



Overview of new legal documents and some important tax policies during the Covid-19 pandemic

October 2021



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1. Government's regulations to encourage businesses during Covid-19 situation

1.1. Resolution No. 406/NQ-UBTVQH15 (“Resolution 406”) on promulgating a number of solutions to support businesses and individuals affected by the Covid-19 pandemic

On 19 October 2021, the Standing Committee of the National Assembly of Vietnam issued Resolution 406 promulgating a number of solutions to support businesses and individuals affected by the Covid-19 pandemic with some specific contents as below:

➤ **Corporate Income Tax (“CIT”) reduction:**

- 30% reduction of the payable CIT amount in the period of 2021 for the case which the enterprise has a total revenue less than VND 200 billion in 2021 and the total revenue in 2021 decreases compared to the total revenue in 2019.
- The criteria specify that total revenue in 2021 decreases compared to the total revenue in 2019 will not be applied in case taxpayers are newly established, consolidated, merged, divided, split in the tax period 2020, 2021.

➤ **Exempt from Personal Income Tax (“PIT”), Value Added Tax (“VAT”) and other taxes:**

- Exemption from PIT, VAT and other taxes payable from production and business activities of the months in the Quarter III and Quarter IV.2021 for households and individuals having production and business activities in district level locations affected by the Covid-19 pandemic in 2021 shall be decided by the Chairman of the People’s Committee of the Province or Municipality;
- Tax exemption does not apply to incomes and revenues from the provision of software products and services; digital information content products and services on entertainment, video games, digital movies, digital photos, digital music; digital advertising.

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1.1. Resolution No. 406/NQ-UBTVQH15 (“Resolution 406”) on promulgating a number of solutions to support business and individuals affected by the Covid-19 pandemic (cont.)

➤ **VAT reduction:**

- 30% VAT reduction from 01 November 2021 to the end of 31 December 2021 for the following goods and services:
 - (i) Transportation services (rail, water, air and road transport); lodging; food service; services of travel agencies, tour operators and support services, related to the promotion and organization of tours;
 - (ii) Publishing products and services; cinematographic services, television program production, sound recording and music publishing; works of art and services for composing, art, and entertainment; services of libraries, archives, museums and other cultural activities; sports, entertainment and entertainment services (exclusive of publishing software and goods and services produced and traded online).
- Depending on the tax declaration method, the VAT reduction is applied as follows:
 - Enterprises and organizations that declare VAT under credit method: 30% reduction of VAT rate;
 - Enterprise and organization that declare VAT under percentage over revenue method: reduce 30% of the percentage rate to calculate VAT.

➤ **Exemption of late payment interest incurred in 2020 and 2021**

- Exemption of late payment interest incurred in 2020 and 2021 of tax debts, land use levy and land lease fee for enterprises and organizations (including dependent units, business locations) suffer a loss in 2020.

In addition, the draft Decree detailing the implementation of Resolution 406 which is being consulted has some notable content as follows:

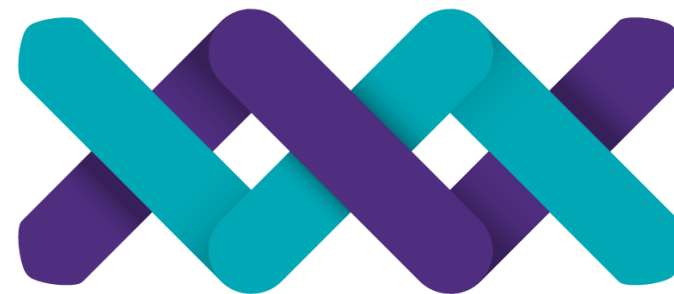
- Applicable subjects;
- The basis for determining the total revenue in the tax period for CIT;
- The basis for determining tax amounts to be exempted or reduced with taxes
- Dossiers, procedures for implementation.

However, up to the date of this Newsletter, the Decree has yet to be officially issued. We will give an update via our regular Newsletters when there is an official release of the Decree.

