

**GOVERNMENT**

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**SOCIALIST REPUBLIC OF VIETNAM**

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No. 125/2020/ND-CP

*Hanoi, October 19, 2020*

**DECREE**

**REGULATING ADMINISTRATIVE PENALTIES FOR TAX OR INVOICE-RELATED VIOLATIONS**

*Pursuant to the Law on Government Organization dated June 19, 2015;*

*Pursuant to the Law on Administrative Penalties dated June 20, 2012;*

*Pursuant to the Law on Tax Administration dated June 13, 2019;*

*Upon the request of the Minister of Finance;*

*The Government hereby promulgates the Decree, prescribing administrative penalties for tax or invoice-related violations.*

**Chapter I**

**GENERAL PROVISIONS**

**Article 1. Scope and subjects of application**

1. Scope of application:

This Decree sets out regulations on administrative violations, penalty types, rates, remedies, authority to impose penalties and authority to issue administrative penalty notices and several procedures for imposition of penalties for administrative tax or invoice-related violations.

This Decree shall not apply to administrative violations related to fees and charges; administrative violations related to taxes on exported or imported goods of which collection is managed by customs authorities and violations against regulations on tax registration procedures, violations against regulations on notification of temporary business suspension, notification of premature business continuation of entities and persons applying for tax, business, cooperative and business registration with business registration agencies or cooperative registration agencies.

2. Subjects of application

a) Taxpayers;

b) All-level tax officers or authorities;

c) Other entities and persons involved in the implementation of tax or invoice-related legislation.

## **Article 2. Interpretation**

For the purposes of sanctioning administrative violations arising from taxation or invoicing activities, terms used herein shall be construed as follows:

1. Tax-related administrative violation means an act performed through an entity or person's fault in breach of the provisions of the laws on tax administration, taxes and other collections (e.g. land levies; land rents, water surface rents; fees for grant of mineral rights; fees for grant of water abstraction rights; after-tax profits remaining after setting aside a part of them to set up funds of enterprises whose 100% charter capital is held by the State; distributable dividends and profits on the state investments in joint-stock companies or multiple-member limited liability companies), which is not a crime and is bound by laws to be subject to administrative penalties.

2. Invoice-related administrative violation means an act performed through an entity or person's fault in breach of the provisions of legislation on invoices, which is not a crime and is bound by laws to be subject to administrative penalties.

3. Amount of evaded tax means a sum of tax payable to the state budget under laws on taxes by a taxpayer, which is detected and determined by a competent authority in a tax-related administrative violation or inspection (examination) report.

4. Tax authority's instructional document regarding the results of a tax liability determination means an administrative document issued by a tax authority at any relevant level in order to instruct one or more taxpayers to fulfill their tax obligations in particular cases.

5. Tax authority's decision on handling of the results of the determination of tax liability of a taxpayer means a tax refund decision issued in response to the results of a pre-refund examination; a tax exemption or reduction decision; a decision on extension of a deadline for submission of a tax return; a decision on handling of deducted or refunded value added taxes or losses carried forward which are specified in a decision on imposition of an administrative penalty or a decision for remedial actions.

6. Starting day following the time limit specified in Article 10, 11, 13, 14 or 19 herein means the first day after the expiry date of a time limit for discharge of responsibilities and obligations of a person or entity under laws on tax administration. In case where an extension is allowed, the starting day following the time limit shall be the first day after the expiry date of an extended time limit.

7. Complex matter or case means an issue detected after tax examination or inspection occurring at a taxpayer's office; an issue on which specialized or professional entities need to be consulted; an issue arising from an act of making a false tax declaration leading to the underpaid tax amount or the increased tax exemption, reduction or refund, or an act of tax evasion.

8. Extremely serious matter or case means an issue arising from an act of making a false tax declaration leading to the underpaid tax amount or the increased tax refund, or an act of tax evasion, for at least three tax periods.

9. Violation discovery date means the date on which, while on duty, a competent person makes a record of an administrative violation committed by a person or entity subject to an administrative penalty for a violation arising from tax or invoice-related activities.

### **Article 3. Persons or entities subject to administrative penalties for tax or invoice-related violations**

1. Persons or entities subject to administrative penalties for tax or invoice-related violations, including:

a) Individual taxpayers committing tax or invoice-related administrative violations.

In case where a taxpayer authorizes another entity or person to fulfill tax-related obligations subject to laws on taxes and tax administration under which a trusted party's obligations and duties to act on a taxpayer's behalf are prescribed, and the trusted party commits any administrative violation prescribed herein, the trusted party (either person or entity) shall be sanctioned as per this Decree.

In case where, as provided by legislation on taxes and tax administration, an entity and person obliged to act on a taxpayer's behalf to make tax registration, declaration or payment commits any violation prescribed in this Decree, that trusted entity or person shall be subject to the relevant tax-related administrative penalty stated herein.

b) Entities and persons involved in tax or invoice-related administrative violations.

2. Corporate taxpayers subject to tax or invoice-related administrative penalties, including:

a) Enterprises established and operated under the provisions of the Law on Enterprises, the Law on Investment, the Law on Credit Institutions, the Law on Insurance Business, the Law on Securities, the Law on Petroleum, the Law on Commerce and other legislative documents, dependent units of enterprises and places of business directly declaring, paying taxes and using invoices;

b) Public and non-public service units;

c) Entities established and operated under the Law on Cooperatives;

d) Foreign entities and enterprises, branches and representative offices of foreign traders, and executive offices of foreign contractors in Vietnam, which are doing business or generating income in Vietnam;

dd) State regulatory authorities performing any act violating taxation and invoice regulations though such act does not fall under their assigned duties;

e) Cooperative associations and other entities established under laws.

**Article 4. Acts of using illegal invoices or evidencing documents; acts of illegally using invoices or evidencing documents**

1. Using the invoices or evidencing documents mentioned hereunder constitutes the act of using illegal invoices or evidencing documents:

a) Counterfeit invoices and evidencing documents;

b) Invoices and evidencing documents not yet valid or expired;

c) Invoices suspended during the period of enforcement of the invoice suspension penalty, except those permitted for use according to a tax authority's notice;

d) E-invoices which are not registered with any tax authority;

dd) E-invoices of which tax authority's codes have not yet been granted if they are subject to the regulation under which e-invoices with tax authority's codes are required;

e) Invoices for purchase of goods or services with the invoicing date specified thereon which falls within the period from the date on which a tax authority determines that the seller is not doing business at the address registered with a competent regulatory authority;

g) Invoices or evidencing documents for purchase of goods or services with the invoicing date before the date on which it is determined that the invoicing party are not doing business at the address registered with a competent regulatory authorities or, though the invoicing party's notification of the closing of their business at the address already registered with the competent regulatory authority has not been sent to the tax authority, the tax authority or the police authority or other regulatory agency establishes that they are illegal.

2. Using the invoices or evidencing documents in the following cases constitutes the act of illegally using invoices or evidencing documents:

a) Invoices or evidencing documents that do not contain all compulsory contents as prescribed; invoices on which information is erased or corrected in breach of regulations;

b) Fraudulent invoices or evidencing documents (i.e. invoices or evidencing documents containing details about goods and services which are not partially or entirely rendered); invoices incorrectly reflecting amounts due, or invoices issued as fraudulent, false or fake ones;

c) Invoices with discrepancies in amounts paid for goods or services rendered, or discrepancies in required data fields between an invoice's copies;

d) Issued invoices reused with fictitious information for the purpose of transporting goods at the circulation stage or invoices for goods or services which are used for evidencing the rendering of the other goods or services;

dd) Invoices or evidencing documents of other entities or persons (except if invoices are received from tax authorities and issued under trust) used for certifying the purchased goods or services or the sold goods or services;

e) Invoices or evidencing documents in the case where the tax, police or other regulatory authority concludes that they are used illegally.

## **Article 5. Sanctioning principles**

1. Imposing administrative penalties for tax or invoice-related violations must conform to laws on tax administration and handling of administrative violations.

2. Entities and persons shall be subject to administrative penalties for tax or invoice-related violations only if they commit tax or invoice-related violations under the provisions of this Decree.

3. If an entity or person commits multiple administrative violations, a penalty for each violation shall be imposed, except in the following cases:

a) If a taxpayer makes incorrect declarations in one or more required data fields contained in tax files for the same tax type at a time, the act of making such incorrect declarations falling into the case of imposition of penalties for violations arising from the implementation of tax procedures shall only be subject to the penalty for the act of making incorrect declarations in tax files of which the amount is highest amongst other penalties for those acts committed as provided herein, and shall be treated as the violation committed repeatedly under the aggravating circumstances;

b) If a taxpayer makes incorrect declarations in one or more required data fields contained in tax files for the same tax type at a time, the act of making such incorrect declarations falling into the case of imposition of penalties for violations arising from the implementation of tax procedures shall only be subject to the penalty for the act of making incorrect declarations in tax files of which the amount is highest amongst other penalties for those acts of the same class committed as provided herein, and shall be treated as the violation committed repeatedly under aggravating circumstances.

In case where there is any late tax return classified as an act of tax evasion, out of all late tax returns, this violation shall be separately sanctioned in the same manner as acts of tax evasion;

c) If, at the same time, a taxpayer delays submitting a number of invoice-related notices and reports of the same kind, the violating taxpayer shall be fined for their act of deferred submission of invoice-related notices or reports at the amount which is highest amongst other fines for those acts of the same class committed as provided herein, and shall be treated as the repeated violation committed under aggravating circumstances;

d) Any violation arising from use of illegal invoices or illegal use of invoices which is classified into those violations subject to penalties prescribed in Article 16 and 17 herein shall not be fined under Article 28 herein.

4. In case where an administrative procedure includes a number of documents of which more than one violation is prescribed herein, the violating entity or person shall be fined for each of the violations that they have committed.

5. For a tax or invoice-related administrative violation, if an entity commits such violation, they must be fined two times as much as the amount of penalty imposed on persons, except the amounts of penalty for the acts prescribed in Article 16, 17 and 18 herein.

#### **Article 6. Mitigating factors, aggravating factors arising in the tax or invoice sector**

1. Aggravating factors or mitigating factors shall be subject to legislative regulations on handling of administrative violations.

2. Any administrative violation with the underpaid tax amount, the evaded tax amount, the higher-than-prescribed amount of tax exemption, reduction or refund which is at least VND 100,000,000, or the value of goods or services rendered which is at least VND 500,000,000, shall be determined as a large-scale tax-related administrative violation as prescribed at Point 1, Clause 1, Article 10 of the Law on Handling of Administrative Violations. Any administrative violation involving at least 10 invoice numbers shall be determined as a large-scale invoice-related administrative violation under point 1, clause 1, Article 10 in the Law on Handling of Administrative Violations.

