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## **THE GOVERNMENT**

### **DECREE No. 53/2006/ND-CP OF MAY 25, 2006, ON POLICIES TO ENCOURAGE THE DEVELOPMENT OF NON-PUBLIC SERVICE ESTABLISHMENTS**

#### **THE GOVERNMENT**

*Pursuant to the December 25, 2001 Law on  
Organization of the Government;*

*Pursuant to the Government's Resolution No. 05/  
2005/ND-CP of April 18, 2005, on stepping up  
socialization in the educational, healthcare, cultural,  
physical training and sport activities;*

*At the proposal of the Minister of Finance,*

#### **DECREES:**

##### **Chapter I**

#### **GENERAL PROVISIONS**

##### **Article 1.- Governing subjects**

1. This Decree applies to non-public establishments operating in the domains of education and training; healthcare; culture; physical training and sports; science and technology; environment; and social affairs, population, family and child protection and care.

2. Enterprises set up by organizations or individuals and operating in the domains stated in Clause 1 of this Article under the Enterprise Law shall not be governed by this Decree.

##### **Article 2.- Non-public establishments**

1. Non-public establishments are establishments which are set up by social organizations, socio-professional organizations, economic organizations, individuals, groups of individuals or communities and operate according to the provisions of law. Their material foundations are built and their operation funds are ensured with non-state budget capital.

2. Non-public establishments shall be set up under the State's plannings and plans aiming to develop the cause of education and training, healthcare, culture, physical training and sports, science and technology, environment, social affairs, population, family and child protection and care.

3. Non-public establishments set up under the provisions of law shall have the legal person status, conduct independent cost accounting and have their own seals and accounts. While consolidating public establishments, the State encourages the development of non-public establishments and, at the same time, creates favorable conditions for organizations and individuals to invest in, and mobilize resources from the people and organizations of all economic sectors for, setting up, building and developing non-public establishments in line with development orientations set by the State.

##### **Article 3.- Operation principles**

1. The State and society shall appreciate and treat equally the products and services provided by non-public establishments and those provided by public establishments.

2. The State shall apply preferential enterprise income tax rates to non-public establishment so as to encourage them to increase investment in improving their material foundations and raise their service quality.

3. The State shall support policy beneficiaries when

they use services provided by non-public establishments; the modes of support shall be decided by the Prime Minister.

4. Non-public establishments may provide public services financed and ordered by the State and participate in bidding for contracts or projects funded with domestic and foreign capital sources in accordance with their functions and tasks provided for by law.

Non-public medical establishments meeting all conditions for providing medical examination and treatment prescribed by state management agencies in charge of healthcare shall be allowed to provide medical examination and treatment to health insurance card holders, who shall be entitled to select medical examination and treatment establishments.

5. Non-public establishments may enter into joint ventures or partnerships with domestic and foreign organizations within the ambit of their functions and tasks in order to mobilize capital, human resources and technology and raise service quality.

6. Properties, which are donated, presented or given as non-refundable aids to non-public establishments during their operation, shall not be distributed to any individuals and shall be used only for the common interests of the establishments and the community.

### **Chapter II**

#### **POLICIES TO ENCOURAGE THE DEVELOPMENT OF NON-PUBLIC ESTABLISHMENTS**

**Article 4.-** Lease and construction of material foundations

1. Provincial/municipal People's Committees shall use existing land areas and infrastructures or build new houses and infrastructures for long-term lease to non-public establishments at preferential rates. The

maximum preferential rates are exclusive of land rentals, compensation money for ground clearance and interests on loans for the construction of infrastructures.

2. Provincial/municipal People's Committees shall have to create favorable conditions for non-public establishments to invest in the construction of schools, hospitals, social sponsoring establishments, child protection and care establishments, technological research and development establishments, recreation parks, sport centers, museums, libraries, cultural houses, theaters, cinemas, etc., under plannings approved by competent authorities.

#### **Article 5.- Land allocation and land lease**

1. Non-public establishments shall be allocated or leased land by the State for the construction of facilities for activities defined in Clause 1, Article 1 of this Decree in the following forms:

a/ Land allocation without the collection of land use levy.

b/ Land allocation with the exemption of land use levy.

c/ Land lease with the exemption of land rental.

