

1. POLICIES TO SUPPORT ENTERPRISES AND CITIZENS AFFECTED BY THE COVID-19 PANDEMIC

On 19 October 2021, the National Assembly approved Resolution 406/NQ-UBTVQH15 (“Resolution 406”) introducing some policies to support enterprises and citizens affected by the COVID-19 pandemic:

❖ Reduction of Corporate Income Tax (“CIT”)

Reduction of 30% on CIT payable in fiscal year 2021 for the enterprises with the total revenue in fiscal 2021 is under VND 200 billion and less than revenue in 2019.

The latter requirement should not be applied for newly established enterprises and enterprises having merger, division, separation activities in 2020 and 2021

❖ Reduction of Value Added Tax (“VAT”)

Reduction of 30% on applicable VAT in the period from 01 November 2021 to 31 December 2021 for some business activities such as:

(i) Transportation services; accommodation and food service activities; travel agencies, tour business and assistant services related to tour promotion and organization;

(ii) Publishing activities; sound recording and music publishing; creative, artistic and recreational activities; libraries, archives, museums and other cultural activities; sporting activities and amusement and recreation activities.

(iii) The publishing software, goods and services operating via online platform are excluded from the 30% VAT reduction.

Depending on the tax declaration, the VAT reduction is applied as follows:

a) Organizations paying VAT under the deductible method will reduce 30% of the VAT rate.

b) Organizations paying VAT under the percentage on the turnover method will reduce 30% of percentage VAT.

❖ Exemption taxes for household and individual businesses

Exemption of PIT, VAT and other taxes payable arising in Quarter III and IV of 2021 for household and individual businesses operating in districts impacted by Covid-19 pandemic in 2021. The list of impacted districts shall be determined by Provincial presidents of People's Committees.

This does not apply to businesses providing software products and services, products and services with digital entertainment content, video games, digital movies, pictures, music and advertisements.

❖ Exemption from the interest of late tax payments

Exemption of the interest on late payment arising in 2020 and 2021 of taxes payable, land use fee, and land rental fee for enterprises and organizations (including dependent units and business locations) having losses in 2020.

The provisions of this Clause do not apply to cases where the interest of late tax payment has been paid.

2. ACCOUNTING

OL No. 10385/BTC-QLKT date on 10th September 2021 issued by MOF has guidance on recording the expenses incurred due to the impact of Covid-19 pandemic

During the ceased time due to the Covid-19 pandemic, the Company records expenses related to direct production departments into Account No. 811 – Other expenses.

Besides, the Company must disclose this recording in Notes of Financial Statements.

The determination of tax liability for expenses related to direct production departments arising due to the impact of the Covid-19 pandemic shall comply with tax laws.

3. LAW ON TAX ADMINISTRATION

Circular No. 80/2021/TT-BTC dated 29 September 2021 issued by the MOF guidance on implementing some articles of the Law on

Tax Administration and Decree No. 126/2020/ND-CP dated 19 October 2020 of the Government. Some key points are outlined below:

❖ **Circular 80 provides guidance on the tax declaration, calculation, finalization, payment, cases and method of allocating tax payable for each kind of taxes of the provinces different from the headquarter where an enterprise has its business operations as follows:**

- Removal of the regulation on VAT declaration for extraprovincial trading activities at local tax authorities.
- For real estate transfer and construction activities in provinces other than the headquarter, the VAT allocation rate is reduced to 1% instead of 2% as previously regulated (Clause 2b, 2c Article 13).
- Removal of regulation on CIT declaration and payment at the province where a taxpayer has a subsidiary independently accounts. Currently, the resolvent to this case is still unclear.
- For the allocation of CIT in provincial other than the headquartered where the taxpayer has operating facilities, expenses for calculating the allocation ratio is the actual expenses incurred for the tax period (Clause 2c, Article 17).
- Production facilities (dependent units, business locations) that are entitled to CIT incentives must declare tax based on the business results of the activities eligible for incentives and the incentives rate (Clause 2c, Article 17).
- For PIT on salaries and wages, the employers should separately determine the amount of PIT that must be allocated and paid in each province based on the actual tax withheld from salaries and wages of employees working in each province.
- In relation to tax payments, taxpayers should only prepare one tax payment document to the State budget for each relevant province and remit at the State Budget of the Head office. The State Treasury where received the payment document shall allocate tax for each province (Clause 4, Article 12).

