



Highlight in this issue:

01. Personal Income Tax

- Residency status of a foreign expert who has permanent resident location in Vietnam, but physically stays in Vietnam less than 183 days
- Personal Income Tax treatment on donations
- Job loss allowance, Severance allowance
- Cash allowance for employees who conduct “3 on-site” model
- Update on Circular No.100/2021/TT-BTC guiding Value-Added Tax, Personal Income Tax and tax management for business individuals and households

02. Tax Administration

- Declare and pay tax on behalf of household businesses applying deemed method
- Declare, allocate and pay Corporation Income Tax for incentivized dependent unit being the production facility located at different province
- Application of Corporation Income Tax reduction under Decree No. 92/2021/ND-CP for merged company
- Corporation Income Tax reduction under Decree 92/2021/ND-CP if the fiscal year differs from calendar year

03. Corporation Income Tax

- Depreciation expenses of fixed assets suspended during the period affected by the Covid-19 epidemic
- Expenses of wages, salaries paid via e-wallets
- Depreciation expense of fixed assets prior to operation
- Expenses of wages, salaries for employees having unused annual leave but resigning or losing the job
- Expenses for experts coming to Vietnam to work under the assignment letter
- Non-refundable deposit due to early contractual termination

04. Indirect Tax/VAT and SST

- Value-Added Tax on jewelry exports
- Special Sale Tax not applied to cars that imported for research, production and training purposes

05. Foreign Contractor Withholding Tax

- Foreign Contractor Withholding Tax levied on gaming licenses
- Foreign Contractor Withholding Tax levied on the sale of goods at bonded warehouse
- Foreign Contractor Withholding Tax when the foreign contractor arranges for the goods insurance contract for the delivery from overseas to Vietnam
- On-the-spot import of goods for further processing on behalf of foreign contractors not subject to Foreign Contractor Withholding Tax

06. Trade & Customs

- Documentation to support the declared customs values
- A single supplementary customs declaration form for additional royalty fees of multiple import shipments
- Refund of import duty on re-exported goods which were previously imported under import rights
- The RCEP Agreement will officially enter into force on 01 January 2022
- Raw materials for export manufacturing transferred between subsidiaries of an enterprise are not entitled to import duty exemption
- New regulation on goods labels from 15 February 2022
- The proof of origin under UKVFTA
- Decree No. 102/2021/ND-CP dated 16 November 2021 amending and supplementing Decree 128/2020/ND-CP on customs-related administrative penalties



Personal Income Tax



NEW REGULATIONS

Residency status of a foreign expert who has permanent resident location in Vietnam, but physically stays in Vietnam less than 183 days

The scenario in this official letter was, a foreign expert who has permanent resident location in Vietnam, but physically stays less than 183 days in Vietnam as follows:

- If the individual can prove themselves to be a tax resident in other country (in accordance with regulations), then the individual will be treated as a Vietnam tax non-resident and apply flat tax rate for Personal Income Tax ("PIT") declaration. For any income arising in Vietnam, if the company has withheld and declared PIT at progressive tax rate, then the company shall make appropriate adjustment to tax rate applied for non-resident tax payer;
- If the individual could not prove themselves to be tax resident in other country, then the individual will be treated as a Vietnam tax resident and apply progressive tax rate for PIT declaration. The individual is responsible to declare PIT on income arising in Vietnam and overseas (if any) with the progressive tax rate;
- If the individual is a tax resident of both countries, then the assessment of residency status shall rely on clauses in the double taxation avoidance agreement.

(Official Letter No. 19320/CTBDU-TTHT dated 06 December 2021 issued by Binh Duong Tax Department)

GUIDANCE RULING

1. PIT treatment on donations:

For charitable and humanitarian donations: If during the Covid-19 pandemic, employees have contributed two (02) days of their salary to support the citizen of Ho Chi Minh City and support the program "Waves and computers for children", and this contribution meets the conditions specified in Clause 3, Article 9 of Circular No. 111/2013/TT-BTC dated August 15, 2013 of the Ministry of Finance, then it is not included as PIT taxable income.

