



Update on new regulations and some important policies on tax and customs

April 2021



Contents

- 1 Decree No. 52/2021/ND-CP on extension for payment of VAT, CIT, PIT and land rental fee in 2021
- 2 Decree No. 44/2021/ND-CP guidance on CIT calculation of enterprises' support and donation expenses for Covid-19 pandemic protection and prevention
- 3 Decree No. 18/2021/ND-CP amending and supplementing some articles and implementing solutions of Export-Import Tax Law
- 4 Circular No. 19/2021/TT-BTC providing guidance on performing electronic tax transactions
- 5 Decision No. 10/2021/QD-TTg on the criteria for high-tech enterprises determination
- 6 Decision No. 376/QD-TCHQ on the issuance of Professional handbook on penalties for administrative violations in Customs
- 7 Official Letter No. 1938/BTC-TCT regarding the list of documents which continue to take effect after Tax Administration Law No. 78/2006/QH11 expired
- 8 Guidance on VAT declaration for extraprovincial business locations and extraprovincial business activities
- 9 Official Letter No. 269/HQHCM-GSQL on the conditions for applying preferential import tax rates under EVFTA Agreement
- 10 Official Letter No. 475/TCHQ-TXNK dated 01 February 2021 on tax policies and customs procedures for molds leased to domestic enterprises for production by export processing enterprise ("EPE")

1. Decree No. 52/2021/ND-CP on extension for payment of VAT, CIT, PIT and land rental fee in 2021

On 19 April 2021, the Government issued the Decree No. 52/2021/ND-CP which regulates the extension for payment of VAT, CIT, PIT and land rental fee. Some notable points regulated at Decree 52 are as below:

Subjects of application:

Decree 52 expands on a number of applied subjects compared to Decree 41/2020/ND-CP on tax payment extension in 2020 such as enterprises, organizations, business households, and individuals doing business in various industries such as production of beverages, production of products from prefabricated metal (except for machinery and equipment); motorbike and motorcycle manufacture; repair, maintenance and installation of machines and equipment, computer programming, consulting services and other activities related to computers; information service activities, etc.

Extension time:

Regarding VAT

- Deadline extension of VAT payment shall be applied during the tax period from March to August 2021 (for monthly VAT declaration cases) and Quarter I, Quarter II. 2021 (for quarterly VAT declaration cases).
- The extension of 5-month is given to VAT obligation incurred during the period from March to June 2021 and in Quarter I, Quarter II of 2021.
- The extension of 4-month is given to VAT obligation in July 2021.
- The extension of 3-month is given to VAT obligation in August 2021.

Regarding CIT

The extension of 3-month is given to temporary CIT obligation arising in the first and second quarter of tax period 2021.

Regarding VAT and PIT obligation of business households and individuals

The payment deadline of 2021 VAT and PIT obligation of business households and individuals will be extended until 31 December 2021.

Regarding land rental fee

Payment deadline of land rental fees in the first period of 2021 of enterprises, organizations, business households or individuals directly leasing land from the State, pursuant to a Decision or Contract made by a competent regulatory authority, in the form of annual rental payment shall be extended with the duration of 6-month from 31 May 2021.

1. Decree No. 52/2021/ND-CP on extension for payment of VAT, CIT, PIT and land rental fee in 2021

Extension procedure:

- Taxpayers are required to submit a written request for tax payment extension according to the form provided in the Appendix attached with this Decree to the competent tax authority once for all declaration periods when submitting tax declaration or by 30 July 2021.
- In order to be eligible for tax and land rental fee extension, taxpayers must pay all deferred taxes and land rental fees pursuant to Decree No. 41/2020/ND-CP and corresponding arising late payment interest (if any) before 30 July 2021.



2. Decree No. 44/2021/ND-CP guidance on CIT calculation of enterprises' support and donation expenses for Covid-19 pandemic protection and prevention

On 31 March 2021, the Government issued Decree 44/2021/ND-CP ("Decree 44") providing guidance on deductible expense determination for support and donation expenses of enterprises and organizations for Covid-19 prevention activities.

The details are as below:

- In-cash or in-kind support expenses and donations for Covid-19 prevention activities in Vietnam through state agencies, organizations and departments (i.e. Committee of Vietnamese Fatherland Front, armed forces, etc.) will be included in deductible expenses when calculating CIT taxable income for the tax period of 2020 and 2021.
- The Decree also provides detailed guidance on determination of support expenses and donations.
- The Decree takes effect from 31 March 2021.



