



## **LAW ON PRICES 2023**

**INCREASES AUTONOMY FOR ORGANIZATIONS AND INDIVIDUALS  
IN LINE WITH THE MARKET ECONOMY**

After more than 10 years of implementation, the Law on Prices 2012 has achieved positive results in price management, creating a legal corridor for the implementation of price stabilization measures, regulating market prices and preventing impacts affecting the macroeconomy, ensure socio-economic life in recent years. However, after a long time of application, the Law on Prices 2012 also revealed many limitations, thereby setting out requirements that need to be amended and supplemented promptly, such as:

Firstly, although the Law on Prices 2012 and detailed regulations and implementation guidelines have created a legal corridor for price management and administration; however, the Law on Prices 2012 was promulgated before the Law on Enterprises 2014 and later the Law on Enterprises 2020 came into existence – the common view of the two enterprise laws is to create initiative, dynamic, favorable business environment for businesses. In addition, from 2012 up to now, a number of other laws have also been promulgated with price regulations; the common point of these laws is also aimed at creating initiative and flexibility for enterprises in price-related fields (except for specific cases for the benefit of the community). Therefore, the Law on Prices 2012 needs to be amended in the direction of creating initiative for businesses to be compatible and in accordance with the provisions of other laws.

Secondly, Vietnam is in the period of accelerating the construction of an innovation economy, along with the abnormal and rapid fluctuations of the world economy, increasingly placing higher requirements in reforming the price management mechanism, assigning and decentralizing management in the direction of creating more initiative, more dynamic for businesses, more motivating the resources of enterprises.

Thirdly, the strong development of the price appraisal market in recent years has required strengthening state management, tightening operation management to improve the efficiency of state management, the quality of price appraisal activities, and prevent violations in price appraisal.

On June 19, 2023, the National Assembly officially passed the amended Law on Prices 2023 ("**Law on Prices 2023**") with the spirit and view throughout to create more autonomy and initiative for businesses; but still ensure the strict management of the State, prevent negative acts in price appraisal activities. Below, ATA Legal Services will summarize the new points of the Law on Prices 2023 on the basis of comparison with the provisions of the Law on Prices 2012, and at the same time give an assessment of the impact of these regulations on the Vietnamese business community, organizations and individuals.

## A. ESTABLISHING BASIC PRINCIPLES IN THE FORMATION OF PRICES OF GOODS AND/OR SERVICES

### 1. Supplementing adjustable objects

The Law on Prices 2023 supplements that the subjects of adjustment compared to the Law on Prices 2012 are consumers and issues related to the forecasting of market prices, the price database and the inspection and examination of compliance with the price law. Consumers are a special group of objects, *capable of directly affecting the prices of goods and services*, moreover, fluctuations in commodity prices also have a significant impact on consumers' lives. Therefore, the supplementation of consumers to the scope of the Law on Prices shows that lawmakers have a more comprehensive and specific perspective on commodity issues.

The supplementation of issues such as synthesis, analysis, forecasting of market prices; price databases; price appraisal; specialized price inspection, inspection of the observance of the law on prices, price appraisal within the scope of application of the Law on Prices demonstrates the higher responsibility of the State in managing price issues – domains affecting life of individuals and organizations, affecting enterprises providing goods and services.

### 2. Establishing basic principles in the application of the Law on Prices to specialized laws

According to the provisions of the Law on Prices 2012, all activities arising in the price field in the territory of Vietnam must comply with the provisions of the Law on Prices. However, there are now many laws that also regulate the content of price management such as land, construction, healthcare, etc. Therefore, in order to thoroughly overcome overlaps and obstacles between specialized laws, enhance uniformity in the price legal system, the Law on Prices 2023 has abolished the principle "*Price activities in the territory of Vietnam must comply with the provisions of the Price Law*". Instead, the Law on Prices 2023 provides specific guidelines on the *application of the Law on Prices to other laws that have already been promulgated or will be promulgated in the near future*. This regulation is assessed to create transparency, accessibility, avoid causing confusion in application as before.

Specifically, when there are different regulations on prices between the Law on Prices and other laws, which law applies to which types of goods and services will be implemented as follows:

(a) *For laws that have been promulgated before the effective date of the Law on Prices 2023*: Apply under Law on Prices 2023, except for regulations on pricing for some items mentioned in point c below.

(b) *For laws promulgated after the effective date of the Law on Prices:*

- In case of other laws have particular regulations on the management and regulation of prices different from the ones prescribed in the Law on Prices, it is obligatory to determine the specific content that is implemented under or not under the Law on Prices and the content that is implemented under that such laws.
- In case of other laws stipulate additional regulations on goods and/or services priced by the State: it is obligatory to conduct a policy impact assessment and conditions of goods and services priced by the State and must be assessed and the contents stipulated on competence, responsibility for pricing, pricing forms, the grounds, methods of pricing and the promulgation of pricing documents that are implemented under or not under the Law on Prices and contents that are implemented under such other laws.