#### **Article 7. Sanctioning forms, remedies and principles of imposition of fines for tax or invoice-related administrative violations**

1. Main sanctioning forms

b) Cautions

Cautions shall be applicable to violations arising from implementation of tax or invoice-related procedures which are not serious, are committed under mitigating circumstances and are classified as those subject to cautions under this Decree.

b) Fines

Fines not greater than VND 100,000,000 shall be imposed on entities committing invoice-related violations. Fines not greater than VND 50,000,000 shall be imposed on entities committing invoice-related violations.

Fines not greater than VND 200,000,000 shall be imposed on taxpayers that are entities committing tax-related violations. Fines not greater than VND 100,000,000 shall be imposed on taxpayers that are persons committing tax-related violations.

A fine which equals 20% of the underpaid tax amount or the higher-than-prescribed amount of tax exemption, reduction or refund shall be imposed for any violation arising from the act of false declaration leading to the underpayment of tax amount or the increase in the amount of tax exemption, reduction or refund.

A fine which is 1 or 3 times as much as the evaded tax amount shall be imposed for any tax evasion act.

A fine corresponding to the amount which has not yet paid into the state budget account shall be imposed for any act of violation stipulated in point 1 of Article 18 herein.

2. Other supplementary penalties: The temporary suspension of the invoice printing business shall be enforced.

### 3. Remedies

a) Compelling the full payment into the state budget in case of the underpayment of tax amounts, the higher-than-prescribed enjoyment of tax exemption, reduction or refund.

b) Compelling the re-adjustment of losses, the carried-forward amounts of input VAT deductions.

c) Compelling the submission of the application for changes in tax registration information; the re-submission and supplementary submission of documents included in tax returns; the submission of tax returns and appendices; the provision of information.

d) Compelling the implementation of regulatory procedures for the release of invoices.

dd) Compelling the issuance of invoices as required by laws.

e) Compelling the cancellation or destruction of invoices and related printouts.

g) Compelling the issuance and submission of invoice-related notices or reports.

h) Compelling the transfer of electronic invoice data.

i) Compelling the disgorgement of illegal gains from commission of administrative violations.

### 4. Principles of determination of fine amounts

a) The fine amounts specified in Article 10, 11, 12, 13, 14 and 15; clause 1 and 2 of Article 19; and Chapter III herein, shall be those applied to violating entities.

Taxpayers that are family households or sole proprietorship households shall be fined the same as violating persons.

b) When determining the fine amounts imposed on the taxpayers that commit violations under both aggravating and mitigating circumstances, the aggravating circumstance shall be reduced or relieved according to the one-for-one rule under which a mitigating circumstance is offset against a aggravating circumstance.

c) Any mitigating or aggravating circumstance which is already used as a basis for determining the fine range for a violation shall not be used for determination of the specific fine amount under the provisions of point d of this clause.

d) With respect to fines, the specific amount of fine for a violation arising from the implementation of tax or invoice-related procedures as prescribed in Article 19 herein must be the average of specific fines in the range for such violation. For a mitigating circumstance that exists, the average fine for a violation in the fine range shall be reduced by 10% provided that the fine amount imposed for such violation is not lower than the minimum fine in that range. Meanwhile, for an aggravating circumstance that exists, the average fine for a violation in the fine range shall be increased by 10% provided that the fine amount imposed for such violation is not greater than the maximum fine in that range.

**Article 8. Time limits for imposition of tax and invoice-related administrative violations; duration for considering none of penalties is imposed; reversal period of back taxes**

1. Time limits for imposition of invoice-related administrative penalties

a) Time limit for imposition of an invoice-related administrative penalty shall be 01 year.

b) Start dates of time limits for imposition of invoice-related administrative penalties shall be regulated as follows:

As for in-progress administrative violations which are stipulated in point c of this clause, the time limits for imposition of administrative penalties for these violations shall start from the dates on which competent law enforcement officers detect such violations.

As for completed administrative violations which are stipulated in point d of this clause, the time limits for imposition of administrative penalties for these violations shall start from the dates on which these violations terminate.

c) In-progress invoice-related administrative violations constitute those prescribed in clause 4 of Article 21; point b of clause 2 and clause 3 of Article 23; clause 2 and 5 of Article 24; point b of clause 3 of Article 25; point b of clause 2 and point b, c and d of clause 3 of Article 27; point b of clause 5 of Article 29; point b of clause 3 of Article 30 herein.

d) Invoice-related administrative violations which are not classified as those prescribed in point c of this clause constitute completed administrative violations. The time of termination of an act of violation is the date of commission of that act.



As for acts that cause the loss, burning of or damage to invoices, if the occurrence date cannot be defined, the time of termination of such act shall be the date of discovery of these events.

As for acts of violation against regulations on invoice-related notification or reporting time limits referred to in clause 1 and 3 of Article 21; point a and b of clause 1, point c and d of clause 2 of Article 23; clause 1 and 2 and point a of clause 3 of Article 25; clause 1, point a of clause 2, 3 and 4 and point a of clause 5 of Article 29 herein, the time of termination of these acts shall be the date on which taxpayers submit invoice-related notifications or reports.

## 2. Time limits for imposition of tax-related administrative penalties

a) Time limit for imposition of penalties for administrative violations against regulations on tax-related procedures shall be 02 years from the date of commission of these violations.

The date of commission of an administrative violation against regulations on tax procedures shall be the date succeeding the statutory deadline for completion of regulatory tax-related procedures under laws on tax administration, except the following cases:

As for acts prescribed in clause 1, point a and b of clause 2, clause 3 and point a of clause 4 of Article 10; clause 1, 2, 3, 4 and point a of clause 5 of Article 11; clause 1, 2, 3 and point a, b of clause 4, clause 5 of Article 13 herein, the date of commission of any of these acts which is accepted as the start date of that time limit shall be the date on which taxpayers apply for tax registrations or notify tax authorities or file tax returns.

As for acts prescribed in point c of clause 2, point b of clause 4 of Article 10; point b of clause 5 of Article 11; point c and d of clause 4 of Article 13 herein, the date of commission of these acts which is accepted as the start date of that time limit shall be the date on which competent law enforcement officers detect these acts.

b) Time limit for imposition of administrative penalties for the act of tax evasion committed not to the extent that a criminal action is brought, or the act of making false declarations leading to the underpaid tax amount or the increased amount of tax exemption, reduction or refund, shall be 05 years from the date of commission of any of such acts.

The date of commission of the act of making false declaration resulting in the underpaid tax amount or the increased amount of tax exemption, reduction or refund or the act of tax evasion (except the act prescribed in point a of clause 1 of Article 17 herein) is the date following the deadline for submission of tax returns within the tax term for which violating taxpayers make declarations causing tax shortfall, tax evasion, or the date succeeding the date of a competent authority's issuance of the tax refund, exemption or reduction decision.

As for acts of failure to submit tax registration applications or failure to submit tax returns as prescribed in point a of clause 1 of Article 17 herein, the date of commission of these acts which is accepted as the start date of that time limit shall be the date on which competent law enforcement officers detect these acts. As for the act of submitting tax returns after the prescribed 90-day duration prescribed in point a of clause 1 of Article 17 herein, the date of

commission of this act which is accepted as the start date of that time limit shall be the date on which taxpayers submit their tax returns.

3. For legal matters or cases that are accepted and settled by criminal procedure-conducting agencies, if they then issue the decision not to institute criminal proceedings, the decision to cancel the decision to institute criminal proceedings, the decision to terminate the investigation or dismiss the case, against the act showing any sign of a tax or invoice-related administrative violation, within 03 days from the date of issuance of any of such decisions, they must transfer any of the stated decisions, enclosing relevant documents, exhibits and means of commission of the violation, and the request for imposition of administrative penalties to the persons having jurisdiction to sanction tax and invoice-related administrative violations. Time limits for imposition of administrative penalties shall be subject to regulations laid down in clause 1 and 2 of this Article. The period of acceptance and consideration of these legal matters or cases shall be included in the time limit for imposition of administrative penalties.

4. Within time limits specified in clause 1 and 2 of this Article, if a violating entity or person evades or militates against penalties, time limits for imposition of administrative penalties shall be reset, starting from the time of abandonment of acts of evading or militating against penalties.

5. Duration for considering none of penalties for tax or invoice-related administrative violations is imposed

If sanctioned entities or persons do not commit repeat violations within 06 months from the date of the completed execution of the decision to impose a penalty in form of a caution or within 01 year from the completed execution of other administrative penalty decisions, or after the expiry date of the time limit for execution of penalty decisions, it shall be considered that they have not been subject to any administrative penalty for such violations.

The date of the completed execution of the decision to impose a penalty in form of a caution is the date on which an administrative penalty decision is given or sent to sanctioned entities or persons under the provisions of Article 39 herein.

6. Reversal period of unpaid back taxes

a) After the time limit for imposition of tax-related administrative penalties expires, taxpayers shall not be sanctioned, but remain obligated to fully pay the state budget all back taxes (underpaid tax amounts, evaded tax amounts, higher-than-prescribed amounts of tax exemption, reduction or refund, or deferred tax amounts) that have accrued over a period of 10 years before the date of discovery of violations. Taxpayers that do not make tax registration shall have to fully pay underpaid tax amounts, evaded tax amounts or deferred tax amounts that accrue over the entire period before the date of discovery of violations.

b) Regulations on the reversal period of unpaid back taxes laid down in point a of this clause shall only be applied to taxes subject to tax legislation and other collections which entities or persons must, on their own, declare and pay the state budget.

As for land-derived or other collection, if financial obligations of entities or persons arising from these collections are determined under competent regulatory authorities' jurisdiction, these authorities shall determine the reversal period of back taxes under land and other relevant legislation which is not less than the reversal period prescribed in point a of this clause.

### **Article 9. Exceptions to tax or invoice-related administrative penalties**

1. Exceptions to administrative penalties prescribed in laws on handling of administrative violations shall be treated as the exceptions to tax or invoice-related administrative penalties.

Taxpayers' delay in carrying out electronic tax or invoice-related procedures due to technical problems of information technology systems that are informed on tax authorities' web portals shall constitute the act of violation caused by force majeure events under the provisions of clause 4 of Article 11 in the Law on Handling of Administrative Violations.

2. Taxpayers' commission of tax-related administrative violations due to the execution of instructional documents, decisions to respond to such violations of competent tax authorities or state regulatory agencies related to the tasks of determining taxpayer's tax obligations (including those issued before the effective date of this Decree) shall be treated as exceptions to administrative penalties for tax-related violations or fines for late payment of taxes, except if taxpayers' tax-related administrative violations are discovered after receipt of conclusions of tax inspections and examinations carried out at the taxpayer's offices that none of the taxpayer's defects arising from the declaration and calculation of taxes payable or tax exemptions, reductions or refunds have been discovered yet.

3. If, after making the false declaration, the taxpayer has supplemented tax returns and, of their own accord, has paid taxes before the time of the tax authority's announcement of their decisions to conduct tax inspections or examinations at the taxpayer's offices, or before the time of the tax authority's discovery thereof without needing to carry out these inspections or examinations, or before the time of other competent authorities' discovery thereof, the act of false declaration committed in this situation shall be exempted from any tax-related administrative penalties.

