

# Modern Society And Issues Raised In The Field Of Economic And Financial Law In Vietnam

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## Abstract

New worldwide problems are booming in the modern society, the study to adjust some points of the theory of state and law has been concerned and requested researchers by many countries. Since October 2016, the Singapore Government requested scientists to study new theories of state authority. Source: New Theories of the State's Authority: Beyond the Separation of Powers, Workshop was held at the Faculty of Law, National University of Singapore 31 Oct - 1 Nov 2016. For Vietnam, the topic "modern theoretical problems of the state and law" is novel and has been studied by many scientists. From contemporary social issues and economic - financial law adjustment requirements, the group of authors state three main contents:

- New problems arise in modern society and economic - financial law adjustment requirements
- Criteria for determining the level of adjustment and principles of adjustment
- Some theoretical suggestions for economic-financial law in new conditions

## Keywords

modern society, new problems, principles of regulation, suggestive theory, economic-financial law, Vietnam

## Methodology

Legal dogmatic: This method shall be used all through the whole of our project. This method includes description and analysis which are used to describe and analyze the different sources of law relating new problems in modern society: Industry 4.0 products, new products in the tourism real estate, Night Time Economy, transactions of technology products and problems. Legislations

and administrative regulations, cases to raise the legal problems in this modern society. Economic - financial law adjustment requirements for that.

Comparison: In addition to the legal dogmatic, the comparison shall be adopted in many parts of ours paper. In jurisprudence, the comparison means that two or more legal systems should be used to regulate new files arising in the modern socio-economic in Vietnam.

## **Main Results**

### **1. New problems arise in modern society and economic - financial law adjustment requirements**

#### **1.1. Industry 4.0 products and applicability**

The 4.0 wave of technology with technologies such as Big Data or Artificial Intelligence (AI) and the prominence of Blockchain technology is changing people's lives globally. Vietnam is also involved that wave: each group of 4.0 technology components affects all areas of social life and of each individual with its full duality. That requires consideration of the adequacy of the legal system governing them.

It has been acknowledged that, if the Internet changes the media industry, the introduction of Blockchain will be able to make a revolution in the economy and other fields.

Therefore, the question for the writer is: what products will be existing and associated with business activities. The main products can be pointed out as below:

- Crystallized product of the blockchain: digital currency (crypto currency). The first appearance of digital money represents a process of using cryptography and is a certain product of labor. That is the reason why some digital currency mining mechanisms were acknowledged to identify currencies. Bitcoin is typical one. This is a cryptocurrency that was first created in 2009 and it has limit of 21 million bitcoins maximum by convention. The "limited" mechanism lead to the valuation of Bitcoin when was interested in the market always increases in terms of market price, and be unable to determine the initial value of the cryptocurrency. "The value of Bitcoin is determined by the number of people willing to pay to own it". (Blockchain & Bitcoin, Information Security Journal, No 2 (046) 2018, page 41). The important issue is considered in many different countries, including Vietnam. Thus, what is the legal nature of this digital currency? Is it property or not? How is this issue regulated by the law of each country? Could international law addressing this issue be applicable to Vietnam?

- Products which serve business operations, with the main presence of smart contract systems. The product appearance is smart contracts with its advantages. There are quite interesting and easy to understand explanations of smart contracts. O'Reilly analysis: A contract in the traditional sense is an agreement between two or more parties to do or not do something in exchange for some other values. Each party compulsorily trust the other that they will perform their obligations. Smart