1.2. Decision No. 27/2021/QĐ-TTg on the reduction of land lease fee in 2021 for those affected by the Covid-19 pandemic

On 25 September 2021, the Prime Minister issued Decision No. 27/2021/QĐ-TTg on the reduction of land lease fee in 2021 for some subjects affected by the Covid-19 pandemic such as organizations, enterprises, households and individuals that are directly leasing land from the State under a decision or contract of a competent authority in the form of annual land lease payment.

- Reduction rate 30% reduction of the payable land lease fee of 2021 and no reduction on the outstanding land lease fee of the years prior to 2021 and late payment interest (if any). In case the land lessee is entitled to a reduction in land lease fee under other regulations, the reduction of 30% of the land lease fee shall be calculated on the payable land lease fee after such reduction has been made.
- The Decision is valid from the date of signing to the end of 31 December 2021.



2. CIT and VAT regulations and guidelines during the Covid-19 pandemic



2.1. Decree 44/2021/ND-CP on deductible expenses when determining corporate taxable income (“CIT”) related to donation and sponsorship expenses for Covid-19 prevention activities.



On 31 March 2021, the Government issued Decree No. 44/2021/ND-CP stipulating deductible expenses when determining CIT taxable income for support and sponsorship expenses of businesses for Covid-19 pandemic prevention and control activities. Accordingly, donations and sponsorships in cash and in kind for Covid-19 prevention and control activities in Vietnam through organizations (such as Vietnam Fatherland Front Committees at all levels, medical facilities, public quarantine facilities, agencies and units with the function of mobilizing funding for Covid-19 prevention and control at all levels, etc.) is deducted for CIT calculation purposes if there are sufficient documents.

Application dossier:

- Minutes of confirmation of donation and sponsorship, made according to the form attached with Decree 44/2021/ND-CP, or documents certifying the donation or sponsorship amount, signed and sealed by the representative of the sponsor and representative of the unit receiving the sponsorship;
- Legal invoices and vouchers of donations or sponsorships in cash or in kind in accordance with the law.



2.2. Official Letter No. 12452/BTC-TCT on depreciation expense of fixed assets for CIT purposes

The Covid-19 pandemic have led to a decrease in market demand as well as seriously impacted on business activities of enterprises. Therefore, on 9 October 2020, the Ministry of Finance issued Official Letter No. 12452/BTC -TCT prescribing the depreciation expense of fixed assets for CIT purposes, the details are as follows:

If a business experiences difficulties resulting to the suspension of operation of a number of fixed assets for less than 9 months in fiscal year 2020, and afterwards, 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.



2.3. Official Letter 5032/TCT-CS stipulating CIT regulations for quarantine expenses of foreign experts

On 26 November 2020, the Ministry of Finance - General Department of Taxation issued Official Letter No. 5032/TCT-CS stipulating quarantine expenses for foreign experts, the expenses was treated as deductible expenses for CIT purpose included:

- Quarantine hotel expenses: If the labour contract specifically mentioned that the house rent paid by the enterprises to the employees with sufficient valid invoices and documents as required.
- Air tickets: If there are sufficient valid invoices and documents.
- Covid-19 test expense: If there are sufficient valid invoices and documents, this expenses is considered as direct welfare benefits for employees.





2.4. Official Letter 2099/CT-TTHT stipulating the salary of expatriates working without a work permit during the Covid-19 period

According to the direction of the Government stated in Resolution No. 28/2020/ND-CP, the issuance of new work permits to expatriates from countries and territories with Covid-19 outbreak will be suspended. Accordingly, on 25 June 2020, the Tax Department of Bac Ninh province issued Official Letter No. 2099/CT-TTHT specifying the salary costs paid to expatriates working without a work permit during the Covid-19 period as follows:

The salary costs paid to expatriates with no work permit to come to Vietnam and work after the prescribed quarantine period, according to Resolution 28 of the Government, if they meet the conditions specified in Article 4 of the Circular No. 96/2015/TT-BTC, this expense is still considered as deductible expense when calculating CIT.





