



PROFESSIONAL LEGAL NEWSLETTER JANUARY 2020

A. LEGAL DOCUMENTS HAVE JUST BEEN ISSUED

- **GOVERNMENT**

1. **Decree No. 07/2020/NĐ-CP dated 05 January 2020**

Special preferential import tariff of Vietnam to implement ASEAN - Hong Kong, China Free Trade Agreement for the period of 2019 - 2022

- This Decree prescribes Vietnam's particularly preferential import tax rates for the implementation of the ASEAN-Hong Kong and China Free Trade Agreement in the 2019-2022 period and conditions for enjoying the special preferential import tax rates under this Agreement.
- Subjects of application: Taxpayers under the provisions of Law on import-export duties, customs offices, customs officers, organizations and individuals have rights and obligations related to exported goods, import.

This Decree takes effect from 20 February 2020.

- **THE MINISTRY OF FINANCE**

2. **Circular No. 03/VBHN-BTC dated 10 January 2020**

Provisions on determining the origin of export and import goods

- This document is incorporated from the following 02 Circulars: Circular No. 38/2018/TT-BTC dated 20 April 2018 of the Minister of Finance, providing for the determination of the origin of export and import goods; Circular No. 62/2019/TT-BTC dated 05 September 2019 of the Minister of Finance amending and supplementing a number of articles of Circular No. 38/2018/TT-BTC.
- This Circular prescribes the dossier of prior determination of origin, submits documents certifying the origin of export and import goods; procedures, contents of inspection, determination and verification of the origin of export and import goods.
- Subjects of application: Customs declarants; Customs authorities, customs officers; Agencies and organizations that grant certificates of origin of goods; traders themselves certify goods origin; Other organizations and individuals have rights and obligations related to determining the origin of export and import goods.

This Decree takes effect from 05 June 2018.



B. GUIDING – ANSWERING DISPATCH

● GENERAL DEPARTMENT OF TAXATION

3. No. 69/TCT-CS dated 07 January 2020

Tax policy

- Where invoices have been made and delivered to the buyer, goods has been delivered, and services have been provided; the seller and the buyer have declared tax, then discovered the mistake, the seller and the buyer must make a record or a written agreement stating the error and at the same time the seller makes an invoice to adjust the error. The invoice clearly indicates the adjustment (increase, decrease) of the quantity of goods, the selling price, the value added tax rate ..., the value added tax amount for the invoice number ..., the symbol ... Based on the adjusted invoice, the seller and the buyer shall declare adjustment of sales, output tax and input tax. Negative numbers must not be written on the adjusted invoice (-).
- Organizations and individuals that buy goods, sellers issue invoices and buyers receive goods, but later buyers discover that goods does not meet the specifications or quality must return all or part of the goods. When returning goods to the seller, the establishment must make an invoice, clearly state the goods returned to the seller on the invoice due to improper specifications, quality and VAT amount (if any).

4. No. 76/TCT-KK dated 07 January 2020

Invoices of dissolved enterprise

- In case, the enterprise, after being dissolved, bankrupted, finalized tax, closed its tax code, incurred liquidation of assets, it is required to have an invoice for delivery to the buyer which is the retail invoice issued by the tax authority. For sale invoices, the Tax Department shall issue invoices printed by the Tax Department strictly according to the instructions in Article 13 of Circular No. 39/2014/TT-BTC dated 31 March 2014 of the Ministry of Finance.
- In case, an enterprise submits a dossier of request for restoration of a tax identification number and falls into a case of restoration of a tax identification number under the guidance in Official Dispatch No. 3224/TCT-KK dated 13 August 2019 of the General Department of Taxation, the Tax Department comply with the instructions in Article 20 of Circular No. 95/2016/TT-BTC dated 28 June 2016 of the Ministry of Finance and Official Letter 3224/TCT-KK above. After recovering the tax code, the enterprise will issue and use invoices in accordance with the law on invoices.

5. No. 115/TCT-DNNCN dated 09 January 2020

Personal income tax deduction

- The supplementary allowance to support the workers to find new jobs that Manulife Vietnam Fund Management Co., Ltd paid to Ms. Ngo Thi Bach Minh Luan is a salary-based nature.
- In case Manulife Vietnam Fund Management Co., Ltd pays her allowance when she leaves her job, which is higher than the rate prescribed by the Labor Code and the Law on Social Insurance that her income received before her official leaves, on 20 August 2019, the difference has been deducted PIT according to the partially progressive tax table before paying in accordance with current regulations.



- In case she earns income from 02 or more places in a year, she is subject to PIT self-finalization according to regulations.