contracts are also types of agreements between parties but are not necessarily demand the trust between the parties. It is rooted from the condition that smart contracts are both defined by code and executed by automatic code with no other choices. In fact, there are three factors that make a smart contract different: autonomy, self-control, and decentralization. (According to O'Reilly: Blockchain: Blueprint for a new economy, Melanise Swan, ISBN 9781491920497, p.60) The question is, is it possible to use smart contracts as an alternative to those established in the current business process? The difficulty in intervention of the smart contract is favorable for controlling the intervention of the subjects in the process of contracting or contract in a way that is beneficial to the subject who created it that the traditional contract may encounter. For instance, current credit institutions mainly use contracts with pre-determined and pre-approved terms. We do not mention whether this is a model contract or not, but within credit institutions, it is not easy to modify the content of pre-built terms in order to follow request of the client. Modifying a content to follow the request of the client or the bank staff must follow a process that is not different from the credit appraisal process. That leads to the risk that the terms may be distorted beyond the will of competent individuals when assessing and approving credit. In addition, in the final clause of the contract, there is often the phrase "This contract is made in... original copies, each party keeps... copies of equal value". However, the copies given to client and the archived one may not be exactly the same and this is not completely controlled. Therefore, these may be existing risks, which often occur in consumer credit loans to individuals. Over this issue, can smart contracts resolve these above weak points? Smart contracts can be built on the basis of code, carry out automatically and cannot be stopped. In this way, a contract between a credit institution and a client can be built on the basis of a given condition and cannot be managed to change each term. In this way, external influences are unable to have impacts on smart contracts, but as the code is built to general standard, so the standard of trust is often low. Signed smart contracts cannot be destroyed or changed like contract addendums under normal circumstances. By these characteristics, applying smart contracts is supposed to be suitable for transactions with individual clients within a moderate credit limit. Moreover, we realize that using smart contracts in non-banking commercial and service sectors has the ability to gain great benefits, minimize the possibility of external impacts and accurately determine the impact time, who uses their rights to make changes. These contents have important legal implications.

Where can smart contracts be signed? What if the signatories all use electronic signatures and there is no provision in the contract about the location? Why posing this problem makes sense? The determination of the place or geographical element of the contract is associated with the possibilities arising from the place of the contract, such as the determination of applicable law, the determination of the competent authority to settle disputes, etc. Article 399 The Civil Code 2015 stipulates that "the place of contract signing shall be agreed upon by the parties; if no agreement is reached, it is the residence of the individual or the head office of the legal entity that has made the offer to enter into a contract". So the location must be determined, but with smart contracts, this factor has not been recorded by any binding regulations.

## **1.2. The appearance of new products in the tourism real estate market and the problems raised**

Modern society has problems related to not only digital products, but also new products in the real estate market or real estate business with novel and modern features.

First of all, there are new products of the real estate market. In the world, even in the late 1980s, in the United States appeared the model of Condotel (apartment hotel) "the first establishment of this type" was created in Miami Beach, Florida, in the 1980s". (Condo Hotel/Condotel: Introduction; Its Commercial and Legal Beginnings <https://mixed-use-resorts.com/2013/11/20/introduction-its-comercial-and-legal-beginnings-i/> (accessed 11/25/2020)). This is the existence form of hybrid property type, which can be invested by primary investors to build to lease out to prospecting customers, or it can also be invested by secondary investors to own an apartment that is both a resort and a business opportunity from this type of property. If ignoring problems that may arise related to tax obligations or land use purposes, this can be considered as a new type of property formed in the process of business and product supply in the real estate market. In Vietnam, Assoc. Prof. PhD. Nguyen Thi Nga said: "although it has not yet appeared and officially existed in State Management by law for the Condotel market, but they are quite familiar names for those who run the resort real estate business and for urban people who prefer the combined model of business and resort". (Nga, Nguyen Thi - Assoc. Prof. PhD. Legal and practical issues of Condotel in Vietnam today, Proceedings of the faculty-level scientific conference "Legal and practical issues on business of newly formed real estate in Vietnam today", page 19. Hanoi, October 30, 2019).