(c) *Specific cases applicable under specialized laws:*

According to the Law on Prices 2023, some of the following goods shall be priced in accordance with the provisions of the specialized law, specifically:

- Land prices – in accordance with the law on land;
- Housing prices – in accordance with the law on housing;
- Electricity prices and prices for electricity services – in accordance with the law on electricity;
- Price of medical examination and treatment services – in accordance with the law on medical examination and treatment;
- Tuition fees and service prices in the field of education – training and vocational education – in accordance with the law on education, higher education and vocational education;
- Royalties for utilization and use of published works, audios, or video recordings in case of limitation of copyright or relevant rights; compensation for the right to use shall be transferred inventions under mandatory decisions in case of disagreement between the persons granted the right to use such inventions and the right holders; and compensation for the right to use transferred plant varieties under compulsory decisions shall be implemented under laws on intellectual property.

### **3. The identification of essential goods and services must be appropriate to the socio-economic context in each period**

In fact, in recent years, the emergence of urgent or force majeure situations has led to the consequence that goods and services considered essential have changed rapidly in each period; Typically, in the first months of 2020, the beginning of the Covid-19 epidemic

pushed up the price of the product "mask" - a product that has always been considered popular and very popular, up dozens of times; Next is the period when the whole country implemented "social distancing", which made the demand for instant noodles, eggs (also other popular and popular items) increase dozens of times compared to the previous period. Accordingly, the criteria *are suitable to the socio-economic context in each period in determining essential goods and services* for which the additional Law on Prices 2023 is necessary; create a basis for state regulation in cases of necessity.

## **B. CHANGES IN PRICE MANAGEMENT FOR ESSENTIAL GOODS AND SERVICES**

Prices of goods and services are important factors for the entire economy. The impact of the Covid-19 pandemic and the world economic crisis in recent times has pushed up the prices of many domestic goods and services, especially essential goods and services, seriously affecting the supply and demand of goods, socio-economic and people's lives. At that time, a series of guiding documents were issued on synchronous implementation of management and administration solutions and measures to stabilize prices, limit fluctuations of the price level that negatively affect economic and social development, production and business activities and people's life.

In line with the practical situation, the Law on Prices 2023 has agreed price management solutions for essential goods and services to contribute to stabilizing market prices, specifically as follows:

### **1. Abolishing the "price registration" measure**

The price registration measure is said to be an effective tool of the State in implementing market regulation. According to the Law on Prices 2012, price registration is one of the measures to implement price stabilization. Accordingly, in cases where the Government applies price stabilization measures and uses price registration measures, organizations producing and trading goods and/or services must prepare and analyze the price formation and send price notification forms to competent state agencies for pre-valuation review, adjustment of prices of goods and services.

In principle, according to the provisions of the Law on Prices 2012, when applying price registration measures, relevant organizations and individuals are only responsible for providing information related to the price formation and sending notices to state agencies for price valuation; In essence, this work is equivalent to declaring prices with state agencies. The nature is no different from the declaration measure, but enterprises must carry out administrative procedures for price registration at competent agencies. Moreover, the phrase "price registration" itself and the implementation of "administrative procedures for price registration at competent state agencies to price goods and/or services" are expressions of "administrative orders" – this is inconsistent with the goal of building a market economy and promoting its role, internal resources of enterprises in Vietnam in the current period.

Accordingly, the Law on Prices 2023 has abolished the price registration measure and related regulations; instead, the Law on Prices 2023 focuses on developing and promulgating more specific regulations on price declaration, in the direction, enterprises declare and take responsibility for their own decisions. More specifically about price declaration measures, the Law on Prices 2023 stipulates:

*a. Subjects of price declaration:*

Goods and/or services trading organizations have business registration according to regulations and have the right to decide prices, belonging to the list declared by the receiving authority.

*b. Price declaration contents:*

Compared to current regulations, organizations and individuals subject to declaration only need to declare selling prices suitable to their type of business, the Law on Prices 2023 has added quite strict regulations and is the basis for competent agencies to control price declaration activities, detect cases of unreasonable price adjustment. Accordingly, the content of the price declaration includes the price associated with the name, type, origin (if any), quality criteria (if any) and the reason for adjusting the selling price between declarations.

*c. Time of price declaration:*

According to the provisions of the 2012 Price Law, organizations and individuals producing and trading goods and/or services subject to price declaration shall declare prices by sending notices of declared prices to competent state agencies receiving price declaration notices *before pricing, price adjustment for at least 05 days*. However, *according to the provisions of the amended Law on Prices, there is no longer a specific provision on the time limit for price declaration but instead, the price declaration will be made after pricing*. Accordingly, the price decision can take effect right at the time of declaration, even take effect before. At the same time, organizations trading these goods and/or services shall be responsible for their prices and price declaration contents. This is one of the fundamental changes in price declaration measures, overcoming current shortcomings, facilitating units to have time to calculate and decide on prices before declaring prices.

