

**NATIONAL ASSEMBLY**

-----

**SOCIALIST REPUBLIC OF VIETNAM**

**Independence – Freedom - Happiness**

-----

No. 04/2017/QH14

*Hanoi, June 12, 2017*

## **LAW**

### **PROVISION OF ASSISTANCE FOR SMALL AND MEDIUM-SIZED ENTERPRISES**

*Pursuant to the Constitution of the Socialist Republic of Vietnam*

*The National Assembly promulgates Law on providing assistance for small and medium-sized enterprises.*

#### **Chapter I**

#### **GENERAL PROVISIONS**

##### **Article 1. Scope**

This Law provides regulations on principles, contents and resources of assistance for small and medium-sized enterprises (hereafter referred to as “SME”) and the responsibilities of authorities, organizations and individuals related to the provision of assistance for SMEs.

##### **Article 2. Regulated entities**

1. Enterprises that are established organized and run in accordance with regulations of law on enterprises and satisfy the criteria for identification of SMEs defined in this Law.
2. Authorities, organizations and individuals related to the provision of assistance for SMEs.

##### **Article 3. Definitions**

For the purpose of this Law, the terms below shall be construed as follows:

1. “women-owned SME” means an SME having one or more women owns at least 51% of its charter capital and at least a woman is the executive director of this enterprise.
2. “startup” *is an SME* that is established to implement its business ideas based on the exploitation of intellectual property, technology and new business models and is able to grow quickly.

3. “value chain” *is* a set of activities that create and increase the value of products or services and include consecutive stages such as idea creation, design, production, and the distribution of finished products to customers.
4. “distribution chain” means a set of intermediate organizations (enterprises, investors, business organizations) distributing an SME’s products to customers.
5. “technical establishment” means an establishment providing equipment for an SME to assist it in designing, testing, analyzing, assessing and verifying products, goods and materials.
6. “incubator” means an establishment providing necessary infrastructures, resources and service for organizations and individuals in manner that that can complete business ideas and develop their SMEs in the early stage of establishment.
7. “business cluster” is a form of association between enterprises operating in the same sector and relevant enterprises and organizations that cooperate and compete with each other.
8. “coworking space” means an area providing spaces for working and exhibition of products and providing utilities to assist and combine startups.

#### **Article 4. Criteria for identification of SMEs**

1. An SME is either a micro-enterprise, small enterprise or medium-sized enterprise having the annual average number of employees who participate in social insurance is not greater than 200 and satisfying one of the following criteria:
  - a) The total capital is not greater than 100 billion dong;
  - b) The enterprise’s revenue of the previous year is not greater than 300 billion dong;
2. Micro-, small and medium-sized enterprises are identified according to each industry such as agriculture, forestry, aquaculture; industry and construction and trade and services.
3. The Government shall provide detailed guidance on this Article.

#### **Article 5. Principles for provision of assistance for SMEs**

1. Provision of assistance for SMEs shall comply with market rules and international treaties to which the Socialist Republic of Vietnam is a signatory.
2. Contents, subjects, procedures, resources, levels of assistance and results of assistance for SMEs shall be transparent.
3. The State shall assist SMEs with certain focuses for a limited period of time and in accordance with objectives of the assistance and its ability to balance resources.

4. The provision of assistance for SMEs using resources provided by non-state organizations and individuals shall comply with their own regulations and regulations of law.

5. In the cases where an SME is concurrently entitled to more than one level of the same form of assistance in accordance with regulations of this Law and other relevant regulations of law, it will be entitled to most favorable level.

If more than one SME satisfy the conditions for the assistance in accordance with regulations of this Law, the women-owned SME and the SME using more women employees will be given priority.

6. An SME will receive the assistance if it satisfies fully regulations of this Law and other relevant regulations of Law.

#### **Article 6. Sources of funding for assisting SMEs**

1. Sources of funding for assisting SMEs include:

a) Loans subsidized and guaranteed by the State;

b) Funding provided by the state budget;

c) Sources of funding from remission of taxes, fees, land rental, land levy and other financial obligations in accordance with regulations of law;

d) Legal sources of capital provided by domestic and foreign organizations and individuals.