4. None of administrative penalties for tax-related violations shall be imposed upon persons directly carrying out personal income tax finalization procedures if they delay filing personal income tax finalization applications to claim their tax refunds; upon sole proprietorship households and sole proprietors subject to taxation or fixing of the constant tax rates as provided in Article 51 of the Law on Tax Administration.

5. During the extension of the time limit for tax return submission, taxpayers shall be exempted from any administrative penalties for violations related to the time limit for submission of tax returns.

## **Chapter II**

### **TAX-RELATED ADMINISTRATIVE VIOLATIONS, FORMS OF PENALTY AND REMEDIES**

## **Section 1. TAX-RELATED ADMINISTRATIVE PENALTIES IMPOSED ON VIOLATING TAXPAYERS**

### **Article 10. Penalties for violations against regulations on tax registration time limits; notification of temporary business suspension; notification of premature business continuation**

1. Penalties imposed in form of cautions shall be imposed for violations arising from making tax registration; notifying the temporary business suspension; notifying the premature business continuation from 1 to 10 days after expiration of the prescribed time limits under mitigating circumstances.

2. Fines ranging from VND 1,000,000 to VND 2,000,000 shall be imposed for one of the following violations:

a) Making tax registration; notifying the premature business continuation from 1 to 30 days after expiration of the prescribed time limits, except the cases prescribed in clause 1 of this Article;

b) Notifying the temporary business suspension after expiration of the time limits, except the cases prescribed in clause 1 of this Article;

c) Failing to notify the temporary business suspension.

3. Fines ranging from VND 3,000,000 to VND 6,000,000 shall be imposed for violations arising from making tax registration; notifying the premature business continuation from 31 to 90 days after expiration of the prescribed time limits.

4. Fines ranging from VND 6,000,000 to VND 10,000,000 shall be imposed for one of the following violations:

a) Making tax registration; notifying the premature business continuation from at least 91 days after expiration of the prescribed time limits;

b) Failing to notify the premature business continuation without any more taxes incurred.

### **Article 11. Penalties for violations against regulations on time limits for notification of changes in tax registration information**

1. Cautions shall be given as a form of penalty imposed for the following violations:

a) Notifying changes in tax registration information from 01 to 30 days after expiration of the prescribed time limits without entailing any change in tax registration certificates or tax identification number notifications under mitigating circumstances;

b) Notifying changes in tax registration information from 01 to 10 days after expiration of the prescribed time limits if such changes entail any change in tax registration certificates or tax identification number notifications under mitigating circumstances.

2. Fines ranging from VND 500,000 to VND 1,000,000 shall be imposed for the act of notifying changes in tax registration information from 01 to 30 days after expiration of the prescribed time limits without entailing any change in tax registration certificates or tax identification number notifications, except the cases specified in point a of clause 1 of this Article.

3. Fines ranging from VND 1,000,000 to VND 3,000,000 shall be imposed for one of the following violations:

a) Notifying changes in tax registration information from 31 to 90 days after expiration of the prescribed time limits without entailing any change in tax registration certificates or tax identification number notifications;

b) Notifying changes in tax registration information from 01 to 30 days after expiration of the prescribed time limits if such changes entail any change in tax registration certificates or tax identification number notifications, except as specified in point b of clause 1 of this Article.

4. Fines ranging from VND 3,000,000 to VND 5,000,000 shall be imposed for one of the following violations:

a) Notifying changes in tax registration information at least 91 days after expiration of the prescribed time limits without entailing any change in tax registration certificates or tax identification number notifications;

b) Notifying changes in tax registration information from 31 to 90 days after expiration of the prescribed time limits if these changes entail any change in tax registration certificates or tax identification number notifications.

5. Fines ranging from VND 5,000,000 to VND 7,000,000 shall be imposed for one of the following violations:

a) Notifying changes in tax registration information at least 91 days after expiration of the prescribed time limits if these changes entail any change in tax registration certificates or tax identification number notifications;

b) Failing to notify changes of information contained in tax registration applications.

6. Regulations laid down in this Article shall be applied to the following cases:

a) Non-business persons who have been granted personal income tax identification codes delay in registering changes in their ID information after receipt of 12-digit ID cards;

b) Income payers delay in registering changes from ID cards to 12-digit ID cards of PIT payers that are persons granting authorization to complete PIT finalization procedures;

c) Notifying changes in information about taxpayer's address contained in tax registration applications after expiration of the prescribed time limits due to any change in administrative jurisdictions under the Resolutions of the National Assembly's Standing Committee or National Assembly.

7. Remedies: Compelling the submission of application for changes in tax registration information in case of committing the act specified in point b of clause 5 of this Article.

**Article 12. Penalties for acts of making false or incomplete declaration of information contained in tax dossiers that do not lead to any deficiency in taxes payable or any increase in amounts of tax exemption, reduction or refund**

1. Fines ranging from VND 500,000 to VND 1,500,000 shall be imposed for acts of making false or incomplete declaration of information required in data fields of tax dossiers which are not related to the determination of tax obligations, except the acts prescribed in clause 2 of this Article.

2. Fines ranging from VND 1,500,000 to VND 2,500,000 shall be imposed for acts of making false or incomplete declaration of information required in data fields of tax declaration forms and enclosed annexes which are not related to the determination of tax obligations.

3. Fines ranging from VND 5,000,000 to VND 8,000,000 shall be imposed for one of the following violations:

a) Falsely or incompletely filling out data fields related to the determination of tax obligations in tax dossiers;

b) Performing the acts prescribed in clause 3 of Article 16; clause 7 of Article 17 herein.

4. Remedies:

a) Compelling the provision of corrected information and the submission of supplementary documents or records in tax dossiers in case of commission of the acts prescribed in clause 1 and 2 and point a of clause 3 of this Article;

b) Compelling the re-adjustment of losses, the carried-forward amounts of input VAT deductions (if any) in case of commission of the acts prescribed in clause 3 of this Article.

**Article 13. Penalties for violations against regulations on time limits for submission of tax returns**

1. Penalties imposed in form of cautions shall be imposed for violations arising from filing tax returns from 01 to 05 days after expiration of the prescribed time limits under mitigating circumstances.

2. Fines ranging from VND 2,000,000 to VND 5,000,000 shall be imposed for the act of submitting tax returns from 01 to 30 days after expiration of the prescribed time limits, except the cases specified in clause 1 of this Article.

3. Fines ranging from VND 5,000,000 to VND 8,000,000 shall be imposed for the act of submitting tax returns from 31 to 60 days after expiration of the prescribed time limits.

4. Fines ranging from VND 8,000,000 to VND 15,000,000 shall be imposed for one of the following violations:

a) Filing tax returns from 61 to 90 days after expiration of the prescribed time limits;

b) Filing tax returns at least 91 days after expiration of the prescribed time limits if none of additional taxes is incurred;

c) Failing to submit tax returns if none of additional taxes is incurred;

d) Failing to submit annexes under regulations regarding tax administration by enterprises having related-party transactions, enclosing CIT finalization dossiers.

5. Fines ranging from VND 15,000,000 to VND 25,000,000 shall be imposed for the act of filing tax returns more than 90 days after the prescribed deadline if such act results in additional taxes to be paid, and the taxpayer has fully paid taxes, deferred amounts into the state budget before the time of the tax authority's announcement of the decision on tax inspection and examination, or before the time of the tax authority's issuance of the report on the deferred submission of tax returns under the provisions of clause 11 of Article 143 in the Law on Tax Administration.

In case where the fine amount prescribed in this clause is greater than the tax amount additionally incurred in the tax return, the maximum amount of fine for this act shall be equal to the tax amount payable specified in the tax return and shall not be less than the average of fine amounts in the range prescribed in clause 4 of this Article.

6. Remedies:

a) Compelling the full payment of deferred tax amounts into the state budget with respect to the commission of the acts prescribed in clause 1, 2, 3, 4 and 5 of this Article if the taxpayer delays filing their tax return, leading to the late payment of taxes;

b) Compelling the submission of tax returns, enclosing annexes, in case of committing the acts specified in point c and d of clause 4 of this Article.

**Article 14. Penalties for violations against regulations on the provision of information about the determination of tax obligations**

1. Fines ranging from VND 2,000,000 to VND 3,000,000 shall be imposed for one of the following violations:

a) Providing statutory information, documents and records related to tax registration according to notifications issued by tax authorities at least 05 working days after expiration of the prescribed time limits;

b) Providing statutory accounting information, documents and records related to the determination of tax obligations according to notifications issued by tax authorities at least 05 working days after expiration of the prescribed time limits.

2. Fines ranging from VND 3,000,000 to VND 5,000,000 shall be imposed for one of the following violations:

a) Failing to provide, or incompletely or inaccurately providing, information, documents, records, invoices or accounting books related to the determination of tax obligations; incompletely or inaccurately providing account numbers, balances of deposit accounts, checking accounts for competent authorities upon their request;

b) Failing to provide, or incompletely or wrongly providing, information or data related to tax obligations of which registration must be made under regulations on condition that this act does not result in any reduction in tax obligations to the state budget;

c) Failing to provide, or incompletely or inaccurately providing, information, documents related to deposit accounts, checking accounts opened at credit institutions, state treasuries, or debts of related third parties, for competent tax authorities upon their request.

3. Remedies: Compelling the provision of information with respect to the acts specified in clause 2 of this Article.

**Article 15. Administrative penalties for violations against regulations on compliance with decisions on tax inspection and examination, enforcement of tax-related administrative decisions**

1. Fines ranging from VND 2,000,000 to VND 5,000,000 shall be imposed for one of the following violations:

a) Rejecting decisions on tax inspection and examination, decisions on enforcement of tax-related administrative decisions which are sent or delivered by tax authorities under laws;

b) Failing to execute tax inspection and examination decisions at least 03 days after the deadline for compulsory execution of decisions of competent authorities after the prescribed time limit;



c) Providing documents, records, invoices, accounting vouchers and books related to tax obligations 6 working hours after the prescribed time limit, upon receipt of requests from competent authorities during tax examination or inspection visits at taxpayers' offices or premises;

d) Incompletely or inaccurately providing information, documents, accounting records and books related to the determination of tax obligations upon competent authorities' request during tax examination or inspection visits at taxpayers' offices or premises;

dd) Failing to sign a record of the tax examination or inspection within 05 working days from the date of issuance or public announcement of the record.

2. Fines ranging from VND 5,000,000 to VND 10,000,000 shall be imposed for one of the following violations:

a) Failing to provide data, documents, accounting records and books related to the determination of tax obligations upon competent authorities' request during tax examination or inspection visits at taxpayers' offices or premises;

b) Failing to carry out, or unduly carrying out, decisions on security sealing of documents, records, reconciliation of funds, stocktaking of goods, input materials, supplies, machinery, equipment, workshops and facilities;

c) Deliberately removing or changing security seal signs lawfully created by competent agencies.