The abolition of regulations on price registration, the abolition of administrative procedures on price registration, more flexibility for enterprises with price declaration measures, are the clearest evidence that the spirit and point of view of the Law on Prices 2023 is to create conditions for enterprises to actively decide business activities and take responsibility for prices set by enterprises decide.

## **2. Change of goods and services on the List of price-stabilizing goods and services**

### ***2.1. Remove electricity, salt and table sugar from the list of price-stabilizing goods and services***

According to experts, in recent years, thanks to price regulation management tools, gasoline prices and other commodity prices have been managed and regulated by the Government, creating macroeconomic stability and stability. While countries such as

Europe, the US and many other countries have very high inflation and prices, Vietnam still maintains macroeconomic stability, controlling inflation thanks to the Government has used management and administration tools to achieve results and achieve goals. Therefore, in the Law on Prices 2023, the regulations on the price stabilization fund and the list of stabilizing goods and services receive a lot of attention.

Compared with the list of price-stabilizing goods and services stipulated in the Law on Prices 2012, it is recognized that, up to now, some goods have arisen shortcomings, limitations and are no longer suitable for the actual situation. According to the new regulations, goods and services, when included in the list of price-stabilizing goods and services, must simultaneously meet 02 following criteria:

- a. *Essential goods and services;*
- b. *Having great influence on socio-economic development, production, business and people's lives.*

Taking into consideration the above-mentioned factors, the Law on Prices 2023 has removed electricity, table salt and table sugar from the list of stable goods and services. As follows:

- *For electrical items*

Currently, the establishment and adjustment of electricity prices is carried out in accordance with Article 30 of the Electricity Law. Accordingly, the basis for establishment and adjustment of electricity prices must be based on factors of electricity production and trading costs, and at the same time must consider and assess the socio-economic development conditions of the country and people's incomes in each period in order to ensure people's lives, create motivation for production to develop. Thus, *when implementing pricing measures for electricity, the State has taken into account the goal of harmonizing interests between the parties, including the goal of price stability in accordance with the socio-economic context.*

It can be seen that at present, the valuation and price adjustment for electricity products that have been decided by the competent State agency have covered the objectives of price stability, affecting people's lives, businesses as well as the business plan of electricity enterprises. Therefore, the Law on Prices 2023 continues to keep electricity items on the List of goods and services priced by the State and remove electricity items from the List of price-stabilizing goods and services.

- *For table salt and table sugar items (including white sugar and refined sugar):*

Based on the results of many years of statistics, table salt and table sugar (including white sugar and refined sugar) always have relatively stable prices for a long time, the amount of supply and demand is less volatile and the consumption structure of consumers has also

shifted significantly in the trend of reducing consumption of these products (due to the presence of other substitute equivalents). Therefore, table salt and table sugar have also been removed from the List of price-stabilizing goods and services under the Law on Prices 2023 in line with the current situation.

## ***2.2. Supplementing animal feed and aquatic feed to the list of price-stabilizing goods and services***

Animal husbandry is one of the very important sectors in agriculture and animal feed is the main factor that greatly affects the efficiency of the livestock industry. According to the Director of the Price Management Department, feed costs account for a large proportion of livestock costs<sup>1</sup>. From the crisis, world political conflicts and the Covid-19 pandemic, the world price of animal feed raw materials increased consecutively, affecting the import of production materials, causing domestic animal feed prices to fluctuate. Realizing that this is a really essential commodity and has a great impact on socio-economic development, production, business, people's lives, animal feed and aquatic feed have been included in price stabilization in the Law on Prices 2023. This will be a timely solution to support working people in the livestock industry to overcome difficulties, contributing to the development of this industry. In this way, many measures will be applied to help stabilize the price of animal feed and aquatic feed in case the market price level fluctuates abnormally in a certain period of time and reduce stress on farmers and businesses.

In addition, the Law on Prices 2023 continues to comply with current regulations when stipulating that in case of necessity, the List of price stabilizing goods and services must be adjusted, the National Assembly Standing Committee will consider and decide. Accordingly, when there are abnormal fluctuations in certain goods and services that greatly affect people's lives, competent state agencies may promptly supplement them to apply appropriate price stabilization measures in each period.

## **3. Clearly define conditions for application of price stabilization measures**

According to the current Law on Prices, price stabilization measures are applied in the following two cases: (1) When prices of goods and/or services on the List of goods and services stabilize prices fluctuate abnormally and (2) When the price level fluctuates affecting socio-economic stability.

