



## PROFESSIONAL LEGAL NEWSLETTER DECEMBER 2019

### A. LEGAL DOCUMENTS HAVE JUST BEEN ISSUED

- **GOVERNMENT**

1. **Decree No. 96/2019/NĐ-CP dated 19 December 2019**

Regulations on land price bracket

- This Decree prescribes the price bracket for each type of land, by region specified in Article 113 of the Land Law.
  - Land price bracket applicable to: Agricultural land group; Non-agricultural land group.
- This Decree takes effect from the date of signing. This Decree replaces the Government's Decree No. 104/2014/NĐ-CP dated 14 November 2014 on land price bracket.

### B. GUIDING – ANSWERING DISPATCH

- **GENERAL DEPARTMENT OF TAXATION**

2. **No. 4985/TCT-DNL dated 02 December 2019**

Guiding deployment of electronic bill

- The Corporation and its member units may convert an electronic invoice into a paper invoice to prove the origin of goods in the circulation process according to Article 12 of Circular No. 32/2011/TT-BTC dated 14 March 2011 of the Ministry of Finance and must have the signature of the legal representative of the seller and seal of the seller.
- In case, the General Director of the Corporation/the heads of member units does not directly sign on the converted e-invoice, the General Director of the Corporation/the heads of the member units must have an authorization letter for the direct sales person to sign, clearly state his/her full name on the converted e-invoice and stamp the Corporation/member unit on the upper left of the invoice.

3. **No. 5160/TCT-DNL dated 10 December 2019**

For: experimenting electronic invoices with verification code of tax authority

- During the period from 01 November 2018 to 31 October 2020, the tax authority has not notified enterprise to convert using electronic invoices according to Decree No. 119/2018/NĐ-CP dated 12 September 2018 of the Government and Circular No. 68/2019/TT-BTC dated 30 September 2019 of the Ministry of Finance, enterprises still apply invoices according to Decree No. 51/2010/NĐ-CP dated 14 May 2010 of the Government, Decree No. 04/2014/NĐ-CP dated 17 January 2014 of the Government and its guiding documents.



- According to the provisions of Clause 5, Article 5 of Decree No. 51/2010/NĐ-CP dated 14 May 2010 of the Government, enterprises may simultaneously use many different forms of invoices at the same time. The state encourages the use of electronic invoices.

**4. No. 5254/TCT-CS dated 16 December 2019**

**Tax policy**

Thuan Phuoc Seafood and Trading Corporation in Da Nang has a new investment project in Tien Giang which is in the stage of investment and not yet been put into operation, not been registered for business, not been registered for tax; Tien Giang branch does not have a separate monitoring book (the book is monitored by the investor), has not opened a bank account, the branch is only assigned by the investor to manage, monitor progress and report progress of the project. the Company shall prepare a separate tax return for the investment project and at the same time, transfer input VAT of the project to offset against the VAT declaration of production and business activities being carried out. The maximum amount of VAT transferred from an investment project is equal to the payable VAT amount of production and business activities in the period of the business establishment at the head office.

**5. No. 5252/TCT-CS dated 16 December 2019**

**Invoice**

Seiko Precision Parts Vietnam Co., Ltd is an export processing enterprise with Investment Certificate for manufacturing, processing and assembling all kinds of rubber parts and components of automatic machines and is approved by the Industrial Zone Authority of Ha Nam Province which allows to exercise export right, import right and distribution right to sell goods to inland. When these activities arise, the Company must open an accounting book to separately account revenues and expenses related to goods trading and trading activities in Vietnam in order to declare and pay tax separately for these activities, not generally accounting with production activities for export.

● **TAX DEPARTMENT OF HANOI CITY**

**6. No. 90282/CT-TTHT dated 02 December 2019**

**Parallel use of electronic invoices and ordered invoices**

- During the period from 01 November 2018 to 31 October 2020, the Decrees: No. 51/2010/NĐ-CP of 14 May 2010 and No. 04/2014/NĐ-CP dated 17 January 2014 of the Government stipulating that invoices for selling goods and providing services are still valid. During the above period, if the tax authority has not notified the company of conversion to use electronic invoices in accordance with Decree 119/2018/NĐ-CP, the company will still apply electronic invoices according to the provisions of the Decree. Decree No. 51/2010/NĐ-CP, Decree No. 04/2014/NĐ-CP and documents guiding the implementation. The company may use different types of invoices at the same time as prescribed in Clause 2 Article 1 of Decree 04/2014/NĐ-CP. The State encourages the use of forms of e-invoices.
- In case the Company still has ordered invoices and has issued notice and still needs to continue using ordered invoices in accordance with the actual conditions of the enterprise, continue to apply ordered invoices as prescribed in Decree No. 51/2010/NĐ-CP dated 14 May 2010 and Decree No. 04/2014/NĐ-CP dated 17 January 2014 of the Government.