3. Remedies: Compelling the provision of accounting information, documents and records related to the determination of tax obligations with respect to acts of violation prescribed in point d of clause 1 and point a of clause 2 of this Article.

#### **Article 16. Penalties for act of making false declaration that causes any deficiency in taxes payable or any increase in amounts of tax exemption, reduction or refund**

1. A fine which equals 20% of the underpaid tax amount or the higher-than-prescribed amount of tax exemption, reduction or refund shall be imposed for any of the following violations:

a) Making false declaration of tax bases or deductible tax amounts or incorrectly determining cases of tax exemption, reduction or refund, resulting in any deficiency in tax amounts payable or any increase in amounts of tax exemption, reduction or refund though economic activities have already been fully recorded in legitimate accounting books, invoices and evidencing documents;

b) Making false declaration causing any reduction in payable tax amounts or any increase in amounts of tax exemption, reduction or refund, which does not fall into the case specified at point a of this clause though the violating taxpayer has voluntarily made a supplementary declaration and fully paid unpaid back taxes or tax arrears to the state budget prior to the deadline for the tax authority's tax inspection and examination at taxpayers' offices or premises;

c) Making false declarations leading to any reduction in payable tax amounts or any increase in amounts of tax exemption, reduction or refund which have been determined by competent agencies' tax inspection and examination or administrative violation records as an act of tax evasion if the violating taxpayer commits the first administrative violation regarding tax evasion, has made additional declarations and fully paid tax amounts owed to the state budget before the time of the competent agency's issuance of the sanctioning decision, and the tax authority has made a written record stating that this act is an act of false declaration leading to any deficiency or underpayment of taxes payable;

d) Making false declarations leading to any deficiency or underpayment of taxes payable or any increase in amounts of tax exemption reduction or refund in case of related-party transactions though the taxpayer has made market price determination dossiers, or has made and sent annexes to tax authorities as per regulations on tax administration applicable to enterprises with related-party transactions;

dd) Using illegal invoices or evidencing documents for keeping accounting records of values of purchased goods or services to reduce taxes payable or increase amounts of tax refund, reduction or refund but, after the tax authority's discovering this act through their tax inspection and examination, the buyer succeeds in proving that this act is performed through the seller's fault and fully keeping accounts of these values in accordance with regulations.

## 2. Remedies:

a) Compelling the full payment of underpaid or deficient taxes or higher-than-prescribed amounts of tax refund, exemption or reduction, or deferred taxes, into the state budget with respect to the acts prescribed in clause 1 of this Article.

If the sanctioning time limit expires, the taxpayer that is not sanctioned under the provisions of clause 1 of this Article must fully pay underpaid or deficient taxes or higher-than-prescribed amounts of tax refund, exemption or reduction, or deferred taxes, into the state budget within the time limits prescribed in clause 6 of Article 8 herein;

b) Compelling the re-adjustment of losses, the carried-forward amounts of input VAT deductions (if any) in case of commission of the acts prescribed in clause 1 of this Article.

3. In case where the taxpayer makes false declarations as provided in point a, b and d of clause 1 of this Article which do not lead to any deficiency or underpayment of taxes payable or any increase in amounts of tax exemption, reduction or refund, they shall not be sanctioned according to this Article, but shall be sanctioned according to clause 3 of Article 12 herein.

## **Article 17. Penalties for the act of tax evasion**

1. The fine which equals the amount of evaded tax shall be imposed on the taxpayer committing any of the following violations under at least a mitigating circumstance:

a) Failing to submit tax registration applications; failing to file tax returns or filing tax returns 90 days after the deadline or the extended deadline for submission of tax returns, except the cases prescribed in point b and c of clause 4 and 5 of Article 13 herein;

b) Failing to keep accounting entries of amounts collected from the determination of taxes payable, any deficiency in taxes amounts due to non-declaration or false declaration or any increase in amounts of tax refund, exemption or reduction, except the acts prescribed in Article 16 herein;

c) Failing to issue invoices for sale of goods or provision of services, except the cases where the taxpayer has recorded taxes on sold goods or supplied services in the corresponding tax term; issuing invoices for sale of goods or provision of services in which the invoiced items and amounts based on which tax declaration is made are less than those that actually exist if this act is discovered after the deadline for submission of tax returns;

d) Using illegal invoices; illegally using invoices for declaring taxes with the intention of reducing taxes payable or increasing amounts of tax refund, exemption or reduction;

dd) Using illegal evidencing documents; illegally using evidencing documents; using evidencing documents or records that do not correctly reflect the nature of transactions or actual values of these transactions for the purpose of falsely determining taxes payable, amounts of tax exemption, reduction or refund; preparing documents or records on destruction of supplies or goods which are not real, resulting in any reduction in taxes payable or any increase in amounts of tax refund, exemption or reduction;

e) Using goods not subject to taxes, or those qualified for tax exemption or consideration of tax exemption, to frustrate the prescribed purposes without informing tax authorities about the conversion of these purposes or registering tax declarations with tax authorities;

g) The violating taxpayer performs business activities during the period of business closure or temporary suspension without informing tax authorities, except the cases prescribed in point b of clause 4 of Article 10 herein.

2. The fine which is 1.5 times as much as the amount of evaded tax shall be imposed on any taxpayer committing one of the violations prescribed in clause 1 of this Article under neither aggravating nor mitigating circumstances.

3. The fine which is 2 times as much as the amount of evaded tax shall be imposed on any taxpayer committing one of the violations prescribed in clause 1 of this Article under an aggravating circumstance.

4. The fine which is 2.5 times as much as the amount of evaded tax shall be imposed on any taxpayer committing one of the violations prescribed in clause 1 of this Article under two aggravating circumstances.

5. The fine which is 3 times as much as the amount of evaded tax shall be imposed on any taxpayer committing one of the violations prescribed in clause 1 of this Article under at least three aggravating circumstances.

6. Remedies:

a) Compelling the full payment of evaded taxes into the state budget with respect to the acts prescribed in clause 1, 2, 3, 4 and 5 of this Article.

If the sanctioning time limits for the acts of tax evasion prescribed in clause 1, 2, 3, 4 and 5 of this Article expire, taxpayers that are not sanctioned must fully pay the amounts of evaded tax, deferred tax calculated based on the amounts of evaded tax into the state budget according to the time limits prescribed in clause 6 of Article 8 herein.

b) Compelling the re-adjustment of losses, the amounts of input VAT deductions specified in tax dossiers (if any) in case of commission of the acts prescribed in clause 1, 2, 3, 4 and 5 of this Article.

7. If any of the acts prescribed in point b, dd and e of clause 1 of this Article is discovered after expiration of the time limit for submission of tax returns, which causes neither any reduction in taxes payable or tax refunds, nor any increase in amounts of tax exemption or reduction, such act shall be subject to administrative penalties stipulated in clause 3 of Article 12 herein.

## **Section 2. PENALTIES FOR TAX-RELATED ADMINISTRATIVE VIOLATIONS ON COMMERCIAL BANKS AND OTHER RELATED ENTITIES OR PERSONS**

### **Article 18. Tax-related administrative penalties on violating commercial banks, tax payment guarantor**

1. Fines equaling the amounts of tax, the deferred amounts of tax or the fines not paid into the state budget (minus minimum balances of demand accounts subject to regulations of commercial banks providing fiduciary payment services for taxpayers) shall be imposed upon commercial banks defaulting on liabilities to withdraw money from taxpayer's accounts to pay into the state budget's accounts upon tax authority's request, except when taxpayer's accounts opened at these commercial banks have zero balance, or all balance has been left zero due to the remittance of all money left in taxpayer's accounts to the state budget's accounts if such remittance is not sufficient to pay off all taxes owed by the taxpayer.

2. Guarantors must act on taxpayers' behalf to pay taxes, deferred taxes, fines and amounts of interest on late payment of fines (if any) according to terms and conditions of deeds of guarantee if these taxpayers fail to pay into the state budget.

Upon expiration of the term of guarantee, if guarantors have not yet discharged guarantee obligations to taxpayers that fail to pay or have not yet paid outstanding taxes, deferred taxes, fines or amounts of interest on late payment of fine, guarantors shall be charged interest on late

payment of taxes, fines and shall be subject to law enforcement measures prescribed in the Law on Tax Administration.

### **Article 19. TAX-RELATED ADMINISTRATIVE PENALTIES ON RELATED ENTITIES OR PERSONS**

1. Fines ranging from VND 2,000,000 to VND 6,000,000 shall be imposed for the act of providing information, documents or records related to the determination of tax obligations or taxpayers' accounts upon tax authorities' request at least 05 days after expiration of the prescribed time limits.
2. Fines ranging from VND 6,000,000 to VND 16,000,000 shall be imposed for one of the following violations:
  - a) Colluding with and shielding taxpayers evading taxes, failing to execute decisions on enforcement of tax-related administrative actions, except the act of failing to withdrawing and remitting money from taxpayers' accounts as provided in Article 18 herein;
  - b) Failing to provide or inaccurately providing information related to property, rights and obligations to property of taxpayers under their custody; accounts of taxpayers opened at credit institutions or state treasuries.
3. The amounts of fine specified in clause 1 and 2 of this Article are those imposed on entities. The amounts of fine imposed on persons shall conform to the principles prescribed in clause 5 of Article 4 herein.
4. Remedies: Compelling the provision of information with respect to the acts specified in point b of clause 2 of this Article.

## **Chapter III**

### **INVOICE-RELATED ADMINISTRATIVE VIOLATIONS, FORMS OF PENALTY AND REMEDIES**

#### **Article 20. Penalties for violations against regulations on externally printed invoices**

1. Fines ranging from VND 500,000 to VND 1,500,000 shall be imposed for acts of failing to sign invoice printing service contracts or printing externally ordered invoices for use without obtaining any invoice printing decision from representatives as provided in laws
2. Fines ranging from VND 2,000,000 to VND 4,000,000 shall be imposed for acts of ordering the service of printing of invoices after receipt of the supervisory tax authority's written notice of ineligibility to order the invoice printing service, except when the supervisory tax authority does not give any written opinion upon receiving the request for use of externally printed invoices.

3. Fines ranging from VND 20,000,000 to VND 50,000,000 shall be imposed for the act of ordering the service of printing invoices by using sample invoices already released by other entities or persons, or the act of ordering of the service of printing invoices if printed invoices share the same numbers as those having the same invoice symbol.

4. Remedies: Compelling the cancellation of invoices with respect to the acts specified in clause 2 and 3 of this Article.

#### **Article 21. Penalties for violations against regulations on printing of externally ordered invoices**

1. Cautions shall be given as a form of penalty imposed for the following violations:

a) Reporting on the acceptance of the supply of invoice printing service from 1 to 5 days after expiry of the regulated time limit;

b) Reporting on the acceptance of the supply of invoice printing service from 6 to 10 days after expiry of the regulated time limit under any mitigating circumstances.

