

- I. Pursuant to Circular No. 42/2019/TT-BTC dated July 12th, 2019 of Ministry of Finance (MOF) about PIT for individuals working in economic zones
- II. Pursuant to Circular No. 43/2019/TT-BTC dated July 12nd, 2019 of MOF guiding Clause 4 Article 24 Decree No. 82/2018/ND-CP
- III. Allowance for female employees during the period of raising children under 12 months of age
- IV. Conditions for granting work permits to foreigners working in Vietnam
- V. Is it compulsory for employers to pay medical expenses, wages during treatment for workers who suffer from traffic accidents?
- VI. Should an equal to the level of contribution to social insurance be paid for employees during maternity and sick leave?
- VII. Have working place specified in the labor contract been changed?

■ PERSONAL INCOME TAX (PIT)

I. Reduction of personal income tax for individuals working in economic zones.

- Pursuant to Circular No. 42/2019/TT-BTC dated July 12th, 2019 of Ministry of Finance (MOF) about PIT for individuals working in economic zones and border-gate as following:

Article 1: Reject Circular No. 128/2014/TT-BTC dated September 05th, 2014 of MOF guiding the reduction of personal income tax for individuals working in economic zones.

Article 2: Effect

This Circular takes effect on August 16th, 2019

(**Note:** Decree No. 29/2008/ND-CP dated March 14, 2009 of Government on industrial parks, export processing zones and economic zones management, takes effect on April 10, 2008 provides that:

Article 16: Investment incentives for industrial zones and economic zones

5. Earners of taxable incomes, including Vietnamese and foreigners working in economic zones, are entitled to a 50% reduction of payable income tax.

On May 22nd, 2018, The Government *promulgates Decree No. 82/2018/ND-CP, takes effect on July 10th, 2018, replace Decree No. 29/2008/ND-CP, rejected regulations on reduction of PIT for individuals working in economic zones.*)

II. Providing guidance on the implementation of Clause 4 Article 24 Decree No. 82/2018/ND-CP

Pursuant to Circular No. 43/2019/TT-BTC dated July 12nd, 2019 of MOF guiding Clause 4 Article 24 Decree No. 82/2018/ND-CP

Article 1: Guidance on the implementation of clause 4 Article 24 of Decree No. 82/2018/ND-CP dated May 22nd, 2018 of the government:

1. The expenditures on construction, operation or renting of condominium apartments and social infrastructure **for**

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- VIII. Severance allowances and job-loss allowances for employees and Chief Representative of Representative Office when the Representative Office terminates its operation
- IX. If an individual authorizes an enterprise to finalize his/her personal income tax, he/she will take responsibilities before law for his/her authorization.
- X. After finalization of personal income tax, it is not allowed to calculate deductions for dependants from the month of arising nurturing obligation
- XI. Application for PIT refund for organizations that pay income when documents and receipts of personal income tax payment are electronic documents
- XII. Receiving promotional gifts (cash/ artifacts not subject to ownership or use right registration) are not subject to PIT

workers in industrial parks, economic zones of an enterprise with investment projects are considered to be deductible expenses for calculation of enterprise income tax therein in the following cases:

- a) **For fixed assets:** Such expenses shall be included in the value of constructions, depreciated and included in deductible expenses when determining taxable income if they are qualified as fixed assets prescribed in regulations of Ministry of Finance on management, use and depreciation of fixed assets
- b) **Expenses** other than those specified in point a clause 1 of this Article may be **included in deductible expenses** when determining taxable income in accordance with law on enterprises income tax.

2. Incentive policies applied to projects of investment in construction of housing, cultural and sports works, social infrastructure for workers in industrial parks, economic zones

Projects of investment in construction of housing, cultural and sports works, social infrastructure for workers in industrial parks, economic zones **shall enjoy incentives according to law provisions on building of social housing** and relevant legislation.

Article 2: Effect

1. This Circular takes effect on August 26th, 2019

2. The expenditures on construction, operation or renting of condominium apartments and social infrastructure for workers in industrial parks, economic zones incurred from July 10 2018 shall be recorded and calculated in accordance with provisions of clause 4 Article 24 of Decree No.82/2018/ND-CP and guidance in Article 1 of this Circular.