However, the Law on Prices 2023 further defines the conditions for applying price stabilization in each case as follows:

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<sup>1</sup> <https://tienphong.vn/sap-co-van-dieu-tiet-gia-thuc-an-chan-nuoi-post1556723.tpo#:~:text=Trong%20%C4%91%C3%B3%2C%20th%E1%BB%A9c%20%C4%83n%20ch%C4%83n,ng%C6%B0%E1%BB%9Di%20ch%C4%83n%20nu%C3%B4i%2C%20doanh%20nghi%E1%BB%87p.>

(a) *The market price level of goods and services on the List of goods and services stabilizes abnormal fluctuations, causing great impacts on socio-economy, production, business and people's lives;*

(b) *When competent agencies declare a state of emergency, incidents, disasters, natural disasters, epidemics and market prices of goods and/or services fluctuate abnormally.*

According to the new regulations, the determination of conditions for applying price stabilization measures will be stricter and clearer, avoiding deep interventions from the State that affect the regular production and business activities of organizations and individuals. Moreover, the conditions for applying price stabilization under the Law on Prices 2023 are more specific, clear conditions and have a written basis for determination (the competent authority declares a state of emergency, incident, disaster, etc.), which also contributes to helping businesses to forecast, and be flexible in handling arising situations where state agencies must apply price stabilization measures.

#### **4. Supplementing some contents to pricing measures**

##### ***4.1. Add criteria for determination of goods and services on the List of goods and services priced by the State***

Compared to the provisions of the Law on Prices 2012, the new law has added criteria for essential goods and *services that are exclusive in purchase and sale or have limited competitive markets and greatly affect the socio-economy, people's lives, production and business for consideration for inclusion in the List of goods, services priced by the State.* When engaging in business, every business aims to maximize profits. However, unlike conventional enterprises, monopolistic or market-dominant enterprises have market power that has the ability to control and decide supply output and price levels to maximize profits. Therefore, in the production and business process, especially for essential goods and services, these enterprises tend to profit from their position and market power to cause negative impacts on socio-economic and consumers. When adding this criterion to the identification of goods and services on the List of goods and services priced by the State, the State's intervention in pricing will contribute to price control, and at the same time control acts of abusing the power of monopolies, dominate the market to increase prices or fix prices unreasonably, affecting the rights and interests of consumers.

Thus, the regulation of the List of goods and services priced by the State more strictly, clearly expressing the view in price management and regulation is open, transparent, avoiding the abuse or addition of unnecessary goods and services to the list. At the same time, when the State intervenes, some high-value goods and services will be priced at ceiling prices, ensuring that more people have the opportunity to access and use such goods and services.

#### ***4.2. Detail the competence and responsibility for valuation of each agency and the form of valuation for each type of goods and/or services***

This is a new point in focus at the Law on Prices 2023. According to the provisions of the amended law, the amended List of goods and services *priced by the State will be associated with the competence and form of valuation* specified and transparent for each type of goods and services, creating favorable conditions for the organization and implementation. The Law on Prices 2023 details 42 types of goods and services on the List of goods and services priced by the State. Accordingly, the valuation of goods and services in the fields of electricity, land, housing, intellectual property and education will be regulated according to specialized laws (specifically in Section 1 of Part I of this topic); while other goods and services on the List will be assigned to the ministerial level according to the field of goods management, services and levels of provincial People's Committees according to the scope of their management.

#### ***4.3. Adjustment of pricing principles and methods***

##### ***(a) About the principle of pricing:***

According to current regulations, when pricing, they must ensure compensation for actual reasonable and profitable production and business costs in *accordance with the market price level* and the State's socio-economic development guidelines and policies in each period. The principle of cost compensation, profitability is in line with market principles. However, for some services of a public utility nature, public careers that have sensitive impacts on social life such as road use services, domestic solid waste collection and treatment services, etc., in addition to having to properly calculate and fully calculate costs, It is also necessary to take into account factors of people's income or local socio-economic conditions, so ensuring profits is impossible. Therefore, the Law on Prices 2023, when developing pricing principles, stipulates that *the guarantee of profit or accumulation is no longer a mandatory factor*, thereby making it easier to price goods and services. However, it is still necessary to ensure the legitimate rights and interests of the State, organizations and individuals trading goods, services and consumers, avoiding the valuation of prices of goods and/or services that rise too high or fall too low, especially essential goods, affecting socio-economic stability and people's lives.

##### ***(b) About pricing methods:***

The Law on Prices 2012 stipulates that the Ministry of Finance shall prescribe general pricing methods for goods and services. Ministries and ministerial-level agencies shall assume the prime responsibility for, and coordinate with the Ministry of Finance in, guiding pricing methods for goods and/or services under their pricing competence. Regulations assigning ministries and branches to guide separate pricing methods for goods and services under their management will lead to the fact that many valuation methods are scattered in

specialized laws and will be difficult to control, affecting the application in practice, even overlapping, contradictions, lack of consistency with the basic principles at the general valuation method.