2.5. Some official letters on CIT from Hanoi Tax Department specifying expenses incurred due to the impact of the Covid-19 pandemic

Official Letter No. 89924/CT-TTHT dated 9 October 2020 on expenses for employees during the period of social distancing and idle time

On 9 October 2020, Hanoi Tax Department issued Official Letter 89924/CT-TTHT stipulating salary and other expenses incurred due to the impact of the Covid-19 pandemic, details are as follows:

The expenses included such as salaries, wages and other similar amounts for employees to take leave during the period of social distancing and idle time as a result of the Covid-19 pandemic and other welfare benefits paid directly for employees will be charged as deductible expense for CIT purpose.

Official Letter 31557/CTHN-TTHT dated 13 August 2021 on expenses for quarantine, testing and vaccination

On 13 August 2021, the Hanoi Tax Department issued Official Letter No. 31557/CTHN-TTHT stipulating the deductible expenses when calculating taxable income related to Covid-19 prevention as follows:

- Quarantine expenses for employees: In case the labour contract specifically mentioned that the house rent paid by the enterprises to the employees with sufficient valid invoices and documents as required, this expenses will be considered as deductible expense for CIT purpose
- Covid-19 testing and vaccination expenses is considered as a direct welfare benefits for employees, and if the total amount of welfare benefits does not exceed 01 month's average salary actually made in the tax year, it can be included in the deductible expenses when determining the taxable income if supported with sufficient valid invoices and documents required.

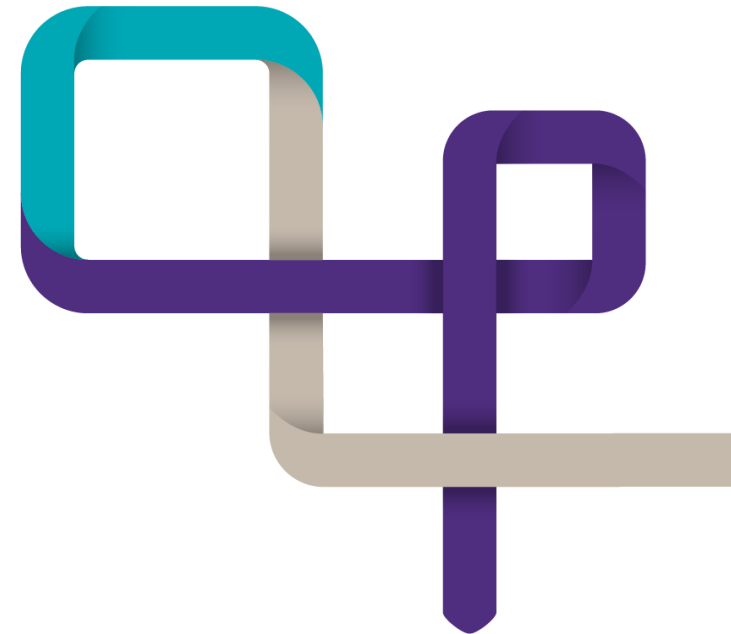
3. PIT related issues on expenses paid for employees during the Covid-19 pandemic






3.1. Official Letter 5032/TCT-CS on PIT policies related to expenses for isolation and prevention of Covid-19 pandemic for foreign experts

According to Official Letter No. 5032/TCT-CS mentioned above, the General Department of Taxation also provides guidance on the PIT treatment for the expense related to quarantine and prevention of Covid-19 pandemic for foreign experts. In principle, these expenses for quarantine and prevention of Covid-19 pandemic incurred when expatriates arrive to Vietnam which are paid by the company, such expenses shall be considered as benefits for employees and added to taxable income from salaries and wages.