2. Sources of funding for assisting SMEs prescribed in Points a, b and c Clause 1 of this Article shall be estimated, verified, approved and stated in accordance with regulations of law.

#### **Article 7. Prohibited actions related to provision of assistance for SMEs**

1. Failure to provide the assistance for SMEs in accordance with principles, subjects, competence, contents and procedures prescribed in regulations of law.

2. Abuse of positions and power to violate regulations of law on the assistance for SMEs

3. Discriminatory actions, unnecessary delay, obstructing or harassing SMEs and organizations and assistance for SMEs.

4. Deliberate provision of incorrect information related to the provision of assistance for SMEs

5. Failure to use the resources for intended purposes.

## **Chapter II**

## **CONTENTS OF ASSISTANCE FOR SMES**

### **Section 1: GENERAL ASSISTANCE**

#### **Article 8. Assistance in the access to credit**

1. In each period, the Government shall introduce policies on provision of assistance for credit institutions in increasing maximum loans granted to SMEs; encouraging credit institutions to provide loans for SMEs according to their credit ratings and other criteria; encouraging the establishment of independent consulting firms that assign credit ratings to SMEs
2. SMEs will be assisted in formulating their feasible plans for business operation, intensifying their management capacity and skills and financial transparency to increase the opportunities for the access to credit
3. SMEs will be provided with the credit guarantee from the credit guarantee funds for SMEs according to regulations in Article 9 of this Law.

#### **Article 9. Credit guarantee funds for SMEs**

1. The credit guarantee fund for SMEs is a state fund other than the state budget which operates without profits and is established by People's Committee of the province.
2. The credit guarantee fund for SMEs shall provide credit guarantee for SMEs.

The credit guarantee for SMEs is based on the guaranteed property or the feasible plan for business operation or credit ratings of SMEs.

3. The credit guarantee fund for SMEs shall fulfill fully the committed guarantee obligations and shall not refuse to provide guarantee for eligible SMEs.
4. The Government shall provide detailed guidance on this Article.

#### **Article 10. The assistance in tax and accounting regimes**

1. SMEs may apply the corporate income tax rate lower than the common tax rate applied to enterprises for a limited period of time according to regulations of law on corporate income tax.
2. Micro- enterprises may apply tax administrative procedures and simple accounting regimes in accordance with the law on tax and accounting.

#### **Article 11. Assistance in production areas**

1. According to the available land area of the province, the People's Committee of the province shall send People's Council of the province a request for the decision on distribution of land for construction and development of industrial clusters and processing zones for agricultural,

forestry, fishery and seafood products serving the SMEs in accordance with the approved land use planning.

2. According to the local budget, the People's Committee of the province shall send the People's Committee of the province a request for the decision on the assistance in rent subsidies for SMEs in industrial zones, hi-tech zones and industrial clusters in the province. The maximum period of the assistance is 5 years from the day on which the land lease agreement is signed.

3.

The subsidy shall be deducted from the land rent or covered by the local budget.

4. The assistance in production site prescribed in this Article shall not apply to foreign-invested or state-invested SMEs.

### **Article 12. Assistance in terms of technologies, assistance for incubators, technical establishments and coworking space**

1. The State shall introduce policies on providing assistance for SMEs in researching, innovating, receiving, improving, completing and mastering technologies through the research, training, consultancy, searching, decipher and transfer of technology and in establishing, exploiting, managing, protecting and developing the intellectual property of the SMEs.

2. Ministries, ministerial authorities and People's Committees of provinces shall establish or join public-private partnership to establish incubators, technical establishments and coworking spaces. Other enterprises and investors may establish their incubators, technical establishments and coworking spaces.

3. Incubators, technical establishments and coworking spaces are entitled to:

a) Remission of land rental, land levy and the levy on non-farming land in accordance with regulations of law.

b) Remission of corporate income tax for a limited period of time in accordance with regulations of law on corporate income tax.

### **Article 13. Assistance in expansion into markets**

1. Ministries, ministerial authorities and People's Committees of provinces shall establish or join the public-private partnership to establish a distribution chain. Enterprises and other business investment organizations may establish their distribution chains.

