



## PROFESSIONAL LEGAL NEWSLETTER AUGUST 2020

### A. LEGAL DOCUMENTS HAVE JUST BEEN ISSUED

- **THE MINISTRY OF FINANCE**

1. **Circular No. 33/VBHN-BTC dated 06 August 2020**

Guiding electronic transactions in the tax sector

- This document is consolidated from the following 02 Circulars: Circular No. 110/2015/TT-BTC dated 28 July 2015 of the Minister of Finance guiding electronic transactions in the tax sector which takes effect from from 10 September 2015; Circular No. 66/2019/TT-BTC dated 20 September 2019 of the Minister of Finance amending and supplementing a number of articles of Circular No. 110/2015/TT-BTC dated 28 July 2015 of the Ministry of Finance giving guidances on electronic transactions in the tax sector which is effective from 05 November 2019.
- This Circular guides the implementation of tax administrative procedures in accordance with the Law on Tax Administration by electronic transactions, including: tax registration, tax declaration, tax payment, tax refund and receipt of documents electronically sent to the tax authority by the taxpayer, ...
- This Circular does not regulate electronic tax transactions for goods at the stage of import and export at the customs office.

This Circular takes effect from 10 September 2015.

2. **Circular No. 77/2020/TT-BTC dated 14 August 2020**

Guidance on some contents of the Government's Decree No. 81/2020/NĐ-CP dated 09 July 2020, amending and supplementing some articles of Decree No. 163/2018/NĐ-CP dated 04 December 2018 regulating issuance on corporate bonds

- Subjects of application: Enterprises issue separate corporate bonds as prescribed in the Government's Decree No. 163/2018/NĐ-CP dated 04 December 2018; consultancy on bond issuance, bidding, agency and underwriting; corporate bond depository; ...
- Main content: Disclosure of information about businesses issuing bonds; Disclosure of information on the corporate bond information website; Report mode.

This Circular takes effect on 28 September 2020.

### B. GUIDING – ANSWERING DISPATCH

- **GENERAL DEPARTMENT OF TAXATION**

3. **No. 3059/TCT-CS dated 03 August 2020**

Tax policy

Enterprises may be selected to apply the most favorable tax incentives corresponding to a given preferential condition either according to the conditions of an investment project or according to the condition of income from seafood processing.



- In case the Company has chosen tax exemption in 2019, it will continue to enjoy tax exemption and reduction incentives and preferential tax rates under preferential conditions for investment projects in difficult socio-economic areas if they meet the preferential conditions of CIT incentives.
- If in 2019, the Company chooses to apply the preferential CIT rate of 10% on income from seafood processing, the Company is entitled to 10% CIT from 2019 until the end of the project operation mentioned above if satisfy the conditions for seafood processing as prescribed in the Government's Decree No. 12/2015/NĐ-CP dated 12 February 2015.

**4. No. 3254/TCT-DNNCN dated 10 August 2020**

**Policy of personal income tax**

In cases where individuals working at Vietbank bank duplicate their dependents when declaring family circumstances, the unit declares to understate personal income tax and cases where individuals have multiple sources of income but authorize the finalization of personal income tax resulting in an incorrect declaration of an increase in the amount of tax refund, the tax authority shall sanction the taxpayer's misstatement in accordance with the Law on Tax Administration. The income-paying unit has the responsibility to notify, work with individuals and sum up and fully declare and pay tax amounts into the state budget according to the provisions of law.

**5. No. 3208/TCT-KK dated 10 August 2020**

**VAT refund**

- CaliforniaWellness Group Company Limited (the merged party) is merged into California Fitness & Yoga Center Limited Company (merger) in accordance with the Law on Enterprises, the dependent units of the merged party will terminate under the above merger contract, the holding entity with the legal status as California Wellness Group Company Limited is responsible for fulfilling all tax obligations of the dependent units.
- Therefore, a dependent unit of CaliforniaWellness Group Company Limited is CaliforniaWellness Group Company Limited - Nha Trang Center Branch is not considered for refund of deductible VAT at the time of termination of operation, must assign this tax amount to CaliforniaWellness Group Company Limited so that CaliforniaWellness Group Company Limited will make tax finalization in accordance with the law when merging with California Fitness & Yoga Center Limited Company.

**6. No. 3363/TCT-DNNCN dated 17 August 2020**

**Form of personal income tax**

VPbank Finance Company Limited proposes the registration of a commitment to taxable income that is not taxable and authorization of personal income tax finalization is done through the human resource management software. In the case of the Company, the internal personnel management software of the Company must ensure that the form conditions showing a list of individuals making commitments on the software must fully reflect the content in form No. 02/CK-TNCN issued together with Circular No. 92/2015/TT-BTC dated 15 June 2015 of the Ministry of Finance and a form showing a list of individuals authorized to finalize personal income tax on the software must fully reflect the contents in the form No. 02/UQ-QTT-TNCN attached to the Circular No. 92/2015/TT-BTC dated 15 June 2015 of the Ministry of Finance. At the same time, the Company must commit to the accuracy, honesty, take legal responsibility and bear signature from the employee present in the list about the data and content shown in the above list.