2. Fines ranging from VND 500,000 to VND 1,500,000 shall be imposed for the act of printing externally ordered invoices without signing any written printing service contract.

3. Fines ranging from VND 2,000,000 to VND 4,000,000 shall be imposed for the act of reporting on the printing of invoices for at least 6 days after the regulated reporting deadline, except the case prescribed in point b of clause 1 of this Article.

4. Fines ranging from VND 4,000,000 to VND 8,000,000 shall be imposed for the act of failing to cancel damaged or redundant printouts upon termination of printing contracts.

5. Fines ranging from VND 6,000,000 to VND 18,000,000 shall be imposed for one of the following violations:

a) Rendering the service of the printing of externally ordered invoices despite failing to meet the prescribed eligibility requirements for printing of invoices;

b) Failing to report on the loss of invoices occurring before delivery to clients.

6. Fines ranging from VND 10,000,000 to VND 20,000,000 shall be imposed for the act of transferring the entire printing process or any stage in the printing process to other printing establishments.

7. Fines ranging from VND 20,000,000 to VND 50,000,000 shall be imposed for the act of printing invoices by using sample invoices already released by other entities or persons, or the act of ordering of the service of printing invoices if printed invoices share the same numbers as those having the same invoice symbol.

8. Other supplementary penalties: Suspending the printing service for the period from 01 month to 03 months from the effective date of penalty decisions with respect to the acts prescribed in clause 7 of this Article.

9. Remedies: Compelling the cancellation of printouts or invoices with respect to the acts specified in clause 4 and 7 of this Article.

#### **Article 22. Penalties for the act of giving and selling invoices**

1. Fines ranging from VND 15,000,000 to VND 45,000,000 shall be imposed for one of the following violations:

- a) Giving or selling externally ordered invoices which have not yet been released;
- b) Giving or selling invoices ordered by clients to other entities or persons.

2. Fines ranging from VND fines VND 20,000,000 to VND 50,000,000 shall be imposed for the act of giving or selling invoices bought from tax authorities, but not yet been issued.

3. Remedies:

- a) Compelling the cancellation of invoices with respect to the acts prescribed in this Article;
- b) Compelling the disgorgement of illegal gains from commission of administrative violations prescribed in this Article.

#### **Article 23. Penalties for violations against regulations on release of invoices**

1. Fines ranging from VND 500,000 to VND 1,500,000 shall be imposed for one of the following violations:

- a) Submitting notices of modification of information contained in notices of invoice release to directly supervisory tax authorities in case of any change of business address entailing any change to other directly supervisory tax authorities, or in case of the name change, from 10 to 20 days after the date on which invoices start being used at new addresses, or newly-named invoices start being used;
- b) Submitting statements of unused invoices to receiving tax authorities in case of any change of business address entailing any change to such tax authorities for a period from 10 to 20 days after the prescribed submission deadline which starts from the date on which invoices are used at their new addresses;
- c) Using invoices mentioned in notices of invoice release sent to tax authorities though they are not due for use.

2. Fines ranging from VND 2,000,000 to VND 4,000,000 shall be imposed for one of the following violations:

a) Issuing notices of invoice release whose contents have been found as incomplete as those prescribed in regulations by tax authorities, and informing entities or persons in writing of this to request necessary modifications to be made if these entities or persons issue invoices to their clients even when failing to comply with the written notices requesting such modifications;

b) Failing in the posting of invoice release as required by laws;

c) Submitting the notices of revision of information contained in the notices of invoice release to directly supervisory tax authorities in case of any change of business address entailing any change to other directly supervisory tax authorities, or in case of the name change, for the period of at least 21 days after the prescribed submission deadline which begins on the date on which invoices start being used at new addresses, or newly-named invoices start being used;

d) Submitting statements of unused invoices to new receiving tax authorities in case of any change of business address entailing any change to other directly supervisory tax authorities for a period from 10 to 20 days after the prescribed submission deadline which begins from the date on which invoices start being used at new addresses.

3. Fines ranging from VND 6,000,000 to VND 18,000,000 shall be imposed for any act of failing to make notices of release of invoices before use if these invoices are connected with economic transactions that arise, and on which taxes have been declared or paid, or to which tax declaration or payment obligations have not yet been due as per laws.

In cases where notices of release of invoices have not yet been issued before these invoices start being used, and these invoices are not connected with economic transactions arising or on which taxes have not yet been declared after the prescribed tax declaration or payment due dates, violators shall be subject to penalties prescribed in Article 28 herein or Article 16 and 17 of Chapter II herein.

4. Remedies: Compelling the implementation of the statutory procedures for release of invoices with respect to the acts specified in clause 2 and 3 of this Article.

#### **Article 24. Penalties for violations against regulations on issuance of invoices upon sale of goods or provision of services**

1. Cautions shall be given as a form of penalty imposed for the following violations:

a) Issuing invoices at the wrong time, but not to the extent of causing any deferred fulfillment of tax obligations, under any mitigating circumstance;

b) Issuing a continuous series of invoices in ascending numerical order by exercising disagreeing invoicing authorizations (i.e. exercising authorizations to issue greater numbered invoices and not exercising authorizations to issue less numbered invoices) although entities or individuals



have managed to cancel invoice books containing less numbered invoices after discovery of such situation;

c) Issuing wrong types of invoice that have already handed to buyers or been used for completion of tax declaration procedures although sellers and buyers have discovered the issuance of the wrong types of invoice and replaced them with the correct ones before competent authority's issuance of their decisions to conduct tax inspection and examination at the defaulting taxpayer's offices or premises, and this situation does not affect the determination of tax obligations.

2. Fines ranging from VND 500,000 to VND 1,500,000 shall be imposed for one of the following violations:

a) Failing to issue general invoices in accordance with laws on invoices for sale of goods or provision of services;

b) Failing to invoice promotional, advertising or sample goods or services; goods and services used as gifts, donations, presents, swaps or employee's payment-in-kind wages, except for internally circulated or consumed goods for further production purposes.

3. Fines ranging from VND 3,000,000 to VND 5,000,000 shall be imposed for any act of issuing invoices at the wrong time, but not to the extent of causing any deferred payment of tax obligations, except as prescribed in point a of clause 1 of this Article.

4. Fines ranging from VND 4,000,000 to VND 8,000,000 shall be imposed for one of the following violations:

a) Issuing invoices at the wrong time in breach of laws on invoices for sale of goods or provision of services, except as provided in point a of clause 1 and 3 of this Article;

b) Issuing invoices without conforming to the statutory ascending numerical sequence, except when the penalty in the form of caution prescribed in point b of clause 1 of this Article is imposed;

c) Issuing invoices with the invoicing dates coming ahead of the dates of purchase of invoices from tax authorities;

d) Issuing invoices not conforming to classifications prescribed in laws on invoices for sale of goods and provision of services if these invoices have already been handed to buyers or used for the completion of tax declaration procedures, except in the case of imposition of the penalty in the form of caution as provided in point c of clause 1 of this Article;

dd) Issuing e-invoices when having not yet receiving notices of consent from tax authorities or before the dates of consent to using e-invoices with/without tax authority's codes from supervisory tax authorities;

e) Issuing invoices for sale of goods and provision of services during the period of temporary business closure, except when issuing invoices to clients for the purpose of implementing contracts signed before the date of notification of such temporary business closure;

g) Issuing e-invoices by using cash registers without network connection or transfer of electronic data to tax authorities.

5. Fines ranging from VND 10,000,000 to VND 20,000,000 shall be imposed for any act of failing to issue invoices upon sale of goods or provision of services to buyers as required by laws, except the acts prescribed in point b of clause 2 of this Article.

6. Remedies: Compelling the issuance of invoices according to regulations with respect to the acts specified in point d of clause 4 and 5 of this Article upon buyer's request.

**Article 25. Penalties for violations against regulations on reporting the loss, burning or damage of invoices before notifying the release, or invoices purchased from tax authorities but not yet issued**

1. The penalty shall be imposed in the form of caution for the act of reporting the loss, burning or damage of invoices from 1 to 5 days after expiry of the regulated time limit under any mitigating circumstance.

2. Fines ranging from VND 1,000,000 to VND 4,000,000 shall be imposed for the act of reporting the loss, burning or damage of invoices from 01 to 05 days after expiry of the regulated reporting time limit, except the case prescribed in clause 1 of this Article.

3. Fines ranging from VND 4,000,000 to VND 8,000,000 shall be imposed for one of the following violations:

a) Reporting the loss, burning or damage of invoices for a period of at least 6 days after expiry of the regulated reporting time limit;

b) Failing to report the loss, burning or damage of invoices.

**Article 26. Penalties for the act of causing the loss, burning or damage of invoices**

1. Cautions shall be given as a form of penalty imposed for the following violations:

a) Causing the loss, burning or damage of issued invoices (except the replicas intended for clients) during use, or of invoices already used for tax declaration or payment purposes, even though documents or records evidencing the sale of goods or the provision of services exist and such violation is committed under mitigating circumstances;

b) Causing the loss, burning or damage of invoices with incorrect or deleted information though sellers issue other replacement invoices.

2. Fines ranging from VND 3,000,000 to VND 5,000,000 shall be imposed for the act of causing the loss, burning or damage of issued invoices (the replicas intended for clients) during use although sellers have already declared or paid taxes based on these invoices, or have had documents or records evidencing the sale of goods or the provision of services, and such violation is committed under mitigating circumstances.

If such loss, burning or damage takes place through the buyer's fault, both the seller and the buyer must keep a record of such incident.

3. Fines ranging from VND 4,000,000 to VND 8,000,000 shall be imposed for one of the following violations:

a) Causing the loss, burning or damage of invoices already released or purchased from tax authorities even though they have not been issued yet;

b) Causing the loss, burning or damage of issued invoices (the replicas intended for clients) during use although sellers have already declared or paid taxes, or have had documents or records evidencing the sale of goods or the provision of services.

If such loss, burning or damage takes place through the buyer's fault, both the seller and the buyer must keep a record of such incident.

4. Fines ranging from VND 5,000,000 to VND 10,000,000 shall be imposed for the act of causing the loss, burning and damage of issued invoices, or invoices already submitted for completion of tax declaration or payment procedures, or those are in use or storage, except the cases specified in clause 1, 2 and 3 of this Article.

5. In the cases of loss, burning or damage of invoices prescribed in clause 2 and point b of clause 3 of this Article which is caused through the third party's fault, if the third party performs transactions with the seller, then the seller shall be sanctioned; if the third party performs transaction with the buyer, then the buyer shall be sanctioned.

The seller or the buyer and the third party must make a report on the loss, burning or damage of invoices.

#### **Article 27. Penalties for violations against regulations on cancellation, destruction or elimination of invoices**

1. Penalties in the form of cautions shall be imposed for the act of cancelling or destroying invoices from 1 to 5 days after expiry of the regulated time limit under mitigating circumstances.

