



LEGAL, LABOR AND TAX UPDATES

July 2019

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A. NEW LEGAL INSTRUMENT

❖ GOVERNMENT

24 June 2019 | Decree No. 55/2019/NĐ-CP providing legal assistance for small and medium-sized enterprises

Scope

This Decree details the legal assistance for small and medium enterprises (SMEs); responsibilities of ministries, ministerial agencies, provincial governments, other authorities, organizations and individuals involved in the provision of legal assistance for SMEs.

Applied entities

1. Ministries, ministerial agencies; chính quyền địa phương cấp tỉnh.
2. SMEs.
3. Enterprises' representative organizations.
4. Authorities, organizations and individuals involving in the provision of legal assistance for SMEs.
5. Other authorities, organizations and individuals involving in the provision of legal assistance for SMEs.

Authorities and organizations providing legal assistance for SMEs shall, based on their resources and assistance programs, decide the provision of legal assistance in the following order of priority:

- Women-owned SMEs and SMEs using more women employees will be provided with legal assistance first if their applications for legal assistance are satisfactory;
- SMEs in which 30% or more of their employees are the disabled as defined in the Disability Law;
- SMEs that submit applications for legal assistance first shall be provided with legal assistance first if their applications are satisfactory.

The State encourages and adopts policies for assistance and facilitation of regulatory authorities, organizations, enterprises and individuals in provision of legal assistance for SMEs.

(This Decree shall come into effect from 16 August 2019)

26/6/2019 | Decree No. 57/2019/NĐ-CP promulgating the preferential export tariff schedule, the special preferential import tariff schedule of Vietnam under the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (hereinafter referred to as the “CPTPP Agreement”)

This tariff schedule is applied for the period from 14 January 2019 to 31 December 2022.

The Vietnam’s preferential tariff schedule under CPTPP Agreement is applied to exports to and imports from CPTPP members, including Australia, Canada, Japan, Mexico, New Zealand and Singapore.

Decree No. 57/2019/NĐ-CP was issued on 26 June 2019 while CPTPP Agreement came into effect in Vietnam from 14 January 2019; therefore, **batches of exports and imports registered with the customs office during the period from 14 January 2019 to before the effective date of this Decree may be considered for tax refund** if satisfying the conditions for enjoying the preferential tax rates stipulated in the Decree.

The application of preferential tax rates for exports in Decree No. 57/2019/NĐ-CP is also necessary for paying attention to. Accordingly, in order to be enjoyed preferential export duty, the exports must have transport documents and overseas import customs declarations proving that the goods exported from Vietnam are imported into the territories of the member countries of CPTPP Agreement.

As at the time of exporting, Vietnamese exporters shall make export declarations at current standard export duty rate and pay the corresponding export duty to customs office if the goods are subject to export duty. Within one year from the date of registration of the export declaration, the exporters shall submit to the customs office the copy of the transport documents, the overseas import declarations and make an additional declarations to be enjoyed the preferential export duty rates as prescribed in the Decree. Customs authorities shall check the additional declarations and relevant documents for consideration of tax refund.

The Decree No. 57 takes effect from the date of its issuance and the customs office will check the Certificate of Origin form CPTPP submitted by the importers for the batches of goods imported into Vietnam to inspect the application conditions of special preferential import duty rates specified in the Decree.

(This Decree came into effect from 26 June 2019)

B. OFFICIAL INSTRUCTIONS

+ GENERAL DEPARTMENT OF VIETNAM CUSTOMS

25/6/2019 | Official Letter No. 413/TCHQ-TXNK on the General Department of Customs on import duty exemption

The General Department of Customs issued Official Letter No. 4138/TCHQ-TXNK guiding Customs Departments of provinces and cities to agree on the application of import duty exemption **mechanism for imported raw materials and supplies used for production of goods exported on the spot.**

This new guidance by the General Department of Customs replaces the previous guidance content that exporting on the spot are inconsistent with the export definition defined in the Commercial Law, and therefore imported raw materials and supplies are used to produce export products are not exempt from import duty according to Official Letter 5826/TCHQ-TXNK dated 5 October 2018.

+ GENERAL DEPARTMENT OF TAXATION

24/6/2019 | Official Letter No. 2534/TCT-CS on costs and procedures for destroying defective or low quality goods in foreign countries

In case Pou Chen Vietnam Co., Ltd. has goods that do not meet the quality requirements or the specifications of the contract, must be destroyed or restored goods, **the cost of destroying damaged goods not subject to resistance circumstances shall be deductible expenses when determining taxable incomes; repair and restoration expense of faulty goods in foreign countries or for return to the country for repair and re-export are deductible expenses** when determining income subject to corporate income tax if meeting the conditions specified in Article 4 of Circular No. 96/2015/TT-BTC dated 22 June 2015 of the Ministry of Finance.

14/6/2019 | Official Letter No. 2420/TCT-KK on out-of-province VAT

*** Proposals of Western Europe Investment and Development Joint Stock Company (Euro Pharma) attached with Official Letter No. 4690/VPCP-ĐMDN:**

Our Company is headquartered in Ho Chi Minh City, winning the contract to supply medicine in province B according to the winning results of the provincial Department of Health. After that, our Company signed a medicine supply contract (valued at over VND 1 billion) with hospitals under the Department of Health and in the contract clearly stating that the seller (our Company) must deliver the medicines to the hospitals' warehouse. Is this sales activity called out-of-town current sales? Does our Company have to declare and pay VAT in province B?

*** Response content:**

The case of Western Europe Investment and Development Joint Stock Company (Euro Pharma) in Ho Chi Minh City has a trading contract with hospitals under the Provincial Health Department B (not Ho Chi Minh City) on the basis of the winning results of the Health Department of Province B and delivery according to this contract in Province B; **Not an enterprise that brings goods from Ho Chi Minh City to sell in province B, it is not a case of having to declare and pay current VAT in the province B.**

08/7/2019 | Official Letter No. 2726/TCT-CS on VAT declaration and payment for fixed assets transferred to localities as house of culture

In case HUDS Company transfers My Dinh II Club project to the People's Committee of Nam Tu Liem District to be a residential group cultural house serving the population in the area, HUDS Company **receive reimbursement of construction investment costs according to the remaining value of the property granted by Nam Tu Liem district budget**, the General Department of Taxation agreed with Point 1 of the Hanoi City Tax Department in Official Letter No. 16958/CT-TTHT mention above: **upon receiving the above reimbursement amount, HUDS Company shall issue VAT invoices, declare, calculate and pay VAT for the sale of assets according to regulations.**

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