2. Job loss allowance, Severance allowance

- Severance allowances, job loss allowances, unemployment benefits and other allowances under labor code and social insurance are not included in taxable income for PIT calculations;
- At the time of termination of the labor contract, the benefits paid must be withhold PIT under the progressive tax rate;
- After termination, the employer is required to withhold 10% of the additional payment if the amount is more than VND 2 million.

(Official Letter No. 19296/CTBDU-TTHT dated 06 December 2021 issued by Binh Duong Tax Department)



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Personal Income Tax



GUIDANCE RULING

Cash allowance for employees who conduct "3 on-site" model

If during the Covid-19 period, a company provides a cash amount to its employees who work on "3 on-site" model, and that amount is paid at the same time of monthly salary payment, then such cash amount is determined as a benefit in cash and shall be treated as taxable income for PIT calculations purposes.

(Official Letter No. 18347/CTBDU-TTHT dated 22 November 2021 issued by Binh Duong Tax Department)

NEW REGULATIONS

Update on Circular No.100/2021/TT-BTC guiding Value-Added Tax ("VAT"), PIT and tax management for business individuals and households

(a) Guidance on household businesses and individual businesses paying presumptive tax (hereinafter referred to as "presumptive taxpayers")

- If the presumptive taxpayers have just started the business part way through out the year (doing business for less than 12 months in the calendar year), they will not have to pay VAT, PIT if the revenue in a year does not exceed VND 100 million;

- If the presumptive taxpayers have been notified of, and have remitted, the payable tax amount from the beginning of the year, but they stop or suspend their business during the year, then the tax authority shall adjust the payable tax amount according to the guidance at point b.4, point b.5, Clause 4, Article 13 of this Circular.

(b) Amendments of organization or individual who declare and pay tax on behalf of other individuals as regulated in point d, point e, Clause 1, Article 8, Circular 40/2021/TT-BTC dated 01 June 2021

- Point d: Organizations, including owners of E-commerce Exchange, shall declare and pay tax on behalf of individual based on authorization according to the provisions of civil law;

- Point e: Individuals declare and pay tax on behalf of other individuals who are taxpayers based on authorization according to the provisions of civil law.

(c) Guidance on the revenue from leasing out the properties of individual

- If the rental period does not cover a full year, and the rental revenue is 100 million VND per year or less, then the individuals do not have to pay VAT and PIT;

- If the lessee pays a lump-sum rent in advance for several years then the level of revenue, to decide whether an individual must pay tax or not, is the one-time payment apportioned on a calendar year basis.

The Circular takes effect from 01 January 2022.

(Circular No. 100/2021/TT-BTC dated 15 November 2021 issued by the Ministry of Finance)



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Tax Administration



GUIDANCE RULING

Declare and pay tax on behalf of household businesses applying deemed method

When a company pays bonuses, sales support, sales promotion, trade discount, payment discount, cash or non-cash support, compensation for breach of contract and other compensation for household businesses applying deemed method, from 01 August 2021 onwards, the company will declare and pay tax at the rate of 1% VAT and 0.5% PIT as prescribed under Article 8, Circular No. 40/2021/TT-BTC dated 01 June 2021 of the Ministry of Finance.

(Official Letter No. 46417/CTHN-TTHT dated 15 November 2021, issued by Ha Noi Tax Department)

Declare, allocate and pay Corporation Income Tax ("CIT") for incentivized dependent unit being the production facility located at different province

If a Company has one production facility being located at the same province with the headquarter, and two dependent units being the production facilities located at different province with the headquarter, and from 2022 onwards, all production facilities are entitled to CIT incentive, then the obligation to declare, finalize, allocate and pay CIT of the Company for its units being the production facility located at the different province from 01 January 2022 onwards is implemented as follows:

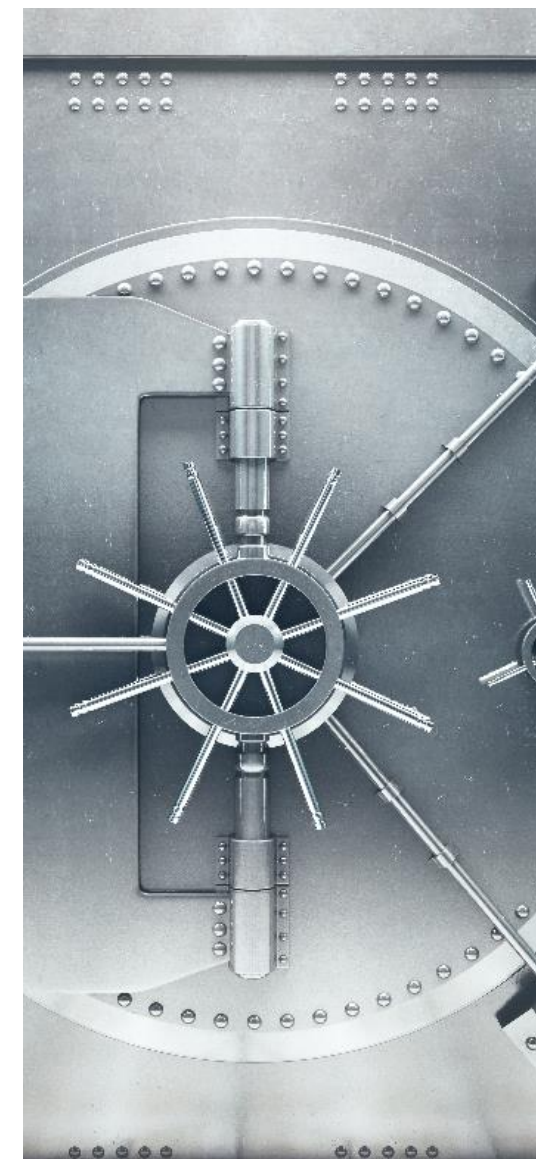
• **Regarding the allocation of the CIT payable amount for dependent unit being the production facility located at different province**, implemented per Point c, Clause 2, Article 17, Circular No. 80/2021/TT-BTC of the Ministry of Finance, specifically:

- ✓ The CIT payable amount in each province where the production facility is located is equal to the CIT payable amount of production and business activities multiplied by ratio of the cost of each production facility over the total cost of the taxpayer (excluding costs of activities entitled to CIT incentives). In which:
 - The cost to decide the allocation ratio is the actual cost incurred in the tax period.
 - The CIT payable amount of production and business activities is exclusive of CIT payable for activities entitled to CIT incentives.

• **Regarding the CIT declaration, provisional CIT payment and CIT finalization for dependent unit being the production facility located at different province**, implemented per Point c, Clause 3, Article 17, Circular No. 80/2021/TT-BTC of the Ministry of Finance, specifically:

- ✓ Tax provision payment: The production facility does not have to submit quarterly tax declaration dossiers but must determine the quarterly provisional CIT payables according to regulations to pay CIT in each province where the production facility is located, including where the unit entitled CIT incentives is located.
- ✓ CIT finalization for activities entitled to CIT incentives: the Company determines CIT payable of the activities entitled to CIT incentives according to the prescribed form and submit at the tax authority where the unit entitled to incentives is located.

(Official Letter No. 46423/CTHN-TTHT dated 15 November 2021, issued by Ha Noi Tax Department)



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Tax Administration



GUIDANCE RULING

Application of CIT reduction under Decree No. 92/2021/ND-CP for merged company

When Company A carries out merger procedures with Company B, then Company B is responsible for tax finalization to the competent tax authority upon issuing the merger decision (except for the case of being exempted from tax finalization as regulated). Company B would be entitled to CIT reduction as prescribed under Decree 92/2021/ND-CP dated 27 October 2021 issued by the Government (if applicable).

(Official Letter No. 4172/CTBNI-TTHT dated 08 December 2021, issued by Bac Ninh Tax Department)

CIT reduction under Decree 92/2021/ND-CP if the fiscal year differs from calendar year

If a company's tax year differs from calendar year, the 30% CIT reduction that applicable for year 2021 is determined **following the tax year of the Company.**

(Official Letter No. 18850/CTBDU-TTHT dated 26 November 2021, issued by Binh Duong Tax Department)



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Corporation Income Tax



GUIDANCE RULING

Depreciation expenses of fixed assets suspended during the period affected by the Covid-19 epidemic

If a company, due to the impact of the Covid-19 epidemic leading to decline in market demand, faces difficulties and has to suspend the operation of some fixed assets for less than 9 months in the corporate tax period of 2020, and afterwards these fixed assets are continued to put into the business operation, then this is considered to be a temporary suspension due to seasonal production, and the determination of deductible expenses for CIT calculation purposes is prescribed under point 2.2, clause 2, Article 4, Circular 96/2015/TT-BTC of the Ministry of Finance.