Therefore, the Law on Prices 2023 revised the valuation method as follows:

- Assign the Minister of Finance to promulgate general pricing methods for goods and services priced by the State. *When applying the general valuation method with specific contents to be guided*, ministries, ministerial-level agencies managing branches, domains and provincial-level People's Committees shall *propose specific contents to be guided and sent to the Ministry of Finance* for consideration and guidance on implementation. This will create consistency in implementation among localities.
- Unlike the Law on Prices 2012, relevant ministries and agencies may only promulgate or submit to competent authorities for promulgation pricing methods in the case of goods and services in specialized fields (according to the contents mentioned in Section 1 of Part I of this topic) or goods and services for which the law has its own pricing methods, Avoid the fact that each agency prescribes a separate valuation method, difficult to control as at present.

## 5. Clarifying price negotiation activities

### 5.1. Criteria for determining goods and services for price negotiation

According to the Law on Prices 2023, there are 2 criteria to determine goods and services for price negotiation, including:

- Not on the List of goods and services priced by the State; *not falling into the cases where bidding or auction is required in accordance with the law on bidding and auction*.
- There is an exclusive nature of purchase or exclusive right to sell on which the buyer and seller depend on each other, difficult to replace.

Given the nature of a price negotiation measure that a state agency acts as an arbitrator for the negotiation and price agreement, the arising of the negotiation will only be correct in cases when there is a dispute between the buyers and sellers when the price of goods purchase and sale cannot be agreed, service. Meanwhile, the fact that goods and services belong to the List of goods and services priced by the State is the State's price decision. Therefore, it is impossible to arise in cases where the parties cannot agree on the purchase price and selling price of goods and/or services, so maintaining this criterion is not necessary. On the other hand, the clarification of the scope of application of the negotiated price is to avoid cases of abusing the negotiated price to use for other purposes, which is not in accordance with the requirements of the negotiation and the case of sale.

## 5.2. Principles of price negotiation

Unlike the Law on Prices 2012, the new regulation has added many principles in the price negotiation to be stricter and aimed at respecting the right to self-pricing and price competition of production and business organizations and individuals. Concrete:

- Subjects of request for price negotiation: Goods and/or services trading organizations that purchase and sell goods and/or services;
- The reception and organization of price negotiations shall be carried out on a voluntary basis and equality of rights and obligations; *both the buyer and the seller must make a written request for price negotiation.*

Meanwhile, the Law on Prices 2012 stipulates that price negotiation is carried out in the following two cases: (1) there is a proposal of *the buyer or seller or both parties* (a written request of both parties is not required as currently prescribed); (2) at the request of the *Prime Minister, Ministers, Heads of ministerial-level agencies, Heads of Governmental agencies, Presidents of provincial-level People's Committees*. As mentioned above, the State only acts as an intermediary in the price agreement, so the regulation of price agreements implemented even at the request of state agencies is not consistent with the nature of price agreement measures. Therefore, the Law on Price 2023 has removed this content to be in line with the law as well as implementation practices. The above provision clearly demonstrates the nature of the price negotiation measure aimed at emphasizing the agreement between the parties, including the intermediary role of the agency or organization towards the goal of harmonizing interests, ensuring transactions are transparent, in accordance with the laws of market economy.

- The price negotiation process must ensure objectivity, openness, transparency and respect for the right to self-valuation of the parties requesting the price negotiation.

## 5.3. Price negotiation organization

The Law on Prices 2023 clearly stipulates that the price negotiation agency has the role of an intermediary for buyers and sellers to negotiate on the price and must not interfere with the price negotiated by the parties. As follows:

- At the price negotiation conference, if 02 parties can agree on the price, the consultative conference ends. The negotiated price shall only be applied to the case of purchase and sale and the volume of goods and/or services agreed upon by the parties in the written request for negotiation. The parties are responsible for the negotiated price, the organization of the implementation of the negotiated price.
- In case the price cannot be agreed, the price *negotiation agency will continue to determine the price for 02 parties to implement*. The price determination document

of the price negotiation agency may only be applied 01 time to the right subjects requesting the negotiation and is not valid to apply to other cases.

Meanwhile, according to the Law on Prices 2012, in case the price cannot be agreed, the price *negotiation organization agency will decide the temporary price for the two parties to implement* and take effect for a maximum of 06 months. During that time, the parties continue to negotiate prices. Thus, the old regulation had State intervention in determining prices, which is inconsistent with the nature of this measure. At the same time, the legal validity of interim rates when negotiations fail is unclear, which can sometimes lead to arbitrariness in how interim rates are determined when due process regulations are made basics on how to determine rates are not specified in the Law. It can be seen that the Law on Prices 2023 has paid great attention to the legal validity of the negotiated price in order to protect the legitimate interests of the parties to the negotiation, including the parties in the purchase and sale of goods and services and the agency organizing the negotiation.

