

SOME OUTSTANDING CONTENTS OF THE DECREE GUIDING THE LAW ON SUPPORT FOR SMALL- AND MEDIUM-SIZED ENTERPRISES

HUYEN THU

On August 26, 2021, the Government issued Decree 80/2021/ND-CP detailing and guiding the implementation of some articles of the Law on Support for Small- and Medium-sized Enterprises (**SMEs**) (**Decree 80**), replacing Decree 39/2018/ND-CP (**Decree 39**). Inheriting several regulations of Decree 39, Decree 80 has also amended and supplemented many other contents of the previous document, which are no longer appropriate, including the regulations on supporting specific SMEs such as SMEs transformed from household businesses, start-up SMEs, SMEs joining business clusters and value chains. However, this article will only focus on introducing the criteria for determining the supported subjects and the specific support for SMEs in general under Decree 80. The followings are some typical contents:

Firstly, stipulating the criteria for determining SMEs. Basically, the determination criteria under Article 5, Decree 80 have inherited the regulations of Decree 39, accordingly, SMEs are determined through 2 major criteria as follows:

- (i) Size of enterprises: determining micro-, small- or medium-sized enterprises based on the average annual number of employees participating in social insurance, the total annual revenue or capital of enterprises.
- (ii) Operation areas of enterprises: including SMEs operating in agriculture, forestry, aquaculture, industry and construction, or commerce and services.

The criteria for determining SMEs mentioned above are specifically guided from Article 6 to Article 9 of Decree 80. Thus, enterprises can determine and assess by themselves whether they are eligible to receive support under Decree 80 or not with their business scale.



Secondly, amending and supplementing the regulations on supporting SMEs. Under Decree 80, SMEs are entitled to 4 support contents including:

(i) Technological support: Regulation on technological support for SMEs is one of the highlights of Decree 80 compared to Decree 39. Accordingly, Decree 39 does not have any specific regulation on this content, although the Law on Support for SMEs 2017 has addressed the support for technology, incubators, technical facilities, and co-working spaces. This leads to the fact that specific policies have not been practically implemented to SMEs. The followings are few contents on supporting technology-related SMEs as detailed in Article 11, Decree 80:

- Supporting the value of the contracts advising digital transformation solutions for enterprises on business processes, administration processes, manufacturing processes, technological processes, and business model transformation;
- Supporting the cost of renting, purchasing digital transformation solutions for enterprises;
- Supporting the value of the contracts advising establishment of intellectual property rights; management and development of products and services with protected intellectual property rights of enterprises;
- Supporting the value of technology transfer advising contracts;
- Supporting SMEs through new construction investment projects of incubation facilities, technical facilities, co-working spaces; upgrading infrastructure, purchasing and installing equipment, machineries, information technology systems for incubation facilities, technical facilities, co-working spaces.

(ii) Information support: In accordance with Decree 80, SMEs are free to access the information on the National SME Support Portal (access address: www.business.gov.vn) and websites of ministries, ministerial-level agencies, governmental agencies, the Provincial People's Committee, including: Information about plans, programs, projects and activities related to SME support; Information about business guidelines, credit, market, products, technologies and enterprise incubation; Other information requested by SMEs in accordance with regulations of laws.



(iii) Consultancy support: In accordance with clause 2, Article 13, Decree 80, SMEs can access to a network of consultants to receive advice on human resources, finance, production, sales, market, internal management and other contents related to enterprises' production - business activities (excluding advice on administrative and legal procedures of specialized laws). Specially, Decree 80 has adjusted the support level and the value rate of consulting contracts that SMEs are supported through the consultant network to be higher than that of Decree 39 for consistency with the value of consulting contracts in current market and also to attract SMEs to use this support. Moreover, the regulations on consultancy support for women-owned SMEs, SMEs with high rate of female employment, and social enterprises are also supplemented in Decree 80. The addition of the application subjects in Decree 80 aims to solve one of the limited issues of Decree 39, when this document is assessed as lacking provisions to support women-owned SMEs and SMEs with high female employment rate.

(iv) Human resource development support: SMEs will receive support related to training for starting a business and business administration, direct training at SMEs in the manufacturing and processing fields, and vocational training. Decree 80 also specifies the support method of online training in starting a business and business administration. Specifically, SMEs will be free to access and participate in online lectures available on the online training system of the Ministry of Planning and Investment and the Provincial People's Committee and also to participate in online training courses, interact directly with other SMEs through online training tools available on smart electronic devices (Zoom Cloud Meeting, Microsoft Teams, Google Classroom and others). Additionally, compared to Decree 39, the supported subjects in this regulation of Decree 80 are supplemented with social enterprises, and the preferential level of support is higher than that in the previous regulation.

COMMENTS AND RECOMMENDATIONS

It can be seen that Decree 80 has surmounted most of the limitations and obstacles in the regulations of Decree 39. The new regulations of Decree 80 also open more larger opportunities and incentives for SMEs to develop business and production. Decree 80 will officially take effect from October 15, 2021; thus, SMEs need to study and specifically determine the support contents, support levels, and their need for support to ensure their optimal rights. In addition, SMEs should notice the preparation of documents to apply for support in accordance with the regulations of Decree 80, including: (i) Declaration form on determining micro, small- or medium-sized enterprises and proposal of needs for support, which is provided in the Appendix of the Decree; (ii) Documents related to the proposed support requests (if any). Also, to receive the latest support from the government, SMEs should regularly follow and update the information on support and incentives from the National SME Support Portal and other portals and websites of agencies and organizations supporting SMEs.