



## PROFESSIONAL LEGAL NEWSLETTER AUGUST 2019

### A. LEGAL DOCUMENTS HAVE JUST BEEN ISSUED

- **THE MINISTRY OF FINANCE**

1. **Circular No. 47/2019/TT-BTC dated 05 August 2019**

Regulations on rates, collection, remittance, management and use of fees for provision of enterprise information and enterprise registration fees

This Circular prescribes the rates, collection, remittance, management and use of fees for provision of enterprise information and enterprise registration fees. This Circular applies to fee payers and organizations providing enterprise information, enterprise registration fees and other organizations and individuals related to the collection, remittance, management and use of fees for provision of enterprise information and enterprise registration fees.

This Circular takes effect from 20 September 2019.

2. **Circular No. 48/2019/TT-BTC dated 08 August 2019**

Guiding the setting up and handling provision for devaluating inventories, investment losses, bad debts and warranty of products, goods, services and construction works at enterprises

- This Circular guides the setting up and handling provision for devaluating inventories, investment losses, bad debts and warranty of products, goods, services and construction works at enterprises used as a basis for determining deductible expenses when determining income subject to corporate income tax according to regulations.
- The setting up of provisions for the purpose of making and presenting financial statements of economic organizations in compliance with the accounting law.

This Circular takes effect from 10 October 2019 and applies from the fiscal year 2019.

### B. GUIDING – ANSWERING DISPATCH

- **GENERAL DEPARTMENT OF TAXATION**

3. **No. 3002/TCT-DNL dated 01 August 2019**

Guidance on determining loan interest expense according to Clause 3, Article 8 of Decree 20/2017/NĐ-CP

- The total interest expense incurred in the period of the taxpayer shall be deducted when determining the taxable income in accordance with Clause 3 Article 8 of Decree No. 20/2017/NĐ-CP, calculated on the total interest expense incurred during the period, irrespective of loan interest expenses arising from loan transactions with associated or independent parties and not offsetting with turnover from deposit interests and loan interests.



- In case the taxpayer cannot separately account and monitor the business results from 01 May 2017 to the end of a fiscal year, the criteria to calculate "Total net profit from business activities plus expenses of loan interests and amortization expenses in the period" is allocated in proportion to the remaining months of the fiscal year from 01 May 2017.

**4. No. 3042/TCT-CS dated 02 August 2019**

Corporate income tax policy

- In principle, an enterprise having an investment project is eligible for CIT incentives because it satisfies the preferential conditions in the locality, the incentive income is all income generated from its production and business activities of the investment projects in geographical areas with incentives except incomes not entitled to incentives under the provisions of the Law on Corporate Income Tax (such as project transfer, real estate transfer, mineral exploitation, goods production and trading service subject to excise tax).
- In case an enterprise is operating and is entitled to CIT incentives with additional trading activities and the enterprise does not increase capital, does not make expansion investment to increase assets, income from commercial activities supplemented are not entitled to CIT incentives.

**5. No. 3352/TCT-KK dated 22 August 2019**

Payment via bank for exported goods and services

In case, foreign customers pay for exported goods and services to Vietnamese enterprises via bank in the form of letter of credit (L/C), but the fact that payment voucher of the bank in service of Vietnamese enterprises show the remittance foreign bank account is not a bank account of a foreign customer or a third party being a foreign organization or individual who makes payment under the authorization of foreign customers indicated in the export contract (contract annex or contract adjustment document - if any) related under the guidance at Point b.3, Clause 3, Article 16 of the Circular No. 219/2013/TT-BTC, bank transfer receipts are not eligible for deduction, VAT refund for exported goods and services.

● **TAX DEPARTMENT OF HOCHIMINH CITY**

**6. No. 8901/CT-TTHT dated 20 August 2019**

Invoice

- When selling goods or providing services, the company issues electronic invoices to customers, in principle, the electronic invoice is a collection of electronic data messages about selling goods and providing services. The number of lines per invoice is not limited, so the electronic invoice is not included in the list.
- In case the company provides equipment system for broiler farm when e-invoicing, the content of supplying equipment system for broiler farm which is attached with the detailed list of components and accessories included in the system as shown, is appropriate.

