

Update on new legal documents and important policies on Tax and Customs

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1. Resolution 116/NQ-CP on policies to support employees and employers affected by the COVID-19 pandemic from the Unemployment Insurance Fund and other guiding documents



On 24 September 2021, the Government issued Resolution 116/NQ-CP on policies to support employees and employers affected by the COVID-19 pandemic from the Unemployment Insurance Fund. This resolution was issued to promptly support the heavy impacts of the Covid-19 epidemic on many aspects of workers' lives as well as the production and business activities of enterprises. The Government has also issued Decision 28/2021/QD-TTg to guide the implementation of this Resolution. The main contents of this support policy are as follows:

Monetary support

- Support employees who are affected by the COVID-19 pandemic by taking from the unemployment insurance fund balance with the support level based on the period of unemployment insurance payment but not yet receiving unemployment benefits of the employees.
- **Subjects of application:**
 - o Employees who are participating in unemployment insurance as of 30 September 2021 (except for employees working for state agencies, political organizations, socio-political organizations, etc.)
 - o Employees, who have stopped participating in unemployment insurance due to the termination of their labor contracts in the period from 1 January 2020 to the end of 30 September 2021, have a reserved period of unemployment insurance payment, excluding pensioners
- **Support level:** from VND1,800,000/person to VND3,300,000/person depending on the unclaimed number of months unemployment insurance.
- **Implementation period:** from 1 October 2021 to 31 December 2021

Reduced contribution to the Unemployment Insurance Fund

- **Subjects of application:** Employers (excluding state agencies, political organizations, socio-political organizations, people's armed forces and public non-business units whose recurrent expenditures are guaranteed by the state budget) who are participating in unemployment insurance before 1 October 2021.
- **Reduction level:** 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.
- **Reduction period:** from 1 October 2021 to the end of 30 September 2022

Currently, Vietnam Social Security has issued Official Letter No. 3068/BHXXH-CSXH dated 1 October 2021 to guide the specific implementation of the above policies. Businesses are advised to contact their directly managed insurance agency for specific instructions.

2. Circular 78/2021/TT-BTC guiding Decree No. 123/2020/ND-CP on e-invoices

On 17 September 2021, the Ministry of Finance issued 78/2021/TT-BTC guiding the implementation of a number of articles of the Tax Administration Law dated 13 June 2019, Decree No. 123/2020/ND-CP dated 19 October 2020 by the Government on e-invoices. The Circular has some notable points as follows:

- Encourage agencies, organizations and individuals that meet the conditions on information technology infrastructure to apply regulations on electronic invoices and documents under the guidance in Circular 78/2021/TT-BTC and Decree No. 123/2020/ND-CP before 1 July 2022.
- New regulations on Authorization for e-invoicing, under which the provider of goods or services being an enterprise, economic organization or other organization is entitled to authorize a third party, who is an associate party and eligible to use e-invoices, to issue e-invoices for the sale of goods and services.

The authorization must be confirmed in writing between the authorizing party and the authorized party with some mandatory information such as name, address, tax code; authorization purposes; authorization duration; authorized invoice payment method.

The parties must notify the tax authority when registering to use e-invoices and publicize the invoice authorization.

- Cases of handling e-invoices sent to tax authorities with errors:
 - o In case the e-invoice is made with errors, the tax authority's code must be re-issued or the e-invoice has errors that need to be handled in the form of adjustment or replacement:

The seller has the choice to notify the adjustment for each invoice or for multiple e-invoices with errors and send the notice to the tax authority no later than the last day of the VAT declaration period that incurred the aforementioned adjusted e-invoices;
 - o In case the seller issues an invoice when collecting money before or during the provision of services according to the laws, then incurs the cancellation or termination of the service provision, the seller shall cancel the issued e-invoice and notify tax authority;
 - o If, according to regulations, an e-invoice is made without the invoice model number, invoice symbol, or invoice number is wrong, the seller can only make adjustment, no cancellation or replacement is allowed;
 - o If the value on the invoice is wrong: adjust by increasing (positive sign) or decreasing (negative sign) in accordance with the actual adjustment.



The Circular takes effect from 1 July 2022, and the previously issued circulars and decisions of the Ministry of Finance related to e-invoices will cease to be effective.

