

NEW REGULATIONS ON APPRAISAL FEE OF ENVIRONMENTAL IMPACT ASSESSMENT REPORT

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On June 8, 2023, the Ministry of Finance promulgated Circular 38/2023/TT-BTC stipulating the collection rate, regime of collection, payment, management and use of the fees for appraisal of environmental impact assessment reports by central agencies (**Circular 38**) to replace Circular 56/2018/TT-BTC. Circular 38 takes effect from August 1, 2023 with some notable contents as follows:

Firstly, regulation on fee payers. Circular 38 stipulates that fee payers are project owners who request competent agencies at the central level to appraise environmental impact assessment reports. The appraisal fee of environmental impact assessment will be paid to the Ministry of Natural Resources and Environment, the Ministry of Public Security, the Ministry of Defence or state agencies of three ministries assigned to appraise environmental impact assessment reports.

Secondly, regulation on fee declaration and payment. Pursuant to Circular 38, fee payers shall pay fees to the collection organization during the period from the time of submitting the application for appraisal until the time before the Appraisal council meeting. The payment of appraisal fees shall comply with Circular 74/2022/TT-BTC on forms and deadline for the collection, payment, and declaration of fees and charges under the authority of stipulation of the Ministry of Finance.

Thirdly, regulation on appraisal fees of environmental impact assessment reports. Accordingly, the appraisal fee will comply with the Schedule of appraisal fees of environmental impact assessment reports enclosed with Circular 38, in which, the payable fee is determined based on the total investment capital of the project and 6 project groups, including:

- Group 1: Civil construction projects
- Group 2: Technical infrastructure projects (except transportation projects)

- Group 3: Agriculture, forestry, fishery and irrigation projects
- Group 4: Transportation projects
- Group 5: Industrial projects
- Group 6: Waste treatment and environmental improvement projects and others

For example, as for any project in the group of Civil construction projects which has a total investment capital of 10 billion Viet Nam dong, the appraisal fee of environmental impact assessment reports under the Schedule shall be 8 million Viet Nam dong. If a project belongs to 2 groups or more, the payable fee of the group with the highest fee will be applied.

COMMENTS AND RECOMMENDATIONS

The promulgation of Circular 38 aims at strengthening the legal framework related to appraisal fees of environmental impact assessment reports done by central agencies. This will annul the regulations stipulated in Circular 56/2018/TT-BTC and Article 2 of Circular 91/2021/TT-BTC (amending Circular 56/2018/TT-BTC). The regulations related to collection, payment, management, use, receipt voucher, and publicity of the regime for appraisal fee of environmental impact assessment reports implemented by central agencies, which are not mentioned in Circular 38, shall comply with the applicable laws. Therefore, organizations and individuals paying appraisal fees of environmental impact assessment reports should update and take into consideration the provisions of Circular 38 to ensure compliance with the regulations of the laws.