**7. No. 8912/CT-TTHT dated 20 August 2019**

Corporate income tax

- In case, according to the presentation, the Company arises the cost of air tickets from foreign airlines for workers on business trips (with the decision to send them on business trips), individuals shall pay by themselves by online banking. If the Company pays back to an individual according to the Company's travel mission regulations, this expense will be included in deductible expenses when determining taxable income if it satisfies the



conditions specified in Article 4 of Circular 96/2015/TT-BTC dated 22 June 2015 of the Ministry of Finance. In case the Company directly buys tickets for employees on business trips for the Company's production and business activities but cannot recover the boarding pass, shall be complied with Section 2.9, Clause 2, Article 4 of Circular No. 96/2015/TT-BTC above.

- Note: For air tickets purchased from foreign airlines that do not have ticket offices, agents in Vietnam, the Company is obliged to withhold contractor taxes (if any) according to the provisions of Circular 103/2014/TT-BTC dated 06/08/2014 of the Ministry of Finance guiding the implementation of tax obligations applicable to foreign organizations and individuals doing business in Vietnam or earning income in Vietnam.

**8. No. 8892/CT-TTHT dated 20 August 2019**

**Personal income tax**

In case, the Company, according to the presentation, signs a collaborator contract (not a labor contract) with a foreign engineer who is not a trader to perform the work: consultancy, research, market positioning ... the entire contractual income of this individual (including remuneration, travel expenses, accommodation fees in Vietnam, cost of round-trip air tickets) is subject to PIT from salaries and wages.

**9. No. 8839/CT-TTHT dated 20 August 2019**

**Tax policy**

- If the Company signs a contract to hire other company for processing, when transporting semi-finished products, raw materials, fuels and materials to the processing units, there must be a processing contract, warehousing cum internal transport ( Form No. 03 XKNB issued together with Circular 39/2014/TT-BTC) and the enclosed internal mobilization order.
- When the Processing Company returns the processed products to the Company, a processing bill is required; delivery orders and processing contracts.

**10. No. 9143/CT-TTHT dated 22 August 2019**

**Tax policy**

CHARM & CI PLAZA CO., LTD (the company) is a one-member limited liability company 100% owned by Charm Engineering Co., Ltd. (Korean enterprise) transfers 100% of charter capital to CHL Venture Limited (British Virgin Island enterprise). the Company is responsible for declaring and paying corporate income tax payable from the transfer of capital on behalf of the foreign organization in accordance with Form No. 05/TNDN issued together with Circular No. 156/2013/TT-BTC as prescribed in Article 16 of Circular 151/2014/TT-BTC above.

**11. No. 9216/CT-TTHT dated 23 August 2019**

**Personal income tax**

- Regarding the responsibility of the Office to declare PIT finalization: If the office generates income subject to PIT for income from salaries and wages, the Office is responsible for declaring the PIT finalization and settlement of personal income tax on behalf of authorized individuals.



- Dependent deduction: For dependents who are other individuals as prescribed in Item d.4 Point d Clause 1 Article 9 of Circular No. 111/2013/TT-BTC (such as: brothers and sisters, grandparents; ...) the deadline for family circumstance-based reduction registration is December 31. If past the above-mentioned time limit, taxpayers are not allowed to claim deduction. For dependents who are parents, spouses and children, if the taxpayer does not calculate deductions for dependents in the tax year, the dependents will be deducted from the month in which the supporting obligation arises when taxpayers compile tax finalization dossiers and request tax refunds registered for family circumstance-based reduction for dependents. If the taxpayer submits a tax finalization report with the amount of tax payable after the 90th (ninety) day after the end of the calendar year which has not been registered for family circumstance-based reduction for dependents in the tax year, no deduction for family circumstances is allowed.

## **12. No. 9581/CT-TTHT dated 30 August 2019**

### **Personal income tax**

- Organizations and individuals paying incomes must make a list clearly reflecting the time for night work, overtime, extra pay for night work, overtime paid to laborers. This list is kept at the income payer and presented at the request of the tax authorities.
- In case the Company organizes overtime work on public holidays and employees will receive overtime pay equal to 300% of the normal working day plus holiday pay. According to the provisions of the Labor Code, the difference between this total income and the salary and wages calculated on a normal working day is exempt from PIT as prescribed.

