



PROFESSIONAL LEGAL NEWSLETTER APRIL 2019

A. LEGAL DOCUMENTS HAVE JUST BEEN ISSUED

- **GOVERNMENT**

1. **Circular No. 18/2019/TT-BTC dated 03 April 2019**

To abolish Circular No. 134/2014/TT-BTC dated 12 September 2014 of the Ministry of Finance guiding procedures for extending the time limit for tax payment and value-added tax refund for machinery and equipment imported to create fixed assets of investment projects
Abolish all Circular No. 134/2014/TT-BTC dated 12 September 2014 of the Ministry of Finance guiding procedures for extending the time limit for tax payment and value-added tax refund for imported machinery and equipment to create fixed assets of investment projects.
This Circular takes effect from 20 May 2019.

2. **Consolidated document No. 26/VBHN-BTC dated 23 April 2019**

Detailing and guiding the implementation of a number of articles of the Law on Special Consumption Tax and the Law amending and supplementing a number of articles of the Law on Special Consumption Tax

- This Decree details and guides the implementation of a number of articles of the Law on Special Consumption Tax and the Law amending and supplementing a number of articles of the Law on Special Consumption Tax.
- Content of the decree includes: Taxable objects, Non-taxable objects, Taxable prices, Tax rates, Tax refunds and tax deductions.

This Decree takes effect from 01 January 2016 and replaces Decree No. 26/2009/NĐ-CP dated 16 March 2009 and No. 113/2011/NĐ-CP dated 08 December 2011 of the Government detailing the implementation of a number of articles of the Law on Special Consumption Tax.

B. GUIDING – ANSWERING DISPATCH

- **THE MINISTRY OF FINANCE**

3. **No. 1191/TCT-CS dated 03 April 2019**

Tax policy

On 13 December 2017, A Au Joint Stock Trading Company signed a contract, invoiced the transfer of assets and transferred the land use right lease to TongWei Dong Thap Co., Ltd. On 23 January 2018, The Company was granted the 9th amended Business Registration Certificate, until 04 June 2018, A Au Joint Stock Trading Company had the dissolution decision No. 29/QĐ, the income from the real estate transfer of A Au Joint Stock Trading Company was not be offset against the loss of production and business activities when determining the income subject to corporate income tax in 2017.



4. No. 1211/TCT-DNNCN dated 04 April 2019

Personal income tax policy

- "Stock" means a form of "share", therefore, individuals who transfer capital in joint stock companies in accordance with Enterprise Law and Securities Law are defined as income from transfer of securities.
- Based on the law on personal income tax and guiding documents, individuals having income from securities transfer shall declare and pay tax at the rate of 0.1% on the transfer price under the guidance in Article 16 and Article 21 of Circular No. 92/2015/TT-BTC.

5. No. 1261/TCT-DNL dated 08 April 2019

Responding to problems in applying Clause 3 Article 8 Decree No. 20/2017 / ND-CP

- The total interest expense incurred in the period of taxpayers is deducted when determining the income subject to CIT under the provisions of Clause 3, Article 8 of Decree No. 20, calculated on the total interest expense arising in the period, regardless of interest expenses arising from loan transactions with associated parties or independent parties.
- Currently, the General Department of Taxation is in the process of receiving and synthesizing problems and petitions of taxpayers and other units arising in the implementation of Decree No. 20 in general and the provisions of Clause 3, Article 8 of the Decree No. 20 in particular to report to the Ministry of Finance to submit to the Prime Minister for direction for implementation. During the reporting period, units are requested to determine deductible interest expenses when determining income subject to CIT in accordance with current regulations.

6. No. 1352/TCT-DNNCN dated 11 April 2019

Regarding tax policy for unemployment allowance higher than the prescribed level

- Coc Coc Co., Ltd pays salaries and severance allowances (the portion exceeding the regulations of the Labor Code) from two million (2,000,000) VND/time or more for employees after the termination of Labor contract, the Company must deduct personal income tax at the rate of 10% of the total income paid to employees under the guidance at Point i, Clause 1, Article 25 of Circular No. 111/2013/TT-BTC dated 15 August 2013 of the Ministry of Finance.
- Coc Coc Co., Ltd. is responsible for paying unemployment insurance to employees and workers who will receive unemployment benefits paid by the Unemployment Insurance Agency. In case, Coc Coc Co., Ltd. pays the severance allowance to employees higher than the level stipulated in the Labor Code and the Law on Social Insurance, it shall not be included in deductible expenses when determining taxable income Enterprise income as stipulated in Article 4 of Circular No. 96/2015/TT-BTC mentioned above.

7. No. 1544/TCT-CS dated 19 April 2019

V/v: chính sách thuế nhà thầu

- Sumitomo Corporation Asia & Oceania Pte. LTD - Singapore (seller) signed a contract with AQUA Electrical Appliances Vietnam Co., Ltd (buyer) to supply goods (primary plastic pellets) to AQUA Electrical Appliances Vietnam Co., Ltd under delivery conditions CIF - Phuoc Long ICD port - Ho Chi Minh City not accompanied by any other services except the warranty is the responsibility and obligation of the seller (if any), Sumitomo Corporation Asia & Oceania Pte. LTD - Singapore is not subject to the above Circular 103/2014/TT-BTC.



- In case the overseas company (broker) contracts with CFT Vietnam Copper Wire Company to provide Hedging insurance (risk prevention) service to fluctuate raw material prices and generate income paid by CFT Vietnam Copper Wire Company, the overseas company is subject to the Circular No. 103/2014/TT-BTC. CFT Vietnam Copper Wire Company is responsible for declaring, deducting and paying contractor tax on behalf of overseas companies according to the percentage of 5% for calculating VAT on turnover, the percentage of CIT calculated on taxable income is 5% for service business activities as prescribed.

8. No. 1590/TCT-DNNCN dated 22 April 2019

Tax policy for salary of owner of one member limited liability company

- Amounts of directors of one-member limited liability companies (owned by an individual) are not income from salaries or wages and are not subject to personal income tax.
- The costs of salary, insurance, rent and other services attached to the Director of the One Member Limited Company (owned by an individual), (regardless of whether or not to directly operating production and business) are all expenses not deducted when determining income subject to enterprise income tax.

9. No. 1650/TCT-DNNCN dated 24 April 2019

Guidance on personal income tax policy

- In case, the vacation expenses are paid by the Representative Office to the employees from the welfare fund and the expenses clearly state that the individual's name is entitled, this amount shall be included in the employee's personal income taxable income. In case, the general expenditure for the collective of employees does not specify the name of the individual to be enjoyed, this income shall not be included in the income subject to personal income tax of the employee.
- In case the individual (employee) of the Representative Office actually receives a vacation allowance from the Representative Office mentioned above, this income is included in the income subject to personal income tax of the employee.

● **THE TAX DEPARTMENT OF HANOI**

10. No. 14120/CT-TTHT dated 03 April 2019

Regarding guidance on PIT policies

- The Price Management Department has signed a contract to implement the project of ministerial-level scientific research with the Institute of Strategy and Policy. Individuals who generate income from the implementation of the scientific research project by the Price Management Department, such income is considered income from wages and salary. Income payers are responsible for withholding personal income tax under the guidance in Article 25 of Circular No. 111/2013/TT-BTC before paying income to specific individuals:
 - + For resident individuals signing labor contracts of three (03) months or more, income-paying units shall withhold tax according to the partially progressive tariff, including cases where individuals sign contracts from three (03) months or more in many places.
 - + For non-resident individuals determined by taxable income from salaries and wages (x) at the tax rate of 20%.

