

A. TAX - ACCOUNTING

1. CORPORATE INCOME TAX

❖ Corporate Income Tax remittance extension

Decree No. 41/2020/ND-CP dated on 08th April 2020 issued by the Government regarding the extension of tax remittance and land rent as follows:

For enterprises and organizations are stipulated in Article 2 of this Decree, extending 5 months for the remain CIT payable of finalization in 2019 and estimated CIT payable in quarter 1, quarter 2 of 2020 from the end of the deadline for tax payable regulated by Law on Tax Management.

In case that an enterprise or organization has paid the remaining payable CIT of the finalization in 2019 into the State Budget, the enterprises or organization may adjust this amount to other taxes.

The branches and affiliated units of the enterprises and organizations as stated in Article 2 of this Decree submit CIT declarations to directly tax managing authorities are also subjects to the extension of CIT remittance. In case the branches and affiliated units of enterprises or organizations stated in Clauses 1, 2 and 3, Article 2 of this Decree has not produced and operated in the economic sector eligible for an extension, they are not subjects for extension of CIT remittance.

❖ The associated transactions for a loan (including case of no interest) from individuals who are members of Board, participate in operation of the Company

OL No. 6684/CT-TTHT dated 20th February 2020 issued by Tax Department of Hanoi guided on associated transactions as follows:

In case, the Company gets a loan (including cases of interest-free) from individuals who are members of the Board, participate in the operation of Company, the associated transactions had incurred according to Article 4, Decree No. 20/2017/ND-CP. Therefore, the Company should determine the deductible loan interest when determining payable CIT in accordance with Clause 3, Article 8 of Decree 20/2017/ND-CP dated 24th February 2017 of the Government.

2. VALUE ADDED TAX

❖ Value added tax rate for fresh flower basket

OL No. 152/TCT-DNL dated on 13th January 2020 issued by GDT guidance on policy for fresh flower products are as follows:

Fresh flowers are cultivation products that are preliminarily processed and attached with accessories to become the flower bouquets and flower baskets (as other products). In case, the Company buys flower bouquets or flower baskets as a gift to customers, the Company must issue VAT invoices with tax rate of 10%.

❖ Value Added Tax remittance extension

Decree No. 41/2020/ND-CP dated on 08th April 2020 issued by the Government regarding the extension of tax remittance and land rent as follows:

For enterprises and organizations are stipulated in Article 2 of this Decree, extending 05 months for VAT payable in tax period of March, April, May and June 2020 (for monthly declarations) and quarter 1, quarter 2 of 2020 (for quarterly declarations) from the end of the deadline for tax payable regulated by Law on Tax Management.

3. PERSONAL INCOME TAX

❖ Personal Income Tax for insurance payment

OL No. 9653/CT-TTHT dated on 04 September 2019 issued by the Tax Department of Ho Chi Minh City guidance on PIT for insurance payments as follows:

In case, the Company pays the compulsory insurances (social insurance, health insurance, unemployment insurance) which are employee's obligations, these payments should be included to the PIT taxable income of the employees.

However, compulsory insurances will be deducted from the PIT taxable income of employees (as prescribed in Clause 2, Article 9 of Circular 111/2013/TT-BTC).

❖ Time for calculating PIT of foreigners and issuing tax code of dependents

OL No. 6043/CT-TTHT dated 18th February 2020 issued by Tax Department of Hanoi

guided on PIT finalization and issuance of tax codes for dependents as following:

For foreigners who are resident individuals, the time for calculating PIT will be based on the first date of arrival in Vietnam for the purpose of working and generating income in Vietnam as stated in the contract or appointment documents in Vietnam.

For other dependents, the dependent deduction is only when they are registered the latest on 31st December 2019, the registration after 31st December 2019 should not be deducted for the tax period of 2019.

❖ **PIT on abroad capital investment for foreigners who are resident in Vietnam**

OL No. 10108/CT-TTHT dated September 13th 2019 issued by Tax Department of Ho Chi Minh City guidance on PIT for abroad capital investments as follows:

In case, foreigners are individuals residing in Vietnam generate profits from the capital contribution of the abroad company, they are subjects to PIT of capital investment in accordance with Article 10 of Circular 111/2013/TT-BTC.

The foreigners should pay PIT of capital investment with the rate of 5% and declare by the time of arising according to Form No. 04/NNG-TNCN issued with Circular 92/2015/TT-BTC.

4. LICENSE TAX

❖ **Exempting license fee in the first year of establishment**

Decree No. 22/2020/ND-CP dated 24th February 2020 issued by the Government amending and supplementing a number of articles of Decree No. 139/2016/ND-CP dated 04th October 2016 about license fees as following:

Exempting license fee in the first year of establishment for enterprises and the first year of production and operation for households and individuals. The first year is calendar year "from 01st January to 31st December" and not the fiscal year (Point c, Clause 1, Article 1).

Particularly, the small and medium enterprises had been converted from households shall be exempted license fees for 3 years, from the date of first being granted enterprise registration certificate (Point c, Clause 1, Article 1).

In case, a branch, representative office or business location is established in the first year or first 3 years (for small and medium enterprises), they are also exempted from license fees with the equivalent duration of the enterprise (Point c, Clause 1, Article 1).

The Decree takes effect from 25th February 2020.

5. INVOICES

❖ **Exempting for the signature of buyers on the electronic invoices**

OL No. 94414/CT-TTHT dated on 18th December 2019 issued by the Tax Department of Hanoi guidance on exempting the signatures of buyers on electronic invoices as follows:

According to Point e, Clause 1, Article 6, Circular No. 32/2011/TT-BTC, in principle, electronic invoices must have sufficient electronic signatures of sellers and buyers.

