



# PROFESSIONAL LEGAL NEWSLETTER

## NOVEMBER 2019

### A. LEGAL DOCUMENTS HAVE JUST BEEN ISSUED

- **NATIONAL ASSEMBLY**

1. **Law No. 45/2019/QH14 dated 20 November 2019**

Labor Code

- Labor Code regulating labor standards; rights, obligations and responsibilities of employees, employers, labor representative organizations, employers' representative organizations in labor relations and other relevant relations directly to labor relations; State management of labor.
- Subjects of application: Laborers, apprentices and workers without labor relations; Employers; Foreign workers working in Vietnam; Other agencies, organizations and individuals directly related to the labor relations.

This Code takes effect from 01 January 2021.

2. **Law No. 51/2019/QH14 dated 25 November 2019**

To amend and supplement a number of articles of the Law on Entry, exit, transit and residence of foreigners in Vietnam

Amendments and supplements to Article 7: Visa application form and validity; To amend and supplement a number of clauses of Article 8, Article 9, ...; Article 16a. Procedures for issuing electronic visas at the request of foreigners; Article 36. Cases of temporary residence card issuance and temporary residence card symbol ...

This Law takes effect from 01 July 2020.

- **GOVERNMENT**

3. **Decree No. 85/2019/NĐ-CP dated 14 November 2019**

Stipulating the implementation of administrative procedures according to one-stop mechanism and the ASEAN one-stop mechanism and specialized inspection of import and export goods

This Decree prescribes the implementation of administrative procedures for export, import and transit goods; transport means on exit, entry and in transit according to the national one-stop mechanism and the ASEAN one-stop mechanism; specialized inspection of export, import and transit goods; manage, operate, exchange and share data through the National one-stop System.

This Decree takes effect from 01 January 2020.



4. **Decree No. 90/2019/NĐ-CP dated 15 November 2019**  
Regulations on regional minimum wage applicable to employees working under labor contracts in accordance with the Labor Code
- This Decree prescribes the minimum regional wage applicable to employees working under labor contracts in accordance with the Labor Code
  - Regulations on regional minimum wage applicable to employees working in enterprises are as follows:
    - a) VND 4,420,000/month, applicable to enterprises operating in the area of region I
    - b) VND 3,920,000/month, applicable to enterprises operating in the area of Region II.
    - c) VND 3,430,000/month, applicable to enterprises operating in the area of Region III.
    - d) VND 3,070,000/month, applicable to enterprises operating in the area of Region IV.

This Decree takes effect from 01 January 2020.

## B. GUIDING – ANSWERING DISPATCH

### ● GENERAL DEPARTMENT OF TAXATION

5. **No. 4492/TCT-CS dated 04 November 2019**  
Tax policy
- Where business establishments build or buy houses outside industrial parks in service of workers working in industrial parks, build houses or buy houses under the provisions of law on house designed standards for workers in industrial parks, the deduction of VAT and calculation of depreciation expenses into deductible expenses when determining taxable income is made in accordance with Clause 1 Article 14 of Circular No. 219/2013/TT-BTC dated 31 December 2013 of Ministry of Finance, point a Clause 2.2 Article 4 of Circular No. 96/2015/TT-BTC dated 22 June 2015 of the Ministry of Finance.
  - Where a business establishment constructs a residential area or buys an apartment to serve the technical staff of the importer who is not an employee of the business establishment that does not fall into the above cases, are not deducted from deductible expenses when determining taxable income and cannot deduct input VAT.
6. **No. 4499/TCT-CS dated 04 November 2019**  
Tax policy
- Cong ty TNHH Dau tu Xay dung Quoc Do transferred the entire investment project of rice farm to Cong ty TNHH Quoc Do Kien Giang so that the company could continue to carry out the project. If the products of the project sold are not subject to VAT, the transfer of the entire investment project of Cong ty TNHH Dau tu Xay dung Quoc Do must declare and calculate VAT according to regulations.
7. **No. 4490/TCT-KK dated 04 November 2019**  
V/v hoàn thuế GTGT đối với hàng hoá, dịch vụ xuất khẩu
- Phi Long Food Manufactory Co.,Ltd (hereinafter referred to as the Company) whose input value-added tax has not been deducted for exported goods and services of VND 300 million or more is entitled to refund of value-added tax under the guidance in Article 2 of the Ministry of Finance's Circular No. 25/2018/TT-BTC dated 16 March 2018, the refundable value-added tax of exported goods and services do not exceed the export turnover of exported goods and services multiplies (x) by 10%.