2. Fines ranging from VND 2,000,000 to VND 4,000,000 shall be imposed for one of the following violations:

a) Cancelling invoices released but not issued, or invalidated invoices, in breach of regulations.

b) Failing to cancel invoices released but not issued yet, or invalidated invoices, or failing to cancel invoices purchased from tax authorities but expired;

c) Cancelling or destroying invoices from 1 to 10 working days after expiry of the regulated time limit, except the case prescribed in clause 1 of this Article.

3. Fines ranging from VND 4,000,000 to VND 8,000,000 shall be imposed for one of the following violations:

a) Cancelling or destroying invoices at least 11 working days after expiry of the regulated time limit;

b) Failing to cancel or destroy invoices in accordance with laws;

c) Failing to cancel e-invoices containing defects after being issued after expiry of the time limit for tax authorities' issuing notification of these defects to sellers;

d) Failing to cancel externally ordered invoices not released yet but no longer used according to regulations;

dd) Cancelling or destroying invoices in breach of procedures or processes prescribed by laws;

e) Destroying invoices though these invoices are not classified as those subject to destruction under laws.

4. Remedies: Compelling the cancellation or destruction of invoices with respect to the acts specified in point b of clause 2, point b, c and d of clause 3 of this Article.

#### **Article 28. Penalties for the act of using invoices illegally or using illegal invoices**

1. Fines ranging from VND 20,000,000 to VND 50,000,000 shall be imposed for the act of using illegal invoices or using invoices illegally as provided in Article 4 herein, except the case prescribed in point dd of clause 1 of Article 16 and point d of clause 1 of Article 17 herein.

2. Remedies: Compelling the cancellation of used invoices.

#### **Article 29. Penalties for violations against regulations on the act of preparing and delivering invoices**

1. Cautions shall be imposed for the act of submitting notices or reports regarding invoices from 1 to 5 days after expiry of the regulated submission time limit under mitigating circumstances.

2. Fines ranging from VND 1,000,000 to VND 3,000,000 shall be imposed for one of the following violations:

- a) Submitting notices or reports regarding invoices from 1 to 10 days after expiry of the regulated submission time limit, except the case prescribed in clause 1 of this Article;
- b) Issuing invoices wrongly or those whose contents are not fully consistent with those stated in lawful notices and reports regarding invoices submitted to tax authorities.

If entities or persons, by themselves, detect errors and re-issue substitute notices or reports in accordance with regulations to their supervisory tax authorities before issuance of decisions to carry out tax inspections or reviews at the violating taxpayer's offices by tax authorities or competent authorities, they shall not be sanctioned.

3. Fines ranging from VND 2,000,000 to VND 4,000,000 shall be imposed for the act of submitting notices or reports regarding invoices to tax authorities from 11 to 20 days after expiry of the regulated submission time limit.

4. Fines ranging from VND 4,000,000 to VND 8,000,000 shall be imposed for the act of submitting notices or reports regarding invoices to tax authorities from 21 to 90 days after expiry of the regulated submission time limit.

5. Fines ranging from VND 5,000,000 to VND 15,000,000 shall be imposed for one of the following violations:

- a) Submitting notices or reports regarding invoices to tax authorities at least 91 days after expiry of the regulated submission time limit;
- b) Failing to submit notices and reports regarding invoices to tax authorities as legally required.

6. If any act of violation arising from the preparation and delivery of invoice-related notices or reports is regulated in Article 23 and 25 herein, regulations of this Article shall not be applied for the imposition of administrative penalties.

7. Remedies: Compelling the preparation and delivery of invoice-related notices or reports with respect to the acts specified in point b of clause 2 and point b of clause 5 of this Article.

### **Article 30. Penalties for violations against regulations on the transfer of e-invoice data**

1. Fines ranging from VND 2,000,000 to VND 5,000,000 shall be imposed for the act of transferring e-invoice data to tax authorities from 01 to 05 working days after expiry of the regulated time limit.

2. Fines ranging from VND 5,000,000 to VND 8,000,000 shall be imposed for one of the following violations:

- a) Transferring electronic invoice data to tax authorities from 06 to 10 working days after expiry of the regulated time limit;

b) Transferring general charts of electronic invoice data containing the inadequate number of invoices issued within invoicing periods.

3. Fines ranging from VND 10,000,000 to VND 20,000,000 shall be imposed for one of the following violations:

a) Transferring electronic invoice data to tax authorities at least 11 working days after expiry of the regulated time limit;

b) Failing to transfer electronic invoice data to tax authorities within the regulated time limit.

4. Remedies: Compelling the transfer of e-invoice data to tax authorities with respect to the acts specified in point b of clause 2, and point b of clause 3 of this Article.

### **Article 31. Penalties for violations against regulations on the provision of invoice services**

Fines ranging from VND 4,000,000 to VND 8,000,000 shall be imposed for one of the following violations:

1. Providing internally printed invoice software that does not conform to principles or prints out invoices of which contents are not fully consistent with those prescribed in laws on invoices.

2. Providing e-invoicing software in contravention of the principles set forth in laws on invoices.

## **Chapter IV**

### **SANCTIONING AUTHORITY; SEVERAL REGULATORY PROCEDURES FOR IMPOSITION OF ADMINISTRATIVE PENALTIES FOR TAX OR INVOICE-RELATED VIOLATIONS**

#### **Article 32. Authority to impose tax or invoice-related administrative penalties of tax authorities**

1. Customs officers on duty shall be vested with the authority to impose penalties in the form of cautions.

2. Tax team leaders shall, within their assigned duties and responsibilities, have the following authority:

a) Imposing penalties in the form of cautions;

b) Imposing the fine of up to VND 5,000,000 for acts prescribed in clause 2 of Article 10; clause 2, 3 and 4 of Article 11; clause 1 of Article 14; point a, b, c and dd of clause 1 of Article 15; clause 1 of Article 20; clause 2 and 3 of Article 21; clause 1 and point c and d of clause 2 of Article 23; clause 2 and 3 of Article 24; clause 2 of Article 25; clause 2 of Article 26; point a and

c of clause 2 of Article 27; point a of clause 2 and clause 3 of Article 29; clause 1 of Article 30 herein.

3. Directors of Taxation Sub-departments shall, within their remit, have the following authority:

- a) Imposing penalties in the form of cautions;
- b) Imposing the fine of up to VND 50,000,000 for the acts prescribed in Article 10, 11, 12, 13, 14, 15 and 19 of Chapter II and Chapter III herein;
- c) Imposing fines for the acts prescribed in Article 16, 17 and 18 herein;
- d) Enforcing the temporary suspension of the invoice printing business as a penalty for the acts prescribed in Article 21 herein;
- dd) Applying remedies stipulated herein.

4. Directors of Taxation Departments shall, within their remit, have the following authority:

- a) Imposing penalties in the form of cautions;
- b) Imposing the fine of up to VND 140,000,000 for the acts prescribed in Article 10, 11, 12, 13, 14, 15 and 19 of Chapter II and Chapter III herein;
- c) Imposing fines for the acts prescribed in Article 16, 17 and 18 herein;
- d) Enforcing the temporary suspension of the invoice printing business as a penalty for the acts prescribed in Article 21 herein;
- dd) Applying remedies stipulated herein.

5. General Director of the General Department of Taxation shall be accorded the following authority:

- a) Imposing penalties in the form of cautions;
- b) Imposing the fine of up to VND 200,000,000 for the acts prescribed in Article 10, 11, 12, 13, 14, 15 and 19 of Chapter II and Chapter III herein;
- c) Imposing fines for the acts prescribed in Article 16, 17 and 18 herein;
- d) Enforcing the temporary suspension of the invoice printing business as a penalty for the acts prescribed in Article 21 herein;
- dd) Applying remedies stipulated herein.

**Article 33. Authority to impose penalties for tax or invoice-related administrative violations of the Chairpersons of all-level People’s Committees**

1. The Chairman/Chairwoman of the district-level People’s Committee shall be accorded the following authority:

- a) Imposing penalties in the form of cautions;
- b) Imposing the fine of up to VND 50,000,000 for the acts prescribed in Article 10, 11, 12, 13, 14, 15 and 19 of Chapter II and Chapter III herein;
- c) Enforcing the temporary suspension of the invoice printing business as a penalty for the acts prescribed in Article 21 herein;
- d) Applying remedies stipulated in Article 10, 11, 12, 13, 14, 15 and 19 of Chapter II and III herein.

2. The Chairman/Chairwoman of the provincial-level People’s Committee shall be accorded the following authority:

- a) Imposing penalties in the form of cautions;
- b) Imposing the fine of up to VND 100,000,000 for the acts prescribed in Chapter III herein;
- c) Imposing the fine of up to VND 200,000,000 for the acts prescribed in Article 10, 11, 12, 13, 14, 15 and 19 of Chapter II herein;
- d) Enforcing the temporary suspension of the invoice printing business as a penalty for the acts prescribed in Article 21 herein;
- dd) Applying remedies stipulated in Article 10, 11, 12, 13, 14, 15 and 19 of Chapter II and III herein.

**Article 34. Authority to impose tax and invoice-related administrative penalties of inspectors**

1. Inspectors or persons assigned to carry out specialized inspections on duty shall be accorded authority to issue cautions.

2. Chief Inspectors of Departments of Finance, Chiefs of Inspectorates of Taxation Departments, or Chief of Inspectorate of General Department of Taxation, performing specialized inspections shall have the following authority:

- a) Imposing penalties in the form of cautions;



b) Imposing the fine of up to VND 50,000,000 for the acts prescribed in Article 10, 11, 12, 13, 14, 15 and 19 of Chapter II and Chapter III herein;

c) Enforcing the temporary suspension of the invoice printing business as a penalty for the acts prescribed in Article 21 herein;

d) Applying remedies stipulated in Article 10, 11, 12, 13, 14, 15 and 19 of Chapter II and III herein.

3. Chief of the Inspectorate of Ministry of Finance performing duties to carry out specialized inspections shall have the following authority:

a) Imposing penalties in the form of cautions;

b) Imposing the fine of up to VND 70.000.000 for the acts prescribed in Chapter III herein;

c) Imposing the fine of up to VND 140,000,000 for the acts prescribed in Article 10, 11, 12, 13, 14, 15 and 19 of Chapter II herein;

d) Enforcing the temporary suspension of the invoice printing business as a penalty for the acts prescribed in Article 21 herein;

dd) Applying remedies stipulated in Article 10, 11, 12, 13, 14, 15 and 19 of Chapter II and III herein.

4. Chief of the Inspectorate of the Ministry of Finance shall have the following authority:

a) Imposing penalties in the form of cautions;

b) Imposing the fine of up to VND 100,000,000 for the acts prescribed in Chapter III herein;

c) Imposing the fine of up to VND 200,000,000 for the acts prescribed in Article 10, 11, 12, 13, 14, 15 and 19 of Chapter II herein;

d) Enforcing the temporary suspension of the invoice printing business as a penalty for the acts prescribed in Article 21 herein;

dd) Applying remedies stipulated in Article 10, 11, 12, 13, 14, 15 and 19 of Chapter II and III herein.

