



PROFESSIONAL LEGAL NEWSLETTER SEPTEMBER 2020

A. LEGAL DOCUMENTS HAVE JUST BEEN ISSUED

- **GOVERNMENT**

1. **Decree No. 111/2020/NĐ-CP dated 18 September 2020**

Preferential Export Tariffs, Special Preferential Import Tariffs of Vietnam to implement the Free Trade Agreement between the Socialist Republic of Vietnam and the European Union for the period 2020-2022

This Decree promulgates Vietnam's Preferential Export Tariff and Special Preferential Import Tariff for the implementation of the Free Trade Agreement between the Socialist Republic of Vietnam and the European Union (hereinafter referred to as EVFTA Agreement) for the period 2020-2022 and conditions to enjoy preferential export tax rates and special preferential import tax rates under this Agreement.

This Decree takes effect from the date of signing.

2. **Decree No. 114/2020/NĐ-CP dated 25 September 2020**

Detailing provisions on the implementation of Resolution No. 116/2020/QH14 of the National Assembly on reduction of corporate income tax payable by 2020 for enterprises, cooperatives, non-business units and other organizations

- This Decree applies to corporate income tax payers being organizations engaged in the production and trading of goods and services with taxable income (hereinafter referred as enterprises) according to the provisions of Article 1 Resolution No. 116/2020/QH14.
- 30% reduction in corporate income tax payable for the 2020 tax period if the enterprise has a total revenue in 2020 not exceeding 200 billion VND.
- Total revenue in 2020 as a basis for determining the subjects eligible for tax reduction as prescribed in Clause 1 of this Article is the total revenue in the tax period 2020 of the enterprise including all sales, processing and service charges including price subsidies and surcharges to which enterprises are entitled in accordance with the Law on Corporate Income Tax and its guiding documents.
- Enterprises determine by themselves the reduced corporate income tax amount when temporarily filed quarterly and when declaring corporate income tax payable in the tax period 2020. When preparing tax declaration, enterprises declare the reduced corporate income tax on the declaration forms enclosed with the Circular No. 151/2014/TT-BTC dated 10 October 2014 of the Ministry of Finance and its amendments and supplements (if any) and in the appendix of corporate income tax to be reduced according to Resolution No. 116/2020/QH14 issued together with this Decree.

This Decree takes effect from the effective date of Resolution No. 116/2020/QH14 and applies to the tax period 2020.



- **THE MINISTRY OF FINANCE**

3. Consolidated document No. 36/VBHN-BTC dated 07 September 2020

Regulations on issuing corporate bonds

- This Decree provides for the private issuance of corporate bonds within the territory of the Socialist Republic of Vietnam and the issuance of corporate bonds to the international market. This Decree does not amend the public issuance of corporate bonds in accordance with the Law on Securities and its guiding documents.
- Enterprise that issues bonds is a joint stock company or a limited liability company established and operating under the laws of Vietnam. Organizations and individuals involved in corporate bond issuance.

This Decree takes effect from 01 February 2019.

B. GUIDING – ANSWERING DISPATCH

- **GENERAL DEPARTMENT OF TAXATION**

4. No. 3705/TCT-CS dated 08 September 2020

Value added tax

Truong Thanh Art Company Limited makes graphic drawings as PSD electronic data files using Photoshop software (on the basis of lead painting sketches provided by Bihou Corporation (in Japan)) and then sent electronically to Corporation (in Japan) in the case of export of services and products used outside of Vietnam (consumption outside Vietnam) subject to VAT rate of 0% if meeting the conditions specified in Clause 2, Article 9 of Circular No. 219/2013/TT-BTC dated 31 December 2013 of the Ministry of Finance and being deducted and refunded if satisfying the deduction and tax refund conditions as prescribed.

5. No. 3712/TCT-CS dated 08 September 2020

Answering questions about policy of collecting registration fee

Registration fee is determined according to the policy and registration fee rate at the time the payer registers property ownership and right to use property with competent state agencies. Therefore, the first registration fee rates specified in Decree No. 70/2020/NĐ-CP of the Government applicable to automobiles, trailers or semi-trailers pulled by cars and other similar vehicles manufactured and assembled domestically are registered for ownership and use rights with competent state agencies from 28 June 2020 to 31 December 2020 (regardless of invoice date of car purchase and sale).

6. No. 3711/TCT-CS dated 08 September 2020

Invoice

- The invoice date for service provision is the date of completion of the service regardless of whether the money has been collected or not. In case of delivering goods many times or handing over items or service stages, each time of delivery or handover, an invoice must be made for the corresponding quantity and value of goods or services.
- Contract number 2019/KFWIVĐ-HIPT signed in 09 October 2019 between the Company and Vietduc University Hospital (contract appendix 1.2 attached), the form of payment is "According to the percentage of the contract value". If the above payment is associated with the partial completion of the provision of goods or services, then make an invoice as prescribed in Point a, Clause 2, Article 16 of Circular No. 39/2014/TT-BTC and Clauses 1 and 2, Article 8 of the Circular No. 219/2013/TT-BTC above.



