

# **LEGAL & TAX UPDATES**

## **BAKER TILLY A&C**

### **THE DECREE REGARDING THE EXTENSION OF TAX AND LAND RENTAL PAYMENT**

# OVERVIEW

On 4 March 2020, the Prime Minister issued Directive 11 / CT-TTg on urgent tasks and solutions so as to remove difficulties for production and business, as well as ensure social security to cope with Coronavirus disease (Covid-19) Pandemic, at Point 1, Section II of the Directive assigned: *“The Ministry of Finance shall submit to the Government for promulgation a Decree on extension of tax payment and land rental payment for subjects affected by Covid-19 pandemic, and report to Government as well as Prime Minister in March 2020.”*

Pursuant to the above content, the Ministry of Finance shall submit to the Government for promulgation a Decree on extension of tax payment and land rental payment.

On 8 April 2020, the Government officially issued **Decree No. 41/2020/ND-CP** guidance on the extension of tax and land rental payment. Details of the Decree are as follows:

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## ❖ **Regulated entities** including:

### **(1) Enterprises, organizations, households and individuals that have their trade/production activities in fields as follows:**

- ✓ Agricultural, forestry and fishery production;
- ✓ Manufacturing and processing food; weaving; producing costumes; producing leather and related products; manufacturing of wood and of products of wood and cork (except furniture); producing products from straw and plaiting materials; producing paper and paper products; manufacturing of rubber and plastics products; products from other non-metallic minerals; manufacturing of metals; machining; treating and coating of metals; manufacturing of computer, electronic and optical products; manufacturing automobiles and other motor vehicles; and manufacturing of furniture;
- ✓ Construction;
- ✓ Warehouse transportation; accommodation and catering services; education and training; health and social assistance activities; real estate business;
- ✓ Labor and employment support services; activities of travel agents, tour operators and support services related to tourism promotion and organization;
- ✓ Creative, artistic; library activities, archives, museums and other cultural activities; sports activities and amusement and recreation activities; and Motion picture projection activities.

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## ❖ **Regulated entities** including:

**(2) Enterprises, organizations, households and individuals engaged in the production of products of support industries prioritized for development; key mechanical products.**

*(ii) Products of support industries prioritized for development determined pursuant to the Decree No. 111/2015/ND-CP;*

*(iii) Key mechanical products identified under the Decision No. 319/QD-TTg in 2018.*

**Enterprises, organizations, individuals, groups of individuals and households that have their trade/production activities in fields specified *in points (1) and (2)* might generate revenue in the fiscal year 2019 or the fiscal year 2020.**

**(3) Credit institutions, foreign bank branches implement solutions to support customers who are enterprises, organizations, and individuals affected by the Covid-19 pandemic** based on the list of credit institutions and foreign bank branches participating in customer support is published by the State Bank of Vietnam.

**(4) Small and Extra-small enterprises** are defined in accordance with the Law of assistance for small and medium-sized enterprises No. 04/2017/QH14 and Decree No. 39/2018/ND-CP.

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## ❖ **The extension of tax:**

### **(1) VAT:**

#### ✓ **The extension of VAT payment for organizations paying monthly VAT**

- The deadline for VAT payment of March 2020 is 20 September 2020.
- The deadline for VAT payment of April 2020 is 20 October 2020.
- The deadline for VAT payment of May 2020 is 20 November 2020.
- The deadline for VAT payment of June 2020 is 20 December 2020.

#### ✓ **The extension of VAT payment for organizations paying quarterly VAT**

- The deadline for VAT payment in the first quarter of 2020 is 30 September 2020.
- The deadline for VAT payment in the second quarter of 2020 is 30 December 2020.

### **(2) CIT: Extension of CIT payment for the unpaid tax amounts according to the annual settlement of 2019 and the temporarily paid CIT amount of the first and second quarters of 2020 with a period of 5 months from the end of the prescribed deadline for paying CIT.**

If an enterprise or organization has paid CIT according to the 2019 tax finalization into the state budget, the enterprise might offset against the payable tax amount of other taxes.