3.2. Official Letter 2548/CT-TTHT on PIT calculation for quarantine hotel expenses for foreign experts paid by the company

On 1 September 2020, the Tax Department of Hai Phong City issued Official Letter No. 2548/CT-TTHT guiding the determination of PIT obligation for the expense of renting a full package including airfare, transportation and quarantine services for experts arriving to Vietnam to work, specifically as follows:



Experts who are employees of foreign companies:

In case the expenses are eligible to be regarded as per diem according to the policies and internal regulations of the foreign companies, such expenses shall not be subjected to taxable income for PIT calculation in Vietnam.



Experts sign labor contracts with Vietnamese companies:

Such expenses shall be considered as the benefit of employees and subjected to PIT. Particularly, the hotel fee paid by the Company on behalf of the employee shall be included in the taxable income based on the actual amount paid on behalf of the employee but not exceeding 15% of the total taxable income (exclusive of housing expense) earned from the company regardless where the income is paid.



3.3. Some official letters issued by Bac Ninh Tax Department on PIT treatment for expenses related to employees during the Covid-19 pandemic

Official Letter 352/CTBNI-TTHT dated 16 March 2021

On 16 March 2021, the Tax Department of Bac Ninh Province issued Official Letter No. 352/CTBNI-TTHT regulating on relevant expenses during the quarantine period of foreign experts, the details are as follows:

- In case the enterprises pay the relevant expenses on behalf of foreign employees upon their immigration, including transportation expenses from immigration location to the quarantine facility in Vietnam; Covid-19 test expenses and accommodation or living expenses during the quarantine period: Such expenses shall be added to taxable income from the employee's salary and wages.

Official letter 1883/CTBNI-TTHT dated 29 June 2021

On 29 June 2021, the Tax Department of Bac Ninh Province issued Official Letter No. 1883/CTBNI-TTHT regulating on the PIT policy for expenses to ensure the safety of production activities during the Covid-19 period (performing “3-on-spot” activity). Enterprises have to pay expenses such as: Expenses for accommodation and meals arrangement for employees working at the company; the Covid test expense for employees when they go to work, test periodically and before the employees return to their hometown; allowances for employees who have to stay at the company. In case the expenses clearly state the name of the beneficiary, such expenses shall be included in their taxable income for PIT purpose; in case the expenses are used for a collective of employees without specifying the name of the individual, they shall not be added to PIT taxable income.

Particularly, the allowance paid to employees when they stay and work at the company (specifying the beneficiary's name and paid along with their salary) is another benefit which the employee is entitled to and shall be added to their taxable income.



3.4. Some official letters issued by Hanoi Tax Department on the expenses incurred for the purpose of pandemic prevention for employees during the Covid-19 period

Official Letter 66297/CT-TTHT dated 16 July 2020

This Official Letter specifies that during the Covid-19 pandemic, the business has incurred some expenses to buy masks, hand sanitizer, protective accessories and testing expenses for infectious diseases to prevent the spread of Covid-19 virus, the expenses for the collective employees shall not be included in the employee's taxable income.

Official Letter No. 31557/CTHN-TTHT dated 13 March 2021

According to Official Letter 31557/CTHN-TTHT mentioned above, Hanoi Tax Department also provides guidance on expenses for Covid-19 prevention for employees specifying the beneficiary's name, such expenses shall be added to taxable income to calculate PIT obligations.

4. Other support policies

4.1. Resolution 105/NQ-CP on supporting businesses, cooperatives and business households in the context of the Covid-19 pandemic

On 9 September 2021, the Government issued the Resolution No. 105/NQ-CP stipulates policies on supporting businesses, cooperatives and business households in the context of the Covid-19 pandemic, thereby loosening a number of regulations, conditions on the grant, extension and certifying of work permits for foreign employees working in Vietnam.