3. Decree No. 18/2021/ND-CP amending and supplementing some articles and implementing solutions of Export-Import Tax Law

On 11 March 2021, the Government issued Decree No.18/2021/ND-CP amending and supplementing some articles of Decree No.134/2016/ND-CP. Decree 18 taking affect from 25 April 2021 amended and supplemented 21 issues in Decree 134, including 17 amended contents and 4 supplemented contents. Specifically, some notable changes are as below:

- Amending and supplementing regulations on applicable tax policies to on-spot imported and exported goods.
- Amending regulations in Article 10 and Article 12, Decree 134 regarding basis for duty exemption determination of imported goods for goods processing and production for export, such as the additional regulations relating to the cases that the processing, production units assigning other parties to outsource a part of exporting goods production activities are still eligible for import tax exemption; or regulations on import tax exemption for scraps and discarded products made during the processing and production for export, which are allowed to be destroyed and have actually been destroyed; discarded materials and defective products which have been made during the goods processing production for export are actually consumed in the domestic.
- Supplementing Article 31a on reporting and inspecting the usage of duty-free imported materials within 5 years.
- Supplementing Article 28a on the conditions for customs inspection, supervision and duty treatment to export processing enterprises (“EPE”) in non-tariff zones.

4. Circular No. 19/2021/TT-BTC providing guidance on performing electronic tax transactions

On 18 March 2021, the Ministry of Finance issued Circular No. 19/2021/TT-BTC providing guidance on implementing electronic tax transactions, replacing Circular No. 110/2015/TT-BTC and Circular No. 66/2019/TT-BTC. The Circular is issued to solve existing shortcomings and promote electronic transactions to catch up with the digital age. This Circular takes effect from 03 May 2021. Some notable points are as follows:

- Taxpayers can make electronic tax transactions 24/7, including holidays, public holidays and New Year holidays. The submission date will be the date when the dossier is successfully signed and submitted within 24 hours of the day (Article 1a, Clause 8).
- Taxpayers are required to register to perform tax transactions. The taxpayer who has made electronic tax transactions before 03 May 2021 (this Circular's effective date) is not required to re-register with the tax authority and forward to carry out other administrative procedures electronically and additional declaration pursuant to Article 11 of Circular 19/2021/TT-BTC (Clause 2, Article 48).
- In addition, Circular 19 does not adjust regulations on electronic transactions in the following cases:
 - Invoice transactions in accordance with the Decree No. 123/2020/ND-CP dated 19 October 2020 by the Government on invoices and documents;
 - Electronic tax transactions of overseas suppliers without a permanent establishment in Vietnam engaging in e-commerce business, digital-based business and other services with organizations or individuals in Vietnam;
 - Electronic tax transactions for goods in the import and export stage at Customs authority.



5. Decision No. 10/2021/QD-TTg on the criteria for high-tech enterprises determination

On 16 March 2021, the Government issued Decision No. 10/2021/QD-TT guiding on the additional criteria for high-tech enterprises determination apart from the ones regulated at Article 75, Investment Law No. 67/2014/QH13 and Clause 3, Article 76 of the Law on Investment No. 61/2020/QH14 as below:

- Revenues gained from high-tech products must account for at least 70% of total annual net revenue of enterprises.
- The ratio of total expenditure on research and development of the enterprise to total net revenue after the deduction of annual input value must adapt a minimum rate as specified in this document.
- The percentage of enterprise' employees directly participating in research and development with a college degree or higher level of education over total number of employees must adapt a minimum rate as specified in this document.

This Decision takes effect from 30 April 2021 and replaces the Decision No. 19/2015/QD-TTg on the criteria for high-tech enterprises determination.



6. Decision No. 376/QD-TCHQ on the issuance of Professional handbook on penalties for administrative violations in Customs

On 3 March 2021, the General Department of Customs issued Decision No. 376/QD-TCHQ on the issuance of Professional handbook on penalties for administrative violations in Customs. This handbook includes 07 sections and takes effect from the date of signing.



7. Official Letter No. 1938/BTC-TCT regarding the list of documents which continue to take effect after Tax Administration Law No. 78/2006/QH11 expired

On 26 February 2021, the Ministry of Finance issued Official Letter No. 1938/BTC-TCT providing comments on the effective circulars list during the period when the circular guiding Tax administration law No. 38/2019/QH14 has not been issued with the understanding that these circulars are not legal documents detailing the implementation of Tax Administration Law. In which, there are some important circulars which directly affect taxpayers' rights and obligations as follows: Circular No. 156/2013/TT-BTC guiding the implementation of some articles in Tax Administration Law, Circular No. 92/2015/TT-BTC guiding the implementation of VAT and PIT incurred by residents doing business, Circular No. 26/2015/TT-BTC guiding VAT and tax administration. Accordingly, the provisions of the Circulars mentioned in this official letter (except for contents specified in Tax Administration Law No. 38/2019/QH14 and Decree No. 126/2020/ND-CP dated 19 October 2020) will continue to take effect until being replaced by other legal documents.