(Note: Incomes of enterprises from the implementation of projects on investment and trading in social houses for sale or lease to or hire-purchase shall be applied the preferential enterprise income tax rate of 10% throughout the operation duration)

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- XIII. Are traveling gifts when customers who are business individuals and non-business customers purchase certain goods subject to PIT or not?
- XIV. Electronic invoices provided to buyers for the transportation of tangible goods must be signed by the sellers
- XV. The company can develop its own electronic invoice software program for using
- XVI. Customers who have declared the expired invoices must declare and adjust the deducted input VAT
- XVII. Regarding tax policy and invoices during the time the invoice is enforced
- XVIII. Are electronic invoices purchased without signature date subject to VAT and included in deductible expense?
- XIX. About the time of compulsory application for electronic invoices

III. Allowance for female employees during the period of raising children under 12 months of age

Pursuant to Documentary No. 3235/LDTBXH-BHXH dated August 05, 2019 from Ministry of Labour, War Invalids and Social Affairs (MOLISA) to Office of the Government, Clause 5 Article 155 of Labour Code providing that a female employee raising a child under 12 months of age is entitled to a 60-minute break in every working day with full wage as stated in the labor contract. **Accordingly, female employees during the period of raising children under 12 months of age, are entitled to a 60-minute break in working hours every working days (time off does not depend on the number of working hours of the employees).**

IV. Conditions for granting work permits to foreigners working in Vietnam

Pursuant to Documentary No. 646/CVL-QHLD dated July 16th, 2019 from MOLISA to Office of the Government, Point a, Clause 8, Article 10 of Decree No. 11/2016/ND-CP dated February 3rd, 2016 of the government detailed regulations on implementing a number of articles of the labor code regarding foreign workers in Viet Nam, amended by Decree No. 140/2018/ND-CP dated October 8th, 2018 providing that **foreign workers who have been issued with a work permit and are still valid, working for other employers at the same job position inscribed in the work permit as prescribed by law, will have submitted an application for a work permit includes the documents specified in Clauses 1, 5, 6 and 7, Article 10 of Decree No. 11/2016/ND-CP and the granted work permit or the notarized copy of the granted work permit.**

V. Is it compulsory for employers to pay medical expenses, wages during treatment for workers who suffer from traffic accidents?

Pursuant to Documentary No. 2704/LDTBXH-ATLD dated July 8th, 2019 from MOLISA to Office of the government, in order to have a basis for settling the accident regime when going from a place of residence to a place of work or from a place of work to a place of residence, it is necessary to base itself on the record of occupational accident investigation.

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- XX. Is the FCT deducted when providing services overseas included in deductible expenses?
- XXI. Guidance on determining interest expenses under Clause 3, Article 8 of Decree 20/2017/ND-CP
- XXII. Regulations related to the inspection and acceptance of fire prevention and fighting systems
- XXIII. Real Estate Trading: About the type of office combined with accommodation (Officetel)
- XXIV. Whether the company can authorize its branch to sign contracts and use the branch's seal
- XXV. On the registration of the owner of the business location
- XXVI. Import and Export: The actual invoice number and the invoice number in the C/O which are not exactly the same could be accepted for preferential tariff treatment.
- XXVII. VI. Regarding the request the Post Clearance Inspection Branch of HCMC Customs Department to postpone the post-clearance inspection

Based on the above-mentioned accident investigation record, **if an employee is determined to have an accident when he or she moves from a place of residence to a place of work or vice versa according to the appropriate route and time, due to fault caused by another person or does not identify the person who caused the accident, the employers shall provide the employees with allowance as stipulated in Clause 2, Article 39 of the Law on Occupational Safety and Hygiene. The Law on Occupational Safety and Hygiene does not require employers to pay medical expenses and wages during the treatment at the above-mentioned accident.**

Clause 1, Article 4 of the 2012 Labor Code encourages agreements that are more beneficial to employees.

VI. Should an equal to the level of contribution to social insurance be paid for employees during maternity and sick leave?

Pursuant to Documentary No. 372/QHLDTL-CSLD dated June 27th, 2019 from MOLISA to Office of the government, Clause 2 Article 11 Decree 28/2015/ND-CP dated March 12th, 2015 of Government detailing the implementation of a number of articles on unemployment insurance of the Law on employment, providing that employees take the unpaid maternity leave or sick leave for 14 working days or more, receiving social insurance allowance, employees postpone labor contract or working contract concluded in accordance with the law; such employees are not eligible for unemployment insurance during this period.

Pursuant to Clause 3 Article 186 of Labour Code 2012, for an employee who is not covered by compulsory social insurance, compulsory health insurance and unemployment insurance, the employers shall simultaneously pay to the employees a wage and an amount which is equivalent to the level of contribution to compulsory social insurance, compulsory health insurance and unemployment insurance, and annual leave payments in accordance with regulations.

Based on the regulations and company's request, female employees who are on maternity leave, and are not covered by unemployment insurance, during the maternity leave

period, do not receive wages from the employers. Therefore, there is no basis for the employers to pay

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an amount of money equivalent to the level of contribution to unemployment insurance in the same period of paying wages for employees.