6. No. 152/TCT-DNL dated 13 January 2020

Guiding tax policy

In the case of fresh flowers which are preliminarily processed products cut and bunched into bouquets or flower baskets, using additional accessories to become a different product from the original fresh flower products (semi-preliminary processing only stems, cut) initially fresh bouquets or baskets are not of the common preliminary processing products prescribed in Clause 1, Article 4 of Circular No. 219/2013/TT-BTC. Therefore, in case, VietinBank when buying flower bouquets or baskets to give to customers, they shall issue 10% tax invoice and declare and pay tax according to regulations.

7. No. 176/TCT-DNNCN dated 14 January 2020

PIT deduction

- The company pays employees who do not sign labor contracts or sign labor contracts of less than 03 months from VND 2,000,000/time, they must deduct 10% of income before paying to individuals.
- In case the organization pays the employee under VND 2,000,000/time, but pays multiple times in a month so as not to deduct 10% PIT, the Tax Department shall take appropriate risk management measures, avoiding revenue loss.

8. No. 217/TCT-DNNCN dated 17 January 2020

PIT policy

Pursuant to Clause 1, Article 9 of Circular No. 111/2013/TT-BTC dated 15 August 2013, of the Ministry of Finance guiding the implementation of the Law on personal income tax and the Law amending and supplementing a number of Articles of Law on personal income tax and Decree No. 65/2013/NĐ-CP of the Government detailing a number of articles of the Law on Personal Income Tax and the Law amending and supplementing a number of articles of the Law on personal income tax regulations on deductions. According to the above regulations, the General Department of Taxation agrees with the proposal of the Hanoi Tax Department in Official Dispatch No. 75997/CT-TTHT. In case employees working in the Company register their dependents as aunts, uncles, aunts and uncles who still have relatives who are siblings, children who are capable of raising, they are not considered people without refuge.

9. No. 323/TCT-CS dated 21 January 2020

VAT

- Pisico Quang Nam, Forest Products Joint Stock Company (hereinafter referred to as Pisico Company) is authorized to export from customers and agrees to pay in advance the total chartering fee to shipping lines in accordance with the law as collection, payment on behalf of customer and in case the shipping lines issue invoices, write their names and tax identification numbers, when collecting the payment, Pisico Company does not have to issue VAT invoices, do not have to declare, pay taxes for authorized collector, only make receipts and payments as prescribed; In case the suppliers have issued invoices, names and tax identification numbers of Pisico Company, when collecting money from customers, Pisico Company must issue VAT invoices and calculate VAT according to regulations.



- In case Pisico Company is entrusted to export goods and has collected the remuneration, Pisico Company must issue VAT invoices and declare VAT according to Clause 3, Article 1 of Circular No. 119/2014/TT-BTC dated 25 August 2014 of the Ministry of Finance.
- Pisico Company is allowed to calculate the deductible expenses when determining the taxable income for expenses related to the Company's production and business activities and there are sufficient invoices and documents as prescribed.

10. No. 324/TCT-CS dated 21 January 2020

Tax policy

Thanh Cong Textile Garment Investment Trading Joint Stock Company, in the tax refund dossier, arising a VAT refund request related to the case that the foreign party is insolvent, the Company must clearly explain in writing the reason and use one of the documents specified at Point d.1, Clause 3, Article 16 of Circular No. 219/2013/TT-BTC to replace the voucher of payment via bank.

11. No. 326/TCT-CS dated 21 January 2020

VAT

In case an enterprise initiates the creation, issuance and use of electronic invoices for selling goods and providing services under the Ministry of Finance's Circular No. 32/2011/TT-BTC dated 14 March 2011, apart from the contents are specifically guided in Circular 32/2011/TT-BTC, other contents comply with Decree No. 51/2010/NĐ-CP dated 14 May 2010 of the Government and Circular. No. 39/2014/TT-BTC dated 31 March 2014 of the Ministry of Finance. Therefore, if an enterprise applies a trade discount to its customers, it will make an electronic invoice according to the instructions at Point 2.5, Appendix 4 issued together with Circular No. 39/2014/TT-BTC dated 31 March 2014 of the Ministry of Finance.

12. No. 368/TCT-KK dated 31 January 2020

VAT out-of-province

- Bao Thien Phat Co., Ltd. signed a sub-contract to install scaffolding for works in Ho Chi Minh City (Main contractor is based in Ho Chi Minh City) the contract value of 1.3 billion with VAT included. We accept and issue invoices for each work item. So does our company pay current tax ?.
- In the case that Bao Thien Phat Co., Ltd in Ca Mau Province has a contract to install scaffolding for works in Ho Chi Minh City, the Company is required to declare and submit tax and VAT declaration dossiers for net revenue received from the above-mentioned outward installation contract with the relevant tax authority in Ho Chi Minh City. If the Company loses tax declaration and late payment to the relevant tax authority in Ho Chi Minh City, the Company will be sanctioned for late submission of tax declaration as prescribed and must pay late payment interest, pay taxes as prescribed.

