

The Andersen logo features a stylized white wing above the word "ANDERSEN" in a white, serif, all-caps font. The background of the entire page is a satellite-style image of Earth at night, showing city lights and the curvature of the planet against a dark, starry sky. A red diagonal band runs across the bottom right corner.

ANDERSEN®

VIETNAM

Legal and Tax Digest

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Data

Draft Law on Personal Data Protection

At the moment Decree 13 “On Personal Data Protection” applies to both entities and individuals inside and outside Vietnam processing data related to Vietnam. The new draft law expands the scope to cover entities and individuals processing foreigners’ personal data within Vietnam. Some of the key points of the draft law in its latest iteration are below:

- **Consent requirement:** The draft law imposes stricter rules on consent when processing and transferring personal data, prohibiting coercive conditions.
- **Location and biometric data:** It requires clear notification and explicit consent when processing location and biometric data.
- **Sensitive data protection:** It introduces new categories of sensitive data, including land user information, and requires a data protection trust rating.
- **Data protection trust rating:** This is a mandatory element in data protection impact assessments.
- **Data protection in the context of big data:** It provides detailed regulations on data protection in data-intensive sectors such as recruitment, finance, social networks, and communication services.
- **Violations of personal data protection regulations:** Punitive measures against violators include disciplinary actions, administrative fines, or criminal prosecution, depending on the severity of the violation. There is already a draft on administrative sanctions for cybersecurity violations. Regarding criminal sanctions, violations of personal data regulations can be prosecuted under two offenses stipulated in Articles 159 and 288 of the 2015 Penal Code, with a maximum prison sentence of seven years.

Commerce

Decree No. 128/2024/ND-CP dated October 10, 2024 to “Amend and Supplement Provisions of Decree 81/2018/ND-CP dated May 22, 2018 of the Government, Detailing Trade Promotion Activities under the Law on Commerce”

This document will impact businesses engaged in the trading of goods and services, promotional activities, and organizing trade fairs and exhibitions. Some noteworthy amendments and supplements include:

- The requirement to clearly stipulate that the value of promotional goods and services cannot exceed 50% of the sales price immediately prior to the promotion period, which is more detailed than the previous regulation, and provides more guidance on calculating promotional values to ensure compliance.

- The addition of cases where businesses are exempt from the administrative procedure to provide notification of promotional activities. Notification methods have also been updated, allowing businesses to provide notification through the National Public Service Portal or the Provincial Administrative Procedure Resolution System.
- The inclusion of circumstances where it is not necessary to announce the results and distribute prizes for promotional programs in cases of force majeure.
- The elimination of the requirement to report the results of submitting to the state budget within 10 days from the date of submission of 50% of the published value of unclaimed promotional prizes. The deadline for submitting such funds to the State has been extended from 15 days to 45 days from the date of receiving the State's collection decision.

Energy

Decree No. 135/2024/ND-CP dated October 22, 2024 issued by the Government on "Policies Encouraging Development of Self-Produced, Self-Consumed Rooftop Solar Power"

The decree will impact businesses interested in developing rooftop solar power systems for self-consumption, as well as those in the rooftop solar power business. According to this decree, self-produced, self-consumed solar power systems will be exempt from operating license requirements and capacity limits in certain cases (details below) and will also receive tax incentives and streamlined administrative procedures.

General conditions for self-produced, self-consumed rooftop solar power systems:

- **Compliance requirements:** Rooftop solar power projects must comply with regulations on investment, construction, land, environment, safety, and fire prevention before and during installation. Compliance documentation must be provided to the Department of Industry and Trade and other relevant authorities when registering or notifying the system.
- **Restriction on used equipment:** The use of imported second-hand solar panels and direct current conversion devices is prohibited.

Registration and notification requirements:

- Systems with a **capacity of 1,000kW or more must register** with the local Department of Industry and Trade to obtain a development certificate and ensure alignment with the Power Development Plan VIII.
- Systems with a **capacity of less than 1,000kW and non-grid-connected systems** are exempt from registration but must notify the relevant authorities.

Capacity limits:

- **Systems under 100kW for households** are not subject to capacity limits.
- **Systems under 100kW for production and business facilities** must comply with capacity planning requirements.

- **Grid-connected systems over 100kW** must be developed in accordance with the plan.
- **Systems not connected to the national grid or with "zero export" devices** may be developed without capacity limits.

Transitional systems: Self-consumed systems developed after January 1, 2021, and before the decree's effective date are not required to register, only to report to the provincial Department of Industry and Trade. However, these systems are not allowed to sell excess electricity to EVN (Vietnam Electricity).

Households and businesses with excess electricity may sell up to 20% of their system's capacity to the national grid. The purchase price for this excess electricity is set at the average market electricity price from the preceding year.

The decree also encourages the installation of battery energy storage systems to ensure safe and stable operations.