VII. Have working place specified in the labor contract been changed?

Pursuant to Documentary No. 372/QHLĐTL-CSLĐ dated June 27th, 2019, from MOLISA to Office of the government, Point b, Clause 3, Article 4 Decree 05/2015/NĐ-CP of the government defining and providing guidance on the implementation of a number of contents of the labor code, amended by Decree 148/2018/ND-CP dated October 24th, 2018 providing that **the content of the labor contract must be clearly stated scope of agreed work and location where the employees work; if the employees work in many different places, the main workplace shall be provided.**

Pursuant to Article 35 of Labour Code 2012 during the performance of a labor contract, any party that requests to modify or supplement the contents of the labor contract shall notify at least 3 working days in advance to the other party of the contents to be modified or supplemented. In case the two parties can reach an agreement, the modification or supplementation of the labor contract must be carried out by signing an annex to the labor contract or signing a new labor contract. **In case the two parties can not reach an agreement on the modification or supplementation of the labor contract, they shall continue performing the labor contract already signed**

Based on the regulations and company's request, in case the employers want to change the working place specified in the labor contract, they must negotiate with the employees to amend the labor contract or conclude a new labor contract. In case the two parties can not reach an agreement, they shall continue performing the labor contract already signed

VIII. Severance allowances and job-loss allowances for employees and Chief Representative of Representative Office when the Representative Office terminates its operation

Pursuant to Documentary No. 372/QHLĐTL-CSLĐ dated June 27th, 2019 from MOLISA to Office of the government, the closure of the Representative Office (RO) will apply article 35, 36, 37 Decree No. 07/2016/ND-CP dated January 25th, 2016 of the government detailed regulations on establishment of representative offices or branches of foreign traders in Vietnam under laws on commerce.

The Labour contract between the employees and the RO (terminated) is terminated in accordance with Clause 7, Article 36 of the Labor Code. The rights of employees who have worked at the RO are stipulated in Article 38 Decree No. 07/2016/ND-CP dated January 15th, 2016 of the government detailed regulations on establishment of representative offices or branches of foreign traders in Vietnam under laws on commerce, whereby: Every foreign traders having closed RO or branches shall fulfill obligations to contracts and debt settlement including outstanding taxes and settlement of legal benefits of employees working for such RO or branches in compliance with provisions of laws.

The termination of a labour contract between the head of RO and a foreign trader is not subject to the termination of a labour contract in accordance with Clause 7, Article 36 of the Labour Code 2012 of Vietnam.

IX. If an individual authorizes an enterprise to finalize his/her personal income tax, he/she will take responsibilities before law for his/her authorization.

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Pursuant to Documentary No. 7115/CT-TTHT dated July 8th, 2019, Clause 2 Article 7 Law on tax administration No. 78/2006/QH11 dated November 29th, 2006 provides **obligations of taxpayers:**

“To make accurate, truthful and complete tax declarations and submit tax dossiers on time; to take responsibility before law for the accuracy, truthfulness and completeness of their tax dossiers.”

Based on the above provisions, **when an individual authorizes an company to finalize his/her personal income tax, the individual is responsible before the law for his/her authorization; The company bases on the reality and law provisions to fulfill the obligation to declare and pay personal income tax and takes responsibility before law for the truthfulness and accuracy of the declaration.**

X. After finalization of personal income tax, it is not allowed to calculate deductions for dependants from the month of arising nurturing obligation

Pursuant to Documentary No. 7126/CT-TTHT of HCM Tax Department, Point c.2 Article 9 Circular No. 111/2013/TT-BTC dated August 15th, 2013 of Ministry of Finance guiding about deduction for dependants:

“**If the taxpayer has not made deductions for dependants in the tax year, the deductions for dependants shall be made from the month of arising nurturing obligation when the taxpayer finalizes tax and registers deductions for dependants.** Deductions for other dependants, who are defined in Point d.4 Clause 1 of this Article, must be registered by December 31 of the tax year, otherwise the deduction for the whole tax year shall not be made.”

Based on the above provisions and according to the presentation, **Mr. A does not include deduction for dependants (his children) of the year 2018 and the company where Mr. A works has made the tax finalization of the year 2018 for him. Mr. A shall not allowed to include deduction for dependants since the month of raising obligation. Mr. A's company does not have to adjust the PIT finalization return.**

XI. Application for PIT refund for organizations that pay income when documents and receipts of personal income tax payment are electronic documents.

Pursuant to Documentary No. 281/TCT-DNNCN dated July 16th, 2019 from General Tax Department to Thua Thien Hue Tax Department, Clause 1 Article 23 Circular 92/2015/TT-BTC dated August 15th, 2015 of Ministry of Finance amended Article 53 Circular 156/2013/TT-BTC guiding about refund of personal income tax.

Pursuant to Article 7 Decree No. 165/2018/ND-CP dated December 24th, 2018 of the government about conversion from electronic documents into physical documents

In case the income-paying organizations have paid personal income tax electronically when they want to refund personal income tax, they shall submit dossiers for refund under the guidance in Clause 1, Article 23 of Circular No. 92/2015/TT-BTC dated August 12th, 2015 of the Ministry of Finance, **in which photocopies of personal income tax documents and receipts are replaced by paper documents**

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converted from electronic documents as prescribed in Article 7 of Decree No. 165/2018/ND-CP dated December 24th, 2018 of the Government on electronic transactions in financial operations.