When a new asset class newly formed, it also means that a series of remarkably similar assets with appear. Those are resort real estate products. We agree with the point of view that "Tourism real estate is land, other assets attached to land, construction works used for people to travel outside their places of permanent residence for no more than 01 consecutive year in order to meet the needs of sightseeing, relaxation, entertainment, research and discovery of tourism resources or in combination with other lawful purposes". (Binh, Doan Van - Vice Chairman of Vietnam Real Estate Association, Chairman of CEO Group, Tourism Real Estate Business: Some legal issues raised (<https://dothi.reatimes.vn/business/kinh-doanh-bat-dong-san-du-lich-mot-so-van-de-phap-ly-dat-ra-20200514173610984.html>), accessed September 15, 2020). In fact, there are types which are new and in line with the trend of the resort real estate market on a global scale, have appeared. They can be indicated such as: Tourist apartments, tourist villas, shoptels. Tourist apartment is understood as a combination of apartment and hotel. Tourist villa is understood as a type of real estate with unique, sophisticated and luxurious architectural design. Tourist villas are often designed to be fully equipped with comprehensive facilities for human life. Tourist villas are often used to serve tourists or for long family vacations... Shoptel is a combination of the words Shopping and Hotel. It can be understood that this is a type of townhouse allowed the investment and business of shopping services and hotel and tourist accommodation services.

The legal issue of concern is that there is a combination of the functions of each of these types of real estate while the governing law has not been mentioned or mentioned appropriately. Issues related to obligations such as determination of tax obligations, responsibilities, rights related to assets such as the need to perform secured transactions, asset valuation have not been answered by legal regulations. Which is more important and also is the source of the determination of the above rights and obligations, is to determine who owns of this property, the legal basis for determining the owner, is also in a similar situation to the determination of asset classes of digital technology mentioned in section 1.1 above.

### **1.3. Night Time Economy (NTE)**

Since 2000s, Vietnam joined the trend of developing a smokeless economy with positive outcomes. “In the past fifteen years, the tourism industry has made remarkable progress and achieved significant and very encouraging results. The growth rate of international tourists reached 10.2%/year, domestic tourists reached 11.8%/year. In 2016, the number of international tourists reached 10 million, an increase of more than 4.3 times compared to 2001; domestic tourists reached 62 million arrivals, increasing 5.3 times compared to 2001; direct contribution is estimated at 6.8% of GDP, both indirect and pervasive at 14% of GDP.” (Resolution No. 103/NQ-CP dated October 6, 2017 of the Government promulgating the Government's action program to implement Resolution No. 08-NQ/TW dated January 16, 2017 of the 12th Politburo on developing tourism into a spearhead economic sector). With such encouraging results, the diversification of tourism products is a concern of many groups of subjects: the State, investors, business people and beneficiaries. The night economy is one of the products mentioned in this case.

Night time economy can be understood as a group of economic and cultural activities that take place at night, mainly entertaining activities such as at "bars, discos, karaoke facilities, luxurious dinner parties, live music venues, theatres, night markets, commercial centers..." (Promoting night economic development (<http://tinhuynhkhanhhoa.vn/tin-chi-tiet/id/6395/Thuc-day-phet-trien-king-te-ban-dem>), accessed November 23, 2020). This can be understood in simple terms by entities carrying out management and business people. This understanding is considered from the perspective of listing activities and areas of activities.

Besides this understanding, the night time economy can also be considered in terms of the time of commercial and economic activities. From the perspective of time, The Night Economy in the opinion of researchers from the United Kingdom, Germany, France and the United States, “the accepted time frame when the daytime economy stops and the night economy begins is from 6 pm to 6 am. The origin of the concept is drawn from the standard retail hours associated with schedule planner applications in places like the UK and US. Historically, traditional shops such as butchers, bakers and snack shops close at 6pm, with bars and restaurants opening soon after.” (A guide to managing your night time economy, By sound Diplomacy & Andreina Seijas, p.9. [https://www.academia.edu/36858181/A\\_Guide\\_to\\_Managing\\_your\\_Night\\_Time\\_Economy](https://www.academia.edu/36858181/A_Guide_to_Managing_your_Night_Time_Economy), accessed November 25, 2020). The concept of the night time economy, accordingly, is considered

in terms of the time and type of popular activities. The group of authors tends to support this concept because it is associated with identification signs and legal issues that need to be adjusted.

From the above concepts, it is possible to indicate some notable points of the night economy as follows:

- Firstly, many business sectors of NTE belong to sensitive fields, related to the requirements of maintaining order and safety.

