

Client Alert

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For further information, please contact:

Yee Chung Seck
Partner
+84 28 3520 2633
yeechung.seck@bakermckenzie.com

Thanh Son Dang
Partner
+84 24 3936 9607
thanhson.dang@bakermckenzie.com

New Decree aims to create new legal framework for automobile transport services in Vietnam

On 17 January 2020, the Government issued the new Decree No. 10/2020/ND-CP ("**Decree No. 10**") to replace Decree No. 86/2014/ND-CP on business conditions for automobile transport services ("**Decree No. 86**"). Decree No. 10 will take effect from 1 April 2020. The pilot program for technology carriers implemented under Decision No. 24/QD-BGTVT dated 07 January 2016 of the Ministry of Transport will also be suspended from the effective date of Decree No. 10.

We highlight the key changes under Decree No. 10 below:

1. Business models for transport services

Decree No. 10 regulates a broad range of transport services, whereby each service is subject to different conditions for business operations.

Decree No. 10 does not specifically address automobile ride-hailing service; however, this Decree provides certain business models that may come closest to being relevant to automobile ride-hailing service:

- (a) taxi business,
- (b) contracted-car business; or
- (c) the business of providing a software application to assist with connection in transport ("**Transport Software**").

Decree No. 10 allows both taxi and contracted-car businesses to use technology (e.g., software and electronic contracts) to connect with customers.¹ However, in the case of a contracted car, a list of specific passenger(s) must be attached to the transport contract, and the driver must not pick up any passengers who are not named in such list.

For further new conditions required for taxi businesses and contracted-car businesses, please see Section 2 below.

Transport Software is a new definition under Decree No. 10, referring to software that provides the protocol to connect the transport business operator and driver with the customer or the transport hirer; and where all such activities happen in a digital environment. The entity providing Transport Software is subject to certain restrictions and conditions, which are discussed in Section 3 below.

¹ Decree No. 10 specifically allows taxi businesses to use software to book, cancel, calculate the fare for the trip and connect directly with the customer via electronic means. As for contracted cars, transport contracts signed with the transport operator may be in electronic form.





2. New requirements for taxis and contracted cars

In general, Decree No. 10 introduces more requirements on taxis and contracted cars as compared to the current Decree No. 86.

For taxis, the following new requirements are added:

- Transport business operators can now choose either to place a rooftop light box with the word “TAXI” on their vehicles, or to affix a reflective logo with the words “XE TAXI” on the front and rear windshields.²
- If a transport car has more than 70% of its total operating time during a month in one specific locality, it must install a badge granted by such locality (“**locality badge**”).³
- An invoice of a trip, whether in the form of a printed invoice or an electronic invoice, must be delivered to the passenger after the trip.⁴
- For taxis using a software to book, cancel, and calculate trip fare, there must be a device placed in the taxi to directly connect with the passenger for booking and cancellation.⁵
- Transport business operators must notify the local Department of Transport of the payment method used on their taxis in advance.

For contracted cars:

- In addition to the badge with the words “XE HOP DONG” affixed to the right side of the front windshield, the transport business operator must also affix a “XE HOP DONG” reflective logo on the front and rear windshields.⁶
- Contracted-car businesses are also subject to the same regulation regarding locality badges as taxis are.⁷

3. Requirements to be met by entities providing Transport Software

Under the new decree, if an entity providing Transport Software performs any main transport business activities (such as directly operating vehicles, drivers, or deciding transport fares) for profit-making purposes, such entity will be considered as a transport business operator and must comply with the regulations applicable to transport business operators⁸ such as, among other things:

- (a) obtaining a business license for doing automobile transport business;⁹
- (b) entering into labor contracts with its employees including drivers;¹⁰

² Article 6.1.a and b, Decree No. 10.

³ Article 6.1.c, Decree No. 10.

⁴ Article 6.2.a, Decree No. 10.

⁵ Article 6.3.a, Decree No. 10.

⁶ Article 7.1.b, Decree No. 10.

⁷ Article 7.1.c, Decree No. 10.

⁸ Article 35.2, Decree No. 10.

⁹ Article 17.1, Decree No. 10.

¹⁰ Article 34.3.a, Decree No. 10.



www.bakermckenzie.com

Baker & McKenzie (Vietnam) Ltd.
12th Floor, Saigon Tower
29 Le Duan, Blvd District 1
Ho Chi Minh City, Vietnam
Tel: +84 28 3820 5585
Fax: +84 28 3829 5618

Baker & McKenzie (Vietnam) Ltd.
– Hanoi Branch
Unit 1001, 10th floor
Indochina Plaza Hanoi
241 Xuan Thuy Street
Cau Giay District
Hanoi 10000, Vietnam
Tel: +84 24 3825 1428
Fax: +84 24 3825 1428

(c) obtaining badges applicable to each type of automobile¹¹ (e.g., taxi, contracted-car, etc.).

Under Decree No. 10, entities that only provide Transport Software (i.e., not engaging in any transport business activities) must satisfy the following key requirements¹²:

- (a) only providing the Transport Software to transport business operators who have obtained the proper business license;
- (b) not providing the Transport Software to (i) contracted-car business operators and (ii) tourist transport business operators for the purpose of confirming reservations, ticket sales and fare collections;
- (c) ensuring safety and confidentiality of information with respect to the data of passengers, transport business operators, and drivers;
- (d) archiving all transactions performed on the Transport Software for at least two years; and
- (e) ensuring that the Transport Software only enables the driver to perform multiple tasks to confirm a trip when the vehicle is stopped, and that when the vehicle is moving, the driver only has to press one button to receive a trip.

4. New regulations on e-contracts

While the current regulations do not mention the use of e-contracts for contracted-car businesses, Decree No. 10 stipulates specific requirements for the use of e-contracts in transport businesses.

For transport business operators using e-contracts with a software interface, such interface must feature: (i) the operator's name and logo, (ii) the operator's phone number to contact in emergency cases; (iii) the contents of the contract, such as the information of the operator, the driver, the automobile, etc.

In addition, the operator must send an electronic invoice to the passenger's account and to the relevant tax authority in accordance with tax laws. E-contracts must be archived by the operator for at least three years.

Please contact us if you have any questions regarding Decree No. 10.

¹¹ Article 22.1, Decree No. 10.

¹² Article 35.1, Decree No. 10.