



## PROFESSIONAL LEGAL NEWSLETTER JUNE 2019

### A. LEGAL DOCUMENTS HAVE JUST BEEN ISSUED

- **NATIONAL ASSEMBLY**

1. **Law No. 38/2019/QH14 dated 13 June 2019**

*Law on tax management*

- This Law prescribes the management of taxes and other revenues of the state budget.
- Content of tax administration: Tax registration, tax declaration, tax payment, tax assessment, tax refund, tax exemption, tax reduction, non-tax collection, invoice management, documents, tax checking, tax inspection and implement measures to prevent, combat violations of tax law ...

This Law takes effect from 01 July 2020.

2. **Law No. 39/2019/QH14 dated 13 June 2019**

*Law on public investment*

- This Law provides for state management of public investment; management and use of public investment; rights, obligations and responsibilities of agencies, units, organizations and individuals related to public investment activities.
- This Law applies to agencies, units, organizations and individuals participating in or related to public investment, management and use of public investment capital.

This Law takes effect from 01 January 2020.

- **GOVERNMENT**

3. **Decree No. 55/2019/NĐ-CP dated 24 June 2019**

*About legal support for small and medium enterprises*

- This Decree details the legal support activities for small and medium enterprises; responsibilities of ministries, ministerial-level agencies, provincial-level local administrations, other agencies and organizations and concerned individuals in the provision of legal assistance to small and medium enterprises
- Supporting activities: Building, managing, maintaining, updating, exploiting and using legal databases; Develop and organize the implementation of a legal support program for small and medium-sized businesses.

This Decree takes effect from 16 August 2019.



**4. Decree No. 57/2019/NĐ-CP dated 26 June 2019**

Preferential export tariffs and special preferential import tariffs for the implementation of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership in the period of 2019 - 2022

This Decree promulgates the Preferential Export Tariff and the Special Preferential Import Tariff to implement the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (hereinafter referred to as the TPP) for 2019 - 2022, and conditions for enjoying the preferential export tax rates and special preferential import tax rates under this Agreement.

This Decree takes effect from 26 June 2019.

● **THE MINISTRY OF FINANCE**

**5. Circular No. 32/VBHN-BTC dated 17 June 2019**

Guiding the implementation of the Government's Decree No. 67/2011/NĐ-CP dated 08 August 2011, detailing and guiding the implementation of a number of articles of the Law on Environmental Protection Tax

- This document is consolidated from the following 04 Circulars: Circular No. 152/2011/TT-BTC dated 11 November 2011 of the Ministry of Finance; Circular No. 159/2012/TT-BTC dated 28 September 2012 of the Ministry of Finance; Circular No. 60/2015/TT-BTC dated 27 April 2015 of the Ministry of Finance; Circular No. 106/2018/TT-BTC dated 15 November 2018 of the Ministry of Finance.
- Taxable objects specified in Article 3 of the Law on Environmental Protection Tax and Article 2 of Decree No. 67/2011/NĐ-CP dated 08 August 2011 of the Government are guided as follows: Gasoline and oil , greases, Coal, Hydrogen-chloro-fluoro-carbon solutions, Plastic bags, Herbicides, Insecticides, Forest product preservatives, Warehouse disinfectants.

This Circular takes effect from 01 January 2012.

**6. Circular No. 34/VBHN-BTC dated 26 June 2019**

Guidance on implementation of investment incentives in accordance with the Law on Investment and Decree No. 118/2015/NĐ-CP dated 12 November 2015 of the Government detailing and guiding the implementation of some articles of the investment law

- This document is consolidated from the following 02 Circulars: Circular No. 83/2016/TT-BTC dated 17 June 2016 of the Ministry of Finance; Circular No. 81/2018/TT-BTC dated 28 August 2018 of the Ministry of Finance amending and supplementing the Circular No. 83/2016/TT-BTC dated 17 June 2016 of the Ministry of Finance.
- This Circular guides the implementation of preferential corporate income tax (CIT), import tax, non-agricultural land use tax for subjects entitled to investment incentives under the provisions of the Investment Law. No. 67/2014/QH13 and Decree No. 118/2015/NĐ-CP dated 12 November 2015 of the Government detailing and guiding the implementation of a number of articles of the Investment Law (hereinafter referred to as Decree No. 118/2015/NĐ-CP); Incentives for land rents and land use fees stipulated in Clause 1, Article 16 of Decree No. 118/2015/NĐ-CP shall comply with the Ministry of Finance's guidance on land rents and land use fee.

This Decree takes effect from 01 August 2016.