**7. No. 76731/CT-TTHT dated 19 August 2020**

**Guide tax policy for the subsidy**

- The Hanoi Transport Corporation receives the support money from the Military Petrochemical Joint Stock Company and Hoa Cuong Joint Stock Company as agreed in the cooperation contract signed by the parties in accordance with the law. In the case of not having to declare, calculate and pay VAT under the guidance in Clause 1, Article 5 of Circular No. 219/2013/TT-BTC, when receiving the above support amount, Hanoi Transport Corporation shall make a receipt according to the law. For a business establishment that pays money, based on the purpose of the payment is to make a receipt of payment.
- In case the Hanoi Transport Corporation receives money from the partner to perform services for the partner (such as repair, warranty, promotion, advertising), it must declare and pay tax according to regulations.

● **TAX DEPARTMENT OF HANOI CITY**

**8. No. 73398/CT-TKT5 dated 07 August 2020**

**Return the goods provided**

New Century Company Limited (hereinafter referred to as the Company) provided software with CD and issued VAT invoice to Sakura Hong Minh Vietnam Co., Ltd. (hereinafter referred to as the Buyer) in September 2018. The company has completed the provision of goods and services and issued invoices, has declared and paid value-added tax and corporate income tax according to regulations. However, in May 2020, the Buyer returns all goods to the Company, when the goods are delivered, the Buyer shall issue an invoice to the Company. In the invoice, the Buyer clearly states that the goods are returned to the seller due to improper specifications or quality. Based on the goods return invoice, the Company shall declare and adjust the sales and output VAT at the time the goods return invoice is generated; The company is not required to declare and adjust VAT declarations and CIT finalization in 2018.

**9. No. 74447/CT-TTHT dated 11 August 2020**

**Handling invoices made due to re-agreement of rent and service charges.**

The company provides ground rental services, the company issued an invoice and the two parties declared VAT according to regulations, then the two parties agreed to reduce the rental price and service fee for the rental period when invoices have been issued, the two parties shall make a record or have a written agreement clearly stating the adjusted contents, and the Company shall issue an adjusted invoice according to regulations. The invoice clearly states the adjustment (increase or decrease) of the quantity of goods, the selling price, the value-added tax rate ..., the value-added tax amount for the invoice No ..., symbol ... Negative numbers (-) may not be included in the adjustment invoice.

**10. No. 74443/CT-TTHT dated 11 August 2020**

**Issue an electronic invoice with the list**

An e-invoice is essentially a collection of electronic data messages about the sale of goods or provision of services, created, made, sent, received, stored and managed electronically, the number of lines with may increase depending on the quantity of goods or products on the invoice. When selling goods or providing services, the seller issues e-invoices to customers, the seller must make a complete list of sold goods and services, ensuring that the information contained in the e-invoice can be accessible and use in complete form when necessary according to 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 seller does not display the complete list of sold goods or services but is accompanied by a paper list for customers, including those not shown on the e-invoice is not in accordance with the regulations on electronic invoices.



**11. No. 77550/CT-TTHT dated 21 August 2020**

Regarding VAT policy for bonuses for agents

- Post and Telecommunication Joint Stock Insurance Corporation will pay bonuses to agents according to the contractual agreements signed between the parties in accordance with the law, when receiving the above bonus amount if the bonus is not for performing services as repair, warranty, promotion, and advertising to Post and Telecommunication Joint Stock Insurance Corporation, the agent is not required to declare, calculate and pay VAT, and the agent shall issue receipts according to regulations. Post and Insurance Joint Stock Corporation bases on spending purpose to prepare payment vouchers.
- When Post and Telecommunication Joint Stock Insurance Corporation takes back the above bonus amount from the co-insurers, it is not required to issue an invoice but to prepare the receipts according to regulations.

**12. No. 78764/CT-TTHT dated 26 August 2020**

Regarding PIT withholding after termination of labor contract

- The representative office of Chemonics International, Inc in Hanoi pays benefits and bonuses to employees (signing labor contracts with the Company for 3 months or more) after terminating the labor contract. If this expense is two million (2,000,000) dong or more, the representative office must withhold personal income tax at the rate of 10% of the total income before paying to the employee (excluding deductible income when calculating PIT, income exempt from PIT).
- At the end of the year, individuals must synthesize incomes from salaries and wages to perform PIT finalization if they are subject to PIT finalization under the guidance in Article 21 of Circular No. 92/2015/TT-BTC of the Ministry of Finance.

**13. No. 79495/CT-TTHT dated 28 August 2020**

Regarding the PIT policy for foreign experts

- Representative office in Vietnam of World Wide Fund for Nature (WWF) has American experts working in Vietnam, if salary and benefits are paid from the US then:
  - + If the foreign expert satisfies the condition of being resident in the tax year, the taxable income is the income earned inside and outside the territory of Vietnam, regardless of where the income is paid. Individuals make PIT declaration according to the Partial Progressive Tariff guided in Clause 7, Article 26 of Circular No. 111/2013/TT-BTC and Clause 7, Article 16 of Circular 156/2013/TT-BTC of the Ministry of Finance.
  - + If the foreign expert satisfies the condition of being a non-resident in the tax year, the taxable income is the income earned in Vietnam (regardless of where the income is paid and received). Individuals shall declare tax at the tax rate of 20% under the guidance in Clause 8, Article 26 of Circular No. 111/2013/TT-BTC and Clause 8, Article 16 of Circular 156/2013/TT-BTC of the Ministry of Finance.
- In case the Agreement on double taxation avoidance between Vietnam and the United States officially comes into effect and the foreign expert is eligible for PIT exemption under Article 31 of Circular 205/2013/TT-BTC dated 24 December 2013 of the Ministry of Finance, foreign experts must prepare a tax exemption or reduction dossier according to the provisions of Clause 13, Article 16 of the Circular No. 156/2013/TT-BTC above.