- Secondly, for NTE, the issue of business management (not only referring to conditional business lines, but also types of business entities in ordinary fields)

- Third, the quality of goods and services is not regularly inspected and monitored (due to not being in working time of inspection and supervision agencies), so in many cases the rights of consumers are not really guaranteed

- Fourth, human resources and quality of human resources are still at a modest level and there are no standard requirements. The ratio of unskilled workers is at a high rate.

- Fifth, the person who conducts business activities is usually just an individual with an unstable business operation, or a small, micro-enterprise, the invoice and document regime is not guaranteed. This governs the determination of the traceability of goods and services to protect the rights of consumers is limited. In addition, the registration and fulfillment of financial obligations with the State are usually at a very modest rate.

- Sixth, the products of NTE are mainly products associated with tourism or special services. In Vietnam, "according to a survey of foreign experts, the revenue of daytime tourism products and services accounts for only 30%, while the remaining 70% is in the night time frame". (Tam, Luu Thanh – Dr, Ho Chi Minh City University of Technology. Night economic development in Vietnamese cities, (<http://tapchicongthuong.vn/bai-viet/phat-trien-Kinh-te-ban-dem-tai-cac-thanh-pho-cua-viet-nam-68978.htm>), accessed November 24, 2020).

With the requirement of market opening, the development of the tourism industry into a spearhead economic sector has been affirmed by the Party in important documents with the goal of Creating a favorable environment for businesses and the community to develop tourism, the consideration of NTE development should be concerned to address the six issues mentioned above. Also from these six contents, a number of theoretical points will be considered and proposed by the group authors to be evaluated according to new trends.

#### **1.4. Application of electronic transactions, cross-border e-commerce transactions, import and export transactions of technology products and problems**

Electronic transactions have become commonplace and have brought great results on a global scale. In Vietnam, e-commerce transactions have come to life and the State have concerned,

created a physical environment and a legal environment for electronic transactions to grow rapidly. The results of e-commerce during the 2015-2020 period are very encouraging.

Domestically, “Non-cash payment means are used in 100% of modern supermarkets, shopping centers and distribution facilities; 100% of electricity and telecommunications supply enterprises accept non-cash payments; 40% of water supply enterprises accept non-cash payments. • Transport network for e-commerce covering all provinces and cities across the country. Postal enterprises are participating in the e-commerce supply chain more and more. By the end of 2018, the total number of postal service points of the whole market was over 16,400 points, of which approximately 13,000 points belonged to the public postal network. The transportation network for e-commerce covers all provinces and cities across the country. Postal enterprises are participating in the e-commerce supply chain more and more”. (Ministry of Industry and Trade - Department of E-commerce and Digital Economy, Vietnam E-commerce White Book 2020, page 11)

For cross-border electronic transactions, whether the competent authority wishes it or not, the activities of business organizations and individuals from simple to complex are still conducted 24/7. According to a survey by the Ministry of Industry and Trade, the percentage of enterprises participating in selling on social networks in 2019 was up to 39% (Cited book (5), page 57). The problem is not limited to businesses/individuals using social networks to sell goods to the domestic market, but also to entities that increasingly provide services across borders. Therefore, the problem for the Vietnamese competent state as well as related parties is not only related to network security but also to the business management of Vietnamese business entities operating cross-border; business entities with foreign elements providing cross-border services into Vietnamese territory; the quality assurance of goods and services, information security, prevention of money laundering or terrorist financing. It seems that the concept and legal regulations on this issue are incomplete.