The General Tax Department acknowledges the difficulty of the Thua Thien Hue Tax Department on application for PIT refund for organizations that pay income and will study to amend and supplement them to suit the reality when amending current policies.

XII. Receiving promotional gifts (cash/ artifacts not subject to ownership or use right registration) are not subject to PIT

Pursuant to Documentary No. 7152/CT-TTHT dated July 8th, 2019 of HCM Tax Department, Clause 10 Article 2 Circular 111/2013/TT-BTC dated August 15th, 2013 of Ministry of Finance providing incomes from receipt of gifts:

“Article 10. Incomes from receipt of gifts

Incomes from receipt of gifts are incomes the person receives from organizations and individuals at home and overseas. To be specific:

a) Gifts being securities: shares, call options on shares, bonds, treasury bills, fund certificates, and other securities according to the Law on Securities; shares of the person in the joint-stock company according to the Law on Enterprises.

b) Gifts being capital in economic organizations and businesses: capital contribution to limited liability companies, cooperatives, partnerships, business cooperation contracts; capital in private enterprises and businesses of the person; capital in associations and funds established within the law, or the entire business if the private enterprise or business is under the ownership of the person.

c) Gift being real estate: rights to use land, rights to use land and property thereon; ownership of houses, including future houses, infrastructure and constructions on land, including off-the-plan constructions; rights to rent land or water surface; other incomes from inheritance being real estate in any shape or form, except for incomes from the gifts being real estate mentioned in Point d Clause 1 Article 3 of this Circular.

*d) **The ownership and use rights of gifts being other assets (cars, motorbikes, ships, barges, speedboats, towboats, yachts, airplanes, hunting guns, sporting guns) must be registered with state agencies.***”

Based on the above provisions and presentation of the company, in case the company conducts a **gift promotion program (cash/artifacts are not subject to ownership or use right registration for all customers who buy apartments of the company are not subject to PIT.**

XIII. Are traveling gifts when customers who are business individuals and non-business customers purchase certain goods subject to PIT or not?

Pursuant to Documentary No. 2875/TCT-DNNCN dated July 22nd, 2019, in case the customer is an individual who **achieving sales and recieved a traveling gift (not in cash)** under the promotion program, the provisions of Decree No. 81/2018/ND-CP of May 22nd, 2018 by the government is

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determined that income from gifts is not subject to ownership registration, so it is not subject to PIT.

▪ VALUE ADDED TAX (VAT)

I. Electronic invoices provided to buyers for the transportation of tangible goods must be signed by the sellers

Pursuant to Documentary No. 7161/CT-TTHT dated July 8th, 2019 of HCM Tax Department, in case the company applies the form of using electronic invoices and **the buyer needs to use documents to prove the origin of tangible goods in the circulation process, the Company will convert the electronic invoices to paper invoices.** Invoices converted from electronic invoices to paper invoices to prove the origin of goods must apply the provisions of Clauses 2, 3 and 4, Article 12 Circular No. 32/2011/TT-BTC and **must be signed and sealed by legal representative of the sellers.**

II. The company can develop its own electronic invoice software program for using

Pursuant to Documentary No. 7119/CT-TTHT dated July 8th, 2019 of HCM Tax Department, during the period from November 1st, 2018 to October 31st, 2020, if the tax authority has not notified company to convert to use electronic invoices in accordance with Decree No. 119/2018/ND-CP, the Company still issue ordered invoices, electronic invoices and continue to implement administrative procedures on invoices as prescribed in Decree No. 51/2010/ND-CP and Decree No. 04/2014 / ND -CP and documents guiding the implementation of Decree No. 51/2010/ND-CP and Decree No. 04/2014/ND-CP. **The company can develop its own software program on electronic invoices if it meets the conditions specified in Clause 2, Article 4 of Circular No. 32/2011/TT-BTC.**

III. Customers who have declared the expired invoices must declare and adjust the deducted input VAT

Pursuant to Documentary No. 7191/CT-TTNH dated July 9th, 2019 of HCM Tax Department, in case the company and the customer have agreed to withdrawal the expired invoice (during the time of removing the business address), and the company has issued new invoices at the same time, **the expired invoices are not eligible to declare and deduct input VAT, so customers make declarations for adjustment of deducted input VAT; When the customers receive new invoices (replacing the expired invoices), the customers declare and deducte the input VAT at the tax period in which the replacement invoice is made.**

In case the withdrawal of invoices affects customers' rights as agreed in the signed contracts, the company is requested to discuss with the customers to negotiate for settlement or to perform rights of parties specified in signed contracts.