2. Enterprises and business investment organizations joining the distribution chain of products manufactured in Vietnam having at least 80% of members that are SMEs are entitled to:

- a) Remission of land rental, land levy and the levy on non-farming land in accordance with regulations of law.
  - b) Remission of corporate income tax for a limited period of time in accordance with regulations of law on corporate income tax.
3. Micro-enterprises and small enterprises will be given priority during contractor selection in accordance with regulations of law on bidding.

#### **Article 14. Assistance in access to information, consultancy and legal issues.**

1. The following information shall be published on the national SMEs website portal, websites of ministries, ministerial authorities, People's Committees of provinces, social organizations and socio-professional organizations:

- a) Information about plans, programs, projects and activities related to the assistance for SMEs;
- b) Business guidelines, credit, markets, products, technologies and enterprise incubation;
- c) Other information requested by the SMEs in accordance with regulations of law.

2. Ministries and ministerial authorities, within their power and duties, shall set up a system of organizations and individuals providing consulting service for SMEs (hereinafter referred to as "consultant system"). SMEs will be entitled to remission of consulting fees if they use consulting services provided by the consultant system.

3. Ministries, ministerial authorities, authorities and organizations, within their duties and power, shall carry out the following activities to provide the legal assistance for SMEs:

- a) Establishment, management, maintenance, updating, exploitation and use of databases of law;
- b) Formulation and execution of programs for the legal assistance to provide information improve legal knowledge and provide legal consultancy.

4. The Government shall provide detailed guidance on this Article.

#### **Article 15. Assistance in developing human resources**

1. SMEs are entitled to reduction or exemption of charges for training courses funded by the state budget on entrepreneurship, enterprise administration and job training for employees working in SMEs.

2. The State shall provide online training programs and training programs through mass media for SMEs and provide training courses at premises of SMEs engaged in production and processing area.

3. The Government shall provide detailed guidance on this Article.

## **Section 2. ASSISTANCE FOR SMES IN CONVERSION FROM HOUSEHOLD BUSINESS TO SMES, STARTUPS, JOINING BUSINESS CLUSTERS AND VALUE CHAINS**

### **Article 16. Assistance for SMEs in conversion from household business to SMEs**

1. An SME converted from a household business will receive assistance if the following conditions are fulfilled:

- a) Before being converted to a SME, the household business has obtained the enterprise registration certificate (ERC) and is run in accordance with regulations of law.
- b) The household business has been operating continuously for at least 01 year by the day on which the first ERC is issued.

2. Such an SME mentioned in Clause 1 of this Article is entitled to the following forms of assistance

- a) Free consultancy and instruction on applications and procedures for the enterprise establishment;
- b) Exemption from fees for enterprise registration and the first provision of enterprise information; exemption from fees for assessment and fees and licensing fees for the first license of business lines subject to conditions and exemption from licensing fees within 3 years from the day on which the first ERC is issued;
- c) Free consultancy and instruction on the tax administrative procedures and the accounting regime within 03 years from the day on which the first ERC is issued;
- d) Remission of corporate income tax for a limited period of time in accordance with regulations of law on corporate income tax.
- dd) Remission of land rental, land levy and the levy on non-farming land for a limited period of time in accordance with regulations of law on land.

3. The SME converted from a household business shall inherit all rights, obligations and legal interests of the household business in accordance with regulations of law. If a household business is converted into a limited liability company or a joint stock company, the household business owner, with his/her entire property shall be liable for the outstanding loans of the household business unless otherwise agreed by the parties in accordance with regulations of law.

4. The household business shall be shut down as soon as the SME converted from this household business is issued with ERC.