4.2. Decision No. 23/2021/QĐ-TTg stipulating insurance support policies for employees and employers during the Covid-19 pandemic

On 7 July 2021, the Prime Minister issued Decision No. 23/2021/QĐ-TTg stipulating the implementation of a number of policies to support employees and employers facing difficulties during the pandemic, some highlights are as follows:

- The contribution rate for occupational accident and disease insurance is 0% of the salary fund which is basis for social insurance contribution (previous rate was 0.5%), applicable from 1 July 2021 to 30 June 2022.
- In case that employers affected by the COVID-19 pandemic, causing a reduction of employees participating in social insurance from 15% and more compared to April 2021, employees and employers would be temporarily suspended from paying to the retirement and survivorship fund for 6 months since the application submitted.
- For cases that the employees who have to suspend the performance of the labor contract, and take unpaid leave during the term of the labor contract from 15 consecutive days or more, a lump-sum allowance with a range from VND 1,855,000/person to VND 3,710,000/person would be sponsored.



4.3. Resolution No. 116/NQ-CP on policies to support employees and employers affected by the Covid-19 pandemic from the Unemployment Insurance Fund and guiding documents

Main points of the support policy according to Resolution No. 116 are as below:

➤ **Support in cash:**

- Support for employees affected by the Covid-19 pandemic from the Unemployment Insurance Fund's balance, with the level of support based on the employees' period of unemployment insurance payment and not yet receiving unemployment benefits.
- Subjects of application:
 - Employees participating in unemployment insurance as of 30 September 2021 (except for employees working at state agencies, political organizations, socio-political organizations, etc.)
 - Employees who stopped participating in unemployment insurance due to the termination of their labor contracts between 1 January 2020 and 30 September 2021 have a reserved period of unemployment insurance payment, excluding pensioners.
- Allowance range: from VND 1,800,000/person to VND 3,300,000/person depending on the number of months contributing unemployment insurance fund.
- Implementation period: from 1 October 2021 to 31 December 2021

➤ **Reduction of contribution rate to Unemployment Insurance Fund**

- Subjects of application: Employers participating in unemployment insurance before 1 October 2021 (excluding state agencies, political organizations, socio-political organizations, people's armed forces and public non-business unit are guaranteed by the state)
- Reduction level: The employer is entitled to reduce the contribution rate from 1% to 0% of the monthly salary fund of employees who are subject to unemployment insurance.
- Application period: from 1 October 2021 to 30 September 2022.



4.4. Official Letter No. 2059/TLD stipulating the deadline for paying Trade Union Fee for businesses affected by the Covid-19 pandemic

On 28 May 2021, the Vietnam General Confederation of Labor issued Official Letter No. 2059/TLD stipulating the postponement of payment deadline of trade union fee for businesses affected by the pandemic, specifically as follows:



Enterprises affected by the Covid-19 pandemic (enterprises with a number of employees participating in social insurance must temporarily take leave at least 50% of the total number participating in compulsory social insurance) are allowed to apply the postponed deadline for trade union fee payment until 31 December 2021.



4.5. Official Letter 264/QHLDTL-TL guiding on salary payment during the period of work suspension due to the pandemic

During the time when employees have to stop working due to Covid-19, employers should pay attention to:

- The payment for salary during suspended operation period shall be based on the provisions of Article 99 of the Labor Code to consider the cases causing the suspension (due to the fault of the employer or the employee or due to objective reasons) to determine the employees' salary during suspended period.
- In case that employees have to stop working due to the direct impact of the Covid-19 pandemic, the employees' salary during the suspended period are as follows:
 - o In case the suspended period is 14 working days or less, the salary shall be determined based on the agreement but not lower than the minimum wage.
 - o In case the suspended period is more than 14 working days, the suspension salary shall be agreed upon by both parties, but salary payment for the first 14 days must not be lower than the minimum wage.



Contact

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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

grantthornton.com.vn

Hoang Khoi

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

Nguyen Dinh Du

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

Vishwa Sharan

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

Bui Kim Ngan

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

Hoang Viet Dung

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

Valerie – Teo Liang Tuan

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

Tran Nguyen Mong Van

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

Nguyen Thu Phuong

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

Lac Boi Tho

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

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