## **6. Decentralizing authority and responsibility for price management to each specialized management ministry**

Previously, the Ministry of Finance was the agency tasked by the Government with managing general prices across the country. However, this invisibly creates a centralized management mechanism, causing difficulties and lack of initiative for relevant ministries and branches in price management. At the same time, the decentralization of management from the central to the local level lacks synchronization. Accordingly, the Law on Prices 2023 has been revised in the direction of allocating price management focal points to ministries, ministerial-level agencies and provincial People's Committee agencies. Such decentralization of management is assessed to be suitable for the organization carried out in practice, more effective, more intimate and responsive to needs quickly and promptly when there are fluctuations that need to be solved immediately. At the same time, the clear delineation between the tasks of ministries, Sectors and localities will create transparency and convenience in implementation and avoid accountability extrusion.

## C. CHANGES IN THE MANAGEMENT OF VALUATION ACTIVITIES

In recent years, a series of violations related to price appraisal activities have taken place, showing that this market has been developing hot in quantity but has not guaranteed quality. There are many valuation enterprises as well as inexperienced price appraisers or violating professional ethics for immediate benefits that deceive, collude with customers, falsify documents to inflate prices or lower values abnormally. Therefore, tightening conditions in valuation activities is essential to limit the negatives. A series of new regulations have been amended and supplemented in the Law on Prices 2023, specifically as follows:

### 1. Professional specialization of appraisers by property sector

According to the provisions of the Law on Prices 2012, there is only one type of price appraiser card and practice card holders are allowed to value all types of assets. However, in the Law on Price 2023, the price *appraiser card is a professional certificate in the field of property valuation or business valuation* issued to a person who meets the requirements at the price appraiser exam. Accordingly, the price appraiser card is specialized in 2 areas: (1) Appraisal of asset prices and (2) Appraisal of enterprise prices. This is a new change of the amended Law on Prices compared to the Law on Prices 2012.

Through practice, real estate appraisal activities account for a relatively large part of the work of valuation enterprises in Vietnam. The current workload in valuation businesses is largely real estate appraisal. Meanwhile, the appraisal of real estate value is a deep professional activity, requiring the appraiser to have extensive knowledge of land law, construction and real estate business. Other valuations of specific assets require in-depth expertise in those areas.

Each type of property has its own characteristics, different levels of complexity, requiring the appraiser to really have in-depth knowledge of the type of property he or she appraises. The new regulation towards classifying price appraisers by field helps appraisers to focus their expertise *on a certain asset segment*, helping professional expertise to be more specialized and in the long run the quality of price appraisal activities will be better. However, will the new regulation on professional specialization of appraisers by property sector really work?

*First*, if the concept of "property" is understood according to the definition stated in the Civil Code, i.e. property includes movable and real estate, the price appraiser in the field of property valuation must still have expertise in all areas.

*Secondly*, the assets of ordinary enterprises include movable property (machinery, equipment, tools, goods, etc.) and real estate (land, factories). When determining business value, price appraisers in the field of enterprise valuation must still make asset value estimates like price appraisers in the field of asset valuation.

Thus, the division into 02 types of price appraiser cards as above seems to be overlapping and interfering with each other. In our opinion, the classification of price appraiser cards under the Law on Prices 2023 may not help achieve the appraiser's professional specialization objective. Therefore, it is necessary to soon issue guidelines specifying the fields and expertise in which price appraisers are appraised in issuing asset price appraiser cards compared to enterprise price appraiser cards.

## 2. Strengthening standards and conditions of price appraisers

In order to improve the professional responsibility of appraisers in price appraisal activities, the Law on Prices 2023 basically inherits current regulations, has been amended, supplemented and restructured to suit the nature of price appraisal activities.

According to current regulations, price appraisers are not allowed to practice as individuals, holders of price appraiser cards when wishing to practice price appraisal must be associated with the operation of the enterprise. The Law on Prices 2023 continues to inherit and has more clearly stipulated the registration of practice with the Ministry of Finance through price appraisal enterprises to be recognized as price appraisers. This provision overcomes the limitation in the current law that does not stipulate how to certify a person who is considered a price appraiser, so it does not guarantee rigor, it can cause confusion when considering a price appraiser card holder as well as a price appraiser.

Thus, the Law on Prices 2023 clearly stipulates that *price appraisers must be those who have* registered as price appraisers and are notified by *the Ministry of Finance as price appraisers*. However, to register as a price appraiser, a person with a price appraiser must fully meet the following conditions:

- a. Have full civil act capacity;
- b. *Having a valid labor contract* with an enterprise where the holder of the price appraiser card is registered to practice price appraisal, unless this person is the legal representative of the enterprise;
- c. Have a total actual working time at valuation enterprises, state management agencies in charge of prices and price appraisal with university degrees from full 36 months. *In case of working with a university degree or higher in price or valuation under an application-oriented program, the total time is shortened to full 24 months;*
- d. Having updated knowledge of price appraisal according to regulations of the Ministry of Finance, except for cases where the price appraiser card is issued for less than 01 year from the time of practice registration;
- e. Not subject to non-practice as prescribed.