**Article 35. Rules for determining and distributing authority to impose administrative penalties for tax or invoice-related violations**

1. Regulations on the authority to impose administrative penalties for violations related to tax procedures or invoice-related violations of office holders specified in Article 32, 33 and 34 herein shall be applied to a single violation committed by an entity. Authority to fine individuals

committing any violation against regulatory tax procedures or any invoice-related administrative violation and any act prescribed in Article 19 herein shall be equal to half of the authority to fine entities.

Authority to impose administrative penalties for the acts prescribed in Article 16, 17 and 18 herein shall be subject to clause 2 of Article 139 in the Law on Tax Administration.

2. Chiefs of specialized inspectorates shall have the authority to sanction administrative violations determined as part of the scope and objectives of inspections within the inspection time limits prescribed in laws on inspections.

3. In case where there is any tax or invoice-related administrative violation put under the sanctioning authority of multiple office holders, the office holder accepting the case of such violation first shall be responsible for dealing with this case.

4. If the case under discussion needs to be subject to fines, remedies and supplementary penalties that go beyond the authority prescribed herein, the person accorded the sanctioning authority who is currently handling the case must transfer the case file to the entity or person accorded the sanctioning authority.

### **Article 36. Issuance of tax or invoice-related administrative violation reports**

1. Authority to issue tax or invoice-related administrative violation reports

If the persons accorded the sanctioning authority that are prescribed in Article 32, 33 and 34 herein or persons performing official duties of state administrative agencies detect any tax or invoice-related administrative violations, they shall have the authority to issue tax or invoice-related administrative violation reports.

2. Issuance of tax or invoice-related administrative violation reports

a) The issuance of tax or invoice-related administrative violation reports must conform to regulations laid down in laws on handling of administrative violations.

In case where a tax inspection or examination report clearly points out administrative violations, this report shall serve as the tax or invoice-related administrative violation report as provided in clause 1 of Article 108 in the Law on Tax Administration.

b) Issuance of electronic reports

If any taxpayer defers filing their tax registration application package, changing tax registration information, submitting their tax return or tax finalization documentation by electronic means, within not more than a working day after the date of the tax authority's electronically sending the acknowledgement of receipt of the tax registration application package or application documentation for change in tax registration information or the notice of acceptance of the tax return or the tax finalization documentation, the tax authority shall issue 01 copy of the

electronic tax or invoice-related administrative violation report to the violating taxpayer through the portal of the General Department of Taxation, even including the case in which a taxpayer submits multiple sets of tax documentation.

Electronic tax or invoice-related administrative violation reports issued in conformity with the requirements concerning electronic transactions performed in the tax sector shall serve as a basis for the tax authority's issuance of administrative penalty charge decisions.

An electronic violation report must specify the reporting date (day, month, year), location; full name, title of the report maker; digital signature of the report maker; full name, address, TIN, 9-digit or 12-digit ID card number of the violating person or name, address, TIN of the violating entity; hour, date (day, month, year) of commission of the violation; description of act of administrative violation; rights and time limit for giving explanation about the violator's act; receiving and handling authority. Signature of the violating entity or person affixed to an electronic violation report shall be optional.

Tax authorities shall be responsible for setting up information technology systems to match the demands for preparation and delivery of electronic administrative violation reports. Once information technology systems meet requirements for preparation and delivery of electronic administrative violation reports for acts of violation against regulations on other tax or invoicing procedures, the Minister of Finance shall determine the issuance and delivery of electronic administrative violation reports.

### **Article 37. Explanations about tax or invoice-related administrative violations**

1. Cases requiring explanations about tax or invoice-related administrative violations

a) Tax or invoice-related administrative violations that are detected through tax inspections or examinations or cases requiring electronic administrative violation reports to be issued;

b) Administrative violations prescribed in Article 16, 17 and 18; clause 3 of Article 20; clause 7 of Article 21; Article 22 and 28 herein.

2. Explanation about tax or invoice-related administrative violations must conform to regulations laid down in laws on handling of administrative violations.

### **Article 38. Exceptions to tax or invoice-related administrative penalty charge decisions**

1. The following cases shall be exempted from penalty charge decisions:

a) Cases are stipulated in Article 9 herein;

b) Subject matters of tax or invoice-related administrative violations are not identified;

c) The time limit for the imposition of an administrative penalty prescribed in Article 8 herein, or the time limit for the issuance of a penalty charge decision provided in the law on handling of administrative violations, has expired;

d) The violating person has died or gone missing; the violating entity has dissolved or been bankrupt during the period of consideration of a penalty charge decision, except the case prescribed in point c of clause 4 of Article 41 herein.

Bases for determining whether a person has died, gone missing; an entity has dissolved or been bankrupt, are subject to clause 2 of Article 41 herein;

dd) The file of a violation having a criminal sign has been referred for the criminal prosecution process.

2. With respect to exceptions to penalty charge decisions prescribed in point a, b, c and d of clause 1 of this Article, the person accorded the sanctioning authority shall not issue the penalty charge decision, but shall apply the prescribed remedy (if any). The decision on enforcement of the remedy must clearly state reasons for exception to the administrative penalty charge decision; the applicable remedy, responsibilities and time limit for execution thereof.

### **Article 39. Transmission and delivery of tax or invoice-related administrative penalty charge decisions**

1. Within the duration of 02 working days from the date of grant of an administrative penalty charge decision, the person having the authority to issue such decision must send or transmit the decision to the violating person or entity, the authority in charge of collecting fines and other relevant authorities (if any) for the purpose of execution of the decision.

2. The administrative penalty charge decision must be electronically sent to the taxpayer's mailing address registered with the supervisory tax authority if the sanctioned entity or person meets eligibility requirements for electronic tax transactions. Unless they meet such requirements, the penalty charge decision must be transmitted directly or sent in the form of registered mails by post as per clause 3 and 4 of this Article.

3. In case where the administrative penalty charge decision is transmitted directly, the officer transmitting such decision must make a report on transmission of that administrative penalty charge decision. In case where the penalty charge decision is transmitted directly but the violating entity or person deliberately ignore it, the competent person shall make a report on refusal to receive the decision attested by the local authority and, to such extent, the decision shall be deemed as sent and received.

4. With respect to the decision which is sent by post in the form of the registered mail, if the violating entity or person deliberately ignore it after 10 days from the date on which the administrative penalty charge decision is sent by post till the third time and returned; if the administrative penalty charge decision has been posted at the residence of the violating person,

the office of the violating entity, or it is established that the violating person evades receiving the administrative penalty charge decision, the decision shall be deemed sent and received.

In case where the tax authority sends the administrative penalty charge by post, the delivery note of the postal agency (confirming the successful delivery of the administrative penalty charge decision to the violating entity or person) must be filed in the archives of sanctioning documents and records.

#### **Article 40. Time limit for execution of tax or invoice-related administrative penalty charge decisions**

1. Time limit for execution of tax or invoice-related administrative penalty charge decisions shall be 01 year from the decision-issuing date. Upon expiry of the aforesaid execution time limit, if the tax authority has not yet transmitted or sent the administrative penalty charge decision to the violating entity or person under the provisions of Article 39 herein, that decision shall become inactive.

If the administrative penalty charge decision requires the enforcement of any remedy, such remedy shall be enforced as usual.

2. If the sanctioned entity or person deliberately evades or defers execution of the decision, the time limit for execution of the penalty charge decision shall start from the date of termination of the act of evasion or deferment.

3. If the tax authority has transmitted or sent the administrative penalty charge decision to the violating entity or person as provided in Article 39 herein, but the sanctioned entity or person has not yet paid or has not fully paid fines, back taxes or deferred amounts, tax authorities must track amounts not yet paid on tax administration systems and apply measures to enforce recovery of outstanding taxes under regulations in order to fully collect amounts payable into the state budget.

#### **Article 41. Execution of tax or invoice-related administrative penalty charge decisions in cases where sanctioned persons are dead or missing; sanctioned entities are dissolved or bankrupt**

1. In case where the sanctioned person is dead or missing; the sanctioned entity is dissolved or bankrupt, fine amounts specified in penalty charge decisions shall be invalidated while remedies specified in penalty charge decisions remain in force.

The person issuing the penalty charge decision must issue the decision on execution of part of that decision within 60 days after receipt of the notice stating that the sanctioned person is dead or missing; the sanctioned entity is dissolved or bankrupt.

If the penalty charge decision does not include any remedy, the person accorded the sanctioning authority shall issue the decision on suspension of execution of the penalty charge decision.

2. Bases for determining whether a person has died, gone missing; an entity has been dissolved or bankrupt:

a) The death certificate or the notice of death or other substitutes of notice of death under laws on civil status, or the court's decision stating a person is dead or missing (original or duplicate copy required by laws) with respect to the case of a dead or missing person;

b) The notice of dissolution of an enterprise or cooperative issued by the business registration authority or the cooperative registration authority with respect to the case of dissolution of an enterprise or cooperative; the notice of termination of TIN of the tax agency with respect to the case in which the dissolved entity is not an enterprise or cooperative (original or duplicate copy required by laws);

c) The bankruptcy declaration decision with respect to the bankrupt enterprise or cooperative (original or duplicate copy required by laws).

3. The decision on execution of a part of the penalty charge decision must include the followings: Revocation of the fine and reasons for such revocation; contents of the penalty charge decision that continue to be executed, name of the entity or person responsible for the continued execution of the penalty charge decision; execution time limit.

4. The succession of obligations to execute the remedy from the dead, missing person or the dissolved or bankrupt entity

a) The successor shall be responsible for executing the remaining part of the penalty charge decision regarding the remedy within the scope of the decedent's estate.

If the estate has not yet been divided, the remaining part of the penalty charge decision regarding the remedy that is bequeathed by the decedent shall be executed by the custodian of such estate.

If the estate has already been divided, each successor shall execute the remaining part of the penalty charge decision regarding the remedy that is bequeathed by the decedent, respectively, provided that such part does not exceed the value of estate that he/she inherits, unless otherwise agreed.

In case where the State or any entity receives the estate under will, they shall be responsible for executing the remaining part of the penalty charge decision regarding the remedy that is bequeathed by the decedent in the same way as in the case of the successor who is a person.

If there is none of the testate successor or the successor by operation of law, or there is the successor who disclaim the estate, regulations laid down in civil legislation shall be implemented.

b) The court-appointed guardian or custodian of the property owned by the person declared missing shall be responsible for executing the remaining part of the penalty charge decision (the remedy) within the scope of the property that he/she manages on behalf of the missing person.

c) If the dissolved entity is a subordinate entity or a business location of an enterprise; the entity is dissolved due to the reorganization of an enterprise, cooperative or other entity; the branch or representative office of a foreign trader or the management office of a foreign contractor in Vietnam is dissolved, the dissolved entity shall not be exempted from executing any fine prescribed in a penalty charge decision.