IV. Regarding tax policy and invoices during the time the invoice is enforced.

Pursuant to Documentary No. 2722/TCT-CS dated July 8th, 2019 from General Tax Department to Thua Thien Hue Tax Department, during the time the invoice is enforced if the taxpayer makes a written request for the use of each single invoice for each goods or completed work item to have a source of payment of workers' wages, payment of expenses to ensure continuous business, **then Tax**

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Departments shall continue to allow taxpayers to use each single invoice on condition that the taxpayer has a written commitment to immediately pay 18% of the revenue on used single invoices into the state budget.

When the tax agency issues a decision on enforcement of tax debt by notice of invalid invoices, it is not required to declare under Point c, Article 10 of Circular No. 156/2013/TT-BTC dated 06/11/2013 of the Ministry of Finance, so taxpayers still have to declare tax as prescribed.

As presented by the Tax Department: **Company generates revenue from sales of goods and revenue from capital construction activities during the time the invoice is enforced, if the company has not issue invoices to customers and have not yet declared VAT but have declared CIT finalization for revenue generated during the enforcement period, the company will be sanctioned for selling goods without invoices and handling of administrative violations in the field of tax, for acts of making false declarations and payable tax amounts.** In addition, the Company was applied remedial measures for acts of selling goods without invoice when the tax authorities applied the measure to enforce tax debt by notification of invalid invoices.

V. Are electronic invoices purchased without signature date subject to VAT and included in deductible expense?

Pursuant to Documentary No. 2947/TCT-CS dated July 29th, 2019 from General Tax Department to Office of the government and Documentary No. 3054/TCT-CS dated August 05th, 2019:

Pursuant to Article 7, Article 15 Decree No. 51/2010/ND-CP dated May 14th, 2010 of the government providing regulations about electronic invoices and issuing electronic invoices.

Pursuant to Clause 2 Article 16 Circular 39/2014/TT-BTC dated March 13rd, 2014 of Ministry of Finance guiding about issuing electronic invoices

Pursuant to Article 6, Article 8 Circular No. 32/2011/TT-BTC dated March 14th, 2011 of Ministry of Finance guiding about electronic invoices and issuing electronic invoices

Pursuant to Article 6, Article 7 and Article 35 Decree No. 119/2018/ND-CP dated September 12nd, 2018 of the government providing electronic invoices for goods sale and service provision

Based on the above provisions, **regarding the rule of law, in case applying electronic invoices under the Decree No. 51/2010/ND-CP, Circular No. 39/2014/TT-BTC, Circular No. 32/2014 / TT- BTC, the time of making electronic invoices when selling goods or providing services complies with Clause 2, Article 16 of Circular No. 39/2014 / TT-BTC. Accordingly, for the sale of goods, it is the time of transferring the ownership and the right to use the goods to the buyers, regardless of whether money has been collected or not; For service provision, it is the completion of the service provision, regardless of whether money has been collected or not.**

When issuing electronic invoices, there must be included all contents of the electronic invoice as prescribed in Article 6 of Circular No. 32/2011/TT-BTC.

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From November 1st, 2020, the application of electronic invoices complies with the Decree No. 119/2018/ND-CP of September 12nd, 2018 and its implementation guidelines.

VI. About the time of compulsory application for electronic invoices

Pursuant to Documentary No. 3007/TCT-CS dated August 1st, 2019 of General Tax Department, Clause 2 Article 151 Law on tax mangament providing that:

“ Article 151: Effect

- 1. This Law takes effect on July 1st, 2020, except for the case specified in Clause 2 of this Article.*
- 2. Regulations on electronic invoices and documents of this law take effect on July 1st, 2022; Agencies and organizations are encouraged to apply electronic invoices and documents of this Law before July 1st, 2022.”*

Based on the above provisions, Decree No. 119/2018/ND-CP of September 12nd, 2018 takes effect from November 1st, 2018. Business establishments and tax authorities have a 24-month period (from November 1st, 2018 to October 31st, 2020) to prepare conditions on facilities and people for applying electronic invoices according to Decree 119/2018 / ND-CP. During the period from November 1st, 2018 to October 31, 2020, the Decrees 51/2010/ND-CP and Decree 04/2014/ND-CP remain in effect.

Recently, the National Assembly has approved Law on tax management No. 38/2019/QH14, in chapter X of Law on tax management also provides for the application of electronic invoices and documents. Article 151 of the Law on Tax management stipulates that electronic invoices and documents of this Law take effect from July 1st, 2022; Organization and individuals are encouraged to apply electronic invoices and documents of this Law before July 1st, 2022.

