

THE MINISTRY OF INFORMATION AND COMMUNICATIONS

**Circular No. 16/2016/TT-BTTTT dated June 28, 2016 of the Ministry of Information and Communications on transfer of right to use internet domain names assigned without auction**

*Pursuant to the Law on Telecommunications dated November 23, 2009;*

*Pursuant to the Government's Decree No. 132/2013/ND-CP dated October 16, 2013 defining the functions, tasks, entitlements and organizational structure of the Ministry of Information and Communications;*

*Pursuant to Decision No. 38/2014/QĐ-TTg dated July 1, 2014 of the Prime Minister on auctions and transfer of right to use telecommunication number storage and Internet domain names;*

*The Ministry of Information and Communications promulgates a Circular on transfer of right to use internet domain names assigned without auction.*

**Chapter I**

**GENERAL PROVISIONS**

**Article 1. Scope of adjustment and subject of application**

1. This Circular provides guidelines for transfer of right to use national Internet domain names with extension “.vn” assigned without auction.
2. This Circular applies to organizations and individuals engaging in transfer of right to use national Internet domain names with extension “.vn” assigned without auction; “.vn” domain registrars and Vietnam Internet Network Information Center.

**Article 2. Interpretation of terms**

For the purposes of this Circular, these terms below shall be construed as follows:

1. *Transfer of right to use Internet domain name assigned without auction* (hereinafter referred to as domain name transfer) means that an organization or individual transfers the whole right to use Internet domain name under national Internet domain with extension “.vn” assigned without auction to another organization or individual.
2. *Parties engaging domain name transfer* (hereinafter referred to as parties) include transferor and transferee.

3. *Transferor of right to use Internet domain name* (hereinafter referred to as transferor) is an organization or an individual that transfers its/his/her right to use Internet domain name(s) to another organization or individual.

4. *Transferee of right to use Internet domain name* (hereinafter referred to as transferee) is an organization or an individual that acquires the right to register for use of Internet domain name(s) through a transfer.

5. *Re-registration of transferred Internet domain name* means that a ".vn" domain registrar which is managing a transferred domain name (hereinafter referred to as registrar) carry out procedures for transferring the rights to use Internet domain name from the transferor to the transferee.

## **Chapter II**

### **PROCEDURES FOR DOMAIN NAME TRANSFER**

#### **Article 3. Applications and submission methods of applications for domain name transfer**

1. Application for domain name transfer shall comply with Clause 1 Article 35 Decision No. 38/2014/QĐ-TTg dated July 1, 2014 of the Prime Minister on auctions and transfer of right to use telecommunication number storage and Internet domain names (hereinafter referred to as Decision No. 38/2014/QĐ-TTg), including:

- a) An application for transfer and receipt of domain name transfer using the Form No. 1 issued herewith;
- b) A declaration of registration for use of Internet domain name made by transferee using the Form No. 2 issued herewith.

2. Address: Each application for domain name transfer shall be submitted at a registrar in charge of transferred Internet domain name whose name is included in the list of registrars published on the website [www.nhadangky.vn](http://www.nhadangky.vn).

3. From the time at which the registrar receives an application for domain name transfer as prescribed in Clause 1 of this Article until the completion of the procedures for domain name transfer:

- a) The transferor may not change the registrar, change the registrant's name or return the domain name;
- b) A third party (other than the transferee) may not apply for registration of the transferred domain name;

c) In case where the transferor and the transferee request the registrar to withdraw the application for domain name transfer in writing using the Form No. 3 issued herewith, such application shall be invalid.

#### 4. Submission methods:

a) Direct submission at premises of registrar: the person, being any of the parties or a person who is authorized by an agency, organization, or enterprise to follow procedures for domain name transfer, must present his/her ID card (or passport regarding foreigner) to the registrar. The registrar shall collate the information in the ID card/passport and the application for domain name transfer;

b) Submission to registrar by post: The person, being any of the parties or the person who is authorized by an agency, organization, or enterprise to follow procedures for domain name transfer, must enclose with certified true copy of ID card (or passport regarding foreigner) to the registrar. The registrar shall collate the information in the ID card/passport and the application for domain name transfer.