## **2. Criteria for determining the degree of adjustment and principles of adjustment**

### **2.1. Principle of rule of law**

Theoretically, the principle of rule of law is nothing new in the legal sciences as well as in the legislative, judicial and executive bodies. However, in law enforcement, this principle is not always fully implemented. Law enforcement and the principle of rule of law can be considered right from the law making process, proposing the promulgation of low-impact documents such as Circulars to legal documents. On November 24, 2020, at the Government's Conference on law making, law enforcement and improvement, Prime Minister Nguyen Xuan Phuc also addressed again the issue of policy corruption and the need of anti - policy corruption. (Online conference of the Government's conference on law making, law enforcement and law improvement on November 24, 2020, VTV1 news program at 19:00 on November 24, 2020). Policy corruption can be understood as a phrase used to refer to a situation where people in society and businesses connect

with powerful people to pursue their own interests, regardless of the common interests. (source: Things to know about policy corruption, <https://kdlc.vn/tin-bao-chi/nhung-dieu-can-biet-ve-tham-nhung-chinh-sach.html>, accessed November 27, 2020). This issue, for us, is still an open matter and we look forward to receiving more contribution from readers and experts.

## **2.2. The emergence of new problems in modern society is an inevitable tendency**

Contemporary issues in Vietnam as well as on a global scale are inevitable and two-sided. There are more and more entities that provide technology and digital products for state governance with the trend of "smart government, smart cities" along with economic and political security issues. NTE, though undesirable, also appears when the factors of the tourism trade industry are increasingly developed and the needs of tourists are increasingly diverse. Similarly, there are issues related to e-commerce and tourism real estate products.

Law, even issues related to legal theory, must ultimately be built and drawn from the socio-economic background. This means that whether the law recognizes or guides, new elements of the socio-economy must be reflected in the legal system. Therefore, the consideration of regulations as guidelines, or warnings, even prohibitions should be fully promulgated. Examples of content related to money laundering and terrorist financing through virtual currency transactions, cross-border capital transactions. We can see this through the process of promulgating a system of legal documents to regulate new issues arising in contemporary society, the period from 2015-2020 and the roadmap for 2021-2025 in Vietnam as well. as on a global scale. (VTV1 news, as amended)

In addition to the goal of creating a full legal basis for the new problems of modern society to appear and develop, it is also important to consider to protect economic and political security against the growing pressure of entities providing technology products, digital products for state governance with the trend of "smart government, smart city". Products of new technology, digital management and many new products of modern society have brought outstanding achievements of countries that value innovation for development. Besides, there are also a series of problems related to network security, problems arising from the operation of the "social network" system, leading to unpredictable risks and damages for the State and society, for sovereign and independence. In this regard, since 2012, "force 47" and now the Cyber Command has been established (Command 86). (Cyber Command under the Ministry of National Defense, <https://vnexpress.net/bo-tu-lenh-tac-chien-khong-gian-mang-ve-truc-thuoc-bo-quoc-phong-3730255.html>, accessed 27 November, 2020). However, it is necessary to have more than that, the problem of studying and fully evaluating the duality of each new product of this contemporary society in order to have a plan to adjust the law accordingly. (Seminar: Combating misinformation and libel, VTV1, at 20:10 on November 28, 2020)

## **2.3. Degree and method of adjustment**

There is always a certain delay in assessing the reality to enact legislation and then bring it to life. So the question needs to be answered is: enacting legal regulations on new issues that need to be



implemented universally or following a roadmap? In fact, in the past time, the promulgation of legal documents has a specific plan and roadmap, especially for new problems of the economy, such as the roadmap for the promulgation of legal documents to create a foundation for the night economy or for digital currency are legislation examples. (Decision 1129/QĐ-TTg dated 27.07.2020 of the Prime Minister approving the “Project for developing night economy in Vietnam”; Decision 1255/QĐ-TTg dated August 21, 2017 of the Prime Minister Approving the Scheme on Completing the Legal Framework for Management and Handling of Virtual Assets, Cryptocurrencies, and Virtual Currency)