At the same time, if you register to practice price appraisal, holders of price appraiser cards should also note that the new Law also *does not allow price appraiser card holders to register to practice price appraisal simultaneously at two valuation enterprises*. The introduction of stricter regulations for price appraisers aims to strengthen deterrence for appraisers, contributing to requiring appraisers to constantly update their knowledge, improve professional qualifications and professional ethics, and improve the quality of price appraisal service provision.

About the field of practice registration:

- For holders of price appraiser cards issued under the provisions of the Law on Prices 2012, they may continue to register to practice price appraisal in the field of asset valuation and enterprise valuation in accordance with the Law on Prices 2023.
- For holders of price appraiser cards in the field of enterprise valuation, they will be registered to practice in all 02 fields: asset valuation and enterprise valuation.

According to our assessment, this regulation is not really appropriate, ensuring fairness among price appraiser card holders. As analyzed above, the Law on Prices 2023 classifies price appraiser cards according to the professional field of asset appraisal and enterprise valuation are still overlapping, there is no clarity and specificity about the contents that price appraisers are carried out within the scope of the price appraisal card issued. Those wishing to become price appraisers must undergo professional training and card issuance exams equally. So why are holders of price appraisal cards in the field of enterprise valuation registered to practice in all 02 fields, while price appraisal in the field of asset valuation can only be registered to practice asset valuation? Accordingly, it can be understood that the scope of enterprise valuation has included asset valuation. Therefore, it is necessary to soon have specific regulations guiding the implementation of uniform and synchronous implementation among localities and price appraisal enterprises.

### **3. Tightening operating conditions of enterprises and branches of enterprises operating price appraisal**

#### ***3.1. Restricting the right to manage and administer enterprises to persons holding positions and powers after resigning their positions in the field of state management of prices***

Clause 2, Article 17 of the Law on Enterprises 2020 and Clause 6, Article 40 of the Law on Cooperatives 2012 provide for subjects who do not have the right to establish and manage enterprises or cooperatives or cooperative unions, including those who have positions and powers as prescribed by the Law on Chambers, anti-corruption and other cases as prescribed by law.

At the same time, point d, Clause 2, Article 20 of the Law on Anti-Corruption 2018 stipulates: *"Persons holding positions and powers in agencies, organizations and units may not establish, hold titles, managerial positions and operate private enterprises, limited liability companies, joint stock companies, partnerships and cooperatives in the fields that they were previously responsible for managing within a certain period of time as prescribed by the Government"*.

In order to create consistency and synchronization between relevant laws and with other professional fields, the Law on Prices 2023 has added regulations that people with positions and powers in the field of state management of prices, after resigning their positions, may not establish or hold titles, managerial and executive positions at the valuation enterprise for a certain period of time. Accordingly, persons with positions and powers in the field of state management of prices may only establish and assume management positions in price appraisal enterprises after resigning their positions according to decisions of competent authorities for at least 24 months (*This content has been specified in Circular No. 60/2022/TT-BTC and updated in detail by ATA [here](#)*).

### ***3.2. Tightening conditions for issuance of certificates of eligibility for provision of price appraisal services***

The Law on Prices 2023 requires companies to increase the number of appraisers at valuation businesses. With the goal of stabilizing price appraisal activities, the conditions for issuance of certificates of eligibility for provision of price appraisal services according to current regulations are assessed to be too open, while the price appraisal profession is an industry requiring high expertise. According to the Law on Prices 2012, each valuation enterprise only needs at least 3 appraiser cards, now *there must be 5 or more people with price appraiser cards* eligible to register to practice price appraisal at enterprises. The increase from 3 to 5 appraisers will cause small appraisal businesses to increase expansion or merger to ensure the eligibility to operate according to regulations, thereby enhancing the quality of price appraisal activities. In particular, the new regulations also clarify the conditions for issuance of certificates of eligibility for provision of price appraisal services for each type of enterprise as follows:

(a) *For private enterprises, one-member limited liability companies, partnerships:*

Owners of one-member limited liability companies being individuals, general partners of partnerships: Must be holders of price appraiser cards registered to practice price appraisal at enterprises.

(b) *For limited liability companies with two or more members, joint stock companies:*

- **Members and shareholders being individuals:** There are at least 02 capital contributing members or 02 shareholders who are holders of price appraiser cards registered to practice price appraisal at the enterprise and the total contributed

capital of capital contributing members, shareholders being price appraisers practicing at the enterprise must account for **more than 50% of the charter capital of the enterprise**.

- **Members and shareholders being organizations:** The authorized representative of the capital-contributing organization must be the holder of the price appraiser card registered to practice price appraisal at the enterprise and the total contributed capital of the **members must not exceed 35% of the charter capital**.

This regulation on capital contribution ratio is intended to ensure the appraiser's dominant right to the operation of the valuation enterprise.