2. Non-public establishments lawfully using land shall be granted land-use right certificates and have their land-use rights and house and property ownership rights protected by the State according to law. The order and procedures of land allocation, land lease, and grant of land-use right certificates shall comply with current provisions of land law.

3. Provincial/municipal People's Committees shall have to adjust their land-use plannings, prioritizing the allocation of land areas to non-public establishments engaged in education and training, healthcare, culture, physical training and sports, science and technology, environment, social affairs, population, family and child protection and care.

4. Non-public establishments shall use land for proper purposes in accordance with planning and strictly abide by current provisions of land law. Upon the expiration of land allocation or land lease duration, if establishments no longer need to use such land, are dissolved or relocated, or have used land improperly or inefficiently, the State shall recover land and pay compensation and support according to current provisions of law.

5. Non-public establishments which are allocated or leased land by the State without the collection of land use levy or land rentals must not include the value of land currently in use in the value of their properties or use land as pledge property for borrowing loans.

6. For land lawfully transferred from organizations or individuals, non-public establishments may include the value of the right to use land currently in use in the value of their properties.

**Article 6.-** Disposal of properties upon transformation of operation models

1. For land: Public and semi-public establishments which are transformed into non-public establishments or enterprises under decisions of competent authorities shall be allocated land by the State for operation. Establishments shall have to return to the State land areas, which they do not use or have used for improper purposes.

2. For assets attached to land: Assets which are invested by the State shall be inventoried and re-valued according to regulations and then leased or sold to non-public establishments.

Agencies competent to decide on transformation of public or semi-public establishments into non-public ones shall have the right to decide on the sale or lease of properties under state ownership to non-public establishments according to current regulations on property management.

For establishments set up under the Prime Minister's decisions which are now transformed into non-public ones or enterprises, the transfer of state-owned properties shall be decided by the Minister of Finance.

3. In cases where competent authorities decide to transfer semi-public sections of public establishments back to such establishments, it is necessary to inventory and value their properties according to regulations so as to monitor and manage such properties under the current regime on property management.

Properties procured or built with non-budget capital during the operation of semi-public sections shall be disposed of as follows:

a/ If capital contributors wish to receive back their properties, such properties shall be returned to them.

b/ If public establishments wish to use and agree to receive such properties, payment shall be made to capital contributors at the prices determined by price determination councils.

c/ If public establishments do not wish to use such properties and capital contributors do not want to receive the properties, the properties shall be sold and the proceeds therefrom shall be returned to capital contributors.

4. In cases where people-founded establishments are transformed into private ones, properties accumulated during the operation of people-founded establishments shall be placed under collective ownership and shall not be distributed to any individuals but handed over to such private establishments for management and use on the principle of security and development under the protection of the State according to the provisions of law.

**Article 7.-** Registration fee, value added tax, import tax and export tax

1. Non-public establishments shall be exempt from registration fee when registering land use rights and house ownership rights.

2. Non-public establishments shall enjoy value added tax, import tax and export tax preferences according to the provisions of the Law on Value Added Tax, the Law on Import Tax and Export Tax, and current regulations.

**Article 8.-** On the application of enterprise income tax

1. Principles on the application of enterprise income tax preferences

High enterprise income tax preferences shall be applied to non-public establishments so as to encourage them to invest revenue-expenditure differences (profits earned in the course of operation) in improving their material foundations or render supports to users of their services.

2. Tax rates:

a/ Non-public establishments operating in the domains of education, healthcare, culture, physical training, science and technology, environment, social affairs, population, family, child protection and care and engaged in activities of teaching; vocational training; preventive medicine, medical examination and treatment, functional rehabilitation, and family planning; traditional art performance and film projection; collection, conservation, development and popularization of traditional culture; exhibition and physical training and sport activities; research into and application of measures for environmental sanitation; care for elderly people, children and disabled people; and drug detoxification shall enjoy enterprise income tax rate of 10% throughout the course of operation.

b/ Non-public establishments which conduct other activities shall perform tax obligations according to the provisions of law.