5. The Government shall provide detailed guidance on Clause 2 of this Article.

### **Article 17. Assistance for startups**

1. A startup may receive the assistance if the following conditions are fulfilled:

- a) The startup has been put into operation for up to 05 years from the day on which its first ERC is issued.
- b) The startup has not initiated public offering of its securities (in cases of a joint-stock company)

2. Such an SME mentioned in Clause 1 of this Article is entitled to the following forms of assistance

- a) Assistance in the application and transfer of technologies, use of equipment at the technical establishments, incubators and coworking spaces, provision of instruction on testing and completing new products, services and business models;
- b) Assistance in advanced training in development of products, investment attraction, providing advice on intellectual property, carrying out the procedures related to technical regulations and standards, measurement and quality;
- c) Assistance in communication, publicity, promotion, connection of startups and attraction of investment from venture capital funds;
- d) Assistance in commercialization of the results of scientific research and technological development, exploitation and development of intellectual property;
- dd) The Government shall introduce policies on interest rate subsidy on loans taken by startups. The subsidy on interest rate is provided by credit institutions.

3. The Government shall provide detailed guidance on this Article.

### **Article 18. Investment in startups**

1. Investors in startups shall include venture capital funds and domestic and foreign organizations and individuals doing business via contribution of capital to establishment of startups, purchase of shares or stakes of startups.

2. A venture capital fund which is created from investments of private investors aims to invest in startups according to the following principles:

- a) The amount of investment in a startup shall not exceed 50% of charter capital of the post-investment startup;



b) The private investor who contributes to the fund shall be financially capable and take the responsibility for his/her stakes.

3. The investors in startups prescribed in Clause 1 of this Article will be entitled to remission of corporate income tax on revenues from their investment in startups for limited period of time in accordance with regulations of law on corporate income tax.

4. According to the local budget, the People's Committee of the province shall send the People's Council of the province a request for the decision on assigning state-owned finance organizations of the province to invest in startups according to the following principles:

a) The eligible venture capital funds shall be selected to invest in startups;

b) Investments from the local budget shall not exceed 30% of total capital raised from eligible venture capital funds selected by the startups;

c) The investments shall be transferred to private investors within 05 years from the day on which the stakes is contributed. The transfer of investments shall comply with regulations of law on management and use of the state capital invested in business operation activities at premises of enterprises.

5. The Government shall provide detailed guidance on this Article.

#### **Article 19. The assistance for SMEs joining business clusters and value chains**

1. An SME that join a business cluster and value chain in production and processing area will receive assistance if it:

a) creates products that gain competitive advantages in terms of quality and cost; or

b) innovates the technological process, materials, spare parts, machines and equipment.

2. Such an SME mentioned in Clause 1 of this Clause is entitled to the following forms of assistance:

a) Provision of advanced training in the production technology and technique; provision of consultancy related to technical regulations and standards, measurement and quality and strategies for product development according to business clusters and value chains;

b) Provision of information about the demand for connection, production and business of SMEs joining business clusters and value chains;

c) Assistance in brand development, expansion into product markets of business clusters and value chains;

d) Assistance in test production, assessment, verification and certification of the quality of products of SMEs joining business clusters and value chains;

dd) The Government shall introduce policies on interest rate subsidy on loans taken by SMEs joining business clusters and value chains in each period. The subsidy on interest rate is provided by credit institutions.

3. The Government shall provide detailed guidance on this Article. The assistance for SMEs joining business clusters and value chains that are not related to the production and processing area shall be decided by the Government after opinions of the Standing Committee of National Assembly are received.

#### **Article 20. SME development funds**

1. SME development fund is a non-profit state financial fund that is not funded by the state budget and is established by the Prime Minister to:

a) grant loans and sponsorships to startups and SMEs joining business clusters and value chains

b) receive and manage loans, sponsorship, aids, contributions and trusts of organizations and individual to assist SMEs.

2. The Government shall provide detailed guidance on this Article.

### **Chapter III**

#### **RESPONSIBILITIES TO PROVIDE ASSISTANCE FOR SMES.**

#### **Article 21. The Government's responsibilities**

1. Unify the state administration related to provision of assistance for SMEs.

2. Estimate costs of providing assistance for SMEs in the cost estimate of the state budget and submit it to National Assembly for consideration and decision in accordance with regulations of law on state budget.

3. Introduce policies on encouraging organizations and individuals to use non-state resources to provide the assistance for SMEs.