### ***3.3. Activities of branches of valuation enterprises***

Similar to valuation enterprises, the regulation on holders of appraiser cards on prices registered to practice at branches has also been raised. Accordingly, at *each branch of a valuation enterprise, there must be at least 3 people with price appraiser cards* who meet the conditions to register to practice price appraisal at the branch, instead of the previous regulation that only 2 price appraiser cards are needed.

In addition, branches of valuation enterprises must meet the following additional conditions:

- (i) A person who registers to practice valuation at a branch may not simultaneously register to practice valuation at the head office or other branch of the valuation enterprise;
- (ii) The head of a branch must be a holder of a price appraiser's card who is eligible to register as a price appraiser practitioner at that branch.

This additional regulation is in line with the actual situation to prevent businesses and branches of enterprises from opening up in bulk as in recent times. At the same time, tighten conditions for price appraisal registrants to only register to practice at one branch, ensuring that this person focuses full-time working for that branch and has time to hone and practice his professional expertise.

## **4. Strictly stipulate legal representatives and managerial position holders at valuation enterprises and valuation branches**

The requirements for legal representatives and managers at valuation enterprises have been specified in current guiding documents. However, the Law on Prices 2023 has dedicated a law regulating the legal representative, director or general director of the valuation enterprise, the head of the branch of the valuation enterprise to increase uniformity, and continue to affirm the legal validity of these regulations in the practice of managing price appraisal activities. As follows:

(a) *For legal representatives, persons holding managerial positions at valuation enterprises:*

In addition to the general conditions when registering to practice price appraisal, the legal representative, Director or General Director at the valuation enterprise needs to add some of the following conditions:

- *Must be stated on the Certificate of Business Registration;*
- Be a price appraiser at that business;
- Have enough or more than 36 months as a price appraiser;
- Not falling into the cases where the equivalent position has been held at a valuation enterprise that has had its certificate of eligibility for provision of price appraisal services revoked within *12 months* for a valuation enterprise that has had its certificate of eligibility for provision of price appraisal services revoked for *the first time* and *60 months* for a price appraisal enterprise The Certificate of eligibility for provision of price appraisal services has been revoked for the *2nd time or more* up to the time of submitting the application for issuance or re-issuance of the Certificate of eligibility for provision of price appraisal services.

(b) *For heads of branches of valuation enterprise:*

To be named on the certificate of eligibility for provision of price appraisal services issued to the valuation enterprise.

## **5. The legality of price appraisal results is more guaranteed**

According to current regulations, the result of price appraisal is used as one of the grounds for agencies, organizations and individuals who are owners or have the right to use assets in accordance with the provisions of law and related parties to consider, decide or approve prices for assets. This valuation result shall only be used within the effective period stated in the appraisal result report and the valuation certificate. However, the Law on Prices 2012 guidance document only stipulates the number of deeds and reports that must be signed at least 10 sets in the year of notification of practice. This regulation is not clear and specific, leading to the possibility that appraisers do not issue price appraisal certificates but immediately send price appraisal results to customers.

In order to overcome the above consequences, the Law on Prices 2023 has specific provisions in the issuance of reports, valuation certificates and increased legality for price appraisal results when clearly stipulating the need for signatures and stamps on these documents. Concrete:

- Price appraisal certificate: Must have the signature of the price appraiser performing the price appraisal and the signature of the legal representative/ head of the branch of the enterprise to appraise the price, seal the enterprise.
- Price appraisal report: Must be signed by the price appraiser performing the price appraisal and approved by the legal representative/ head of the branch of the valuation enterprise and the price appraisal certificate cannot be separated.

In case of necessity, the legal representative of the enterprise can still authorize the enterprise manager – the price appraiser at the enterprise to sign the price appraisal certificate and consider and approve the price appraisal report, in order to increase autonomy and self-determination for the price appraisal enterprise as well as the legal representative of the appraisal enterprise prices in valuation activities of their enterprises.

*The Law on Prices 2023 takes effect from 01/07/2024.*

## ABOUT US

ATA Global Legal Limited Company (**ATA Legal Services**) is established and operated by acknowledged and experienced lawyers. Our operational goal is to become a law firm providing flexible and comprehensive legal services to both organizations and individuals, and both local and international clients. Of which, one of our core service is in-depth corporate consultancy.

All partners, lawyers, advisors, consultants, and even paralegals of ATA Legal Services are well-trained and have years of experience in the areas they are in charge of. In particular, the partners of ATA Legal Services have all consulted for and worked with renowned economic groups, banks or securities companies such as Vingroup, FLC, DNP, Tasco, Techcombank, SHB, SHS, VPS, etc.

With a serious and professional working attitude along with the dedication of the team always trying to put ourselves in the position of clients to understand their needs and aspirations, we are committed to bringing the most effective and appropriate services for Valued Clients.

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