



LEGAL, LABOR AND TAX UPDATES

October 2019

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A. NEW LEGAL INSTRUMENT

❖ GOVERNMENT

30 August 2019 | Decree No. 74/2019/NĐ-CP Providing amendments to the Decree No. 61/2015/NĐ-CP prescribing employment creation policies and national employment fund

Loans from national employment fund shall be offered for a maximum period of 120 months (The current maximum loan term is only 60 months).

The specific loan term shall be subject to the agreement between Vietnam Bank for Social Policies (VBSP) and the borrower according to fund sources, business cycle and solvency of that borrower.

Borrowers and loan amounts are specified as follows:

The maximum loan amount granted to each eligible employee is VND 100 million (the current maximum loan amount: VND 50 million);

The maximum loan amount granted to a business entity is VND 02 billion/project but shall not exceed VND 100 million/employee benefiting employment creation, maintenance and development policies (the current maximum loan amount: VND 01 billion/project but shall not exceed VND 50 million/employee).

If the loan amount is VND 100 million or more, the business entity is required to provide the collateral for such loan in accordance with regulations of the law on secured transactions.

(This Decree shall come into effect from 08 November 2020)

26 September 2019| Decree No. 75/2019/NĐ-CP Prescribing penalties for administrative violations against regulations on competition

Scope of regulation

1. This Decree deals with penalties, fines, remedial measures, the power to impose penalties, and implementation of decision on imposition of penalties for administrative violations against regulations of the competition law, administrative violations against other regulations on competition and the power to record administrative violations against other regulations on competition.

2. Administrative violations against regulations of the competition law include:

- a) Violations against regulations on anti-competitive agreements;
- b) Violations against regulations on abuse of dominant position or monopoly position;
- c) Violations against regulations on economic concentrations;
- d) Violations against regulations on unfair competition;
- đ) Violations against other regulations on competition.

Regulated entities

1. Organizations and individuals doing business (hereinafter referred to as “enterprises”), including producers and suppliers of public-utility products and services, enterprises engaging in state-monopolized sectors/domains, public service providers and foreign enterprises that operate in Vietnam.
2. Trade associations operating in Vietnam.
3. Relevant domestic and foreign authorities, organizations and individuals.

(This Decree shall take effect from 01 December 2019)

❖ MINISTRY OF FINANCE

20 September 2019| Circular No. 66/2019/TT-BTC Amending and supplementing several outstanding contents of electronic tax transactions

Time for submitting the electronic tax documents shall be specified in 4 following cases:

- For electronic tax registration documents: this is the time written on the tax authority’s receipt notice of electronic tax registration documents sent to taxpayers (form 01-1/TB-TĐT enclosed herewith);
- For electronic tax declaration documents: this is the time written on the tax authority’s acceptance notice of electronic tax declaration documents sent to the taxpayers (form 01-2/TB-TĐT enclosed herewith);
- For electronic tax payment documents: this is the time written on the tax authority’s receipt notice of electronic tax payment documents sent to taxpayers (form 01-1/TB-TĐT enclosed herewith);

- For electronic tax refund documents: this is the time written on the tax authority's acceptance notice of electronic tax refund documents sent to taxpayers (form 01-2/TB-TĐT enclosed herewith).

The notices shall be sent by the tax authority to the taxpayers via web portal of General Department of Taxation or provider of T-VAN services.

(The current time for submitting electronic tax documents is confirmed according to a common form issued together with Circular No. 110/2015/TT-BTC dated 28 July 2015).

(This Circular shall take effect from 05 November 2019)

30 September 2019 | Circular No. 68/2019/TT-BTC Guiding the implementation of some articles of the Government's Decree No. 119/2018/NĐ-CP dated 12 September 2018 prescribing electronic invoices for sale of goods

This Circular guides to a number of contents of e-invoices, including contents of e-invoices, time of e-invoice preparation, format of e-invoices, application of e-invoices, provision of e-invoice services, management of e-invoice use, establishment and management of e-invoice database and e-invoice service providers. Here are some notes:

E-invoices shall contain the following information:

- Invoice title, invoice code, invoice form code, invoice number;
- The seller's name, address and tax code;
- The buyer's name, address and tax code (where the buyer's tax code is available);
- Name, measurement unit, quantity, unit price of goods or services; amount before VAT, rate of VAT being charged, total amount with VAT calculated at specific VAT rates, total VAT amount, total amount inclusive of VAT;
- The seller and the buyer's digital signature and electronic signature;
- E-invoicing time;
- The tax authority's code, required with respect to an e-invoice with the tax authority's code as regulated at Clause 5 Article 3 of Decree No. 119/2018/NĐ-CP;

- Fees and legal fees remitted into the state budget, trade discounts, promotion (if any) as regulated at Point d.3 Clause 1 Article 3 of Circular No. 68/2019/TT-BTC and other relevant contents (if any).

