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Current Regulations on Virtual Currency

by Yasuyuki Suzuki

Japan is actively working on the establishment of laws and regulations in relation to the virtual currency business, including, for example, a registration system for virtual currency exchange that was introduced in April of this year. The virtual currency business is now primarily regulated by amendments made to the Fund Settlement Law and the Act on Prevention of Transfer of Criminal Proceeds, both of which amendments came into force on April 1 of this year.

The amended Fund Settlement Law sets forth the definition of virtual currency. “Clause One” virtual currency (i.e., the virtual currency defined in Article 2, Paragraph 5, Clause 1 of the amended Fund Settlement Law) is defined as a value having the following characteristics:

- (i) Usable for payment settlements, and can be purchased and sold among unspecified persons.
- (ii) Transferrable through an electronic data processing system.
- (iii) Currency itself and currency-denominated assets are excluded.

Based on such definition, the virtual currency exchange business, which is subject to registration requirements, is defined as performing any of the following businesses under the amended Fund Settlement Law, Article 2, Clause 7.

- (i) Buying and selling of virtual currency or exchange with other virtual currency.
- (ii) Intermediary, brokerage or agency for any act stated in (i) above.
- (iii) Managing money or virtual currency of the user with respect to (i) or (ii) above.

The amended Fund Settlement Law imposes regulations on virtual currency exchange providers such as a prohibition against name lending, a requirement for proper instructions to contractors, and a requirement for the delivery of appropriate information. Among such regulations, in our view, the most important ones are the duty of safety management of information and the duty of separate management of properties. Especially with respect to the separate management of virtual currency, it is necessary to divide management based on the characteristic of virtual currency (the main characteristic being that it is electronic intelligence and does not exist physically), and it is said specifically that the storage areas of encrypting keys etc. must be distinguished.

For more detailed information, please contact at info@halaw.jp.

Tentative Plan for Revisions to the Civil Law (Inheritance), etc.

by Norimasa Kaneko

The Legislative Council of Ministry of Justice is now reviewing the provisions relating to inheritance under the Civil Law. The Ministry of Justice published its provisional plan in June 2016 and followed in July 2017 by publishing an additional tentative scheme. This has provided more clarity on the important points that require further examination.

1. Policy to protect the residence rights of a spouse

In order to protect the residence rights of a spouse once the inheritance process starts upon the death of the other spouse, the establishment of new rights (a short-term right of residence and a long-term right of residence) are being considered.

2. Review of division rules on an inheritance

An increase in the spouse's interest in the division of assets on an inheritance (in certain circumstances), or an increase in the spouse's statutory inheritance percentage itself, is being considered.

3. Review of Will system

Under the current rules, a chirograph will is, strictly speaking, required to be in handwriting. However, regarding identification of a property, it is being considered whether a document printed in advance should be sufficient.

4. Review of distributive share systems

Under the current rules, if the claimant for a statutory reserved portion requests a reduction of a distributive share, this will result in joint ownership of the property with the person violating the statutory reserved portion. However, in order to avoid the complexity of joint ownership, a general rule whereby only a pecuniary claim against the person violating the statutory reserved portion is being considered.

5. Policy to consider contributions of persons other than heirs

For cases where persons other than heirs make an effort to contribute to any required medical treatment of the decedent prior to his/her death, a policy enabling such person to request monetary compensation from the heirs under certain circumstances is being considered.

For more detailed information, please contact at info@halaw.jp.

The Amendments to the Equal Employment Opportunity Law and the Child Care and Family Care Leave Law

by Taiki Kamimura

We will explain some important points concerning the amendments to the Equal Employment Opportunity Law and the Child Care and Family Care Leave Law (the “Amendments”), whereby a duty of harassment prevention would be imposed in cases of pregnancy leaves and parental leaves of workers (enforced on January 1, 2017).

1. Duty of harassment prevention

Even prior to the Amendments, a business owner was prohibited from treating a worker disadvantageously due to the pregnancy, parental leave or family care leave of such worker.

In addition to this regulation, the Amendments have newly established a duty to prevent the business owner from making the employment environment difficult for a worker due to the pregnancy, parental leave or family care leave of such worker.

2. Contents of the duty of prevention

Regarding the contents of the duty, " Guidelines on the measures that a business owner should take concerning issues in the workplace arising from pregnancy and childbirth" and " Guidelines on the measures that a business owner should take concerning the balance between the career and the family life of a worker who nurtures or will nurture the child or who cares or will care for a family" have been established.