#### **Article 4. Verification and notification of results**

1. The registrar shall verify the application for domain name transfer as prescribed in Point b Clause 3 Article 35 of Decision No. 38/2014/QD-TTg if the following requirements are satisfied:

a) The application for domain name transfer complies with regulations in Clause 1 Article 3 of this Circular;

b) The transferred Internet domain name satisfies requirements prescribed in Clause 1 Article 33 of Decision No. 38/2014/QD-TTg and is not a protected domain name prescribed in Article 8 Circular No. 24/2015/TT-BTTTT dated August 18, 2015 of the Ministry of Information and Communications on management and use of Internet resources (hereinafter referred to as Circular No. 24/2015/TT-BTTTT);

c) The transferee is an entity eligible for registration and use of the transferred Internet domain name as prescribed in Clause 3 Article 5 of Circular No. 24/2015/TT-BTTTT.

#### 2. Notification of results:

a) In case that the requirements for domain name transfer are satisfied as prescribed in Clause 1 of this Article, the registrar shall notify the parties of approval for the application for transfer in writing, using the Form No. 4 issued herewith;

b) In case that the requirements for domain name transfer are not satisfied as prescribed in Clause 1 of this Article, the registrar shall notify the parties of rejection of the application for transfer in writing, using the Form No. 5 issued herewith; It must provide explanation for the rejection in the notification.

#### **Article 5. Re-registration of transferred Internet domain names**

1. Upon the full payment of transfer tax by the parties as prescribed in Point c Clause 2 Article 35 of Decision No. 38/2014/QĐ-TTg, the transferee may re-register the Internet domain name at the domain name registrar in charge of the transferred Internet domain name.

2. Application for re-registration of transferred Internet domain name includes:

a) An application form for registration of Internet domain name of the transferee as prescribed in Clause 1 Article 10 of Circular No. 24/2015/TT-BTTTT;

b) Documents certifying that the parties has made full payment of tax imposed on domain name transfer in accordance with instructions of the Ministry of Finance;

3. The transferee shall pay fees for registration and use of Internet domain name at the registrar as prescribed.

4. The registrar shall carry out technical procedures to transfer the rights to use the Internet domain names from the transferor to the transferee within 5 working days from the date on which satisfactory application and full payment of fees for registration and use of Internet domain name as prescribed in Clause 2 and Clause 3 of this Article.

#### **Article 6. Cases of suspension or cancellation of domain name transfer**

1. The domain name transfer shall be suspended in any of the following cases:

a) The parties violate regulations on management and use of Internet resources;

b) The transferred Internet domain name is found out in the process of settlement of dispute;

c) During the transfer process, the transferred Internet domain name is found out to be subject to actions against violations, operation suspension, compulsion to change information, compulsion to return or revocation as prescribed in Article 11 and Article 12 Circular No. 24/2015/TT-BTTTT; Article 5, Article 6, Article 7 of Joint Circular No. 14/2016/TTLT-BTTTT-BKHHCN dated June 8, 2016 of the Ministry of Information and Communications and the Ministry of

Science and Technology on procedures for changes or revocation of domain names violating law on intellectual property;

d) There is a notification of fraud acts committed by the parties in tax liability issued by a tax authority;

dd) There is a notification of undischarged tax liability incurred by parties issued by a tax authority,

e) The transferee fails to make payment of fees for user registration of domain name as prescribed;

g) The transferor and the transferee request to withdraw the application for domain name transfer as prescribed in Point c Clause 3 Article 3 of this Circular.

2. The registrar which accepted the application for domain name transfer shall stop the process and notify the parties of rejection of application for domain name transfer in the cases prescribed in Clause 1 of this Article. The registrar must provide explanation in the notification.

3. After the re-registration of the transferred domain name is completed, if the Vietnam Internet Network Information Center or the registrar receive a notification of undischarged tax liability or fraud acts in tax liability incurred by the transfer parties sent by a tax authority, the results of domain name transfer shall be cancelled. The Vietnam Internet Network Information Center shall cooperate with the registrar which accepted the application in notifying related parties of the cancellation of the domain name transfer.

4. The Vietnam Internet Network Information Center shall cooperate with the registrar in termination of process of application for transfer and cancellation of domain name transfer as prescribed in Clause 2 Article 3 of this Article.

5. The domain name registrar shall keep records of all documents related to the transfer of right to use domain names and send reports at the request of superior authorities in exceptional circumstances.

### **Chapter III**

#### **IMPLEMENTATION PROVISIONS**

##### **Article 7. Implementation effect**

This Circular takes effect on August 15, 2016.

##### **Article 8. Implementation**

1. Heads of affiliates of the Ministry of Information and Communications, ".vn" domain registrars, relevant agencies, organizations and individuals shall implement this Circular.
2. Any difficulties arising in the course of implementation of this Circular should be reported to the Ministry of Information and Communications for consideration./.

*The Minister*

*Truong Minh Tuan*

[www.LuatVietnam.vn](http://www.LuatVietnam.vn)