8. Guidance on VAT declaration for extraprovincial business locations and extraprovincial business activities

Regulations on VAT declaration for extraprovincial business locations and extraprovincial business activities which is one of the new points in Tax Administration Law 2019 and Decree No. 126/2020/ND-CP is particularly interested by enterprises operating business in many areas. Therefore, to solve problems for taxpayers, the General Department of Taxation and the Hanoi Tax Department have issued a number of guiding documents as follows:

Official Letter No. 7800/CTHN-TTHT dated 17 March 2021 by Hanoi Tax Department

In 2021, enterprises continue to declare and pay extraprovincial VAT obligation following the guidance at Clause 1, Article 2, Circular No. 26/2015/TT-BTC. Accordingly, enterprises are required to declare and pay extraprovincial VAT obligation at the rate of 1% or 2% of revenue at the place where goods are sold, depending on the applicable VAT rate for each business item.

From 2022 (which is the first year in the next budget stability period after the new Tax Administration Law takes effect), tax declaration for extraprovincial sales of goods will be in line with new regulations provided in Clause 2, Article 11, Decree 126/2020/ND-CP. Accordingly, for extraprovincial sales activities, Companies shall declare the VAT amount concentrated at the head office and prepare a VAT distribution table for the localities receiving tax revenue (including dependent subsidiaries and business locations).

Official Letter No. 7801/CTHN-TTHT dated 17 March 2021 by Hanoi Tax Department

During the period when Circular guiding the implementation of Tax Administration Law No. 38/2019/QH14 and Decree 126/2020/ND-CP have not yet been issued, taxpayers shall continue to submit tax declaration dossiers in compliance with Point e, Clause 1, Article 2, Circular 26/2015/TT-BTC in case the value extraprovincial construction, installation, and sale of goods including output VAT exceeds VND 1 billion and taxpayers do not establish any subsidiaries/business locations in another province other than where the taxpayer is headquartered.

Official Letter No. 599/TCT-KK dated 10 March 2021 by General Department of Taxation

The managing entity of an extraprovincial business location uses its tax code to submit tax declaration, invoice issuance notification and invoice usage report to the tax authority where its business location is located in case the obligation of each business location or business locations operating in specific activities as pursuant to Clause 1, Article 11, Decree No. 126/2020/ND-CP dated 19 October 2020 by the Government are separated by tax payers.

Otherwise, the taxpayer shall submit VAT declaration, invoice issuance notification, invoice usage report to its direct supervisory tax authority.

9. Official Letter No. 269/HQHCM-GSQL on the conditions for applying preferential import tax rates under EVFTA Agreement

On 01 February 2021, Ho Chi Minh Customs Department issued the Official Letter No. 269/HQHCM-GSQL guiding on the case of preferential tax rates under EVFTA Agreement. This Official Letter is based on the Official Letter No. 5575/TCHQ-GSQL dated 21 August 2020 of the General Department of Customs. Accordingly, the certification of origin mechanism in compliant with paragraph 1 (c), Article 15, Protocol 1 of the EVFTA Agreement, specially the self-certification of origin under the Registered Exporter System (“REX”) (guided in paragraph 1 (c), Article 19, Circular No. 11/2020 / TT-BCT) will be applied instead of the certification of origin mechanism specified in clause 1 (a) and clause 1 (b), Article 15, Protocol 1 of the EVFTA Agreement (guided in paragraph 1 (a) and paragraph 1 (b), Article 19. Circular 11/2020/TT-BCT).

Therefore, enterprises with certificate of origin following form EUR.1 as specified at Point a, Clause 1, Article 19, Circular No. 11/2020/TT-BCT dated 15 June 2020 is not eligible for application of preferential import tax rates under the EVFTA Agreement.



10. Official Letter No. 475/TCHQ-TXNK dated 01 February 2021 on tax policies and customs procedures for molds leased to domestic enterprises for production by export processing enterprise (“EPE”)

Regarding customs procedure

In case the molds were lent for EPE’s production, the EPE shall submit the temporary export declaration and the domestic enterprise shall submit the temporary import declaration.

When the contract expired, the domestic enterprise shall carry out re-export procedure and the EPE shall carry out re-import procedure.

Regarding import duty

The domestic enterprise could not apply for import duty exemption. However, the value for import duty calculation purpose is the total expenditure that the borrower must pay until goods are delivered at the first importing checkpoint which are in accordance with relevant documents (Clause 9, Article 1, Circular No. 60/2019/TT-BTC).

Regarding VAT

- Molds which have been declared as temporary import by the domestic enterprise are not subject to VAT.
- In case the lease term has expired but the domestic enterprise continues to use the molds without re-exporting, it is required to declare and pay VAT.
- In case the molds are damaged and cannot be re-exported, thus must be destroyed and have actually been destroyed in accordance with the law, domestic enterprises are not obligated to declare and pay VAT.

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