In connection with these contents, it is necessary to mention more detailed regulations or framework regulations? In case of framework regulations, does the issue of risk warning and risk acceptance by the public need to be defined the limit? This is a question that is not easy to answer because new products are spreading quickly, affected subjects are wide, and many cases are difficult to have recognizable signs or there is asymmetry between groups of subjects infringing the security system that are increasingly sophisticated, while the common people are not asked to know the possible risks. (Increase security for banks to quickly apply 4.0 technology, <https://www.vietnamplus.vn/tang-tinh-bao-mat-de-ngan-hang-ung-dung-nhanh-cong-nghe-40/50311.vnp>, accessed 27 November, 2020). Also associated with the risk factor and the ability to accept risk, for each type of product, it is necessary to carefully measure the risk tolerance of society, especially the "weak subject group". In this case, the option for conditional presence and transaction can be selected. For example, for digital currencies, the permission to be present and recognized as a good or asset in different countries is very different, even for countries with developed economies such as Singapore or the recognition in another country. (Reply to Parliamentary Question Virtual Currencies, <http://www.mas.gov.sg/news-and-publications/parliamentary-replies/2014/reply-to-parliamentary-question-on-virtual-currencies.aspx>, accessed 28 February, 2019; Virtual Currency Act of Japan). It is thought that the developing with a roadmap, even implementation in pilot form, should be considered. This is not only the content that Vietnam has chosen to implement, but has been reviewed, evaluated and proposed to be implemented in Singapore, since 2016. (referenced material 13, 14, 3)

Solving the above question, we believe that it is not only associated with the requirements of legal adjustment but also achieves a larger goal: support, in necessary cases, also creates a foundation to meet the requirements of the sustainable factors of the economy. The case for tourism real estate products can be taken as an illustrative example. Based on the development direction of the tourism industry, the Law on Real Estate Business, the Law on Land, the Law on Tourism need to make appropriate adjustments.

#### **2.4. Principles in determining obligations for new transactions**

From 2017 onwards, when the products of the digital economy brought significant financial resources to the creators, the issue of financial obligations was a story to consider.

As we have mentioned, since we have not yet acknowledged digital currency as well as transactions related to digital currency, besides the risks for investors who are “uninformed but overconfident” these transactions currently do not bring any financial to the State. However, we believe that this issue should soon be considered from a legal perspective, whereby, the issue of properly and adequately determining financial obligations will partly have a basis for implementation. (Thu, Pham Thi Giang - Assoc Prof. PhD, Hanoi Law University. Filling the Legal Gap in the Banking Area in Vietnam before Industry 4.0 Pressure, 3-Jun-2021 Paper: ID: 1805, EPH - International Journal of Business & Management Science ISSN: 2208-2190)

In addition to the contents mentioned in Section 1, when new problems of modern society really appeared in Vietnam, and were no longer just research problems, a series of questions about the Tax, business registration obligations are also content that does not seem to have a satisfactory answer. The question being raised for the relevant subjects is: prove the tax liability belongs to the responsibility of the tax authority or the taxpayer? If the tax collection and payment relationship between the tax authority and the taxpayer is considered as a mandatory and highly coercive relationship, then the responsibility for proving the tax liability belongs to whom: belongs to the State or belongs to the obligor to perform? If considered from a similar perspective (in terms of power), determining the truth, determining whether an organization or individual is a criminal or not belongs to the responsibility of the State (by Article 10 of the Criminal Procedure Code 2003: investigative agency, procuratorate, court). So who does the determination of tax liability and the exact amount of tax in transactions arising under the new conditions: the responsibility of the tax authority or the taxpayer? The Tax Administration Law 2019 has not yet answered. “Article 5. Tax administration of The Tax Administration Law 2019 completely does not mention the principle of proving who the tax liability belongs to, leading to significant difficulties for those who are identified by the tax authorities as “self-declared, self-filing”, while the tax authorities seem to be giving themselves more rights of “no reply”, “deterrence” against suspected entities (NTE business, trading in technology products and services...). (See Article 17 of the Law on Tax Administration 2019). There is an asymmetry in the relationship here, when we have identified the Government of Vietnam as a “Serving Government”.