To implement the Law on Tax management, Ministry of Finance will submit to the Government for promulgation a decree detailing and guiding the implementation of the Law on Tax management No. 38/2019/QH14

▪ FOREIGN CONTRACTOR TAX (“FCT”)

I. Is the FCT deducted when providing services overseas included in deductible expenses?

Pursuant to Documentary No. 7188/CT-TTHT dated July 9th, 2019 of HCM Tax Department, Pursuant to Article 7 of Agreement for the avoidance of double taxation between Socialist Republic of Vietnam and the Federal Government of Myanmar where the company according to the presentation provides services to businesses in Myanmar, in case paying money to the above company, businesses in Myanmar have deducted trade tax and FCT; **If the provision of the services forms a permanent establishment in Myanmar, the deductible tax of the company shall be included in deductible expenses when determining corporate income tax.** The company is responsible for saving documents proving tax deduction (the company may store it as a photocopy).

In case the above service provision does not form a permanent establishment in Myanmar, the income shall not be submitted in Myanmar.

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▪ CORPORATION INCOME TAX (CIT)

I. Guidance on determining interest expenses under Clause 3, Article 8 of Decree 20/2017/ND-CP

Pursuant to Documentary No. 3002/TCT-DNL dated August 01st, 2019 from General Tax Department to Office of the government and Minh Dang Quang Lawfirm, General Tax Department have received the document No. 3095/VPVP-DMDN dated April 05th, 2018 from the office of the government to General Tax Department to present questions and suggestions about tax policies related to interest expenses under Decree No. 20/2017/ND-CP dated February 24th, 2017 prescribing tax administration for enterprises engaged in transfer pricing. In this regard, the General Tax Department gives these following opinions:

Pursuant to Clause 1 Article 2 Law on promulgation of legislative documents No. 80/2015/QH13 dated June 22nd, 2015 about application of legislative documents;

Pursuant to Clause 1 Article 2 Decree No. 20/2017/ND-CP providing taxpayers are subjects of application of Decree No. 20/2017/ND-CP;

Pursuant to Clause 3 Article 8 Decree No. 20/2017/ND-CP providing total loan interest expenses deducted when determining the income subject to corporate income tax;

Pursuant to Article 14 Decree No. 20/2017/ND-CP providing effect of Decree No. 20/2017/ND-CP;

Pursuant to Article 6 Circular No. 41/2017/ND-CP dated April 28th, 2017 of Ministry of Finance providing guidance on implementation of some articles of Decree 20/2017/ND-CP about effect of Circular No. 41/2017/TT-BTC

Based on the above regulations:

- **Subjects of application specified in Clause 3, Article 8 of Decree No. 20/2017/ND-CP are taxpayers engaged in the transfer pricing stipulated by Article 5 Decree No. 20/2017/ND-CP, except taxpayers who are subjects of application of the Law on Credit Institutions and the Law on Insurance Business.**
- The total loan interest expenses incurred in the tax period of the taxpayers deducted when determining the income subject to CIT in accordance with Clause 3, Article 8 of Decree No. 20/2017/ND-CP, **shall be calculated on the total loan interest expense incurred in tax period, regardless of loan interest expenses arising from loan transactions with associated or independent parties and not offsetting against income from deposit interests and loan interests.**
- Regarding the determination of deducted loan interest expenses for determining the income subject to CIT in accordance with Clause 3, Article 8 of Decree No. 20/2017 / ND-CP in the financial year 2017:

+ Applying regulations loan interest expenses incurred from May 1st, 2017 until the end of the financial year, regardless of loan contracts signed before or after May 1st, 2017

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+ In case the taxpayers record separately the results of production and business activities from May 1st, 2017 to the end of the financial year, the criteria to calculate “Total net profit from business activities plus loan interest, depreciation expenses in the period ”is determined according to the actual arising figures.

+ In case the taxpayers cannot record separately the results of production and business activities from May 1st, 2017 to the end of the financial year, the criteria to calculate “Total net profit from business activities plus loan interest, depreciation expenses in the period ” is allocated in proportion to the remaining months of the financial year from May 1st, 2017.

Suggestion of the company related to the limit of deductible interest expenses when determining the income subject to CIP in accordance with Clause 3, Article 8 of Decree No. 20/2017/ND-CP have been reviewed by General Tax Department and synthesized to advise the Ministry of Finance to report to the Prime Minister for consideration and direction.

At the same time, the General Tax Department continues to study the solutions and suggestion of the company to advise the Ministry of Finance to report to the Government for promulgation of a Decree replacing Decree No. 20/2017/ND-CP along with implementation guidelines of Law on Tax Management No. 38/2019/QH14 takes effect from July 1st, 2020.

▪ OTHER

I. Regulations related to the inspection and acceptance of fire prevention and fighting systems

Pursuant to Documentary No. 1958/BCA-V03 dated July 17th, 2019 from Ministry of Public Security to Office of the government, the maintainance and acceptance of fire prevention and fighting systems after maintenance are the responsibilities of heads of agencies, organizations and establishments. Department of fire prevention and fighting is responsible for fire safety inspection (including inspection of the safety conditions for fire safety and firefighting) as prescribed in Article 18, Decree No. 79/2014/ND-CP dated July 31, 2014 by the government and relevant laws.