However, in case, the Company has records and documents to prove the goods supplying and services providing to the buyer (such as contracts, delivery orders, receipts, etc.), they shall be exempted from buyer signatures when making the electronic invoices.

❖ **Electronic invoices (e-invoice) are required to fully show the list of goods**

OL No. 1397/CT-TTHT dated 13th January 2020 issued by the Tax Department of Hanoi stipulated on the presentation of goods on electronic invoices as follows:

For selling goods, the Company issued electronic invoices to customers and should present fully the list of goods sold to ensure the information principle in the electronic invoices.

In case, the Company issued e-invoice is not sufficiently present the goods sold and services provided but by accompanied a list of goods and services not stated in the invoice is not in accordance with regulations on electronic invoices.

❖ **Further use of self-printed invoices until 31st October 2020**

OL No. 96977/CT-TTHT dated 27th December 2019 issued by the Tax Department of Hanoi regulated on the using of self-printed invoices as follows:

According to Clause 2, Article 27, Circular No.68/2019/TTBTC, from 01st November 2018 to 31st October 2020, the Company may continue using self-printed invoices in case the tax authority has not requested the Company to apply e-invoices.

However, from 01 November 2020, the Company should apply electronic invoices instead of self-printed invoices.

B. LABOR

❖ **Payment for work-off salary and settlement of labor regimes for employees during the work-off related to the COVID-19 pandemic**

OL No. 1064/LĐTBXH-QHLĐTL dated 25 March 2020 issued by Ministry of Labor, Invalids and Social Affairs guided on the payment of work-off salary and settlement of labor regimes for employees during the work-off related to COVID-19 pandemic:

In case, the employee has to stop working due to the direct impact of COVID-19 pandemic, the employer has to pay salaries for work-off days. The salary paid to employees in the work-off days shall be agreed by the two parties, but not lower than the regional minimum wage prescribed by the Government.

In case the enterprise meets difficulties on material sources, markets which leads to insufficient jobs, then:

- The employer may temporarily transfer employees to other tasks.
- If the work-off time extends effects the payment capacity of enterprises, employer and employee may agree to postpone implementation of the labor contract in accordance with Article 32 of the Labor Code.
- In case downsizing production causes a decrease in the workplace, the employer has the right to unilaterally terminate the labor contract according to the order and procedure specified in Article 38 or Article 44 of the Labor Code.

❖ **The enterprises affected by COVID-19 pandemic have temporarily suspended the contribution to pension and death fund (14% by employers and 8% by employees)**

OL No. 860/BHXH-BT dated 17th March 2020 issued by the Social Insurance in Vietnam agreed on suspending the payment of pension and death fund for enterprises in the fields of passenger transports, tourism, accommodation, restaurants, and other special industries that meet difficulties and lead to the inability to arrange jobs for employees.

- Conditions for suspending payment include: Employees participating in social insurance and temporarily take leave is 50% or more of the total producing or operating before suspending and the employer makes a written proposal attached with a list of employees, or damage caused by the pandemic is more than 50% of the total value of assets and the employer makes a written proposal attached with the latest property report.
- The duration of temporary suspension of payment to the retirement and death fund is from the month the employer issues a written proposal to June 2020. The pandemic has not been relieved afterward, the payment shall be considered and postponed till December 2020 in case the enterprises sent a written proposal.

❖ **The enterprises affected by COVID-19 pandemic are allowed to postpone the payment of trade union fee (2% from employers)**

OL No. 245/TLĐ dated on 18th March 2020 issued by General Confederation of Labor in Vietnam about the approval to postpone the remittance deadline of trade union fee for the first 6 months of 2020 to 30th June 2020 for enterprises affected by COVID-19 pandemic (the number of employees participating in social insurance should temporarily take leave is 50% or more). Afterward, in case the COVID-19 epidemic has not been relieved, enterprises still in difficulties, the time will be postponed till 31st December 2020.

Note: In order to postpone the deadline for trade union payment, the enterprise should prepare dossiers to the Falcity Trade Union for seeking approval from Superior Trade Union.

❖ **Public the social insurance payment information of employees**

Pursuant to Point a, Clause 2, Article 38, Decree No. 28/2020/ND-CP issued by Government dated 31st March 2020 prescribed on the sanction for administrative violations in the field of labor, social insurance and

appointing Vietnamese employees to work abroad by contracts:

For the action of failing to annually public social insurance payment information of the employees provided by Social insurance agency, the employer may be fined from 500.000 VND to 1.000.000 VND.

❖ **The employer is not required to announce 15 days in advance the expiration of labor contract**

Clause 1, Article 7, Decree No. 95/2013/ND-CP issued by the Government dated 22nd August 2013 regulated on the sanctions for employers

who fail to notify employees at least 15 days prior to the expired date of the labor contract.

However, Decree No. 28/2020/ND-CP issued by the Government dated 01st March 2020, there is NO SANCTIONS for the above behavior.

Decree No. 28/2020/ND-CP takes effect from 15th April 2020.

Abbreviation:

MOF

Ministry of Finance

GDT

General Department of Taxation

OL

Official Letter

CIT

Corporate Income Tax

PIT

Personal Income Tax

VAT

Value Added Tax

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This newsletter aims to update and summarize general regulations associated with tax, accounting, investment and labor in Vietnam. You should refer to expertise before making decision.