● TAX DEPARTMENT OF HANOI CITY

7. No. 81430/CT-TTHT dated 07 September 2020

V/v sử dụng đồng thời hoá đơn điện tử và hoá đơn giấy

using electronic invoices and paper invoices at the same time

- During the period from 01 November 2018 to 31 October 2020, the Decrees: 51/2010/NĐ-CP dated 14 May 2010 and No. 04/2014/NĐ-CP dated 17 January 2014 of the Government regulating invoices for selling goods and providing services are still effective. During the above time, if the tax authority has not notified the company to convert to use electronic invoices under Decree No. 119/2018/NĐ-CP, the Company will still apply the invoice as prescribed in Decree No. 51/2010/NĐ-CP, Decree No. 04/2014/NĐ-CP and documents guiding implementation. The Company can simultaneously use many different forms of invoice as prescribed in Clause 2, Article 1 of Decree No. 04/2014/NĐ-CP. The State encourages the use of e-invoice form.
- In case the Company still has pre-printed invoices that have been notified of issuance and still have a need to continue using pre-printed invoices in accordance with the actual conditions of the enterprise, they shall continue to apply pre-printed 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.

8. No. 81432/CT-TTHT dated 07 September 2020

Regarding the waiver of buyer signature on e-invoice

In case, the buyer is not an accounting unit or an accounting unit if there are documents and vouchers proving the provision of goods and services between the Company and the buyer such as economic contracts, stock out notes, goods delivery records, payment receipts, documents receipts and other related documents ..., the company makes an e-invoice as prescribed, the e-signature of the buyer is not required (unless the buyer is an accounting unit that requires electronic signature of the buyer on the invoice).

9. No. 81763/CT-TTHT dated 08 September 2020

Regarding invoices, VAT for sales activities under CIF terms

- The company purchases goods from a foreign supplier but does not carry out the procedures for importing into Vietnam but resells it to customers operating and doing business in Vietnam (hereinafter referred to as the buyer) on the condition of delivery at Vietnamese ports/airports (terms of delivery CIF Incoterm 2010) and the buyer is the person who carries out the import procedures and pays the related taxes (if any) at the stage of importation, the sale of goods above not eligible for 0% tax rate. The company must make invoice, calculate and declare output VAT when selling goods to customers in Vietnam according to regulations.
- If the taxpayer has a voucher of VAT payment at the import stage bearing the taxpayer's name and satisfies the conditions for VAT deduction, the taxpayer may declare and deduct input VAT according to regulations. Expenses for production and business activities of enterprises, meeting the conditions specified in Article 4 of Circular 96/2015/TT-BTC shall be included in deductible expenses when determining the payable corporate income tax.



10. No. 81913/CT-TTHT dated 09 September 2020

Regarding VAT declaration upon merger

- The merged company is responsible for fulfilling tax obligations before the merger. If the tax liability is not fulfilled, the merging party is responsible for fulfilling tax obligations on behalf of the merged party.
- Austdoor Nhon Trach Co.,Ltd (the merged party) has been directly inspected and determined by the tax authority to determine the tax liability up to the time of termination of operation, including confirmation of the input VAT amount not deducted yet of Austdoor Nhon Trach Co.,Ltd is transferred to the Austdoor Group Joint Stock Company (the merger), the Austdoor Group Joint Stock Company may declare the input VAT that not deducted yet with item No. 38 "Adjusting to increase the amount of deductible VAT of previous periods" on the declaration 01/GTGT of the tax period, receiving notice of transfer of tax liability as prescribed.

11. No. 85144/CT-TTHT dated 22 September 2020

Regarding the invoice of business cooperation contracts

Viet Anh Security and Electronic Equipment Company and Company B signs a business cooperation contract in accordance with the law, the parties to the business cooperation contract divide the business results according to the profit after tax, and the parties involved in the business cooperation contract agree to allow Viet Anh Security and Electronic Equipment Company to act as its representative, Viet Anh Security and Electronic Equipment Company shall issue invoices to customers, record revenue, expenses and declare and pay corporate income tax on behalf of the remaining parties to the business cooperation contract according to the instructions at Point n, Clause 3 Article 5 Circular No. 78/2014/TT-BTC dated 18 June 2014 of the Ministry of Finance.

12. No. 85416/CT-TTHT dated 23 September 2020

Determining corporate income tax

- KYB Vietnam Co., Ltd. has a KYB Vinh Phuc factory located in Vinh Phuc province and is a dependent accounting entity of KYB Vietnam Co., Ltd., the corporate income tax payable in the province or city where the dependent accounting entity locates is determined by the amount of corporate income tax payable in the period multiplied (x) the percentage of expenses of the dependent accounting entity over the total cost of the enterprise according to the specified in Article 13 of Circular No. 78/2014/TT-BTC.
- During the time being entitled to corporate income tax incentives if the Company generates both income from production and business activities entitled to tax incentives and income from production and business activities that are not entitled to incentives. The Company shall comply with the instructions in Clause 2, Article 18 of the Circular No. 78/2014/TT-BTC.