- According to the current law on fire prevention and fighting, the regular maintenance of the fire prevention and fighting system of the facility does not require the acceptance by the fire department. If the local fire prevention and fighting department requires the facility after maintaining the fire prevention and fighting system to invite the fire prevention and fighting department to check and accept is not in accordance with the provisions of law. However, based on actual conditions, the facility may request the fire prevention and fighting department to guide technical measures and legal provisions on fire prevention and fighting in the maintenance of vehicles, fire protection systems. Fire prevention and fighting police department shall have to inspect fire prevention and fighting (including inspecting the implementation of management, preservation and maintenance of fire prevention and fighting means) according to Article 18, Decree No. 79/2014/ND-CP dated July 31st, 2014 of the Government and Article 11, Circular No. 52/2014/ T-BCA dated October Juth, 2014 of the Ministry of Public Security.
- According to the provisions of the Circular No. 52/2014/TT-BCA dated October 28th, 2014 of the Ministry of Public Security, the responsibility for maintenance of fire prevention and fighting

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systems rests with the heads of agencies, organizations, facilities and the person assigned to manage, maintain and maintain fire prevention and fighting equipment, and the capacity of the person performing the inspection and maintenance of the automatic fire alarm system, is defined as: Internal employees departments have been trained and fostered in fire prevention and fighting operations as prescribed in Article 34, Decree No. 79/2014 / ND-CP dated July 31, 2014 of the Government on maintenance of fire extinguishers and inspection and maintenance of automatic fire alarm system and fire fighting system. However, establishments need to have adequate technical equipment to carry out the inspection and maintenance of fire prevention and fighting systems and equipment at the same time and must be responsible for the quality of inspection. maintenance of fire prevention and fighting equipment

- **Therefore, the company signed a contract with a facility with full capacity for maintenance of fire prevention and fighting, and adequate equipment to perform maintenance of fire prevention and fighting systems is applied to the provision of law.**

II. Real Estate Trading: About the type of office combined with accommodation (Officetel)

Pursuant to Documentary No.131/BXD-QLN dated June 14th, 2019 of Ministry from Construction to Office of the government, Ministry of Construction has opinions as follow:

1. Pursuant to Clause 2, Article 14 Law on real estate trading: “Overseas Vietnamese or foreign entities may rent real estate for use; may purchase, rent, lease purchase houses as prescribed in laws on housing.”

According to the above provisions, foreign individuals are allowed to rent office apartments combined with accommodation (officetel) to use in accordance with the apartment's functions.

2. Clause 11 Article 6 Law on housing prohibiting that: “. Using the apartments not for residential purposes” **adjusts only for apartments (housing) but not types of other apartments, other construction (not housing).**
3. Pursuant to Clause 2 Article 10 Law on real estate trading and Clause 1, clause 7 Article 5 Decree 76/2015/ND-CP dated September 10th, 2015 of the government guiding some articles of law on real estate trading, providing that **households and individuals leasing real estate (including office apartments combined with accommodation) under their ownership shall not have to set up businesses but must declare and pay tax in accordance with provisions of law.**

III. Whether the company can authorize its branch to sign contracts and use the branch's seal?

Pursuant to Documentary No. 4852/BKHDT-QLDT dated July 12th, 2019 from DPI to Office of the government, according to the form No. 02 in the second part of the bidding dossier for consultancy services specified in the Circular No. 01/2015/TT-BKHDT of DPI, the legal representative of contractors are allowed to authorize deputy heads, subordinates, branch directors, heads of representative offices of contractors to perform one or several jobs in the process of bidding participation (including the signing of contractcon. **The use of the seal in case of authorization may be the seal of the contractors or the facility of which the concerned individual is authorized. Authorized person may not allowed to reauthorize another person.**

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Accordingly, legal representative of the company authorizes the branch director to sign the contract and use the seal of the branch is not contrary to the above guidance. However, in this case, the subject of the contract is still the successful bidder (the Company), not the branch and the contractor is responsible to the investors for the contract performance.

IV. On the registration of the owner of the business location

Pursuant to Documentary No. 4914/BKHDT-DKKD dated July 15th, 2019 from DPI to Office of the government, according to Clause 2 Article 48 Decree 78/2015/ND-CP dated September 14th, 2015 of the government about ENTERPRISE REGISTRATION provides that: **“When changing registered information about a branch/representative office/business location, the enterprise shall send a notification of change of registered information about the branch/representative office/business location to Business Registration Office of the province where the branch/representative office is ssituate.** When receiving the notification, Business Registration Office shall give a confirmation slip, examine the validity of documents, change information about the branch/representative office/business location on National Enterprise Registration Database, and issue the certificate of registration of branch/representative office/business location within 03 working days from the day on which satisfactory documents are received. Business Registration Office shall issue a certification of change of registered information about the branch/representative office/business location at the request of the enterprise“

Notification of change of registered information of business location registration is specified in Appendix 11-13 issued with the Circular No. 02/2019/TT-BKHDT dated January 8th, 2019 of DPI amendments to the circular No. 20/2015/TT-BKHDT dated December 01st, 2015 by DPI providing guidance on enterprise registration.