(The Official Letter No. 17991/CTBDU-TTHT dated 18 November 2021 issued by the Provincial Tax Department Binh Duong)

(This Official Letter also has the same view as the Official Letter No. 12452/BTC-TCT dated 09 October 2021 issued by the Ministry of Finance)

Expenses of wages, salaries paid via e-wallets

When a company pays wages, and salaries via e-wallets, and provided such expenses meet all conditions stated in clause 1, Article 4 and do not fall into non-deductible expenses as regulated in clause 2, Article 4, Circular 96/2015/TT-BTC of the Ministry of Finance, such expenses would be considered deductible for CIT calculation purposes.

(Official Letter No. 48928/CTHN-TTHT dated 23 November 2021 issued by Ha Noi Tax Department)

Depreciation expense of fixed assets prior to operation

In principle, a company shall start depreciating fixed assets (according to the number of days in month) from the date the Company records the acquisition of such assets according to current regulations of corporate accounting policies.

If the depreciation expenses are related to fixed assets not used for the Company's business activities, they would be considered non-deductible for CIT calculation purposes.

(Official Letter No. 17970/CTBDU-TTHT dated 18 November 2021 issued by Binh Duong Tax Department)

Expenses of wages, salaries for employees having unused annual leave but resigning or losing the job

If a company pays compensation to employees for unused annual leave arising from resignation or job-loss, as prescribed in Labor Code No. 45/2019/QH14 dated 20 November 2019 of the National Assembly, then the Company is allowed to treat these expenses as deductible for CIT calculation purposes provided the conditions specified in clause 1, Article 4 and not falling into non-deductible expenses mentioned in clause 2, Article 4, Circular 96/2015/TT-BTC dated 22 June 2015 and clause 2, Article 3, Circular 25/2018/TT-BTC dated 16 March 2018 of the Ministry of Finance are met.

(Official Letter No. 4176/CTBNI-TTHT dated 08 December 2021 issued by Bac Ninh Tax Department)



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Corporation Income Tax



GUIDANCE RULING

Expenses for experts coming to Vietnam to work under the assignment letter

When the assignment letter between a parent company in Japan and its subsidiary in Vietnam clearly stipulates that all income arising in Vietnam and PIT arising from the Japan-sourced income are borne by the subsidiary then the expenses, if meeting the conditions specified in Article 4, Circular 96/2015/TT-BTC dated 22 June 2015 of the Ministry of Finance, will be deductible expenses for CIT calculation purposes.

(Official Letter No. 48930/CTHN-TTHT dated 23 November 2021 issued by Ha Noi Tax Department)

Non-refundable deposit due to early contractual termination

When a company loses its deposit for factory leasing due to its early termination of the leasing contract, provided this expense meets the conditions specified in Article 4, Circular 96/2015/ TT-BTC dated 22 June 2015 of the Ministry of Finance, it would be considered deductible expense for CIT calculation purposes.

(Official Letter No. 18852/CTBDU-TTHT dated 26 November 2021 issued by Binh Duong Tax Department)



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Indirect Tax/ VAT and SST



GUIDANCE RULING

VAT on jewelry exports

If a company buys, sells and produces gold, silver and gemstones, the Company shall apply the direct calculation method on value added as guided in Clause 4 Article 3 of Circular No. 119/2014/TT-BTC dated 25 August 2014 (amending Clause 1 Article 13 of Circular No. 219/2013/TT-BTC) and apply 10% VAT rate as prescribed in Article 11 of Circular No. 219/2013/TT-BTC dated 31 December 2013.

Effective from 01 July 2016 minerals, where the total value of natural resources and minerals plus energy costs accounting for 51% or more of the production cost of the products, are not subject to VAT according to the guidance. at Point c, Clause 1, Article 1 of Circular 130/2016/TT-BTC dated 12 August 2016.

