



Update on new regulations and important tax policies

November 2020



Content

In this newsletter, Grant Thornton Vietnam would like to update our valued customers on important legal policies that have just been issued recently.

- 1 Resolution No.149/NQ-CP issued by the Government in regular meeting in September 2020
- 2 Decree No.123/2020/ND-CP regulating invoices, documents and the compulsory deadline for applying E-invoices
- 3 Decree No.125/2020/ND-CP on the administrative penalty for violations of taxes and invoices
- 4 Decree 126/2020/ND-CP regulating on a number of articles of the Law on Tax Administration
- 5 Decision 1215/QD-TCT on the amendment and supplementation of tax inspection procedures
- 6 Official Letter No. 12452 / BTC-TCT response on deductible expenses when calculating CIT
- 7 Official Letter 4590/TCT-DNNCN on family relief

1. Resolution No.149/NQ-CP issued by the Government in regular meeting in September 2020

On 10 October 2020, the Government issued Resolution No.149/NQ-CP in the regular meeting of the Government in September 2020. According to Resolution No.149, the Government agreed on many important issues, including the proposal of the Finance Ministry to report to the National Assembly to allow contributions and support in Covid-19 anti-epidemic activities as deductible expenses when calculating CIT. The Minister of Finance will be authorized by the Prime Minister to act on behalf of the Government to report to the National Assembly on this issue.





2. Decree No.123/2020/ND-CP regulating invoices, documents and the compulsory deadline for applying E-invoices

On 19 October 2020, the Government had issued Decree No.123/2020/ND-CP on invoices, documents' management and usage. Decree No.123/2020/ND-CP took effect from 01 July 2022. In which, the notable highlights in Decree No.123 are as follows:

Remove Clauses 2 and 4, Article 35 of Decree 119/2018/ND-CP dated 12 September 2018 of the Government regulating on E-invoices from 01 November 2020 regarding the application of mandatory invoicing from 01 November 2020. This content has been amended in line with the provisions on the application of compulsory E-invoices in the new Law on Tax Administration. Accordingly, agencies, organizations and individuals are encouraged to use E-invoices before 01 July 2022. From 01 July 2022, complying with Decree No.123.

In case the enterprise has notified the self-printed invoice issuance, order-printed invoices or purchased invoices from the tax authority before the effective date of Decree No.123/2020/ND-CP, the enterprise is allowed to continue using the invoices until 30 June 2022 (may also include new issuance) according to the current regulations on invoices and documents such as Decree No.51/2010/ND-CP, Decree No.04/2014/ND-CP.



2. Decree No.123/2020/ND-CP regulating invoices, documents and the compulsory deadline for applying E-invoices

Some other related instructions:

According to some instructions as well as recent discussion of local tax authorities (such as the Hanoi Tax Department, Ho Chi Minh City), before 01 July 2022, businesses have started using E-invoices, but still having ordered printing, self-printing ... notified according to the provisions of Decree No.51/2010/ND-CP and want to continue using self-printed and ordered invoices, the enterprise can continue to use paper invoices issued along with E-invoices. For each sale of goods and services, the enterprise only uses one form of invoice.

According to the discussion of Ho Chi Minh City Tax Department, in case an enterprise declares VAT by the withholding method, having both domestic sales and export activities, when having export goods, the Company uses commercial invoices under the provisions of Clause 7, Article 3 of Circular No. 119/2014/TT-BTC to carry out VAT refund procedures and dossiers for exported goods as prescribed. Commercial invoices are not classified as electronic invoices as prescribed in Clause 2 Article 89 of the Law on Tax Administration No. 38/2019/QH14 dated 13 June 2019.

However, Companies should note to discuss with managing tax authorities for the Company to get specific guidance before implementation.

3. Decree No.125/2020/ND-CP on the administrative penalty for violations of taxes and invoices

Decree No. 125/2020/ND-CP dated 19 October 2020 of the Government was officially issued replacing the regulations on administrative sanctions in the tax and invoice field, except for some specific cases. This Decree officially takes effect from 5 December 2020.