V. Import and Export: The actual invoice number and the invoice number in the C/O which are not exactly the same could be accepted for preferential tariff treatment.

Pursuant to Documentary No. 4412/BCT-XNK dated June 21st, 2019 from Ministry of Finance to Office of the government, according to:

Article 35 (Verification of origins of products) Law on foreign trade management No. 05.2017/QH14 dated June 12nd, 2017 providing that:

“1. The Ministry of Industry and Trade shall inspect and provide instruction on issuance of certificates of origin and self-certification of origins of products carried out by traders.

2. The Ministry of Finance shall direct the customs authority to verify origins of imports and exports when going through the customs procedures in accordance with regulations of law on customs.”

Implementation of commitments in ASEAN-India Free Trade Agreement (AIFTA), The Minister of Industry and Trade prescribes the Circular No. 15/2010/TT-BCT dated April 15th, 2010 implementation of the rules of origin provided in the ASEAN-India Free Trade Area Agreement. Accordingly, Points b and c, Clause 1, Article 4, Appendix 4 issued together with Circular No. 15/2010/TT-BCT stipulate:

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"1. The C/O issuers shall examine each requests for issuing C/O form AI to ensure that:

Origin of goods complies with the rules of origin set out in Annex 1;

Other contents declared on C/O form AI in accordance with the documents submitted"

Article 7 Annex 4 issued with Circular 15.2010/TT-BTC providing that:

"It is not allowed to erase or write to the C/O form AI. Any amendments must be made by crossing out the mistakes and adding the necessary information. All amendment must be approved by the authorized person to sign the C/O and certified by the C/O issuers "

Therefore, Hai Phong Customs Department asked the company to contact the Indian exporter to confirm the incorrect information on the issued C/O form AI is in accordance with AFTA and Circular No. 15/2010/TT-BCT.

In order to determine whether the above incorrect information is small errors or not (such as the spelling errors) and could be accepted for preferential tariff treatment, the Company should contact the General Customs Department (the Ministry of Finance) for guidance according to its assigned functions and tasks.

VI. Regarding the request the Post Clearance Inspection Branch of HCMC Customs Department to postpone the post-clearance inspection.

Pursuant to Documentary No. 4046/TCHQ-KTSTQ dated June 19th, 2019 from General Customs Department providing that General Customs Department has received Documentary No. 4695/VPCP-DMDN dated May 31st, 2019 from Office of the government about request of H Company regarding the request the Post Clearance Inspection Branch of HCMC Customs Department to postpone the post-clearance inspection.

Based on the functions and duties of HCMC Customs Department and the contents of the company's recommendations, the General Customs Department shall forward Documentary No. 4695/VPCP-DMDN dated May 31st, 2019 from the Office of the government to HCMC Customs Department to consider and resolve according to its competence, at the same time, send to the Government Web Portal and report results to the General Customs Department.

HCMC Customs Department is requested to seriously implement Documentary No. 7633/TCHQ-KTSTQ dated December 26th, 2018 of the General Customs Department on the implementation of post-clearance inspection and Documentary No. 3106/TCHQ-KTSTQ dated May 20th, 2019 of the General Customs Department on consolidation and avoid duplication in the implementation of post-clearance inspection.

Pursuant to Documentary No. 7633/TCHQ-KTSTQ dated December 26th, 2018 of the General Customs Department on the implementation of post-clearance inspection in 2019 as follow:

General Customs Department requires facilities to enhance information collection and review (on the basis of applying risk management) key enterprises and key areas; high risk shipments, suspected cases of codes, values, C/O; cases of wrong declaration of MFN tax rates, FTA tax rates in tax

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schedules, cases of tax exemption, tax refund not in compliance with regulations for post-clearance inspection at customs declarants' offices.

The post-customs clearance inspection should base on resources which on the basis of collecting and analyzing risk information from high to low to prepare the plpin 2019 in two directions:

First, only inspect compliance assessment which does not exceed 5% of the total number of post-clearance inspections. The inspection plan should be details for each inspection, stating the name of the company, the tax code, the minimum import-export turnover in the past 2 years, the type of company, the tax code, doubt, reasons for selection, expected amount of retrospective tax (if any)

Secondly, in case of post-clearance inspections following signs of violations and post-clearance inspections on the basis of risk management, the facilities propose the number of enterprises to inspection or list including enterprises expected inspection. List of enterprises expected to be inspected (if clear). **In particular, selecting cases of serious risk to perform post-clearance inspection once a year; every 2 years for high risk, every 3 years for medium risk; and every 3-5 years low risk.**

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