(Official Letter No. 45039/CTHN-TTHT dated 09 November 2021 issued by Hanoi Tax Department)



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Special Sale Tax (“SST”) not applied to cars that imported for research, production and training purposes

Based on the opinion of the Ministry of Industry and Trade in Official Letter No. 1390/XNK-CN dated 30 November 2020 and the opinion of the Ministry of Public Security in Official Letter No. 7187/ANKT-P6 dated 22 December 2020, if a company imports cars for research, production and training purposes at the Company, and are not registered for circulation and off the roads, then those imported cars are not subject to SST.

If changing the purpose of usage after the importation (i.e., not used for research, production and training purposes at the Company and then registered for circulation and use on the roads), the Company must declare and pay SST to customs authorities following the Ministry of Finance's guidance on customs procedures; customs supervision and inspection; export duty, import tax and tax administration on exports and imports.

If the Company does not declare SST to the customs authorities where the import procedures are made, the Company would be penalized following the Law on Tax Administration and the guiding documents.

(Official Letter No. 12898/BTC-TCHQ dated 11 November 2021 issued by the Ministry of Finance)





Foreign Contractor Withholding Tax



GUIDANCE RULING

Foreign Contractor Withholding Tax ("FCWT") levied on gaming licenses

Vietnam-sourced income of a foreign contractor earning from gaming licenses based on the contract, agreement, or commitment between that foreign contractor and a Vietnamese company is subjected to FCWT in line with Circular No. 103/2014/TT-BTC.

The above income is considered royalty income which is subject to the applicable FCWT rates as follow:

- **VAT:** Not subject to VAT;
- **CIT:** 10%.

(Official Letter No. 49085/CTHN-TTHT dated 24 November 2021, issued by Ha Noi Tax Department)

FCWT levied on the sale of goods at bonded warehouse

When a Vietnamese company enters a contract with a foreign contractor for the sale of goods (the goods are produced in Vietnam and placed in a bonded warehouse), and goods were collected from the bonded warehouse by the Vietnamese company.

In this situation, foreign organizations or individuals using bonded warehouses in Vietnam to distribute goods are obliged to pay FCWT on the income generated in Vietnam.

(Official Letter No. 478/CTVLO-TTHT dated 26 April 2021, issued by Vinh Long Tax Department)

FCWT when the foreign contractor arranges for the goods insurance contract for the delivery from overseas to Vietnam

This Official Letter mentions the case when a foreign contractor sells its goods to a Vietnamese company in the form of delivery at Vietnam's border gate without any associated services performed in Vietnam, in which, the risks and rewards have been fully transferred to the Vietnamese buyer at the Vietnam's border gate.

In such case, if the foreign contractor enters into an insurance contract to cover the delivery of goods from overseas to Vietnam and the insurance fees is charged back to the Vietnamese party based on the insurance invoice along with value of goods, this transaction is not subject to the governance of Circular 103/2014/TT-BTC.

(Official Letter No. 5616/CTHYE-TTHT dated 23 November 2021, issued by Hung Yen Tax Department)

On-the-spot import of goods for further processing on behalf of foreign contractors not subject to FCWT

Under a quadripartite sale contract, Company A (an overseas company) purchases goods from a Vietnamese Company ("Company B") and sells goods to Company C (an overseas company), who requests the goods to be delivered directly from Company B to Company D located in Vietnam for further processing. Company D will import the goods on-the-spot for processing purpose without any payments. After being processed, those goods will be exported back to Company C overseas.

Under such an arrangement the aforementioned transactions between these parties are not subject to FCWT as prescribed under Clause 2, Article 1, Circular No. 103/2014/TT-BTC.

(Official Letter No. 4348/CTHYE-TTHT dated 21 September 2021, issued by Hung Yen Tax Department)



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Foreign Contractor Withholding Tax



GUIDANCE RULING

Documentation to support the declared customs values

If an enterprise is unable to attend a price consultation at Customs offices due to the Covid-19 pandemic, Customs authority will organize online consultation sessions, and receive documents related to the price consultation via customs electronic data processing system or email/post.

