



PROFESSIONAL LEGAL NEWSLETTER

MAY 2020

A. LEGAL DOCUMENTS HAVE JUST BEEN ISSUED

- **GOVERNMENT**

1. Decree No. 58/2020/NĐ-CP dated 27 May 2020

Define the payment level of compulsory social insurance premiums into the Labor accident and occupational disease insurance fund

- This Decree prescribes the payment level of compulsory social insurance premiums into the Insurance fund for occupational accidents and diseases.
- The employer monthly pays 0.5% of the salary fund as a basis for payment of social insurance premiums.
- The employer monthly pays 0.3% of the salary fund as the basis for social insurance payment to be applied to enterprises that meet the conditions specified in Article 5 of this Decree.

This Decree takes effect from 15 July 2020.

2. Resolution No. 84/NQ-CP dated 29 May 2020

Regarding the tasks and solutions to continue solving difficulties for production and business, promoting disbursement of public investment capital and ensuring social order and safety in the context of the Covid-19 pandemic.

Continuing to remove difficulties for production and business, supporting those affected by Covid-19 epidemic

- Reduce 15% of the land rental to be paid in 2020 for enterprises, organizations, households and individuals that are leased land by the State.
- Reduce 2% interest rates for direct loans, indirect loans for small and medium enterprises from the SME Development Fund.
- Reduce 50% of registration fee when registering domestically manufactured or assembled cars until the end of 2020 to stimulate domestic consumption.
- Allow experts, business managers, investors, high-tech workers who are foreigners working in investment and business projects in Vietnam to enter Vietnam to maintain production and business activities of enterprises, ensuring compliance with the regulations on prevention and control of epidemics. It is strictly forbidden to discriminate against foreigners living and working in Vietnam.

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The Government submits to the Standing Committee of the National Assembly and the National Assembly for considering and deciding the following contents:

- Exempting charge for granting water right to enterprises exploiting water for production and business in 2020.
- Reduce 30% of the corporate income tax payable for 2020 for small and micro enterprises to support in the context of the Covid-19 pandemic

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3. Decree No. 61/2020/NĐ-CP dated 29 May 2020

Amending and supplementing a number of articles of the Government's Decree No. 28/2015/NĐ-CP dated 12 March 2015 detailing the implementation of a number of articles of the Employment Law regarding unemployment insurance

- To amend and supplement Clauses 2 and 3, Article 12: Cases where laborers are determined to be paying unemployment insurance premiums according to Article 49 of the Employment Law.
- To amend and supplement Clause 3, Article 14: The Minister of Labor, War Invalids and Social Affairs shall set the price for consultancy and job placement services from the Unemployment Insurance Fund for laborers according to Article 54 of the Employment Law.
- To amend and supplement Clause 2 Article 16: The original or certified copy or the copy enclosed with the original for comparison of one of the papers certifying the termination of the labor contract or the working contract.

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This Decree takes effect from 15 July 2020.

● **THE MINISTRY OF FINANCE**

4. Document No. 5977/BTC-TCT dated 20 May 2020

Regarding the implementation of Decree No. 41/2020/NĐ-CP

In the course of implementation, the Ministry of Finance should pay attention to the contents related to the extension of payment of corporate income tax (CIT) and value added tax (VAT) in Article 3 of Decree No. 41/2020/NĐ-CP as follows:

- The remaining payable CIT amount according to the settlement of the extended tax period 2019 does not include the temporarily paid quarterly CIT amount. Accordingly, the remaining payable CIT amount according to the final settlement of the tax period in 2019 is at most equal to 20% of the total payable tax amount for the whole year according to the settlement.
- Enterprises and organizations eligible for extension of tax payment and land rents prescribed in Article 2 of Decree No. 41/2020/NĐ-CP are allowed to extend the payable VAT amounts specified in Clause 1, Article 3 of the Decree. No. 41/2020/NĐ-CP includes the VAT amount at the head office and the payable VAT amount in the locality where there is an out-of-province current construction business, construction of inter-provincial works.

