

## Top Legal Minds, Strong Commercial Sense

### Changes in development mechanism of self-consumed rooftop solar power

On 22 October 2024, Vietnamese Government enacted Decree No. 135/2024/ND-CP (**Decree 135**) on, with the intention of encouraging the growth of rooftop solar (**RTS**) power that is produced and consumed by an organization/individual for their own needs. As soon as it is issued, the Decree becomes effective. This action is aligned with Vietnam's commitment in COP26 and PDP8, where self-consumed RTS is aimed to increase by 2600 MW in 2030.

This legal update analyses new opportunities for RTS power developers under Decree 135 through their services as contractors for power consumers, besides their role as power sellers in power generation and sale under the DPPA mechanism.

#### 1. Applicable Subject Matters

Decree 135 regulates self-consumed RTS power systems on the roofs of various constructions including, among others, individual residences, industrial parks, export processing zones, high-tech parks, economic zones, production facilities, and business establishment. All of them must follow the applicable laws and regulations re construction.

Decree 135 also gives the definition to grid-connected RTS power. Grid-connected RTS power is either (i) those are directly connected to the national grid; or (ii) those are connected to on-site load, which physically links to the national grid. Such classification is in line with Decision No. 13/2020/QĐ-TTg dated 06 April 2020 of the Prime Minister encouraging the development of solar power. Under the decision, grid-connected RTS power is consist of direct connection and indirect connection to the national grid. Accordingly, RTS power projects which purchase power from EVN for consumption, is considered grid-connected since they have physical link to the grid.

## 2. Self-consumed RTS development models

The self-consumed RTS power system can either connect to the national power grid or not. Each model will be subject to different requirements, depending on their connection to national power grid, and whether they sell excess power to EVN.

### (a) Off-grid RTS

The RTS power system not connected to the national power grid is exempt from electricity operation license with no restriction on the installed capacity. Before installation, the developer shall notify (i) the provincial Department of Industry and Trade (**DOIT**); (ii) the relevant power units of EVN, (iii) the provincial Department of Construction (**DOC**), and (iv) Police Department of firefighting and prevention.

### (b) Grid-connected RTS

For the system security, the capacity of grid-connected RTS is restricted to be less than or equal to the total installed capacity of the existing load (in accordance with the power consumption output in the most recent 12 months).

Decree 135 divides the installed capacity of this RTS model into 3 ranges, including (i) below 100 kW; (ii) from 100 kW to below 1,000 kW; and (iii) 1,000 kW and above. Each range must follow different conditions, details as follows:

Installed capacity	< 100 kW	100 - 1,000 kW	≥ 1,000kW
(i) Notification responsibility	x	x	
(ii) Registration responsibility			x
(iii) PDP Inclusion			x
(iv) EOL Obtainment			x

With installed capacity of below 1,000 kW, RTS developer must send written notification to the provincial state authorities (e.g. DOIT, DOC, EVN's power units), while those with installed capacity of 1,000 kW or more must register with provincial DOIT for a Self-Consumed RTS Power Development Registration Certificate.

In terms of planning, those in range of from 100 to below 1,000 kW can sell excess power to EVN only when their installed capacity falls into the capacity allocated to its province under the national PDP and PDP implementation plan. Those of above 1,000kW is subject to PDP inclusion if not falling into the province's allocated capacity.

## 3. Development incentives for self-consumed RTS

It is notable that the issuance of Decree 135 is to not only encourage the development of self-consumed RTS but also prevent taking advantage of state policies for profit. In the past, many RTS investors, among 154 violating solar projects indicated in the Inspection Conclusion of Governmental Inspectorate, have sold all of their generated power to EVN for FiT price, without any self-consumption. Under Decree 135, new RTS power no longer enjoy FiT price, and can only sell maximum 20% of their generated power to EVN. The selling price will be based on the

previous year's average market electricity price as announced by the National System and Market Operator (**NSMO**). In this case, the projects must be connected to the national power grid.

On a separate note, self-consumed RTS is entitled to tax incentives under relevant tax laws as well as a shortened administrative process for development. Decree 135 also clarifies that the owner of the construction works bearing the RTS power system (e.g. warehouse, manufacturing facilities etc.) is not required to adjust or supplement the energy land master plan and functions. The installation of power storage systems (**BESS**) is also encouraged to ensure the safe and stable operation of the power system.

## Key contacts

If you have any questions or would like to know how this might affect your business, please contact these key contacts.



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