

Update on new regulations and some important policies on Tax and Customs

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1. Decree No. 31/2021/ND-CP detailing and guiding the implementation of the Law on Investment

On 26 March 2021, the Government issued Decree No. 31/2021/ND-CP detailing and guiding the implementation of some articles in the Law on Investment. This Decree takes effect from the date of signing. Some main contents of Decree 31 are as follows:

New regulations on the list of business lines with restricted market access for foreign investors

The Decree stipulates the list of business lines not allowed for market access, in which foreign investors are not allowed to invest (Section A of Appendix I under Decree 31)

In addition, the Decree 31 also provides a detailed list of business lines with restricted market access which foreign investors can access but must meet the market access conditions as prescribed in Article 18.

Additional regulations on investment incentives:

- Additional conditions for beneficiaries of investment incentives, for example investment projects employing disabled labors whose number accounts for at least 30% of the annual average number of employees or additional conditions for small and medium enterprises' distribution chain to be eligible for investment incentives.
- Additional business lines eligible for investment incentives such as investment in research and production of biotechnology products used as food, production of wood products; production of artificial boards, including: plywood, jointed boards, MDF boards, etc.

We however note that the application of incentive, such as CIT incentive for the projects which are entitled to above incentives will be assessed based on CIT regulations. Please contact Grant Thornton advisors should you have any question in this regard.

Updated list of investment projects in areas with difficult socio-economic conditions

Decree 31/2021/ND-CP also update the list of areas eligible for investment incentives in Appendix III, replacing the list of areas eligible for investment incentives in Decree 118/2015/ND-CP.

2. Decree 53/2021/ND-CP on Vietnam's preferential export tariff and special preferential import tariff for the implementation of UKVFTA in the 2021-2022 period

On 21 May 2021, the Government issued Decree No. 53/2021/ND-CP on Vietnam's preferential export tariff and special preferential import tariff for the implementation of UKVFTA in the 2021-2022 period, effective from 21 May 2021.

Specifically, promulgated together with Decree 53/2021/ND-CP:

- Vietnam's preferential export tariff for the implementation of UKVFTA (Appendix 1) including: HS code, description of commodity, preferential export duty rate applied in different stages when exporting to the United Kingdom of Great Britain and Northern Ireland for each HS code;
- Vietnam's special preferential import tariff for the implementation of the UKVFTA (Appendix 2) including: commodity code, description of commodity, special preferential import duty rate applied in different stages when importing into Vietnam from the following territories for each HS code:
 - United Kingdom of Great Britain and Northern Ireland;
 - Socialist Republic of Vietnam (goods imported from non-tariff zones into the domestic market).



3. Circular No. 31/2021/TT-BTC regulating the application of risk management in tax administration

Some notable points of Circular 31 are as follows:

- Taxpayers are assessed and classified into one of the 04 levels of compliance with tax law (previously there were only 3 levels): High compliance; Medium compliance; Low compliance; Non-compliance. Non-compliance taxpayers are managed using measures in accordance with the law. Taxpayers of the high, medium, low and non-compliance levels are analyzed in terms of behavior to adopt measures to improve compliance.
- Measures to improve compliance include: Listing for consideration or selection to commend and reward for taxpayers who comply with tax laws; organizing programs, conferences, seminars, and training for taxpayers who need to improve compliance to help them properly and fully fulfill their tax obligations, studying and amending policies, simplifying administrative procedures, etc.
- In addition, the Circular details the application of risk management in different stages of tax administration in order to improve tax administration efficiency and taxpayers' voluntary compliance.

This Circular replaces Circular No. 204/2015/TT-BTC dated 21 December 2015 by the Ministry of Finance regulating the application of risk management in tax administration and takes effect from 2 July 2021.

On 17 May 2021, the Ministry of Finance issued Circular No. 31/2021/TT-BTC regulating the application of risk management in tax administration. This Circular's aim is to apply risk management in accordance with the actual situation, the requirements of the tax system enhancement and modernization, international practices; to ensure the legal basis for the continuation of this Circular as well as to promote the application of risk management in tax administration for the goal of fair and transparent treatment towards taxpayers.

