

Update on new regulations and important tax policies

December 2020



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1. Resolution No.128/2020/QH14 on state budget estimation in 2021

On 12 November 2020, National Assembly issued Resolution No. 128/2020/QH14 on the state budget estimation in 2021. In Resolution 128, in addition to the contents related to the state budget, National Assembly also agreed other important issues, including the decision on not raising the base wage and the poverty line in 2021 as in 2020. Besides, National Assembly also assigned Government to guide the calculation of deductible expenses of business and organizations for the expenses of supporting and sponsoring Covid-19 epidemic prevention and control activities when determining taxable income to meet the real situation and encourage contribution of the business community throughout the country.



2. Decree No. 128/2020/ND-CP on the regulations on sanctioning of administrative violations in customs and Official Letter No. 7594/TCHQ-PC on summary of new regulations in Decree 128/2020/ND-CP



On 19 October 2020, the Government issued Decree No. 128/2020/ND-CP on the administrative penalty on violation in customs. Decree No. 128/2020 takes effect from 10 December 2020.

In which, some highlight contents of Decree No. 128 are as follows:

- Add a number of sanctions for some newly arisen violations: Counterfeit goods originating from Vietnam, goods with images and contents showing improper national sovereignty or other content affect the security, politics, economy, society, and diplomatic relations of Vietnam; violating regulations on labeling of goods, etc.
- Some case with no administrative penalty for customs:
 - Goods and means of transport brought into Vietnam under an unexpected event or force majeure event that have been notified in writing to the customs authority or other competent authority in accordance with the law and are taken out of Vietnam after the force majeure has been overcome.
 - Making supplemental declarations in the customs documents within the time limit prescribed in Clause 4 Article 29 of the Law on Customs 2014.
 - Customs declarants comply with written instructions and handling decisions of competent agencies related to the determination of tax obligations.

In addition, in order to help businesses comply with new regulations, on 30 November 2020, General Department of Customs issued Official Letter No. 7594/TCHQ-PC to summary and introduce new regulations mentioned in Decree No. 128/2020/ND-CP.

3. Official Letter 5189/TCT-CS summarize notable points of Decree 126/2020/ND-CP on tax administration

On 7 December 2020, General Tax Department issued Official letter 5189/TCT-CS summarising on notable points of Decree 126/2020/ND-CP on tax administration regulations in order to support the enterprises to grasp the changes of the new regulations compared to the previous regulations. Some of the key changes are summarized in the Official Letter 5189 including:

- Tax administration with taxpayers during the temporarily suspension period
- Manage other revenues of the state budget
- Regulations on tax registration
- Regulations on supplemental tax declaration
- Regulations on Value Added Tax (“VAT”), Corporate Income Tax (“CIT”), Special Consumption Tax (“SCT”) and Natural Resource Tax (“NRT”)
- Taxes on income from dividends and profits shared
- Tax declaration for a number of activities such as lottery, electricity generation, gas and petroleum, property rental
- Changes in conditions for tax declaration on monthly, quarterly, annually basis and each time when the obligation arises



4. Official Letter No. 4964/TCT-VP on providing information on provisional quarterly CIT payments

On 20 November 2020, General Taxation Department issued Official Letter No. 4964/TCT-VP to further clarify the new regulations of Government on provisional payment of CIT from Decree No. 126/2020/ND-CP. Accordingly, in order to resolve the situation that enterprises do not make provisional quarterly CIT payments and delay the provisional payment until the deadline of the fourth quarter, the Government prescribed the calculation of late payment interest for provisional CIT payments in the year.

Specifically, if enterprise underpaid the provisional CIT payments in the first 3 quarters of the year (75% of the payable tax amount), the enterprise has to pay late payment interest on the underpaid tax amount from the day following the last day of the third quarter CIT provisional payment deadline to the date of paying the underpaid tax to the stage budget.

According to the explanation by tax authority, the above regulation originates from the fact that enterprises have annual business plans for the business operation and will be completely in control of the determination/ estimation the business results in the year to proceed with temporarily CIT payment. Therefore, the case when an enterprise has unexpected business results in the fourth quarter is rare.

Regarding the effective tax period which this new regulation is applicable, General Tax Department is reporting to higher level for further guidance.

5. CIT and PIT on quarantine costs for foreign experts during the Covid-19 epidemic

In order to meet the actual needs of business that incur expenses for foreign employees during Covid-19 epidemic, General Tax Department and Hanoi Tax Department have issued guidelines on this issue as follows:

Official Letter 5032/TCT-CS dated 26 November 2020 of the General Department of Taxation:

For hotel expenses for foreign experts during quarantine period in which the labour contract contains the house rent paid by the enterprises to the employees, this expense shall be included in deductible expense when calculating CIT. Airfares with sufficient valid invoices and documents as required are also considered as deductible expenses of the business.

In term of PIT, the cost of quarantine against the Covid-19 epidemic when entering Vietnam by expat experts is considered to be the benefit of the employees and is subject of PIT.

Official Letter 97748 / CT-TTHT dated 10 November 2020 of Hanoi Tax Department:

In case in Covid-19 epidemic, if the enterprises incurs quarantine expense for foreign experts to work in Vietnam in accordance with the law, and the expenses are clearly stated in the name beneficiaries, those expenses are included in the employee's income which are subject to PIT. These expenses are also considered deductible expenses when determining CIT if they are welfare expense not exceeding 01 month's average salary actually made in the tax year of the business.

However, enterprises should note that there are still other local tax authorities that have their own different opinions on the above costs. Therefore, enterprises need to conduct a detailed classification of quarantine expenses incurred to consider applying appropriate tax treatment according to regulations, and to minimize the risk of tax recollection.

6. Official Letter No. 99066 / CTHN-TTHT on the date of issuing electronic invoices

On 13 November 2020, Hanoi Tax Department issued Official Letter No. 99066 / CTHN-TTHT on the date of issuing electronic invoices.

Specifically, from now to 30 June 2022 when Decree 123/2020/ ND-CP comes into effect, other provisions on invoices are still in effect.

Therefore, according to current prevailing regulations, an e-invoice must contain all required contents (including the seller's electronic signature) to be identified as a legal invoice. For this case, the signature of the invoice is made after the date of issuance of the e-invoice, the Company must base on the date of the e-invoice issuance to determine the obligations to declare tax, pay tax and accounting as prescribed.



Contact

Please contact our professional advisors at Grant Thornton Vietnam for assistance with taxation, accounting, transfer pricing, labour, investment and customs as well as other legal issues you may have during your business operation.

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