The overview of such polices is as follows;

- (i) Clarification, publication and education of the policy of the business owner.
- (ii) Maintenance of a system to appropriately deal with consultations (including complaints)
- (iii) Quick and appropriate measures to be taken against harassment in the workplace concerning parental leave, etc.
- (iv) Measures to remove factors which cause or form the basis of any harassment in the workplace concerning parental leave, etc.
- (v) Other ancillary measures

3. Risks when the business owner neglects his/her harassment prevention duty

If a company fails to properly perform the prevention duty mentioned above, a report may have to be made to the Minister of Health, Labor and Welfare or the company may receive advice, instructions or recommendations with respect to such performance. If the company does not follow such advice, its violation will be published. In addition, if the company does not make a report or if it makes a false report, it will be fined up to 200,000 yen.

For more detailed information, please contact at info@halaw.jp.

The Amendment to the Act on Specified Joint Real Estate Ventures by Nozomi Miyauchi

The Amendment to the Act on Specified Joint Real Estate Ventures was promulgated on June 2, 2017. A specified joint real estate venture is a business which receives investments in exchange for partnership interests and allots investors profit by buying, selling and leasing, real estate.

An overview of such Amendment is as follows:

- (i) Exceptional measures for a small joint real estate venture have been established in order to expand the business of utilizing unoccupied houses.
- (ii) Establishment of conditions for crowd funding.
- (iii) Reviews of business regulations for professional investors to promote the formation of high-

quality real estate stocks.

A small joint real estate venture is a business for which the amount received from each participant and the total amount received from all participants are less than the prescribed amounts (amounts which the government determines are amounts which would protect the participants from a risk perspective) set forth in a government ordinance. In the case of a general participant, the amount of such investment is considered to be 1 million yen in principle, and the total of investments is 100 million yen per one business.

Until now, it has not been possible to conclude a joint real estate venture on the Internet. The amendments provide rules for the conclusion of a joint real estate venture contract on the Internet by means of electronic transactions (as well as the receipt of applications pertaining thereto).

A business that meets certain requirements is defined as a special enterprise, and only qualified investors with knowledge and experience about real estate investments are able to participate. However, as a special enterprise may not necessarily be used for businesses where it is difficult to determine the related risks, the amendments permit general investors to participate in a special enterprise, except for businesses concerning residential land development and the like where it is indeed difficult to determine the related risks.

Under the current law, permission is required even if a joint real estate venture is planned with qualified special investors who have specialized knowledge and experience with respect to real estate investments. Therefore, the amendments have established a qualified special investors-limited business for qualified special investors who are carrying out a "Clause 1 business." (business where profit derived from real estate transactions is distributed pursuant to a joint real estate venture contract). In such case, the subject business may be started by simply submitting a prior notification to the competent minister.

The Amendment will be enforced on such day as set forth by a government ordinance within six months from the day of the promulgation.

For more detailed information, please contact at info@halaw.jp.

Monthly Seminar Activity Report**2017/5/25 Japan and France labor - Equal pay for equal work -****Speakers: Tatsuhiko Kinoshita and Hirokazu Takiguchi**

The French accounting firm of Artemid Conseil and our office jointly presented a seminar on various issues related to the principle of “equal pay for equal work.”

**2017/6/6 Business withdrawal from China
- Methods and precautions in practice -****Speaker: Zhou Jiaping**

A detailed explanation was provided on each procedural requirement, countermeasure and precaution concerning the methods used when a Japanese-affiliated company having a local corporation in China carries out a reorganization or withdraws its business from China (for example, through a share transfer, dissolution, settlement or bankruptcy).

Furthermore, the risks associated with illegal withdrawals were outlined with references to actual example cases.

2017/7/25 Issues concerning examinations of trademarks consisting of only colors and practical measures pertaining to such trademarks**Speakers: Tadashi Suzuoka and Toshiyuki Osawa**

Given that a registration of a trademark consisting of only colors was just accepted for the first time in March of this year, we explained certain issues concerning the examination of such trademarks as well some practical measures pertaining thereto, with reference to such registration.

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CONTACT US

HAYABUSA ASUKA LAW OFFICES

4th Floor, Kasumigaseki Bld., 3-2-5 Kasumigaseki, Chiyoda-ku, Tokyo 100-6004

TEL: +81-3-3595-7070 FAX: +81-3-3595-7105

E-mail: info@halaw.jp / URL: <http://www.halaw.jp/>

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