4. Circular No. 01/2021/TT-BKHDT providing guidance on enterprise registration

On 16 March 2021, the Ministry of Planning and Investment issued Circular No. 01/2021/TT-BKHDT effective from 1 May 2021 providing guidance on enterprise registration. Accordingly, there are some notable points as follows:

- The Circular clearly stipulates that the scope of the Circular's forms are uniformly nationwide and the subjects are the those participating in the enterprise registration process.
- Circular 01 abolishes 06 forms of Circular No. 02/2019/TT-BKHDT related to the procedures for seal samples, private shares offering and the list of individuals participating in the establishment of household businesses; adds 19 new forms; amends several forms and added notes guiding the declaration in forms to be consistent with the provisions of the Law on Enterprise 2020, Decree No. 01/2021/ND-CP to facilitate enterprise registration procedures.
- The new forms are also designed to add more information and reduce unnecessary contents such as:
 - (i) Accounting method (Taxpayer registration information block): Adding the option "Having consolidated financial statements" in case the enterprise is required to prepare and submit consolidated financial statements to the competent authority in accordance with the law on tax administration.
 - (ii) Remove the bank account information field in accordance with the law on tax administration. Enterprises do not have to declare this item when registering for establishment and do not have to notify the Business Registration Office when there is a change in bank account information.
 - (iii) Remove the "Notice of enterprise's executive change" section and remove the "tax calculation method" field in the taxpayer registration information block in the Notice of change of enterprise registration information form to comply with the Law on Enterprise 2020 and tax administration regulations.

5. Decision No. 526/QD-LDTBXH announcing revised administrative procedures, amending and supplementing the field of employment



On 6 May 2021, the Ministry of Labor, War Invalids and Social Affairs issued Decision No. 526/QD-LDTBXH, announcing revised administrative procedures promulgating, amending and supplementing the field of employment.

Accordingly, procedures related to work permits and other related procedures for foreign workers working in Vietnam have been amended and supplemented.

One of the updated procedures is the application requirements for extension of work permits of foreign workers working in Vietnam. It should be noted that according to the new regulations, documents such as the issued work permit, written approval of needs for foreign workers, health certificate and documents proving the foreign worker will continue to work for the employer must be consular legalized and translated into Vietnamese.

6. Decision No. 1357/QD-TCHQ on the Code of import, export format and user manual

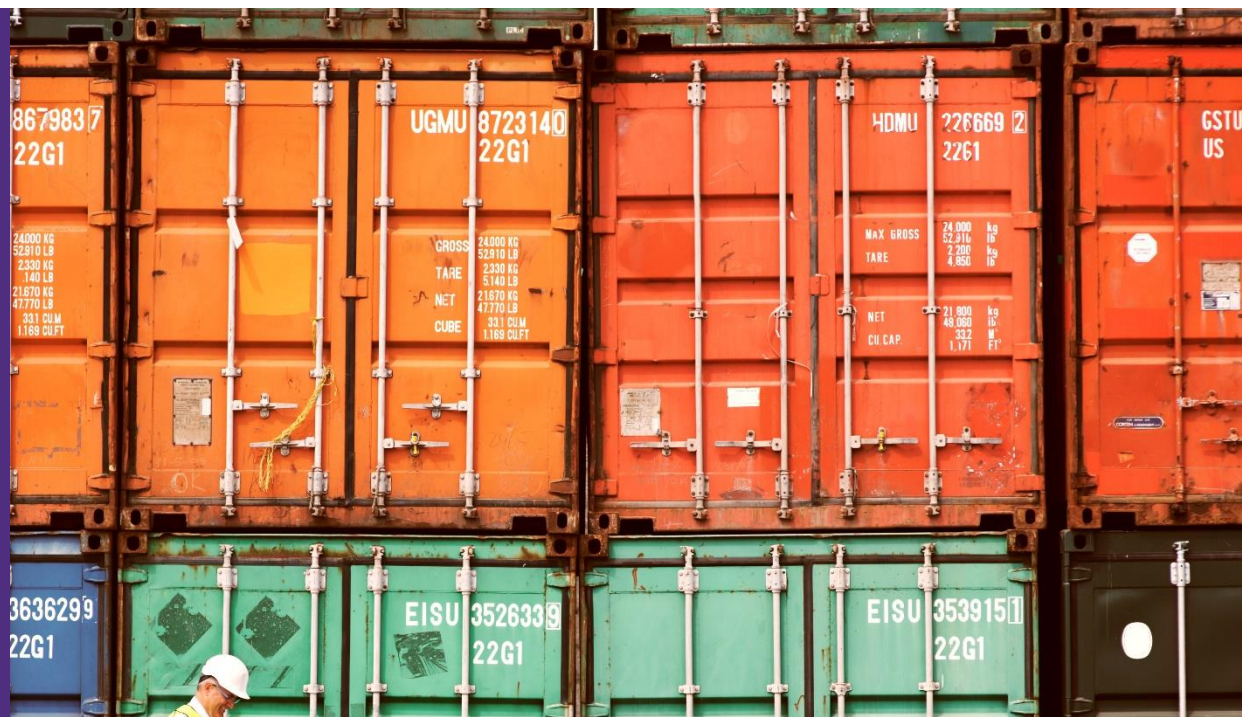
Decision No. 1357/QD-TCHQ by the General Department of Customs dated 18 May 2021 replaces Official Letter No. 2765/TCHQ-GSQL on the Code of import, export format and user manual and takes effect from 1 June 2021. There are some changes as follows:

Export format codes

- Maintain 5 codes: E42, E54, G21, G22 and G24
- Update 10 codes: B11, B12, B13, E52, E62, E82, G23, G61, C22 and H21
- Add 01 codes: C12- Commodities exported from bonded warehouses to foreign countries
- Abolish 01 codes: E56 – Processed commodities exported for domestic delivery

Import format codes

- Maintain 6 codes: A21, E11, E23, E31, E33, G11
- Update 16 codes: A11, A12, A31, A41, A42, E13, E15, E21, E41, G12, G13, G14, G51, C11, C21, H11
- Add 2 codes: A43 – Commodities imported under Tax preferential treatment program
A44 – Imported commodities for sale at duty-free shops



7. Official Letter No. 3440/CV-BCD of the National Steering Committee for COVID-19 Prevention and Control promulgates guidelines for management of applicants for entry to Vietnam

Official Letter No. 3440/CV-BCD dated at 27 April 2021 of the National Steering Committee for COVID-19 Prevention and Control on continuing to strictly implement the management of applicants for entry to Vietnam for COVID-19 prevention and control. According to this official letter, persons are eligible for entry application:

- Foreign experts, investors, business managers, high – skilled workers and family thereof (father, mother, wife, husband, children).
- Foreigners entering into Vietnam for diplomatic or official business purposes and family thereof (father, mother, wife, husband, children).
- Foreign students studying in Vietnam.
- Vietnamese businesspersons; intellectuals; students; senior citizens; persons who have finished visiting family or traveling overseas; workers whose contracts have expired; persons whose study has ended and/or are stranded abroad; persons visiting other countries for medical care; and persons whose visa has expired.
- Humanitarian entry applicants and other special cases



However, the approval must be conducted very thoroughly to ensure safety against pandemics. Organizations and units applying for entry on behalf of individuals also need to submit a request enclosed with supporting documents to be considered.

8. Official Letter No. 260/LDLĐ of Hanoi Federation of Labour provides guidelines for payment of wages to employees during the off – work time due to COVID-19 pandemic

Currently, due to the serious impact of the Covid-19 epidemic, the situation of employees being suspended from work is becoming increasingly more common. Therefore, in order to ensure the rights of workers, Hanoi Federation of Labour has issued Official Letter No. 260/LDLĐ dated at 11 May 2021 guiding the payment of wages to employees during the off – work time owing to Covid-19 pandemic, specifically as below:

In case the employees stop working due to centralized isolation at the request of the competent authority; stop working as the business (or business division) stops operating because of the lock down then the employee's work suspension salary shall be as below:

- With the under 14 off – working days, the agreed – upon work suspension salary is not lower than the minimum wage.
- With more than 14 off – working days, the work suspension salary shall be agreed upon by both parties, but the work suspension salary in the first 14 days must not be lower than the minimum wage.


If the prolonged work suspension affects the enterprise's ability to pay, the employer and the employee can agree on "Suspended Labor Contract" without salary or with salary if both parties have a mutual agreement.

In case the enterprises encounter difficulties in the source of raw materials and the market, leading to the failure to arrange enough jobs for employees, the employer may temporarily transfer the employee to another job which is different from the contract but must ensure the following regulations:

- Employees who are temporarily transferred to other work different from the labor contract must not exceed 60 working days cumulating in 01 year.
- The employer must notify the employee at least 03 working days in advance (clearly inform the temporary working term, the job must be suitable for the employees' health and gender)
- Employees are paid according to new jobs. If this salary is lower than the old one, the salary of the old jobs will be kept the same within 30 working days.