#### **Article 42. Interest amounts on late payment of fines for tax or invoice-related administrative violations**

1. Calculation of the interest amounts on late payment of fines

a) Any person or entity paying fines for tax or invoice-related administrative violations late shall be charged an interest amount on the deferred fine at the rate of 0.05%/day.

b) The number of days past due shall include statutory public holidays or days-off, and shall start from the date succeeding the deadline for payment of the fine and end on the date preceding the date of the entity or person's payment of the fine into the state budget.

2. Late payment interest amounts shall not be charged in the following cases:

a) They shall not be charged during the pending period of the fine charge decision;

b) They shall not be charged during the interval before the fine charge decision is issued;

c) They shall not be charged if the fine amount is not due yet with respect to cases of permission for the installment payment of the fine.

3. In case where the violating entity or person unwillingly pays the fine or the late payment interest amount into the state budget, the tax authority directly supervising that entity or person shall be responsible for notifying and pushing them to make the statutory payment.

#### **Article 43. Exemption from fines for tax or invoice-related administrative violations**

1. Any taxpayer subject to penalties for tax or invoice-related violations that suffers material loss in case of force majeure events prescribed in clause 27 of Article 3 in the Law on Tax Administration shall be exempt from fines.

2. After getting away the deduction of the insured value or indemnity value (if any), the maximum amount of exemption shall be equal to the remaining amount of fine determined in the fine charge decision and does not exceed the value of damaged goods or services.

3. Documents submitted to apply for the exemption from fines for tax or invoice-related administrative violations, including:

a) Application form for the exemption from the fine, clearly stating reasons for such application; determining the value of the damaged property or goods; the amount of fine or interest on late payment of the fine (if any) in question;

b) Written request for fine exemption from the competent person or his/her host entity issuing the penalty charge decision, clearly stating reasons for application for the fine exemption; the amount of fine or the amount of interest on late payment of the fine (if any) in question;

c) Written document stating that the taxpayer is affected by any natural disaster, calamity, disease, fire or sudden accident or other force majeure events under the Government's regulations, time and location of occurrence of the force majeure event under discussion, from one of the following entities or authorities: Police of communes, wards and townships; People's Committees of communes, wards and towns; Management boards of industrial parks, export processing zones and economic zones where the force majeure event took place; rescue or emergency response services; entities having competence in declaring the disease (an original copy or notarized or authenticated copy);

d) The written inventory determining the damaged value issued by the taxpayer or the taxpayer's legal representative;

dd) The written document or record stating the damaged value which is issued by the competent appraising body in accordance with regulations of laws (an original copy, notarized or certified copy), unless otherwise stated in point g of this clause;

e) The penalty charge decision or the notice of the tax authority regarding the outstanding amount of fine determined at the time of occurrence of the force majeure event under discussion and at the time of submission of the application for fine exemption;

g) The set of documents and records stating the indemnity against the material loss accepted by the insurance agency as required by laws (original copies or notarized or certified copies) (if any);

h) The set of documents and records stating compensation liabilities that must be accepted by the insurance agency as required by laws (original copies or notarized or certified copies) (if any);

#### 4. Authority to grant the fine exemption

a) Heads of Taxation Sub-departments shall, within their remit, have authority to grant fine exemptions for administrative penalty charge decisions issued by Leaders of Tax Teams;

b) Directors of Taxation Departments shall, within their remit, have authority to grant fine exemptions for administrative penalty charge decisions issued by Heads of Taxation Sub-departments or Leaders of Inspectorates of Taxation Departments;



c) Directors of General Department of Taxation shall have authority to grant fine exemptions for administrative penalty charge decisions issued by Directors of Taxation Departments or Leaders of Inspectorate of General Department of Taxation;

d) Minister of Finance shall have authority to grant fine exemptions for administrative penalty charge decisions issued by Directors of General Department of Taxation or Chief Inspector of the Ministry of Finance;

dd) Directors of Departments of Finance shall have authority to grant fine exemptions for administrative penalty charge decisions issued by Chief Inspectors of Departments of Finance;

e) Chief Inspector of Ministry of Finance shall have authority to grant fine exemptions for administrative penalty charge decisions issued by Leader of the Inspectorate of Ministry of Finance;

g) Presidents of provincial-level People's Committees shall have the authority to grant fine exemptions for administrative penalty charge decisions issued by Presidents of district-level People's Committees and by themselves.

#### 5. Application and documentation requirements for fine exemption

Taxpayers prescribed in clause 1 of this Article must file applications for exemption from the remaining amounts of fines owed or the entire fines, enclosing documents and records, to persons/entities issuing penalty charge decisions.

Within the duration of 03 working days of receipt of the submitted application for fine exemption, the person issuing the administrative penalty charge decision must transfer the application, enclosing documents and records on the case to the person having authority to issue the decision on fine exemption, and inform the applicant of this.

Within the duration of 30 working days of receipt of the submitted application and documents for fine exemption, the person having authority to grant fine exemption must issue the decision on fine exemption or the notice of refusal of grant of fine exemption to the applicant, the person issuing the penalty charge decision. In case where the person having authority to grant fine exemption does not disapprove of the fine exemption, clear reasons for such disapproval must be stated.

6. Exemption from fines for tax or invoice-related administrative violations shall not be applied to the cases in which penalty charge decisions have been completely executed.

7. If the fine exemption is granted, the exemption from the amount of interest on late payment of the fine shall be applied as well.

8. If any taxpayer has already been exempted from the fine, and the competent authority or tax authority finds that such fine exemption is in breach of regulations laid down in this Article, the person having authority to grant fine exemption may issue the decision to revoke or adjust the

fine exemption decision. The tax authority directly supervising the taxpayer shall be responsible for recouping the amount of fine exemption in breach of regulations and charging the amount of interest on the late payment of such amount into the state budget as provided in Article 42 herein. The date on which the amount of interest on the late payment of the amount of fine exemption in breach of regulations shall be the date on which the sanctioned entity or person submits all required documents to apply for fine exemption.

## **Chapter V**

### **IMPLEMENTATION CLAUSES**

#### **Article 44. Entry into force**

1. This Decree shall take effect from December 5, 2020.
2. If any taxpayer using e-invoices under the Law on Tax Administration No. 38/2019/QH14 dated June 13, 2019 and other legislative documents providing guidance on implementation of this Law by July 1, 2022 commit violations against laws on e-invoices, they shall be sanctioned as per this Decree.
3. From the effective date of this Decree, regulations laid down in the following Decrees and Circulars shall be abolished:
  - a) Chapter I and III of the Government's Decree No. 129/2013/ND-CP dated October 16, 2013, prescribing administrative penalties for tax-related violations and enforcement of tax-related administrative decisions;
  - b) Clause 2 of Article 4 in Chapter 1, 4 and Article 44 of Chapter 5 in the Government's Decree No. 109/2013/ND-CP dated September 24, 2013, prescribing penalties for administrative violations in the management of prices, fees, charges and invoices;
  - c) Article 3 in the Government's Decree No. 49/2016/ND-CP dated May 27, 2016, amending and supplementing certain articles of the Decree No. 109/2013/ND-CP;
  - d) Circular No. 166/2013/TT-BTC dated November 15, 2013, Circular No. 10/2014/TT-BTC dated January 17, 2014, and Circular No. 176/2016/TT-BTC dated October 31, 2016, of the Ministry of Finance.
4. The term "invoice" existing in such fields as Name, Bases for Promulgation, Chapter 1, point b of clause 2 of Article 41, clause 2 of Article 45; the phrase "in the invoice sector is 01 year" in point 1 of Article 4 in the Government's Decree No. 109/2013/ND-CP dated September 24, 2013, prescribing penalties for administrative violations in the management of prices, fees, charges and invoices, shall be removed.
5. The term "invoice" existing in such fields as Name, Bases for Promulgation; clause 2 and 3 of Article 4; the phrase "suspension of the right to internally print out invoices, the right to create e-

invoices; suspension of printing of invoices”, “cancellation of invoices; implementation of the statutory procedures for issuance of invoices” in clause 1 of Article 1 in the Government’s Decree No. 49/2016/ND-CP dated May 27, 2016, amending and supplementing certain articles of the Government's Decree No. 109/2013/ND-CP dated September 24, 2013, prescribing penalties for administrative violations in the management of prices, fees, charges and invoices, shall be removed.

6. Regulations regarding imposition of administrative penalties that have not yet been set forth herein shall be enforced under laws on handling of administrative violations.

#### **Article 45. Transitional provisions**

1. Applying regulations laid down in Chapter XV of the Law No. 38/2019/QH14 dated June 13, 2019; Government’s Decree No. 129/2013/ND-CP dated October 16, 2013, prescribing tax-related administrative penalties and enforcement of tax-related administrative decisions; Government’s Decree No. 109/2013/ND-CP dated September 24, 2013, prescribing penalties for administrative violations arising in the management of prices, fees, charges and invoices, and Government’s Decree No. 49/2016/ND-CP dated May 27, 2016, amending and supplementing several articles of the Decree No. 109/2013/ND-CP, to tax or invoice-related administrative violations taking place from July 1, 2020 to the date prior to the effective date of this Decree.

If any tax or invoice-related administrative violation is committed before the effective date of this Decree, but completed from the effective date of this Decree, regulations laid down the legislative document regarding administrative penalties for tax or invoice-related violations that take effect at the time of commission of such violation must be applied.

2. Regulations on penalties laid down in Chapter I, II and III herein, and regulations on postponement or exemption of enforcement of penalty charge decisions for the benefits of persons or entities committing tax or invoice-related administrative violations, shall be applied to any act happening before the effective date of this Decree and then discovered or currently taken into consideration.

3. If the person or entity committing any tax or invoice-related administrative violation already sanctioned before the effective date of this Decree continues to file their complaint or claim against the settlement of such violation, their complaint or claim shall be handled under the provisions of laws on handling of tax or invoice-related administrative violations and other relevant legislative regulations in force as of the date of commission of such violation.

#### **Article 46. Samples of penalty charge reports and decisions**

Samples of penalty charge reports and decisions are annexed hereto. More lines or fields may be added to meet specific demands to ensure the full inclusion of acts of violation during the process of making reports and issuing penalty charge decisions on condition that legislative regulations need to be observed.

In necessary cases, in order to meet state management requirements, Minister of Finance may issue other samples of reports and decisions as well as other necessary ones after agreeing with the Minister of Justice.

#### **Article 47. Implementation responsibilities**

Ministers, Heads of Ministry-level agencies, Heads of Governmental bodies, Chairpersons of People's Committees of provinces and centrally-affiliated cities, other organizations and individuals involved shall be responsible for implementing this Decree./.

**PP. GOVERNMENT  
PRIME MINISTER**

**Nguyen Xuan Phuc**

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