



**LEGAL, LABOR AND  
TAX UPDATES  
September 2020**

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## A. NEW LEGAL INSTRUMENT

### ❖ GOVERNMENT

#### **26/08/2020| Decree No. 98/2020/NĐ-CP prescribing penalties for administrative violations against regulations on commerce, production and trade in counterfeit and prohibited goods, and protection of consumer rights**

Accordingly, individuals who trade in counterfeit stamps, labels or packages will be fined from VND 300,000 to VND 30,000,000 depending on the quantity;

The fine that is twice as much as the corresponding fine if the violating individual falls into one of the following cases:

- Importing counterfeit stamps, labels and packages;
- The violation involving counterfeit stamps, labels and packages of foods, food additives, preventive drugs, drugs, medicinal ingredients, cosmetics, medical devices or protective helmets;
- The violation involving counterfeit stamps, labels and packages of detergents, chemicals, insecticidal and microbicidal preparations for household and medical use, animal feeds, aquaculture feeds, fertilizers, veterinary drugs, etc.

Note: The fine for violating organizations will be twice the fine for violating individuals.

*(The Decree shall take effect from 15 October 2020)*

#### **26/08/2020| Decree No. 99/2020/NĐ-CP regulating penalties for administrative violations against regulations on petroleum, and petrol, oil and gas trading**

A fine ranging from VND 30,000,000 to VND 50,000,000 shall be imposed for deliberately adjusting petrol and oil retail prices and oil retail prices at the time other than the one regulated by petrol and oil wholesalers or distributors.

The certificate of eligibility to act as petrol and oil retail outlet shall be suspended for 01 - 03 months if the violation is repeated.

Some related penalties also adjusted in Decree No. 99/2020 / ND-CP as follows:

- A fine ranging from VND 5,000,000 to VND 10,000,000 shall be imposed for listing petrol and oil retail prices inconsistently with those regulated by petrol and oil wholesalers or distributors. (currently from VND 2,000,000 to VND 6,000,000).
- A fine ranging from VND 50,000,000 to VND 70,000,000 (currently from VND 20,000,000 to VND 30,000,000) shall be imposed for:
  - + Failure to send notifications or;
  - + Failure to send decisions on petrol and oil retail prices applied to units belonging to the petrol and oil distribution system ahead of the effective time of these prices in the case of any increase or decrease in petrol and oil retail prices.

*(The Decree shall take effect from 11 October 2020)*

**15/09/2020| Decree No. 109/2020/NĐ-CP on extension of deadline for submission of excise tax for domestically manufactured or assembled automobiles**

**Scope of application**

This Decree prescribes an extension of the deadline for submission of excise tax for domestically manufactured or assembled automobiles.

**Regulated entities**

This Decree applies to enterprises manufacturing and assembling automobiles domestically.

Accordingly, extending the deadline for submitting excise tax of March, April, May, June, July, August, September and October of 2020 for domestically manufactured and assembled automobiles.

The extended period shall start from the deadline for submission of excise tax according to regulations and law on tax administration to:

- No later than 20 September 2020 for excise tax of March 2020.
- No later than 20 October 2020 for excise tax of April 2020.
- No later than 20 November 2020 for excise tax of May 2020.
- No later than 20 December 2020 for excise tax of June, July, August, September and October 2020.

In some cases:

- In case taxpayers revise tax declaration of the tax period that is extended, which lead to an increase in payable excise tax and submitted to tax authorities before the expiry date of tax submission, the amount of tax benefitting from the extension shall include the additional tax.
- In case taxpayers benefitting from the extension make the declaration, they shall submit excise tax declaration according to applicable regulations and law without having to submit the payable excise tax on the declared excise tax declaration immediately.
- In case of enterprises have branches and affiliated entities declaring excise tax separately from the supervisory tax authorities of branches and affiliated entities, the branches and affiliated entities shall also benefit from extended deadline for submission of excise tax.
- In case branches and affiliated entities of enterprises do not manufacture or assemble automobiles, they do not benefit from extended deadline for submission of excise tax.

*(The Decree shall take effect from 15 September 2020)*

## B. OFFICIAL INSTRUCTIONS

### ✚ OFFICIAL DISPATCH ON TAXATION

#### 26/8/2020 | Official Dispatch No. 3525/TCT-CS on tax policy

If the enterprise receives fines or compensation for breach of contract, it will be necessary to consider the nature of them to have the appropriate policy for each case, specifically:

- In case that Nui Phao Mining Company Ltd (Nui Phao) receives reimbursement from Jacobs, including additional construction costs, hiring a subcontractor to remedy the consequences caused by Jacobs and the payment for service in excess of the value that Jacobs has done to Nui Phao: If Nui Phao has gathered and accounted for the value of fixed assets in the investment period, and the recovered amount has reduced the value of construction work assets, those will not be identified as other income according to the regulations.
- For the interest repayment that Nui Phao received from Jacobs to remedy the problem caused by Jacobs, Thai Nguyen Tax Department is requested to review the actual situation of loans in the stage of capital construction investment to give guidance in line with the prevailing law.
- In terms of damages compensating for economic loss caused by Jacobs (due to breach of contract and delayed handover according to progress) is determined as income not in the lines of business stated in the Enterprise Registration Certificate (ERC) of the enterprise and not belong to the income generated in areas eligible for investment incentives, so it is determined as other income and not entitled to CIT incentives as prescribed.

#### 08/9/2020 | Official Dispatch No. 3711/TCT-CS on the time of preparing the invoice

The invoice for service provision must be prepared right after the service provision is completed regardless of whether the payment has been made or not. If delivering goods often or handing over items or service stages in advance, each time of delivery or handover, an invoice must be made for the corresponding quantity and value of delivered goods or services.

Pursuant to the Official Dispatch No. 195/2020 / HIPT-CV dated 29 April 2020 of HIPT Group Joint Stock Company (Company): Contract No. 2019 / KFWIVD-HIPT signed on 09 October 2019 between the Company and Huu Nghi Viet Duc Hospital (attached to the contract appendix 1.2), the form of payment is **"According to the proportion of the contract"**. If the above payment is associated with the partial completion of the provision of goods or services, an invoice shall be made under the provisions of Point a, Clause 2, Article 16 of Circular No. 39/2014 / TT-BTC and Clauses 1 and 2, Article 8 of the Circular No. 219/2013 / TT-BTC thereof.

**04/9/2020 | Official Dispatch No. 81088 / CT-TTHT of Hanoi Tax Department on tax policy for on-spot export activities**

In case that the Company carries out the on-spot export as prescribed in Clause 1 Article 86 of Circular No. 38/2015 / TT-BTC.

- For CIT: The Company will declare and pay CIT obligation under the guidance in Circular No. 78/2014 / TT-BTC.

- For VAT:

+ If the Company exports goods in the form of on-spot export and import as prescribed by law and meets the conditions specified in Clause 2, Article 9, Clause 2, Article 17 of Circular No. 219/2013 / TT-BTC, the Company will be applied to the VAT 0%. If not, VAT shall be calculated and paid as for domestically consumed goods.

+ If in the sale contract, the foreign trader appoints the Company to provide after-sale services such as installation, warranty, maintenance, etc. to the consignee in Vietnam (services consumed in Vietnam), these services will not be exported ones as prescribed at Point b, Clause 1, Article 9 of Circular No. 219/2013 / TT-BTC. Hence, the Company will issue the VAT invoice 10% for these services as regulated.

The Company must declare VAT according to each tax rate prescribed for each type of goods or service; If not, the Company must calculate and pay tax at the highest tax rate on goods and services manufactured and traded by the Company.



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