3. Enterprise income tax exemption or reduction:

The enterprise income tax exemption or reduction applicable to non-public establishments shall comply with the provisions of the Law on Enterprise Income Tax. The order, procedures and methods of determining exempted or reduced tax amounts shall comply with current provisions of tax laws.

**Article 9.-** Mobilization of investment capital

1. Non-public establishments which invest in education-training and healthcare projects shall be eligible for the State's preferential development investment credit according to the provisions of law.

2. For investment in the construction of their material foundations, non-public establishments may mobilize capital in the forms of issuance of shares to and capital contribution from their laborers and from other lawful sources through cooperation and association with enterprises, economic organizations, financial organizations and individuals at home and abroad.

3. Provincial/municipal People's Committees shall, depending on their local budget capacity, consider and decide on the support of part or whole of interests on loans borrowed by non-public establishments for investment in projects in the domains stated in Article 1 of this Decree.

**Article 10.-** Social insurance and health insurance

Laborers working in non-public establishments shall implement the social insurance regime and health insurance regime according to current regulations of the State.

**Article 11.-** Training

1. Non-public establishments shall work out plans on and take initiative in providing training in various

forms to their laborers to meet the professional requirements of their operation domains.

2. People's Committees of various levels shall, depending on their local budget capacity, consider and provide supports for the training of staffs of non-public establishments in case of necessity.

**Article 12.- Commendation and reward**

1. Collectives and laborers in non-public establishments that record outstanding achievements shall be commended and rewarded by the State according to the Government's regulations.

2. Ministries, branches and localities shall, within the scope of their management, guide the order of, and procedures for, consideration and conferment of emulation titles to collectives and laborers working in non-public establishments.

**Chapter III**

**REVENUE SOURCES AND DISTRIBUTION OF FINANCIAL RESULTS**

**Article 13.- Revenue sources of non-public establishments**

1. Fees and charges collected according to the State's regulations.

Non-public establishments may decide on rates of charges and fees for which the State does not set the collection rates.

2. Proceeds from provision of other goods and services.

3. Profits divided from joint ventures or partnerships; interests on bank deposits or bonds.

4. Funds allocated by the state budget (if any), including:

a/ Funds for the performance of tasks ordered by the State.

b/ Funds in support of the implementation of scientific and technological research projects.

c/ Funds for the implementation of national target programs.

d/ Funds for the implementation of programs on training and re-training of laborers.

e/ Interest rate supports.

f/ Other funds.

5. Other sources: donations, aid, presents and gifts.

**Article 14.- Distribution of financial results of non-public establishments**

1. Based on their annual financial results, incomes of non-public establishments, after paying all expenses, loan interests and taxes to the state budget according to the provisions of law, shall be used for setting up assorted funds and paying profits to capital-contributing members.

2. The levels of deduction for setting up funds, the levels of remuneration paid to laborers and the levels of profits divided to capital-contributing members shall be decided by the managing boards (or school councils) or the heads (for establishments without managing boards) in accordance with their operation charters.

**Article 15.- Responsibilities of non-public establishments**

1. When operating, non-public establishments shall make registration with tax offices as a basis for determining their tax preferences.

2. Non-public establishments shall observe their operation charters and satisfy conditions on professional operations, human resources and material foundations prescribed by law in order to provide the society with products and goods meeting content and quality requirements and criteria.

3. Non-public establishments shall have to make public their operation and finance according to the provisions of law as well as the support levels and state budget support amounts (if any).

Periodically, the establishments shall report on their operation and finance to branch-managing agencies, financial agencies and tax agencies of the same level according to the provisions of law.

4. Non-public establishments shall have to comply with inspection and examination requirements of financial agencies and competent state agencies. To supply materials related to inspection and examination contents in a full and timely manner and bear responsibility for the accuracy and truthfulness of such information and materials.

