

ALERT ON THE NEW DECREE NO. 71/2022/ND-CP ON MANAGEMENT, PROVISION AND USE OF RADIO AND TELEVISION SERVICES

New decree will impact
overseas OTT and VOD service
providers in Vietnam

28 October 2022



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Notable contents of Decree No.71/2022/ND-CP of the Government

On 01 October 2022, the Vietnam Government has recently issued Decree No. 71/2022/ND-CP (“Decree 71”) amending and supplementing of Decree No. 06/2016/NĐ-CP (“Decree 06”) on the management, provision and use of radio and television services. Decree 71 will take effect from 1 January 2023.

In this Alert, we would like to highlight the notable contents of the Decree, which are expected to have impacts (which are potentially significant in certain cases) on overseas “over-the-top” (OTT) and “video-on-demand” VOD service providers carrying out cross-border business activities in Vietnam.

- **Requirements on business registration in Vietnam:** Overseas OTT and VOD service providers must register to get the business license from the Ministry of Information and Communications to provide cross-border OTT and VOD services in Vietnam.
- **Application dossiers** for business license for VOD service provider is requested simpler than the request for OTT service provider.
- **Reporting requirement:** Decree 06 and its guidance Circular No. 19/2016/TT-BTTTT introduced the report requirement of business activities in the periodic reporting time to the competent authorities (i.e. Department of Radio, Television and Electronic Information), in which the *information of revenue, profit before tax and tax liabilities is also requested to report.*

In addition, as mentioned in our earlier tax alerts, the Vietnam Prime Minister requested certain competent authorities, including the Ministry of Information and Communications to coordinate and provide information to the tax authorities to enhance the effectiveness of tax collection management for e-commerce and digital business activities. Therefore, the *information of revenue, profit before tax and tax liabilities of overseas OTT and VOD service providers carrying out cross-border business activities in Vietnam would be potentially exchanged between these competent authorities.*

The Decree may also have potential impacts on the implementation of Circular No. 80/2021/TT-BTC on tax administration, especially on the provisions on foreign digital service providers. We will have further analysis in later newsletters. As the effective date is fast approaching, it is advisable for the companies to review this decree closely and be prepared to tackle its implications.

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