When the enterprise has to scale down production, leading to the forced reduction of workplace and labor reorganization, Union base shall participate in formulating and implementing the labor use plan and unilaterally terminate the Labor Contract. In this case, the enterprise must pay the allowances to the employees according to Article 46 or Article 47 of the Labor Code, the Union base shall guide the employees to complete the procedures for the Unemployment Insurance (if any).

9. Official Letter No. 15616/SLDTBXH-VLATLD of Ho Chi Minh Department of Labors, War Invalids and Social Affairs on the implementation of reports on foreigners labor usage



Pursuant to Decree No. 152/2020/ND-CP dated 30 December 2020 and being effective from 15 February 2021, businesses shall send a report on employment of foreign workers to Department of Labors, War Invalids and Social Affairs using Form No. 07/PLI Appendix I hereto appended: via email ldnn.dolisa@gmail.com. The dossier consists of a soft copy (word) and a signed and sealed copy of the business.

- **The first-half-year report:** The reporting period is from 15 December of the previous reporting year to 14 June of the reporting year. The report submitting period: From 15 June to 4 July.
- **The annual period:** The reporting period is from 15 December of the previous reporting year to 14 December of the reporting year. The report submitting period: From 15 December to 5 January of the next reporting year.



After the submission deadline, the Department of Labors, War Invalids and Social Affairs will compile a list of units that submit reports in accordance with regulations and post it on the website of the Department.

10. Official Letter No. 1485/TCHQ-TXNK on VAT calculation value of reimported goods after being repaired abroad, excluding wages

Official Letter No. 1485/TCHQ dated 1 April 2021 of the General Department of Customs – Supplemented the Official Letter No. 5485/TCHQ-TXNK on import and VAT tax in case the enterprises reimport goods which has been repaired overseas (repairs are not under warranty conditions of the contract, incurred costs to be paid to the foreign parties).

- **Customs value – Import taxable value:** is the total amount that the enterprise pays its partner to repair goods, including the repair and material cost, components and spare parts (if any).
- **VAT value:** excluding the repair cost if it is separate from the value of materials, components and spare parts.

For the time being, as VNACCS/VICIS system does not support the direct adjustment of VAT value; therefore, the enterprise will have to declare VAT according to taxable value, including the repair cost, the Customs office will then carry out the procedures to refund the overpaid VAT pursuant to the Law on Tax Administration.



11. Official Letter No. 1580/TCHQ-TXNK and No. 1612/TCHQ-TXNK on tax refund for export production goods

The General Department of Customs issued Official Letter No. 1580/TCHQ-TXNK dated 6 April 2021 and Official Letter No. 1612/TCHQ-TXNK dated 8 April 2021 relating to tax refund of raw material and supplies import tax for production of exported goods. Specifically:



Import duty

The enterprises importing goods for export production (E31 format) has changed the business purpose (from E31 to A42) or the enterprises importing goods by type of business (A12), then delivering a part of materials, supplies, components imported for other businesses to process or perform some stages of production and such enterprises have received semi – finished goods to continue export production or have received finished goods to export to foreign countries. They cannot be exempted from import duty as prescribed in Clause 7 Article 16 of the Law on Export and Import Duties No. 107/2016/QH13 and also not eligible to be processed in Official Letter No. 879/TCHQ-TXNK date 23 February 2021.

VAT

The taxpayer importing raw material, supplies for export production goods that do not meet the requirements of Article 12, Article 31, Decree No. 134/2016/ND-CP (amended by Decree 18/2021/ND-CP) is not exempted from import duty and pays VAT according to prevailing regulations.



12. Official Letter No. 1604/TCHQ-GSQL on certificates of origin of goods stipulated in EVFTA

Official Letter No. 1604/TCHQ-GSQL dated 8 April 2021 of the General Department of Customs has comments on certificates of origin of goods stipulated in EVFTA as below:

- **Handling of faulty certificates of origin:** The Customs authority accepts the submission of additional certificates of origin to replace or correct the previous ones;
- **Declaring REX code:** If the Customs authority determines that the declared REX code is valid, the declaration of the phrase “Exporter Reference No...” will not affect the validity of the certificates of origin.

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

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