

27 May 2011

Leks Newsletter April 2011

Leks&Co

The Firm

Leks&Co are law offices specialized in the real estate law, filled by young, energetic, creative lawyers, providing premium legal services with competitive price plus 7 amazing added values, and delivering our services based on definite core values.

Leks&Co currently manages three blogs i.e. HukumProperti.com, IndonesiaRealEstateLaw, and IndonesiaCompanyLaw. Leks&Co is also active in social media through Facebook, Twitter, LinkedIn. Leks&Co actively writes law articles for the benefit of its clients and the community through its websites and other channels.

Leks&Co is appointed as recommended firm by Global Law Experts and Corporate INTL. Our Managing Partner, Eddy Leks, is also appointed as recommended attorney by Global Law Experts in the field of real estate law in Indonesia.

ISO 9001:2008



Dear {FIRST_NAME},

This is the Leks Newsletter of April 2011. On this issue, you will see legal update and our blogs update. We hope that our newsletter is useful for you.

Leks News

We would like to announce that we have launched our new blog on Company Law. Our blog can be accessed through <http://www.indonesiacompanylaw.com>. We hope our new blog may provide useful information on Company Law in Indonesia to all readers.

Leks Legal Update

Guidance of License Requirements for Representative of Foreign Construction Business Entities in Indonesia

Background

The representative of foreign construction business entities (“**Foreign Entities**”) are allowed to conduct their business in Indonesia in accordance with the Regulation of Minister of Public Works Number





Leks&Co is certified of ISO 9001:2008 on Quality Management

Award



Recommendations



28/PRT/M/2006 Year 2006 (

“**Regulation**”). Nevertheless, the Regulation does not fully encourage the national construction services and the national economy in Indonesia. Therefore, it is necessary to improve the provisions regarding the Foreign Entities in Indonesia. In order to achieve that goal, recently, the Minister of Public Works (“**Minister**”) has issued the new regulations concerning the requirements of licenses for the Foreign Entities, that is, Minister of Public Works Regulation Number 05/PRT/M/2011 on Guidance of Requirements for Granting the Licenses for Representative of Foreign Construction Business Entities (“**Minister Regulation**”). The Minister Regulation has been enacted since 4 April 2011. The enactment of the Minister Regulation revokes the Regulation, and the Regulation is declared revoked since the date of the enactment of the Minister Regulation.

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Leks Blogs Update

Inheritance of the Right of Use

According to Article 41 of Law Number 5 of 1960 on the Principles Provisions of Agrarian (“**Agrarian Law**”), Right of Use means right to use

and collect the production over State Land or land which is owned by private parties. As stipulated in Article 42 of Agrarian Law, Right of Use can be granted to:



1. Indonesian citizens;
2. foreigners domiciled in Indonesia;
3. Indonesian companies established based on Indonesian law and domiciled in Indonesia; and
4. foreign companies having its representative office in Indonesia.

Assignment of Right of Use

According to Article 54 paragraph (3) of Government

Regulation Number 40 of 1996 on Right to Cultivate, Right to Build, and Right of Use Over Land (“**Government Regulation 40**”), it is stated that the Right of Use can be assigned by the following reasons:

1. sale and purchase;
2. exchange;
3. capital participation;
4. grant;
5. inheritance.

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Acquisition Levy of Right of Land and Building

Background

As we all know, earth, water, and natural resources contained therein controlled by the State and used as much as possible for the prosperity of the people (society). Land and buildings that build on it, in addition to fulfill the basic need, is also constitutes as profitable investment equipment. In other words, land and building have economic value. Therefore, it is reasonable that for those who obtained the right of land and the buildings to give some of the economic value that obtained, to the State through tax payments, especially Acquisition Levy of Right of Land and Building (“**BPHTB**”). BPHTB is now regulated in Law Number 21 of 1997 on Acquisition Levy of Right of Land and Building (“**Law No.21/1997**”), as amended by Law Number 20 of 2000 on Amendment of Law No.21/1997 (“**Law No.20/2000**”).

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Articles of Association of a Company

Background

Based on Article 8 paragraph (1) of Law Number 40 of 2007 on Limited

Liability Company (“**Company Law**”), it is stated that a deed of establishment must contain



the articles of association (the
“AoA”) and other
information in relation to



the establishment of the Company. AoA is the document that contains the internal regulations and the management of the Company.

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