#### **Article 22. The responsibilities of the Ministry of Planning and Investment**

1. Support the Government in unifying the state administration related to the assistance for SMEs. Consolidate and submit a report on provision of assistance for SMEs to the Government and the Prime Minister.

2. Regulate and identify targets, subjects and focuses of provision of assistance to formulate and execute plans, programs and projects related to the assistance for SMEs in the whole country; take charge and cooperate with Ministries and ministerial authorities in using investment and development funds to assist SMEs in accordance with regulations of this Law.

3. Provide training for officials and public employees in the assistance for SMEs.

4. Take charge and cooperate with the Ministry of Finance, the State bank of Vietnam, Ministries and other ministerial authorities in establishing an information system for assigning credit ratings to SMEs.

### **Article 23. The responsibilities of Ministry of Finance**

1. Provide instructions on tax administrative procedures and the accounting regime for SMEs and instruction on the implementation of policies on tax and fees applied to SMEs.

2. Take charge and cooperate with Ministries and ministerial authorities in using sources of capital for assisting SMEs in accordance with regulations of this Law and other relevant regulations of law.

3. Publish the information about the compliance with regulations of law on tax and customs and the fulfillment of other financial obligations of SMEs to establish an information system for assigning credit ratings to SMEs.

### **Article 24. The responsibilities of Ministries and ministerial authorities**

1. Ministries and ministerial authorities, within their duties and power, shall:

Introduce or request competent authorities to introduce policies on assistance for SMEs;

b) Carry out, monitor, inspect and analyze the provision of assistance for SMEs;

c) Organize the statistics and publishing of the information about SMEs;

d) Provide the instruction for SMEs on joining business clusters and value chains;

dd) Distribute resources for the assistance for SMEs.

2. The Ministry of Industry and Trade shall instruct SMEs to join business clusters and value chains;

3. The Ministry of Science and Technology shall provide the instruction on the establishment of incubators, technical establishment and coworking spaces and assist SMEs in strengthening the technological capacity.

4. The Ministry of Natural Resources and Environment shall instruct local governments to allocate land for the establishment and development of industrial clusters and processing zones for agricultural, forestry, fishery and seafood products.

5. The State bank of Vietnam shall organize the implementation of the Government's policies on the assistance for credit institutions in increasing maximum loans granted to SMEs.

#### **Article 25. The responsibilities of provincial governments**

1. The People's Council of a province shall:

- a) Comply with the regulations in Clauses 1 and 2 Article 11, Clause 4 Article 18 of this Law;
- b) Introduce policies and distribute resources to assist SMEs in the province and decide the cost estimate of the assistance for SMEs in accordance with regulations of law on the state budget;
- c) Supervise the compliance with regulations of law on providing assistance for SMEs in the province.

2. The People's Committee of a province shall:

- a) Formulate and implement plans for the assistance for SMEs in the province and plans and programs for the assistance for SMEs converted from household businesses;
- b) Inspect and evaluate the provision of assistance for SMEs in the province and submit a report to the competent authority;
- c) Commend SMEs that have achievements, innovation and contribution to the socio-economic development of the province.

#### **Article 26. Responsibilities of social organizations and socio-professional organizations for providing assistance for SMEs**

- 1. Represent and protect rights and legal interests of members that are SMEs and mobilize resources for assisting SME member.
- 2. Introduce, comment and implement policies related to assistance for SMEs and assess programs for providing assistance for SMEs.
- 3. Provide the service of assistance for SMEs in accordance with regulations of law and their charters.
- 4. Promote the association between large enterprises and SMEs.

#### **Article 27. Responsibilities of providers of assistance services for SMEs**

1. Provide the service of assistance for SMEs according to conditions and commitments with authorities and organizations providing the assistance for SMEs (hereafter referred to as “assisting authority”) in accordance with regulations of this Law and assist SMEs in complying with administrative procedures.
2. Provide promptly, fully and exactly the information and documents for assisting authorities to prove and confirm the provision of assistance services for SMEs.
3. Take the legal responsibility and be accountable to assisting authorities according to the contract for provision of service of assistance for SMEs
4. Join and cooperate with competent authorities in the establishment, management and operation of assisting authorities via the public private partnership or other forms in accordance with regulations of law.