B. GUIDING – ANSWERING DISPATCH

● **GENERAL DEPARTMENT OF TAXATION**

5. No. 1836/TCT-CS dated 08 May 2020

VAT refund

Conditions for deducting and refunding input VAT on on-spot exported goods are prescribed by law:

- A goods sale or processing contract with delivery designation in Vietnam.
- The customs declaration of on - spot export - import goods that has completed customs procedures.



- Value-added invoice or export invoice clearly stating the name of the foreign buyer, the name of the consignee and the place of delivery in Vietnam.
- Goods sold to foreign traders but delivered in Vietnam must be paid via banks in freely convertible foreign currencies.
- On-spot export goods of foreign-invested enterprises must comply with the provisions of the investment licenses.

6. No. 2012/TCT-DNNCN dated 18 May 2020

Tax policy

If SSA does business in Vietnam or generates income in Vietnam from sending employees to work at SSIT, SSIT shall declare and pay foreign contractor tax in Vietnam in accordance with the Circular. No. 103/2014/TT-BTC dated 06 August 2014 of the Ministry of Finance. SSA's employees who work at SSIT and earn income from salaries, wages and other incomes are subject to personal income tax in Vietnam in accordance with Article 1 of Circular No. 111/2013/TT-BTC dated 15 August 2013 of the Ministry of Finance.

7. No. 2033/TCT-KK dated 18 May 2020

Tax policy

Dai Hai Power Development and Investment Joint Stock Company (headquartered in Ho Chi Minh City) has Srepok 1 Solar Power Plant (in Dak Lak province), Dai Hai Power Development and Investment Joint Stock Company sells electricity to Vietnam Electricity (cannot directly sell electricity), the tax declaration and payment shall be made as follows:

- Regarding VAT: Official Letter No. 1653/TCT-DNL dated 27 April 2020, guiding the tax declaration and payment to Dak Nong Tax Department and the Central Hydro Power Joint Stock Company.
- Regarding corporate income tax: In case of independent accounting, Srepok 1 solar power plant shall declare and calculate separate corporate income tax in Dak Lak province. In case of dependent accounting, the Company shall declare the Company's corporate income tax (excluding independent accounting units with the Company) at its head office in Ho Chi Minh City.

If Srepok 1 Solar Power Plant is in the period of CIT incentive, the Company must calculate taxable income from the incentive activities to determine the payable amount in Dak Lak Province of Srepok 1 Solar Power Plant 1 under the guidance of the current CIT law.

8. No. 2078/TCT-DNNCN dated 20 May 2020

Guidance on tax policy

- Phu Quoc Express Joint Stock Company has a contract with enterprises acting as agents to sell high-speed train tickets (*ships*) at the right price to the Company, the Company shall declare and pay VAT on the whole sale turnover of tickets, ticket agents at the right prices enjoy commissions according to the commercial law shall comply with the above provisions.
- In case Phu Quoc Express Joint Stock Company signs a contract with individuals acting as an agent for selling high-speed train tickets (*ships*) at the right price for commissions (*in the service sector under Clause 7, Article 5 of Circular No. 219/2013/TT-BTC*). The company pays commissions to individuals who declare tax and pay taxes themselves according to the tax declaration form No. 01/CNKD issued together with Circular No. 92/2015/TT-BTC dated 15 June 2015 of the Ministry of Finance. The company states "*Declare on behalf of*" in the preceding part of "*Taxpayers or the legal representative of taxpayers*" and signs, stamps of the Company. The company submits tax declaration on behalf of the individual at the Tax Department where the company is located. On the tax records, tax receipts still show that the taxpayer is a business individual.



