree No. 75/2019/ND-CP regulating administrative sanctions on violations of the Law on Competition

On 26 September 2019, the Government promulgated Decree No. 75/2019/ND-CP to regulate administrative sanctions on violations of the Law on Competition ("**Decree 75**"). Decree 75 takes effect from 01 December 2019.

Decree 75 is applicable to organizations and individuals doing business in Vietnam, including state enterprises and foreign enterprises doing business in Viet Nam (collectively referred to as "**enterprises**"), trade associations and other relevant domestic/foreign individuals and organizations.

As a principle, the Decree caps the amount of sanction for violations on anti-competitive agreement, abuse of dominant position, abuse of monopoly position at 10% total revenue of the enterprise in the relevant market of the preceding fiscal year, but the sanction has to be lower than the lowest monetary fines prescribed by the Criminal Code for violations against competition laws. The Decree also imposes a minimum fine of 01% of total revenue on most violations. If the enterprise has no revenue in the respective fiscal year then the applicable fine will be VND 100,000,000 to VND 200,000,000 (approx. USD 4,300-8,600).

Specifically, anti-competitive agreements are categorized into horizontal agreements and vertical agreements. Horizontal agreements shall be fined from 01% to 10% of the total revenue in the relevant market of the preceding fiscal year. Vertical agreements shall be fined from 01% to 05% of total revenue in the relevant market of the preceding fiscal year.

Enterprises that abuse their dominant position or monopoly position shall be fined from 01% to 10% of total revenue in the relevant market of the preceding fiscal year respectively.

For economic concentration, the enterprises that participate in prohibited mergers, acquisitions, consolidations and joint ventures which negatively affects or might negatively affect the Vietnam market, shall be subject to monetary fines from 01% to 05% of total revenue in the relevant market of the preceding fiscal year. The same level of fine is applicable to enterprise conducting acts of economic concentration without notification to the Viet Nam Competition Commission.

Apart from the above regulations, Decree 75 also provides for administrative sanctions for unfair competition acts and violations during the investigation proceedings. Not only monetary fines, the violating individuals/ organizations are also subject to supplemental sanctions such as revocation of practice license, business license, enterprise registration certificate or suspension of business from 06-12 months. The amount of fines also differ depending on the applicable mitigating or aggravating factors in a specific case.

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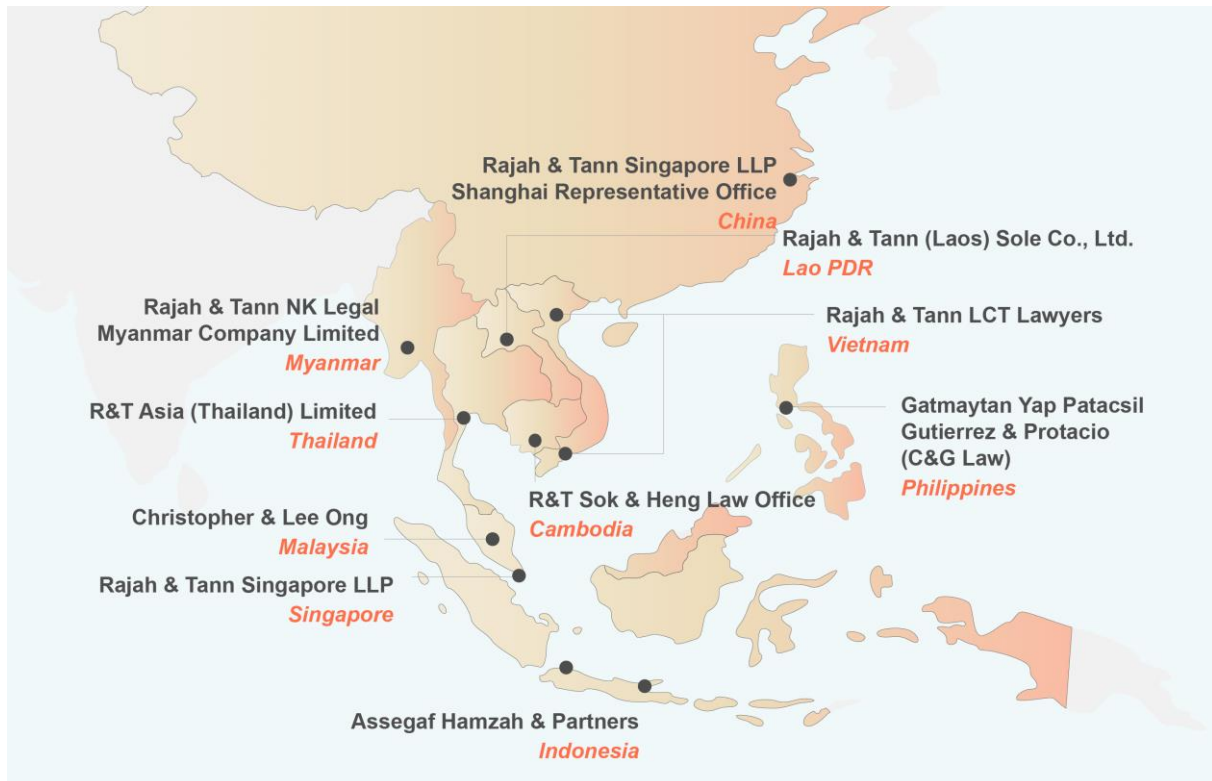
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