Some notable points in Decree No. 125 are as follows:

- Adding a number of cases of not impose administrative penalty for tax, invoice (such as administrative violations arising from information technology issues, by following the guidance of tax authorities, or in case the taxpayer has self-discovered, additionally declared and fully paid the arising tax, etc.).
- Raising the maximum penalty level in a number of administrative penalty frameworks (such as submitting tax declaration documents later than deadline) compared to the previous rate. For example, for the penalty framework for administrative violations of filing tax returns exceeding the prescribed time limit, according to the previous regulations, the fine is from VND2,000,000 to a maximum of VND5,000,000. However, according to Decree No.125, the new fine is from VND8,000,000 to VND15,000,000.
- Administrative violations with tax amounts (insufficient tax, evaded tax, or higher exempt, reduced or refunded tax) from VND100,000,000 or the value of goods or services from VND500,000,000 or more is identified as a large-scale administrative tax violation (aggravation).
- An administrative violation of 10 or more invoice numbers is defined as an administrative violation of large-scale invoices (aggravation).



3. Decree No.125/2020/ND-CP on the administrative penalty for violations of taxes and invoices

- To remove some regulations:
 - Chapter I and III of Decree No.129/2013/ND-CP dated 16 October 2013;
 - Clause 2, Article 4, Chapter 1; Chapter 4; Article 44, Chapter 5 of Decree No.109/2013/ND-CP dated 24 September 2013 issued by the Government;
 - Article 3 of Decree No.49/2016/ND-CP dated 27 May 2016 issued by the Government.
 - Circular No.166/2013/TT-BTC dated 15 November 2013;
 - Circular No.10/2014/TT-BTC dated 17 January 2014;
 - Circular No.176/2016/TT-BTC dated 31 October 2016 issued by Ministry of Finance.
- In case the administrative violation relating to tax or invoice is committed before the effective date of this Decree but the violation ends from the effective date of this Decree, applying the provisions on administrative penalty of tax, invoices effective at the time of committing such acts of violation.
- The provisions on penalty in Chapters I, II and III of this Decree, regulations on postponement and exemption from execution of penalty decisions that are beneficial for individuals and organizations committing administrative violations about taxes and invoices are applicable for acts occurring before the effective date of this Decree but discovered later or being considered and settled.



4. Decree 126/2020/ND-CP regulating on a number of articles of the Law on Tax Administration

On 19 October 2020, the Government officially issued Decree No. 126/2020/NĐ-CP regulating the implementation of the Law on Tax Administration 2019, applied for the management of taxes and other payables to State Budget, except for the provisions on tax administration for enterprises having associated transactions, applying invoices and documents, penalty of administrative violations in the field of tax, invoices and customs. This Decree officially takes effect from 5 December 2020. However, the policies of tax exemption, reduction, and cancellation in this Decree will be applied from 01 July 2020. Accordingly, some notable points in Decree 126 are as follows:

Taxpayers might submit supplement return for each incorrect tax declaration dossier:

- In case the supplementary declaration does not change the tax liability: Only submit the explanation minute for supplementary declaration, without the requirement of supplementary return.
- In case the annual tax finalization declaration has not been submitted: supplement declarations monthly and quarterly.
- In case the annual tax finalization declaration has been submitted: only submit supplementary the annual tax finalization declaration (except for supplementing PIT finalization declaration for the income payer, it is required to submit supplementary declarations of the month or quarter having errors accordingly).
- In case the supplementary declaration only increases or decreases the amount of creditable VAT carrying forward to the next period must be declared in the current tax period.
- Taxpayers are only allowed to supplement declarations to increase the amount of VAT requested for refund when they have not yet submitted the tax declaration dossier for the next tax period and have not yet submitted the application for tax refund.

Some cases are exempted from tax returns submission, such as entities that only operate non-taxable businesses, individuals having exempted income; the entities suspend their business, having closed the tax code, the EPEs only operate in the export business, are not required to submit VAT declaration.

Decree 126 also specifies the declaration period for each type of taxes and applicable conditions. Accordingly, taxpayers who meet the quarterly tax declaration criteria can choose to declare tax monthly or quarterly stable for the whole calendar year.