● TAX DEPARTMENT OF HANOI CITY

9. No. 29720/CT-TTHT dated 04 May 2020

Regarding VAT on goods sold outside the province

Meibi Vietnam Co., Ltd. (headquartered in Hanoi) signed the contract No. FJT-MB/WFC PJ 01.2019 with Fujita Corporation Japan - General contractor to carry out the construction of Water Front City Hai Phong project in Lot C, Vinh Niem Ward, Le Chan District, Hai Phong City to perform cleaning services for construction projects in Hai Phong, the scope of work under the contract includes: cleaning the floors, balconies, walls outside, carpets, rooms, interior equipment and floor polishing tools such as towels, brushes, vacuum cleaners, cleaning chemicals ... then this activity is not a construction, installation and sale of goods outside the province. The company does not set up a branch, so the declaration and payment of VAT on the revenue generated by the contract mentioned above is concentrated in the tax office directly managing the headquarters.

10. No. 33313/CT-TTHT dated 11 May 2020

Preferential corporate income tax (CIT) for term deposit interest

If in 2019 Summit Auto Seats Industry Co., Ltd. (Hanoi) is enjoying CIT incentives due to the eligibility of incentives in the locality, the income eligible for CIT incentives is the total income generated from business activities in the geographical area of incentives (including interest on bank deposit arising in the geographical area) except for the income specified in Clause 1, Article 10 of Circular No. 96/2015/TT-BTC dated 22 June 2015 by the Ministry of Finance.

11. No. 34316/CT-TTHT dated 12 May 2020

VAT on service offered to customers of foreign partners

Maruka Vietnam Co., Ltd. signs a contract with a foreign organization to provide repair services to customers of foreign organizations that are Vietnamese domestic enterprises, export processing enterprises (including cases of processing enterprises not located in the export processing zone), the VAT rate is determined according to the following principles:

- In case services are provided directly to organizations and individuals in Vietnam and consumed in Vietnam, they are subject to the 10% VAT rate prescribed in Article 11 of Circular No. 219/2013/TT-BTC.
- In case services are provided directly to organizations and individuals in non-tariff areas and consumed in non-tariff areas, it is determined to be an export service and subject to the VAT rate of 0%.

12. No. 36240/CT-TTHT dated 15 May 2020

Creating electronic invoices together with the list

Electronic invoice is essentially a collection of electronic data messages about goods sale and service provision, which is initialized, made, sent, received, stored and managed by electronic means, the number of lines available to increase depending on the quantity of goods and products on the invoice. When selling goods, the Company issues electronic invoices to customers, the Company must make a complete list of goods and services sold to ensure the principle of information contained in e-invoices can be accessed and used in a complete form when necessary under the provisions of Clause 3, Article 3 of the Finance Ministry's Circular No. 32/2011/TT-BTC dated 14 March 2011. In case, the company issue electronic invoice which does not display the full list of goods and services sold but also encloses a paper list to customers. This is not compliant with the electronic invoice regulations.



13. No. 37026/CT-TTHT dated 18 May 2020

Foreign contractor tax for services provided and consumption outside Vietnam

KJTT Vietnam Co., Ltd. signs a contract with an organization in Korea (without a permanent establishment in Vietnam) to perform *the services provided and consumed in Korea* or perform delivery services, international logistics from Korea to Vietnam is not subject to FCT according to Article 2, Article 12 and Article 13 of Circular No. 103/2014/TT-BTC.

14. No. 40840/CT-TTHT dated 25 May 2020

Guiding tax policies for promotions

- Diana Unicharm Joint Stock Company authorizes distributors to carry out a promotion program for customers "to buy X gifts Y" in accordance with the commercial law. When giving promotional goods to customers, the distributor shall make an invoice, clearly state the name and quantity of the goods on the invoice, specify that the promotional goods and the VAT calculation price are 0.
- Diana Unicharm Joint Stock Company makes payment to the distributor of goods for the promotion program, when receiving the payment, the distributor must make VAT invoice and calculate VAT at the rate of 10%. If the distributor is the taxpayer using the deduction method, or uses the sale invoice and determines the tax amount to be paid as a percentage (%) of the prescribed revenue if the distributor is the VAT payer according to the direct method.
- For promotional expenses paid by Diana Unicharm Joint Stock Company to distributors if they meet the provisions of Article 4 of Circular No. 96/2015/TT-BTC dated 22 June 2015 of the Ministry of Finance, the Company can deduct these expense when determining taxable income.

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