To prove the accuracy and veracity of the declared customs value, an enterprise needs to provide Customs authority with the following documents:

- Contract, framework agreement on commercial transactions between the buyer and the seller;
- Payment documents of the goods, including payment documents via bank, documents of indirect payment to third parties (if any), debt reconciliation between the buyer and the seller (if any);
- Financial invoice of the imported goods sold, or transferred to the local buyers for trading or processing after importation;
- Accounting book, or its copy, showing the records of accounting transactions related to the goods subject to value inspection, and identical or similar goods which have been previously exported or imported;
- The charter of joint-stock company/corporation, which shows the amount, and ratio of capital contributed by the shareholders (if Customs have suspicion that the enterprise's relationships are affecting the purchase and sale price);
- Freight contract, shipping invoice, payment document of international freight;
- Insurance contracts, insurance policy, payment document of international insurance;
- Enterprise's accounting records showing the total amount of money received (revenue) and will be collected (receivables from customers) for export, or the total amount paid and will be paid to suppliers, including the amount paid to the suppliers for value adjustment (if any);
- Accounting records monitoring the movements of cash and bank deposits of the enterprise to reconcile with the selling price of the exported goods, or the total value paid to the first import checkpoint;
- Documents confirming the value of the goods subject to value inspection issued by the competent authority of the partner country;
- Other documents (if any).

Customs authority will rely on the explanatory documents to accept or reject the declared value.

(Official Letter No. 5371/TCHQ-TXNK dated 12 November 2021 issued by General Department of Customs)



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Trade & Customs



GUIDANCE RULING

A single supplementary customs declaration form for additional royalty fees of multiple import shipments

According to Clause 8 Article 1 of Circular 60/2019/TT-BTC, Article 16 of Circular 39/2015/TT-BTC, if an importer is unable to determine the royalty fees at the time of import, the importer must provide a clear explanation on the import declaration form.

The importer must follow the deadline for supplementary declaration of royalty fees as prescribed in Point b Clause 3 Article 7 of Circular 06/2021/TT-BTC.

To declare additional royalty fees for multiple imported goods/ declarations, the importer can:

- Make a one-time declaration of royalty fees on one supplementary customs declaration form;
- Attach the list of import declarations associated with the supplementary declaration; and
- Allocate the royalty fees to all the imported goods that are subject to royalty fees.

(Official Letter 5320/TCHQ-TXNK dated 10 November 2021, issued by the General Department of Customs)

Refund of import duty on re-exported goods which were previously imported under import rights

In accordance with the provisions of Article 19 of Law 107/2016/QH13, an enterprise is entitled to export duty exemption and import duty refund on re-exported goods which were previously imported under its import rights. To qualify, the re-exported goods must not have been used, produced, or processed in Vietnam.

The General Department of Customs requests enterprises to contact the Ministry of Industry and Trade for further guidance on the determination of activities allowed to be performed under import and export rights.

(Official Letter 5389/TCHQ-TXNK dated 15 November 2021 issued by the General Department of Customs).

The RCEP Agreement will officially enter into force on 01 January 2022

Regional Comprehensive Economic Partnership (RCEP) agreement was signed on 15 November 2020 and will officially come into force as of 01 January 2022.

This free trade agreement is signed by 10 ASEAN member countries and 5 partner countries, including Japan, Korea, China, Australia and New Zealand.

(Official Letter 7268/BCT-DB dated 16 November 2021 issued by the Ministry of Industry and Trade).

Raw materials for export manufacturing transferred between subsidiaries of an enterprise are not entitled to import duty exemption

According to Clause 6 Article 1 Decree 18/2021/ND-CP (effective from 25 April 2021), imported raw materials transferred from an enterprise to its subsidiary for export manufacturing are entitled to import duty exemption if the enterprise holds more than 50% of the capital of the subsidiary.

However, raw materials imported by a subsidiary for supply to another subsidiary for production of goods for export are not entitled to import duty exemption, as the holder of the capital in the subsidiaries is the enterprise (not the subsidiary).

(Official Letter 5419/TCHQ-TXNK dated 17 November 2021 issued by the General Department of Customs)



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Trade & Customs



NEW REGULATION

New regulation on goods labels from 15 February 2022

On 09 December 2021, Vietnamese Government issued Decree 111/2021/ND-CP amending and supplementing to some articles of Decree 43/2017/ND-CP dated 14 April 2017 on goods labels. Some of the significant amendments include:

- Labeling of goods imported and stored in bonded warehouses for exporting to a third country is not regulated by this Decree. However, the management of labeling for exported goods is regulated;
- For imported goods which will be consumed in Vietnam market, its original label must have all of the following information at the time of customs clearance (can be in foreign language): name and origin of the goods, name or abbreviated name of the manufacturer or the entity responsible for the goods in the foreign country;
- In case the origin of goods cannot be determined, the origin presented on the goods label will be the country where the last stage of manufacturing/processing is performed;
- Replacing Appendix I, IV and V.