5. Decision 1215/QD-TCT on the amendment and supplementation of tax inspection procedures



On 03 September 2020, the Ministry of Finance issued Decision No. 1215/QD-TCT on the amendment and supplementation of tax examination procedures. In which there are some main contents as follows:

- Enhance the application of information technology in tax risk analysis to plan inspection and supervision and in the process of checking tax declaration dossiers.
- Monthly and quarterly tax declaration dossiers: 100% inspection of tax declaration dossiers.
- Focus on checking tax declaration dossiers and tax finalization in 2019 and years that have not yet been inspected and examined.
- Taxpayers might send information, documents and explanation documents through the web portal of General Department of Taxation besides the previous forms such as email, post or directly work at the tax office. The taxpayer's explanation minute must have digital signatures as prescribed.
- The inspection team sends notice to explain and supplement document information to taxpayers in the form of: Web portal of General Department of Taxation; tax email address; at the same time, contact with the taxpayer via registered phone numbers to inform and confirm the results of sending documents, information and documents.

The decision takes effect from 03 September 2020.

6. Official Letter No. 12452 / BTC-TCT response on deductible expenses when calculating CIT

On 09 October 2020, the Ministry of Finance issued Official Letter 12452/BTC-TCT replying on deductible expenses when calculating CIT related to fixed assets suspended from use due to the influence of Covid-19 pandemic.

Specifically, the impact of the Covid-19 pandemic leads to the decrease in market demand, enterprises facing difficulties must suspend operations of a number of fixed assets for less than 9 months in the corporate income tax period in 2020, after that, if the fixed assets continue to be used for production and business activities, they will be considered as temporary suspense for use due to seasonal production.

Accordingly, the depreciation expense of a fixed asset during the period of suspension will be deductible for CIT purposes.





7. Official Letter 4590/TCT-DNNCN on family relief

On 28 October 2020, the General Department of Taxation issued Official Letter No. 4590/TCT-DNNCN on the declaration of family relief for PIT of foreign experts having cross year PIT finalization calculation.

Specifically, in case the taxpayer who is an expert foreigner coming Vietnam to work is a resident, when preparing the first tax year finalization (from July 2019 to June 2020), the period from July 2019 to December 2019, the family deduction of VND 9 million/month (for personal relief) and VND 3.6 million/month (for dependent relief) will be applied.

From January 2020 to June 2020, the new deduction of VND 11 million/month (for personal relief) and VND 4.4 million/month (for dependent relief) will be applied.

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.

Please visit our [Tax Hub](#) to view more information

Head Office in Hanoi

18th Floor, Hoa Binh International Office Building
106 Hoang Quoc Viet Street, Cau Giay District, Hanoi, Vietnam
T + 84 24 3850 1686
F + 84 24 3850 1688

Hoang Khoi

National Head of Tax Services
D +84 24 3850 1618
E khoi.hoang@vn.gt.com

Vishwa Sharan

Director – Transfer Pricing
D +84 327 345 053
E Vishwa.Sharan@vn.gt.com

Hoang Viet Dung

Director - Tax and Transfer Pricing Services
D +84 24 3850 1687
E dung.hoang@vn.gt.com

Nguyen Dinh Du

Tax Partner
D +84 24 3850 1620
E du.nguyen@vn.gt.com

Bui Kim Ngan

Tax Director
D +84 24 3850 1716
E ngan.bui@vn.gt.com

Ho Chi Minh City Office

14th Floor, Pearl Plaza, 561A Dien Bien Phu Street
Binh Thanh District, Ho Chi Minh City, Vietnam
T + 84 28 3910 9100
F + 84 28 3910 9101

Nguyen Hung Du

Tax Partner
D +84 28 3910 9231
E hungdu.nguyen@vn.gt.com

Tran Nguyen Mong Van

Tax Director
D +84 28 3910 9233
E mongvan.tran@vn.gt.com

Lac Boi Tho

Tax Director
D +84 28 3910 9240
E tho.lac@vn.gt.com

Valerie – Teo Liang Tuan

Tax Partner
D +84 28 3910 9235
E valerie.teo@vn.gt.com

Nguyen Thu Phuong

Tax Director
D +84 28 3910 9237
E thuphuong.nguyen@vn.gt.com