**7. No. 91456/CT-TTHT dated 06 December 2019**

**Use of electronic invoices**

- The company has used invoices purchased from the tax authorities from January 2017 (until the end of the 12-month period). In case the Company meets the conditions of the organization generating electronic invoices as prescribed in Clause 2 Article 4, Clause 1 Article 7 of Circular No. 32/2011/TT-BTC dated 14 March 2011 of the Ministry of Finance, can use electronic invoices. Before using, the Company is requested to implement the notice of electronic invoice issuance in accordance with the provisions of Clause 2, Article 7 of Circular No. 32/2011/TT-BTC of the Ministry of Finance.
- The company must stop using invoices purchased from the tax authorities from the date starting e-invoices and cancel the invoices purchased from the tax authorities that are no longer used as prescribed in Circular No. 39/2014/TT-BTC of the Ministry of Finance. The company is responsible for submitting monthly reports on usage of invoices from the beginning of the month to the end of the date of stopping using invoices purchased from tax authorities and report the quarterly usage of invoices to the tax authorities from the next day as prescribed in Article 27 of Circular No. 39/2014/TT-BTC above.

**8. No. 91914/CT-TTHT dated 09 December 2019**

**VAT declaration for Branch**

KAS E&C (Vietnam) Co., Ltd. whose branch of dependent accounting in Ho Chi Minh City is temporarily suspending its business for a definite time, has no basis to transfer the deductible input VAT of the Branch to the mother Company to make further deduction declaration. Upon expiry of the temporary suspension of business, the Company's branch shall continue to declare and deduct the said VAT amount as prescribed.

**9. No. 93856/CT-TTHT dated 16 December 2019**

**Determining loan interest expense according to Clause 3, Article 8 of Decree 20/2017/NĐ-CP**

BITEXCO - HOTEL MANAGEMENT CO.,LTD is affiliated with BITEXCO GROUP, if there is an associated transaction in the fiscal year as prescribed in Clause 3 Article 4 of Decree 20/2017/NĐ-CP, the Company determines the deductible interest expenses when determining taxable income in accordance with Clause 3 Article 8 of Decree No. 20/2017/NĐ-CP dated 24 February 2017 of the Government. In which, the interest expense is determined according to the above principle as the total interest expense incurred in the period of the Company (regardless of interest expenses arising from related parties or independent parties).

**10. No. 93851/CT-TTHT dated 16 December 2019**

**Guiding tax policy for giving gifts to customers**

Sakata Vietnam Co., Ltd. has a program to give gifts to customers and staff on annual holidays in accordance with the provisions of law, the Company does as follows:

- In case, the Company pays VAT by the deduction method, does not conduct gold trading, buys processed gold products (gold coins engraved with the company's logo) from organizations having operations buy, sell, process gold, silver and gemstones to give to customers and employees, the Company must make VAT invoices, on the invoices writing all the targets and calculate VAT like invoices for selling goods, service to customers.



- In case the Company buys gift vouchers (goods purchase vouchers) from suppliers to give to customers and employees, gift vouchers with value like money used as payment instruments. When giving vouchers to customers and employees, the Company is not required to issue VAT invoices.
- In case the Company offers gifts (goods, gift vouchers) to individual customers if the gifts received by the individual customers are not assets subject to ownership or use right registration according to regulations of the law and do not fall into the categories specified in Clause 10, Article 2 of the Circular No. 111/2013/TT-BTC of 15 August 2013 of the Ministry of Finance, are not subject to personal income tax from gift receipt.

**11. No. 95772/CT-TTHT dated 23 December 2019**

**Regarding VAT policy for houses for foreign experts**

- Business establishments that build or buy houses outside industrial parks serving workers in industrial parks, build houses or buy houses in compliance with the provisions of law on standards of public housing design for worker in the industrial park, the VAT of the constructor and the house purchased for the worker is deducted in full according to the instructions in Clause 1, Article 14 of Circular No. 219/2013/TT-BTC dated 31 December 2013 of the Ministry of Finance.
- In case, Lotte Shopping Plaza Vietnam Co., Ltd. constructs houses for foreign experts who are not employees of the Company (do not sign labor contracts with the Company) not in the above cases, do not deduct input VAT.

**12. No. 96153/CT-TTHT dated 25 December 2019**

**Guiding invoices for gift vouchers**

If MB Ageas Life Insurance Co., Ltd buys gift vouchers, shopping vouchers from suppliers to give to customers and employees under the Company's programs in accordance with the law, then:

- For gift and shopping vouchers used to buy goods from suppliers, when suppliers sell gift vouchers (purchase goods) to the Company, suppliers do not make invoices but make receipt notes as prescribed.
- For gift vouchers used to buy services from suppliers, when suppliers collect money to sell gift vouchers (using services) to the Company, suppliers make invoices according to regulations.

For expenditures on purchasing gift vouchers of the Company that meet the conditions specified in Article 4 of the Ministry of Finance's Circular No. 96/2015/TT-BTC dated 22 June 2015, the Company shall be included in expenses when determining taxable income.

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