



## PROFESSIONAL LEGAL NEWSLETTER JUNE 2020

### A. LEGAL DOCUMENTS HAVE JUST BEEN ISSUED

- **NATIONAL ASSEMBLY**

**1. Resolution No. 102/2020/QH14 dated 08 June 2020**

**Ratify EU – Vietnam Free Trade Agreement**

Ratify EU – Vietnam Free Trade Agreement (Agreement) which has been signed in 30 June 2019 in Hanoi. The full text in English and Vietnamese of the Agreement is in Appendix 1 attached to this Resolution.

This Resolution is passed in 08 June 2020 by the XIV National Assembly of the Socialist Republic of Vietnam, 9th Session.

**2. Law No. 59/2020/QH14 dated 17 June 2020**

**Enterprise Law**

- This Law provides for the establishment, management organization, reorganization, dissolution and related activities of enterprises, including limited liability companies, joint stock companies, partnerships and private enterprise; company group rules.
- Subjects of application: Enterprises; Agencies, organizations and individuals related to the establishment, management organization, reorganization, dissolution and related activities of enterprises.

This Law takes effect from 01 January 2021. Enterprise Law No. 68/2014/QH13 ceases to be effective on the effective date of this Law.

**3. Law No. 61/2020/QH14 dated 17 June 2020**

**Investment Law**

- This Law provides for business investment activities in Vietnam and business investment activities from Vietnam to foreign countries.
- This Law applies to investors and agencies, organizations and individuals related to business investment activities.

This Law takes effect from 01 January 2021, except for the provisions of Clause 2 of this Article. The Investment Law No. 67/2014/QH14 has been amended and supplemented according to Law No. 90/2015/QH13, Law No. 03/2016/QH14, Law No. 04/2017/QH14, Law No. 28/2018/QH14 and Law No. 42/2019/QH14 cease to be effective on the effective date of this Law, except for Article 75 of Investment Law No. 67/2014/QH14.



- **GOVERNMENT**

**4. Decree No. 68/2020/NĐ-CP dated 24 June 2020**

Amending and supplementing Clause 3 Article 8 of the Government's Decree No. 20/2017/NĐ-CP dated 24 February 2017 on tax administration for associated transactions

- a) Total loan interest cost (after subtracting interest on deposits and loan interests) arising within a specified tax period qualified as a deduction from income subject to corporate income tax shall not exceed 30% of total net profit generated from business activities plus loan interest costs (after subtracting interest on deposits and loan interests) and amortization costs arising within that period.
- The part of interest expenses which are not deducted as prescribed at Point a of this Clause shall be carried over to the following tax period when determining the total interest expenses to be deducted in case the total arising interest expenses are deducted of the following tax period is lower than the level specified at Point a of this Clause. The time for transferring interest expenses shall be no more than 05 years from the year following the year in which the interest expenses are not deducted.

This Decree takes effect from the date of signing and applies from the corporate income tax period 2019.

## **B. GUIDING – ANSWERING DISPATCH**

- **GENERAL DEPARTMENT OF TAXATION**

**5. No. 2268/TCT-CS dated 03 June 2020**

Regarding corporate income tax policy

- Since the tax period 2014, income from real estate transfer of enterprises, if losses, these losses are offset against profits of production and business activities in the period. The CIT law does not provide for the clearing of profits from real estate transfer activities with losses from production and business activities. As a result, the Company's recommendations are unfounded.
- In addition, currently to remove difficulties for production, business, ensure social security in response to Covid-19, in 08 April 2020 the Government issued Decree No. 41/2020/NĐ-CP on extension of tax payment and land rent to those affected by Covid-19 epidemic. If the Company is subject to the provisions of Decree No. 41/2020/NĐ-CP, please contact the tax authorities directly managing for specific instructions.

**6. No. 2285/TCT-CS dated 04 June 2020**

Regarding tax policy, invoice

If the trade discount is based on the quantity and turnover of goods or services, the discounted amount of the sold goods shall be adjusted on the goods or service sale invoice of the last purchase or the following period. In case the discount amount is made at the end of the program (period) of discounting the sale goods, an adjusted invoice is issued with a list of invoice numbers to be adjusted, the adjusted tax and amount. Based on the adjusted invoice, the seller and the buyer declare to adjust sales, output tax and input tax according to the provisions of Point 2.5, Appendix 4 issued together with Circular No. 39/2014/TT-BTC in 31 March 2014. Therefore, the Company issued 01 adjustment invoice for many customers is not in accordance with the regulations.



**7. No. 2355/TCT-CS dated 10 June 2020**

**E-invoice**

- In the period from 01 November 2018 to 31 October 2020, tax agencies have not notified the enterprises, economic organizations, other organizations, business households and individuals for conversion to use e-invoices according to the provisions of Decree No. 119/2018/NĐ-CP and under the guidance of Circular No. 68/2019/TT-BTC dated 30 September 2019 of the Ministry of Finance, enterprises and economic organizations, other organizations, business households and individuals still apply invoices in accordance with the provisions of Decree No. 51/2010/NĐ-CP dated 14 May 2010, Decree No. 04/2014/NĐ-CP dated 17 January 2014 and documents guiding the implementation of Decree No. 51/2010/NĐ-CP, Decree No. 04/2014/NĐ-CP.
- Regarding the proposals for amending and supplementing Decree No. 119/2018/NĐ-CP of the Government and Circular No. 68/2019/TT-BTC of the Ministry of Finance: The General Department of Taxation is consolidating and submitting to the competent authority to consider amendments and supplements.

**8. No. 2399/TCT-KK dated 12 June 2020**

**Regarding the supplementary declaration of VAT dossier**

Vietnam Telecom And Technology Solution Joint Stock Company made additional declarations to adjust and increase the deductible VAT amount of the January 2017 declaration period and May 2017 declaration period at the [38] index of the additional declarations in January 2017 and additional declarations in May 2017 but not due for submission of tax returns for the next tax declaration period, the General Department of Taxation agrees to handle according to plan 2 as proposed by the Taxation Department of Hanoi city: The company is entitled to deduct the increased VAT amount in the declaration period of January 2017 and May 2017; be sanctioned for acts of inadequately declaring tax dossiers according to Article 6 of Decree No. 129/2013/NĐ-CP.

**● TAX DEPARTMENT OF HANOI CITY**

**9. No. 44403/CT-TTHT dated 01 June 2020**

**Regarding corporate income tax, PIT on expenditure to employee during the Covid-19 epidemic**

During the Covid-19 outbreak, there were some expenses for purchasing masks, hand sanitizer, some protective accessories and testing for infectious diseases for employees to prevent transmission of Covid-19 virus, if the expense clearly inscribes the name of the beneficiary, this expense shall be calculated into the income subject to PIT, if the expense does not specify the name of the beneficiary but general payment to the employees' collective shall not be calculated to income subject to PIT.

**10. No. 55457/CT-TTHT dated 22 June 2020**

**Use of E-invoice**

- The company has used invoices purchased from the tax authorities from May 2018 (until the expiry of 12 months). 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.

