

# SOME NEW REGULATIONS ON APPRAISAL FEES IN THE FIELD OF CONSTRUCTION

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On May 12, 2023, the Ministry of Finance promulgated Circular 27/2023/TT-BTC prescribing the fees for appraisal of technical designs and construction cost estimates, collection, payment, management, and use thereof (**Circular 27**) and Circular 28/2023/TT-BTC prescribing the fees for appraisal of construction investment projects, collection, payment, management and use thereof (**Circular 28**). Circular 27 and Circular 28 both take effect from July 1, 2023 with some outstanding contents related to construction appraisal fees as follows:

The **fees for appraisal of technical designs and construction cost estimates** are stipulated in the following new regulations of Circular 27:

*Firstly*, regulation on the formula for calculating the fees payable for appraisal of construction designs following fundamental designs and appraisal of construction cost estimates, specifically: Payable appraisal fee = Construction cost x Fee rate. In which, the Construction cost (as prescribed by regulations on management of construction costs) is exclusive of VAT in the construction cost estimate to be appraised; and the Fee rate is specified in the Fee Schedule issued together with Circular 27. The minimum appraisal fee is VND 500,000/construction cost to be appraised/appraising agency, while the maximum is VND 150,000,000/construction cost to be appraised/appraising agency.

*Secondly*, regulation on appraisal fees for construction investment projects with a modified appraisal of construction designs following fundamental designs and for construction cost estimates. Specifically, Circular 27 stipulates that the fee will be determined in the following 02 cases:

- If a design or cost estimate is modified using contents of the original design or cost estimate which has been already appraised: the fee rate shall equal 50% of that specified in the Fee Schedule issued together with Circular 27.
- If a design or cost estimate is modified without using the contents of the original design or cost



estimate which has been already appraised: the fee rate shall equal 100% of that specified in the Fee Schedule issued together with Circular 27.

*Thirdly*, regulation on the Schedule of fees for appraisal of construction designs following fundamental designs and construction cost estimates. In particular, the Schedule of fees includes (i) Fees for appraisal of construction designs following fundamental designs; and (ii) Fees for appraisal of construction cost estimates. They are all similar to the Schedule of fees stipulated in Appendix 1, Circular 210/2016/TT-BTC.

The **fees for appraisal of construction investment projects**, Circular 28 specifies some new regulations as follows:

*Firstly*, regulating the formula for calculating the fees payable for appraisal of construction investment projects, specifically: Payable appraisal fee = Total investment x Fee rate. In which, the Total investment is calculated based on the value to be appraised; and the Fee rate is specified in the Fee Schedule issued together with Circular 28. The minimum Fee payable for appraisal of construction investment projects is VND 500,000/total investment/appraising agency, while the maximum is VND 500,000/total investment/appraising agency. Besides, the appraisal fee of the following investment projects shall be equal to 50% of that specified in the Fee Schedule promulgated together with Circular 28:

- Construction investment projects in which construction authorities or appraising agencies affiliated to investment deciding persons request the investors to select qualified organizations or individuals to investigate certain contents necessary for appraisal tasks;
- Construction investment projects of large scale or with works that significantly affect community safety and interests and are funded by other funding sources as prescribed in clause 15 Article 1 of the Law on amendments to the Construction Law.

*Secondly*, regulating the appraisal fee for modified construction investment projects. In particular, the fee will be determined in the following 02 cases:

- If a project is modified using contents of the fundamental design and total investment which have been already appraised: the fee rate shall be equal to 50% of that specified in the Fee Schedule issued together with Circular 28;
- If a project is modified without using contents of the fundamental design and total investment which have been already appraised: the fee rate shall be equal to 100% of that specified in the Fee Schedule issued together with Circular 28.

*Thirdly*, regulating the Schedule of fees for appraisal of construction investment projects. In particular, the Schedule of fees includes the fees for appraisal of feasibility study reports or economic-technical reports, which are similar to the fees for appraisal of construction investment projects stipulated in section 1, Schedule of fees in Circular 209/2016/TT-BTC.

It should also be noted that for construction investment projects of which all appraisal contents have been completed by competent authorities but appraisal results have not yet been given before the effective date of Circular 27 and Circular 28 (July 1, 2023), the appraisal fees shall be collected at the fee rates prescribed in Circular 209/2016/TT-BTC (for cases mentioned in Circular 28) and Circular 210/2016/TT-BTC (for cases mentioned in Circular 27).

## **COMMENTS AND RECOMMENDATIONS**

The promulgation of Circular 27 and Circular 28 aims at strengthening the legal framework on state management of construction. Circular 27 is promulgated as an alternative to Circular 210/2016/TT-BTC, and Circular 28 is promulgated as an alternative to Circular 209/2016/TT-BTC since the administrative procedures on collecting fees for appraisal of construction investment projects prescribed in these 2 Circulars have been altered by new regulations. Organizations and individuals paying appraisal fees for construction projects should take into consideration the provisions of Circular 27 and Circular 28 to ensure compliance with the regulations of the laws.