Another point that can also be mentioned as an example, is that business registration and tax registration, despite a lot of progress, have not yet reached new entities arising in the modern economy. Can it be pointed out as to determine whether or not there is a business registration obligation for innovative SMEs? Is there a regulation for cross-border services and registration of cross-border service business? Is there state management and business registration requirements, and a monitoring mechanism for activities that combine the provision of innovative services both within the territory and across borders? If these questions are answered satisfactorily, perhaps many issues are giving the creative entrepreneur significant compliance paths. (See also: Anh, Nguyen Huu; Tram, Nguyen Anh; Tam, Tran Minh; Hiep, Luu Ngoc. Digitalization and corpora tax avoidance: Empirical Evidence from an Emerging Economy, International Conference: Digital

Transformation of Small and Medium Sized Enterprises in Development Countries, Vietnam Actnovation Forum, 23 Nov 2020)

### **3. Instead of conclusion - Some theoretical suggestions for economic-financial law in new conditions**

#### **3.1. Presence theory**

New elements of modern society come to life, and the interaction between these factors will generate many problems that are not easily resolved. Presence is an example. E-commerce transactions and services are provided by subjects who are Vietnamese citizens or citizens of other countries. In fact, these subjects can only be 1 (due to wanting to benefit, including bona fide benefits from tax) and the concept of "front company", "shell company" has appeared quite a lot, it is necessary to have a feasible plan to deal with it.

#### **3.2. The theory of transboundary displacement**

We have previously mentioned the "silk road" to explain cross-border trade transactions. (The Silk Road – The legendary trade route, <https://www.migolatravel.com/con-duong-to-lua-tuyen-duong-thuong-mai-huyen-thoi/>, accessed November 28, 2020). However, in the current period, cross-border movement is not easy to control because the object of movement is no longer ordinary goods or services, but special services. Products and services are not only special in the form of expression. For example, for products of digital technology, implemented on social network interfaces without a permanent establishment in Vietnam, it is completely not easy to determine the "terminal point" for these transactions. Therefore, the concept of "new silk road" has been mentioned a lot in recent years. (Hong Hanh (According to SCMP), Mr. Xi Jinping wants to build a "Digital Silk Road" with ASEAN, <https://vnexpress.net/ong-tap-muon-xay-con-duong-to-lua-ky-thuat-so-voi-asean-4198137.html>, accessed 11/28/2020). Cross-border movement along with the end-to-end hiddenness poses to state management agencies on business registration, product quality, and financial obligations to be implemented appropriately and at the same time not hinders legal transactions that have theoretical roots but are very close to the social life to be solved.

#### **3.3. Theory of the ability to control cash flow and the right to keep customer information confidential**

Currently, the trend of referring to cash flow control has become familiar, not only to financial and banking managers, but also to investigative agencies, economic management agencies, and is becoming more and more popularly understood by the public. However, controlling cash flow is becoming more and more difficult as the hidden signs are increasingly complex and difficult to access. This is all the more difficult in the face of pressure to secure customer information and the emergence of digital currency products with easy transferability, cross-border, and high anonymity.

The theory that all transactions are controllable, especially for payment transactions via banks, is gradually broken by many specialized legal regulations and have certain differences from country to country. Therefore, if only controlling cash flow to determine tax liability for taxpayers, perhaps many new legal problems will arise soon.

The same problem is posed for products of the night economy, for tourism real estate products. The night economy needs a lot of influencing and supporting factors, besides there are always potential factors related to money laundering through informal and not easy to control transactions.

### **3.4. Governance policy attaches preferential treatment and competition issues – gain/loss correlation – national competition issues**

This final point of recommendation is seriously posed when considering the trend that the Government or a group of industries, a group of businesses propose to be sponsored or enjoy preferential treatment for a certain reason. (Planning to abolish excise tax on cars made in Vietnam, <https://vietnamnet.vn/vn/business-business/tai-chinh/bai-bo-thue-tieu-thu-dac-biet-voi-o-to-san-xuat-o-viet-nam-588462.html>, accessed 27 November, 2020). However, when Vietnam has become a member of many international organizations and signed many bilateral and multilateral trade agreements, the balance between group preferential treatment and national competition - gain and loss; between vertical equity and horizontal equity when determining tax liability - gain and loss, is very important to consider seriously.

**Conclusions:** Above are a few opinions of the group of authors on new issues in modern society, which have a great impact on economic legal thinking and the need for legal regulation.

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