3. Decision 27/2021/QD-TTg on the reduction of land rent in 2021 for those affected by the Covid-19 epidemic

On 25 September 2021, the Prime Minister issued Decision 27/2021/QD-TTg on the reduction of land rent in 2021 for those affected by the Covid-19 epidemic, with specific guidance as follows:

- **Subjects:** organizations, units, enterprises, households and individuals that are directly leasing land from the State under a decision or contract of a competent state agency in the form of annual land rental payment, including both cases where the lessee is not eligible for land rent exemption or reduction and where the lessee is receiving land rent reduction in accordance with relevant regulations.
- **Reduction level:** 30% reduction of land rent payable in 2021 and no reduction on the outstanding land rent of the years prior to 2021 and late payment interest (if any). In case the land lessee is receiving a reduction in land rent according to the law, the reduction of 30% of the land rent shall be calculated on the land rent payable after the above-mention reduction has been made.
- **Dossier required to submit includes:**
 - o The land lessee's request for land rent reduction in 2021, made according to the form in the Appendix issued with the Decision.
 - o A copy of the land lease decision or the land lease contract of a competent state agency.



The Decision takes effect from the date of signing until the end of 31 December 2021. If the application is submitted from 1 January 2022 or later, the land rent will not be reduced under this Decision.



4. Official Letter No. 3419/TCT-CS on the extension of tax payment

Official Letter No. 3419/TCT-CS dated 13 September 2021 of the General Department of Taxation responding on the policy for tax payment extension after the end of the Covid epidemic. In this regard, the General Department of Taxation replied that the tax payment extension is implemented according to the following two regulations:

- For the extension of the payment deadline for VAT, CIT, PIT and land rent in 2021 for those affected by the Covid-19 epidemic, enterprises shall comply with Decree 52/2021/ND-CP dated 19 April 2021 issued by the Government.
- At the end of the tax payment extension period according to Decree 52/2021/ND-CP, if subject to the tax payment extension under the Tax Administration Law No. 38/2019/QH14, the enterprise shall prepare a dossier of request for extension of tax payment and send to the tax authority that directly manages the enterprise for consideration and settlement.
- The General Department of Taxation also acknowledges the recommendations and will continue to evaluate and study the proposed idea and submit them to the competent authorities for promulgation of support policies.

5. Official Letter 34268/CTHN-TTHT on personal income tax (PIT) policy for income from gifts

Official Letter No. 34268/CTHN-TTHT of Hanoi Tax Department issued on 8 September 2021 has some notable points as follows:

- In case the Company give employees gifts in kind, which are not part of the income from receiving gifts specified in Clause 10, Article 2 of Circular 111/2013/TT-BTC (including securities; capital in economic organizations, business establishments; real estate; other properties subject to registration of ownership or use rights with state agencies) are not required to declare and pay PIT on these gifts.
- In case the Company gives gift vouchers to employees, then:
 - o If the payment content clearly states the individual's name or is paid in cash to the individual, it shall be included in the his/her taxable income.
 - o If the payment does not specify the individual beneficiary's name but is shared amongst the staff, this income is not included in the PIT taxable income.



6. Official Letter 4065/TCHQ-TXNK guiding the tax policy for goods for processing but there is no manufacturing or processing facility

On 17 August 2021, the General Department of Customs issued Official Letter No. 4065/TCHQ-TXNK guiding tax policies for goods imported for processing but without manufacturing or processing facilities.

Accordingly, if the Company does not have a processing facility, it does not satisfy the conditions specified in Clause 2, Article 10 of Decree No. 134/2016/ND-CP as amended and supplemented in Clause 4, Article 1 of Decree No. 18/2021/ND-CP (the taxpayer has the right to own or use the export processing facility, and the machinery and equipment at the processing facility in the Vietnamese territory). Therefore, goods imported for processing for foreign traders of the Company are not eligible for tax exemption.

Therefore, although there are regulations on outsourcing manufacturing in Decree 18 amending Decree 134, the customs authority still holds the opinion that tax exemption will not be granted in cases where enterprises participating in processing but do not have any production facilities and outsource the whole processing activity.



7. Official Letter No. 4199/TCHQ-TXNK on goods imported to build offices for EPEs



On 27 August 2021, the General Department of Customs guided the implementation for contractors imported goods from abroad to build factories, offices and install equipment according to the bidding results for enterprises in the non-tariff zone are as follows:

- Import duties: A domestic enterprise, who is a sub-contractor that imports goods from abroad into Vietnam to participate in the implementation of the bidding package under the contract signed with the main contractor (the main contractor is a domestic enterprise directly signing and executing contracts with investors (enterprises in non-tariff zones)) to build factories, offices, and install equipment according to bidding results for enterprises in non-tariff zones, must declare and pay import duties according to regulations.
- VAT: Contractors who are domestic enterprises that import goods from abroad into Vietnam must declare and pay VAT according to regulations.

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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