## B. GUIDING – ANSWERING DISPATCH

### ● GENERAL DEPARTMENT OF TAXATION

#### 7. No. 2260/TCT-CS dated 04 June 2019 VAT

In case, Hoi Trinh One Member Limited Liability Company converted from a private enterprise to a limited liability company with unchanged tax code, equity and owner. After the conversion, Hoi Trinh One Member Limited Liability Company inherits all the tax obligations of Hoi Trinh private enterprise, then the amount of input VAT not yet fully deducted by Hoi Trinh private enterprise is inherited and transferred to deduction of the following period's by Hoi Trinh One Member Limited Liability Company if the conditions for input VAT deduction are met.

#### 8. No. 2294/TCT-CS dated 05 June 2019 Responding to problems with registration fee collection policy

According to the presentation of TTC Bien Hoa - Dong Nai Sugar One Member Limited Company in Official Letter No. 025/2019/CV-TTCĐN dated 25 February 2019, Bien Hoa Sugar Joint Stock Company merged into Thanh Thanh Cong Tay Ninh Joint Stock Company in the form of stock exchange and the option of converting the company from a joint stock company to a limited liability company with 100% charter capital owned by Thanh Thanh Cong Tay Ninh Joint Stock Company. When TTC Bien Hoa - Dong Nai Sugar One Member Limited Company registered ownership and use rights of assets previously owned and used by Bien Hoa Sugar Joint Stock Company with competent state agencies rights, it must pay registration fees as stipulated in Point b, Clause 18, Article 5 of Circular No. 301/2016/TT-BTC.

#### 9. No. 2334/TCT-CS dated 07 June 2019 Invoices

In case a business organization has more than one sales establishment or multiple authorized establishments, it also uses a self-printed invoice, an electronic invoice with the same symbol according to the random access method from a server, then the business organization must have a specific decision on the random access of the sales and authorized units. The invoicing order is calculated from small to large numbers for the business system's entire invoice.

#### 10. No. 2420/TCT-KK dated 14 June 2019 External province VAT

Euro Development & Investment Joint Stock Company in Hochiminh City has a sales contract - with hospitals under the Health Department of B Province (not Hochiminh City) on basis of winning results of the Health Department of B Province and delivery of goods under this contract in B province; this is not the case that the company carries goods from Ho Chi Minh City to sell in B province, it does not have to declare and pay out-of-province VAT in B province.

#### 11. No. 2444/TCT-DNL dated 17 June 2019 Proposing on the subject of adjustment of Clause 3, Article 8 of Decree No. 20/2017/NĐ-CP

- Thien Viet Securities Joint Stock Company having transactions with associated parties shall be subject to the provisions of Clause 3, Article 8 of Decree No. 20/2017/NĐ-CP. The company is not subject to the Law on Credit Institutions and the Law on Insurance



Business, so the interest expense is deducted when determining the income subject to CIT in the period in accordance with the provisions of Clause 3, Article 8 of the Decree No. 20/2017/NĐ-CP. The interest expense portion shall not be deducted according to the provisions of Clause 3, Article 8 of Decree No. 20/2017/NĐ-CP, declared in item B4 "Expenses not deducted when determining taxable incomes" at the CIT finalization (Form No. 03/TNDN).

- Thien Viet Securities Joint Stock Company only incurred transactions with associated party - Thien Viet Fund Management Joint Stock Company (which is the CIT payer in Vietnam), both parties are not entitled to CIT incentives and applying the CIT rate of 20% is subject to the provisions of Clause 1, Article 11 of Decree No. 20/2017/NĐ-CP. The company is exempted from the declaration of associated transaction prices in accordance with Section III and Section IV of Form 01 in the Appendix issued together with Decree No. 20/2017/NĐ-CP but must declare the exemption based on Item I , Section II in Form No. 01 Appendix issued together with this Decree.

**12. No. 2501/TCT-CS dated 21 June 2019**

**Tax policy**

- The company uses foreign advertising services such as Facebook, Google, Youtube. These enterprises are not based in Vietnam, the Company is obligated to declare and pay contractor tax on behalf of the foreign party under the guidance in Article 12, Article 13, Section 3, Chapter II of Circular 103/2014/TT-BTC. The company uses VAT payment vouchers on behalf of foreign parties to deduct input VAT as prescribed.
- Based on the above provisions, multinational companies not based in Vietnam doing business in Vietnam or having incomes generated in Vietnam are obligated to pay contractor tax including VAT and CIT in the guidance stipulated in Circular No. 103/2014/TT-BTC of the Ministry of Finance.

**13. No. 2534/TCT-CS dated 24 June 2019**

**Tax policy**

Pou Chen Vietnam Co., Ltd. has goods that do not meet the quality requirements or fail to meet the requirements of the contract to destroy or restore goods, the cost of destroying damaged goods does not belong to force majeure cases and is a non-deductible expense when determining taxable income; expenses for repair and restoration of faulty goods in foreign countries or for return to the country for repair and re-export are deductible expenses when determining incomes subject to enterprise income tax if the conditions specified in Article 4 Circular No. 96/2015/TT-BTC dated 22 June 2015 of the Ministry of Finance are met.