In case an e-invoice with the tax authority's code which has been prepared and sent to the buyers but contains errors shall be handled as follows:

1. Case of errors in name and address of the buyer but no error in tax code:
 - The seller shall notify the buyer of an invoice with errors;
 - The seller shall notify the tax authority by using Form 04 promulgated together with Decree No. 119 regarding the cancellation of e-invoices with code which have been created and contained errors;
 - Not to prepare new e-invoices.
2. Case of errors in tax code, invoice amount, tax rate, tax amount, or goods written on the invoices with improper specifications and quality:
 - The seller and buyer shall make a written agreement specifying the errors;
 - The seller shall notify the tax authority by using Form 04;
 - The seller shall prepare new e-invoices with digital signatures and/or electronic signatures for submission to the tax authority for its issue of new e-invoice codes.

Note: The new e-invoices replacing the ones with a code and containing errors shall be appended to "In replacement of invoice with invoice code..., invoice form code..., invoice number..., dated ...".

(This Circular shall come into effect from 14 November 2019)

B. OFFICIAL INSTRUCTIONS

GENERAL DEPARTMENT OF TAXATION

23 September 2019 | Official Letter No. 3795/TCT-CS on payment of license fees and value added tax to non-business branches

Pursuant to Article 2 and Article 3 of Decree No. 139/2016/ND-CP dated October 4, 2016 of the Government stipulating license fees, enterprises are established under the provisions of law and their branches shall pay license fee; the Branch **does not fall under the license exemption case.**

Pursuant to Clause 3, Article 4 and Clause 1, Article 45 of the 2014 Law on Enterprises, a branch is a dependent unit of the enterprise, which is

responsible for performing all or a part of the functions of the business with the right business line. Business activity is the continuous implementation of one, or some or even all of the stages of the investment process from production to sale of products or provision of services on the market for profit.

In case an enterprise establishes a branch in another province than the headquarter and the affiliate do not directly sell goods and do not generate revenue, the VAT declaration shall be made at the head office as prescribed in Item c Clause 1 Article 11 of the Circular No. 156/2013/TT-BTC.

09 October 2019 | Official Letter No. 4102/TCT-CS on the policy of foreigner contractor tax for advertising, marketing of the Company's products in Singapore

In case the Company signs a service contract with a number of individuals residing in Singapore to promote investment and trade in Singapore, these ones will get to know and report market, find customers as well as advertise and marketing products of the Company in Singapore (except for advertising and marketing on the internet), it shall not be subject to the Circular No. 103/2014/TT-BTC.

The company shall need to have documents **proving the advertising activities, marketing and the investment and trade promotion activities in Singapore market** to serve their production and business activities such as: **Service contract with individuals residing in Singapore; Report on the result of Market researching, customer searching, advertising and marketing the Company's products in Singapore market of individuals according to the content of the contract; and money transfer documents to individuals and other relevant documents.**

15 October 2019 | Official Letter No. 4178/TCT-CS on some contents of Circular No. 68/2019 / TT-BTC on electronic invoices for selling goods and providing services

The General Department of Taxation issued Official Letter 4178 / TCT-CS guiding the contents of Circular 68/2019 / TT-BTC on electronic invoices when selling goods and services, such as:

- Content on e-invoices;

- Cases in which invoices are not necessarily full of contents;
- Format of e-invoices;
- Cases of high tax risk using e-invoices with tax code of tax authorities;
- Using the e-invoices with codes in each time arising;
- Using the e-invoices in cases of exporting goods and services;
- Handling invoices with codes and without codes when there are errors;
- Transferring e-invoices data which are without codes to tax authorities;
- Handling incidents when using e-invoices with codes of tax authorities; etc.

15 October 2019 | Official Letter No. 4184/TCT-DNNCN on the lawful receipts of humanitarian charities

In 2018, Vietnam Construction Bank, which implements the call of the Vietnam Fatherland Front Committee, **has campaigned to deduct the salary of employees to transfer to the account of the Vietnam National Union of Bank Workers and has had sufficient money transfer documents and list of individuals with salary deduction certified by the Bank Branch Leader.** After that, **the Vietnam National Union of Bank Workers has handed over and assisted the Vietnam Fatherland Front Committees of the provinces and has legal receipts** as prescribed in Clause 3, Article 3 and Article 16 of Law on Accounting No. 88/2015 / QH13 dated November 20, 2015 of the National Assembly, issued by the Vietnam Fatherland Front Committee of the provinces, **the employees of Vietnam Construction Bank, Ltd. are entitled to deductions for the above-mentioned charitable and humanitarian donations to PIT** when finalizing tax in FY 2018.

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