#### **Article 28. Responsibilities of SMEs**

1. Provide promptly, fully and exactly the information and documents according to the requirements of assisting authorities and organizations and take the legal responsibility for the provided information and documents.
2. Comply with regulations of law and fulfill obligations to the State.
3. Fulfill with the commitments to the assisting authorities.
4. Distribute reciprocal resources to receive, cooperate and use effectively resources for assistance.

#### **Article 29. Publishing information about assistance for SMEs**

1. Assisting authorities shall publish the contents of, programs for and results of assistance for SMEs and other relevant information.
2. The information about assistance for SMEs shall be published in the following manners:
  - a) Post up a notice at the assisting authorities' premises;
  - b) Notify information on mass media, websites of the assisting authorities and national SMEs website portal.
3. The information about assistance for SMEs shall be published within 30 days from the day on which the contents of and program for assistance for SMEs prescribed in Clause 1 of this Article are approved by the competent authorities.

#### **Article 30. Inspection and supervision of the assistance for SMEs**

1. Competent authorities, sponsoring organizations and individuals shall inspect and supervise the execution of contents and programs for the assistance for SMEs in accordance with regulations of law.

2. Contents of the inspection and supervision include:

a) Selection of beneficiary and implementation of procedures for and forms of assistance for SMEs;

b) The compliance with regulations of law on the management and use of funding for assistance for SMEs;

c) The publishing of information about assistance for SMEs prescribed in Article 29 of this Law.

### **Article 31. Assessment of the assistance for SMEs**

1. Authorities and organizations that take charge of provision of assistance for SMEs shall assess the results of execution and foreseen impacts on assisted SMEs and publish the assessment result in the manners prescribed in Clause 2 Article 29 of this Article.

2. The Ministry of Planning and Investment shall carry out regularly the independent assessment of contents of and programs for assistance for SMEs.

### **Article 32. Actions against the violations of law on providing assistance for SMEs**

1. SMEs, organizations and individuals violating the regulations of this Law shall be dealt with according to regulations of law.

2. Decisions on dealing with authorities, organizations and individual committing violations of assistance for SMEs shall be published on the websites of the assisting authorities and national portal on the assistance for SMEs.

## **Chapter IV**

### **IMPLEMENTATION CLAUSES**

#### **Article 33. Amendments to certain articles of relevant laws**

1. Certain articles of Law on investment No. 67/2014/QH13 shall be amended as follows:

a) Point o Clause 1 Article 16 shall be amended as follows:

“o) Business investment in distribution chain of SMEs’ products; business investment in technical establishment providing the assistance for SMEs and incubators of SMEs; business investment in coworking spaces serving SMEs and startups in accordance with regulations of law on assistance for SMEs”;

b) Clause 2 Article 19 shall be amended as follows:

“2. The Government shall provide detailed regulations on forms of the assistance in investment prescribed in Clause 1 of this Article which are applied to high-tech enterprises, science and technology enterprises, science and technology organizations, enterprises investing in agriculture and rural areas, enterprise investing in education, dissemination of law and other beneficiaries in conformity with socio-economic development in each period.”.

2. Point c Clause 3 Article 14 of Law on Bidding No. 43/2013/QH13 shall be amended as follows:

“c) Bidders being micro-enterprises and small enterprises.”.

#### **Article 34. Effect**

This Law comes into force from January 01, 2018.

#### **Article 35. Transition clause**

1. From the day on which this Law comes into force, activities of the assistance for SMEs carried out before this Law comes into force shall be carried on according to approved contents, programs and plans; an SME which is entitled to assistance prescribed in this Law shall comply with regulations of this Law.

2. From the day on which this Law comes into force, the commitments of the SME development fund before this Law comes into force shall be carried on unless otherwise agreed by parties.

*This Law is approved by the 14<sup>th</sup> National Assembly of Socialist Republic of Vietnam on June 12, 2017 during the 3<sup>rd</sup> session.*

**CHAIRPERSON OF NATIONAL  
ASSEMBLY**

**Nguyen Thi Kim Ngan**