❖ **Tax refund/ Tax offset**

- Supplementing the cases of CIT refund where taxpayers have undertaken a real

estate transfer or construction activities in a different province from its headquarters (Clause 1g, Article 45).

- For dissolved, bankrupt, or terminated organizations, the Circular additionally guidance on procedures and dossiers to apply for a VAT refund of certain specific cases (Article 31, Clause 1c, Article 33).
- The Circular detailedly instructs on the dossier of tax refund (Articles 28, 29, 30, 31).
- The VAT amount which was incorrectly refunded but meets the conditions for being deductible can still be declared and deducted in the following period after the error was discovered or in the period when receiving the Decision on recovery of a tax refund by the tax authorities or Decisions or documents of competent State agencies (Clause 4, Article 40).
- Any tax payables according to the customs authority (except customs fees and charges) are offset against any refundable or overpaid amount (Clause 2b, Article 34).
- Any tax refunded/overpaid at the Head office is offset against tax payable by the subsidiary units and vice versa (Clause 2d, Article 34).
- Taxpayer who has a surplus after offsetting a refunded/overpaid tax amount to all tax liabilities can request to use the surplus for remitting tax liability of another taxpayer (Clause 2đ, Article 34).
- Supplementing regulations on the order and procedures for tax authorities to settle overpaid amounts of taxpayers over 10 years in the accounting book and taxpayers who do not operate at the registered address (Clauses 2 and 3, Article 26).
- Taxpayers do not need to submit tax payment documents certified by the State Treasury or commercial banks to support a refund application under a Double Taxation Agreement. Instead, a taxpayer can now submit a list of tax payments by a provided form (Point b5, Clause 1, Article 30).

4. APPLY E-INVOICES FOR BUSINESS HOUSEHOLDS AND INDIVIDUALS

Circular 78/2021/TT-BTC dated 17 September 2021 issued by the MOF guidance on the implementation of some articles of the Law on Tax Administration and Decree No

123/2020/ND-CP of the Government regulated on invoices and documents.

There are some notable points as follows:

- The seller is allowed to authorize an affiliated who is eligible to implement E-invoices and not suspended from the use of E-invoices in accordance with the regulations to issue E-invoice on their behalf.
- Detailed instructing on form, serial, number of the E-invoice
- Converting to use e-invoices with verification code of the tax authority.
- E-invoices apply for other situations
- Resolving the incorrect issued E-invoices or list data of transmitted E-invoices submitted to the tax authority;
- E-invoices with the verification code of the tax authority are generated from the cash register having transmissive data linked with the tax authority.

5. IMPORT/EXPORT TAX

Resolution No. 106/NQ-CP dated 11th September 2021 promulgated by the Government to introduce tax policies on goods imported for supporting Covid-19 prevention and control as follows:

Goods imported by Vietnamese organizations and individuals to support the Government, Ministry of Health, Provincial People's Committees, and Vietnamese Fatherland Front Committees of provinces/cities to perform Covid-19 prevention and control tasks should be subject to the same policies on import tax and VAT for humanitarian or grant aid activities.

Specifically, no import tax is collected as prescribed at Point b, Clause 4, Article 2 of the Law on Import and Export Tax; and no VAT as prescribed in Clause 19, Article 5 of the Law on VAT and Clause 9, Article 3 of Decree No. 209/2013/ND-CP of the Government.

Abbreviations

OL

Official Letter

GDT

General Department of Taxation

MOF

Ministry of Finance

CIT

Corporate Income Tax

PIT

Personal Income Tax

VAT

Value Added Tax

Contact:

KHAI MINH CONSULTING COMPANY LIMITED

Unit 603, 6F, Citilight Tower, 45 Vo Thi Sau Street

Dakao Ward, District 1, Ho Chi Minh City, Vietnam

Tel: 84 28 3820 5731 / 2

Fax: 84 28 3820 0906

(English)

Tran Mai Tuong Vy

tran.mai.tuong.vy@kmc.vn

Nguyen Van Mui

nguyen.van.mui@kmc.vn

(Japanese)

Le Quoc Duy

le.quoc.duy@kmc.vn

Nguyen Thi Thao Uyen

nguyen.thi.thao.uyen@kmc.vn

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