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## ❖ The extension of tax:

### **(3) VAT and PIT for households and individuals doing business**

Households and individuals doing business that have their trade/production activities in the industries mentioned in *point (1) and (2) of Regulated entities* shall pay the amount of VAT and PIT before 31 December 2020.

### **(4) Land rental payment of enterprises, organizations and individuals for the State:**

For organizations and individuals directly leased land by the State under decisions and contracts in the form of annual land rent payment, the extension of tax is 05 months from 31 May 2020 for the first land rental payment in 2020.

The provision thereon is also applied to enterprises, organizations, households and individuals that have many land rental decisions/ contracts from the State as well as numerous different business activities, including economic sectors specified *in points (1), (2) and (3) of Regulated entities*.

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## ❖ **The procedure of extension:**

- ✓ Taxpayers must prepare the application for extension of tax and land rental payment for submission to supervisory tax authorities (e-submission or others) under Form No. 01 enclosed with the Decree once for all of the payment at the time of monthly (or quarterly) tax returns submission as prescribed.
- ✓ In case the application for extension of tax and land rental payment is not submitted at the time of monthly (or quarterly) tax returns submission, it shall be submitted **before 30 July 2020**.
- ✓ Tax Authority **do not need to notify taxpayers of accepting the extension of tax payment and land rental payment**. In case during the period of extension, the Tax Authority determines that the taxpayer is not subject to the extension, there will be a notice of stopping the extension and the taxpayer might be at risks of being collected tax liabilities, land rents and late payment interest during the period of extension.
- ✓ After the period of extension, the tax authority finds out through the tax inspection that the taxpayer is not eligible for extension of tax payment or land rent as prescribed in this Decree, the taxpayer must pay Tax arrears, fines and late payment interest are re-determined by the tax authorities into the State budget.

# NOTES

## ❖ **The determination of business lines:**

The determination of the business line is applied under the following principles: If the name of the business line mentioned *at Point (1) of Regulated entities* is a higher-level sector (from level 1 to level 4), it is applied the term of extension including lower-level sectors/sub-sectors. For instance, in the case of the business line is level 2, it will be applied for all sub-sectors like level 3, level 4 and level 5.

## ❖ **The operation of businesses and organizations in many fields:**

If enterprises, organizations, households and individuals that have their trade/production activities in many sectors, in which having business mentioned *in point (1), (2) and (3) of Regulated entities*:

- ✓ Enterprises or organizations might be **extended all the payable VAT and CIT**;
- ✓ Individuals, groups of individuals or households might be **extended the entire payable VAT and PIT**.

## ❖ **The separate declaration of VAT and (or) CIT of branches and affiliated units:**

In case branches or affiliated units of the enterprises and organizations declare VAT and (or) CIT separately to the Supervisory tax authority, branches and affiliated units might also be extended tax payment. Particularly for enterprises or organizations operating sectors *in Points (1) and (2) of Regulated entities*, they shall be applied for the extension if only branches or affiliated units do business in the sectors mentioned *in Point (1) and (2) thereof*.



# NOTES

## ❖ **The case of unregulated entities of the Decree**

If enterprises or organizations are not subject to the application of Decree No. 41/2020/ND-CP, enterprises or organizations could refer to Official Dispatch No. 897/TCT-QLN of 3 March 2020 of the General Department of Taxation on giving the extension of tax payment, exemption of late payment interest due to Covid-19 pandemic. Accordingly, enterprises or organizations must prepare and submit documents to the supervisory tax authority as prescribed. Documents need to be able to prove that the pandemic directly poses negative effects on the business activities, as well as analyze the extent of the Company's impact and actual losses due to the pandemic to have a basis for applying for the extension of the tax payment and exemption of late payment interest.

## CONTACT INFORMATION

This document gives the general information on interested matters that is not considered as professional consultancy. For more information, please contact:



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