- In the third quarter of 2018, the Company has requested a refund amount less than the refundable value-added tax, the Company may add the value of the un-refunded value-added tax in the third quarter of 2018 with the value-added tax incurred in the next refund request period. The un-refunded value-added tax amount of the third quarter of 2018 for the subsequent period has been allocated according to the proportion of exported goods and services in Q3/2018 which is not required to reallocate in the next refund period.

**8. No. 4593/TCT-KK dated 08 November 2019**

Regarding the declaration of returned exports when the tax authority has processed the tax refund

Samsung Hcmc Ce Complex Electronics Co., Ltd. (hereinafter referred to as the Company) performs the export of goods, has been declared and refunded by the tax authorities for input value added tax of exported goods as prescribed. After that, foreign customers return the exported goods due to uncertainty according to the criteria in the contract, the company shall make additional declarations for the tax declaration period of the returned export goods. At the same time, the Company must also pay back the refunded value-added tax amount corresponding to the value of returned goods and delayed payment as prescribed.

**9. No. 4767/TCT-DNNCN dated 20 November 2019**

Personal income tax policy for mid-shift meal payment for employees

- When the employer organizes mid-shift meals, lunches for employees in the form of cooking, buying meals, issuing meal coupons and not organizing mid-shift meals, lunches only money for employees is not included in the taxable income of individuals if the spending is in accordance with the guidance of the Ministry of Labor - Invalids and Social Affairs. In case the spending level is higher than the guidance of the Ministry of Labor, War Invalids and Social Affairs, the excess amount must be calculated into the taxable income of the individual according to current regulations.
- In case an enterprise organizes mid-shift meals in the form of direct cooking and cash for individuals and employees, the maximum amount shall not exceed VND 730,000/person/month, it shall not be included in taxable income of employees under the guidance of the Ministry of Labor, War Invalids and Social Affairs.

**10. No. 4885/TCT-KK dated 27 November 2019**

Tax registration

Telecon Vina One-member Co., Ltd. (hereinafter referred to as the Company) converts its business operations from domestic business to export processing enterprises, the Company does not have to perform tax finalization and does not have to fulfill tax obligations by the time of conversion, tax authorities are not required to check the tax finalization until the time of conversion because the Company retains its type of enterprise, retains its ownership form, and retains tax identification numbers. The tax authority bases on the information of changes in the Company's business registration (tax calculation method, address, business lines, investment certificate, etc.) issued by the national information system on business registration and transfer to the state management agencies in the area to manage taxes for export processing enterprises as prescribed.



● **TAX DEPARTMENT OF HANOI CITY**

**11. No. 84145/CT-TTHT dated 07 November 2019**

Regarding declaration on service price adjustment

Lien Thai Binh Co., Ltd. has signed a contract to provide cleaning services to customer - Savills Vietnam Co., Ltd. The company has completed providing services and billing for cleaning services in April and May 2018 and has declared and paid VAT and CIT in accordance with regulations. However, in April 2019, the two sides agreed to reduce the service price and agree to make an invoice to adjust the service charge reduction, based on the adjusted invoice, the Company declares the adjustment of corresponding turnover VAT and CIT in the tax period of an adjusted invoice according to regulations.

**12. No. 88465/CT-TTHT dated 25 November 2019**

Regarding the cost of purchasing goods from business households and individuals

Go Vacation Vietnam Co., Ltd. incurred activities of buying assets and services from households and individuals that do not directly trade; purchase of goods and services of individuals or business households with revenues below the threshold of turnover subject to value added tax (VND 100 million/year), they may make lists according to the guidance at Point 2.4, Clause 2, Article 4. Circular No. 96/2015/TT-BTC. In case the Company purchases goods or services of a business household with an annual turnover of VND 100 million or more, to calculate it into expenses when calculating the enterprise income tax, the Company must have an invoice of the business household and meet conditions in compliance with Article 4 of Circular No. 96/2015/TT-BTC above.

**13. No. 88466/CT-TTHT dated 25 November 2019**

Regarding policy of foreign contractor tax (FCT)

- Lock & Lock Company - a foreign parent company, has a fixed monthly income in Vietnam from allowing Lock & Lock Co., Ltd. in Vietnam to use the software copyright of ERP. This activity is subject to foreign contractor tax under the guidance of Circular No. 103/2014/TT-BTC dated 06 August 2014 of the Ministry of Finance.
- CIT: Applying a CIT rate of 10% on taxable income for copyright income is 10% as prescribed in Clause 2 Article 13 of Circular No. 103/2014/TT-BTC. VAT: income received by the parent company in a foreign country is the income from the provision of software copyrights and various types of software services as prescribed in Article 9 of Decree No. 71/2007/NĐ-CP, Article 4 of Circular No. 219/2013/TT-BTC is not subject to VAT.

🌿🌿🌿🌿🌿🌿