5. Non-public establishments shall conduct accounting, statistic and audit work according to the provisions of law.

#### **Chapter IV**

### **STATE MANAGEMENT OF NON-PUBLIC ESTABLISHMENTS**

**Article 16.-** State management of non-public establishments

1. Specialized management ministries and People's Committees of various levels shall perform the state management of non-public establishments within the scope of their functions and tasks and according to the decentralization of competent agencies, focusing on:

a/ Setting orientations for socialization in each domain, serving as a basis for implementation by authorities, branches and investors.

b/ Policies and regimes to encourage socialization in compatibility with each form of operation and with development requirements of each domain in each period and each region.

c/ Performing the uniform management of contents,

programs, and service quality and quantity requirements in each domain so as to create grounds for the organization of implementation as well as monitoring and supervision by authorities, branches and society.

d/ Granting and withdrawing licenses of non-public establishments according to regulations.

e/ Managing and facilitating the international cooperation of non-public establishments under their management.

f/ Inspecting and examining the observation of state regulations by non-public establishments; handling violations according to the provisions of law.

2. The ministers of: Education and Training; Labor, War Invalids and Social Affairs; Health; Culture and Information; Science and Technology; Natural Resources and Environment, and Home Affairs; and the directors of the Committee for Physical Training and Sports and the Committee for Population, Family and Children shall, within the ambit of their functions and powers, coordinate with the Ministry of Finance and concerned ministries and branches in promulgating according to their competence or proposing competent authorities to decide on:

a/ Conditions for the setting up and operation of non-public establishments. Standards of professional operations and material foundations applicable to non-public establishments.

b/ Conditions, procedures for, and lists of, public establishments to be transformed into non-public establishments or enterprises.

c/ Roadmaps and procedures for transforming semi-public establishments into non-public ones or enterprises.

3. Presidents of provincial/municipal People's Committees shall base on the practical situations of their localities to adopt additional preferential policies so as to encourage, promote and diversify forms of socialization in their localities.

4. Concerned ministries, branches and provincial/

municipal People's Committees shall formulate programs and apply measures to strictly manage the operation of non-public establishments so as to ensure the proper objectives and contents of their operations as well as their service quality as prescribed for each domain.

5. Annually, ministries, branches and provincial/municipal People's Committees shall evaluate the socialization in the domains under their management and report thereon to the Ministry of Finance, specialized management ministries and concerned agencies for sum-up and reporting to the Government.

**Article 17.-** Competence to permit the setting up of non-public establishments, transformation of public establishments into non-public ones, stoppage of operation and dissolution

1. Agencies competent to decide on the setting up of public and semi-public establishments shall have competence to decide on switching their operation from public and semi-public to non-public form and on switching public establishments to operate like enterprises.

2. The competence to permit the setting up of non-public establishments in the domains of education and training, healthcare, culture, physical training and sports, science and technology, environment, social affairs, population, family, and child protection and care shall comply with the provisions of law.

3. Agencies competent to permit the setting up of non-public establishments shall be competent to stop the operation of such establishments or dissolve them when they seriously breach terms of their operation licenses or violate the provisions of law.

**Article 18.-** Setting up of foreign-invested establishments

The setting up of foreign-invested establishments in the domains of education and training, healthcare, culture, physical training and sports, science and

technology, environment, social affairs, population, family and child protection and care shall comply with the provisions of law.

## **Chapter V**

### **IMPLEMENTATION PROVISIONS**

**Article 19.-** This Decree takes effect 15 days after its publication in "CONG BAO" and replaces the Government's Decree No. 73/1999/ND-CP of August 19, 1999, on policies to encourage the socialization of activities in the domains of education, health, culture and sports.

Previous regulations on policies to encourage the socialization of activities in the domains of education, healthcare, culture and sports, which are contrary to this Decree, are hereby annulled.

Non-public establishments set up under the Government's Decree No. 73/1999/ND-CP of August 19, 1999, shall have to register with licensing agencies and tax agencies so as to enjoy preferential policies provided for in this Decree.

**Article 20.-** The ministers of: Education and Training; Labor, War Invalids and Social Affairs; Health; Culture and Information; Science and Technology; Natural Resources and Environment and Home Affairs; the directors of the Committee for Physical Training and Sports and the Committee for Population, Family and Children shall have to coordinate with concerned ministries and branches in guiding the application of this Decree to suit operational and organizational characteristics of each domain.

**Article 21.-** Ministers, heads of ministerial-level agencies and Government-attached agencies, and presidents of provincial/municipal People's Committees shall have to implement this Decree.

**On behalf of the Government**

**Prime Minister**

**PHAN VAN KHAI**