This Decree will come into effect from 15 February 2022.

(Decree No. 111/2021 dated 09 December 2021 issued by the Government)

The proof of origin under UKVFTA

Customs authority will accept the Certificate of Origin (C/O) prescribed in Point a Clause 1 of Circular 02/2021/TT-BCT on Rules of Origin under the Free Trade Agreement between the Socialist Republic of Vietnam and the United Kingdom of Great Britain and Northern Ireland ("Circular 02"), and the Statement of Origin made out by the exporters prescribed in Point b Clause 1 Article 19 of Circular 02, until the end of 31 December 2021.

UK exporters will have to register an EORI ("Economic Operators Registration and Identification") number replacing the former REX system, for Self-certification of origin mentioned in Point c Clause 1 Article 19 of Circular 02/2021/TT-BTC dated 11 June 2021. The EORI number can be searched by the Customs Authority at the link:

<https://www.gov.uk/eori>

(Official Letter No. 5825/TCHQ-TXNK dated 10 December 2021 issued by General Department of Customs)



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Trade & Customs



NEW REGULATION

Decree No. 102/2021/ND-CP dated 16 November 2021 amending and supplementing several articles of the Decrees on administrative penalties relating to tax, customs, and invoicing violations

Background

The Government has issued Decree No. 102/2021/ND-CP dated 16th November 2021 amending and supplementing several articles of Decrees on administrative sanctions on tax, invoice, customs, etc. ("Decree 102"). The Decree will take effect from 01 January 2022.

Notable content

1. Amendments and supplementations to several articles of the Decree No. 125/2020/ND-CP stipulating penalty on administrative violations on tax and invoice ("Decree 125"), namely:

- Amendments and supplementations of provisions on sanctioning administrative violations on invoice;
- Cases where late payment interest, penalty is not imposed; and
- Exemption and reduction of penalty on administrative violations of tax and invoice.

2. Amendments and supplementations to several articles of the Decree No. 128/2020/ND-CP stipulating penalty for administrative violations on customs ("Decree 128"), namely:

- Principle for administrative penalties for repeated administrative violations;
- Deadline for administrative penalties; and
- Recovering measures and implementation of recovering measures.



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Amendments and supplements to Decree No. 125/2020/ND-CP on administrative penalties in tax and invoice

Amended and supplemented content	Regulations in the Decree 102	Regulations in the Decree 125
Administrative violations on invoice	- Penalty time limit are 02 years.	- Penalty time limit is 01 year.
Gifting or selling invoices	- A fine ranging from VND 20,000,000 to VND 50,000,000 shall be imposed for gifting or selling invoices, except for (i) gifting or selling unissued ordered invoices and (ii) gifting or selling ordered invoices of customers who order to print invoices for other organizations and individuals.	- A fine ranging from VND 20,000,000 to VND 50,000,000 shall be imposed for gifting or selling invoices purchased from tax authorities but not yet issued .
Issuing invoices without adequate required information	- Supplement regulation to impose a fine ranging from VND 4,000,000 to VND 8,000,000 on issuing invoice without adequate required information as prescribed.	- Not yet regulated.
Losing, burning or damaging invoices	- Supplement regulation to impose a fine ranging from VND 4,000,000 to VND 8,000,000 on losing, burning or damaging invoices that have been issued but taxes are not yet declared . The parties involved must prepare a record of the loss, burn or damage of the invoices. - Amend regulation to clarify the penalty for losing, burning or damaging invoices that have been issued and declared tax in general, including cases where tax has been paid or not yet paid. Specifically: “A fine ranging from VND 5,000,000 to VND 10,000,000 shall be imposed for losing, burning, or damaging invoices already issued and taxes have been declared and paid whilst using or storing, except for the case specified in Clauses 1, 2 and 3 of this Article.”	- In case the buyer loses, burns or damages the invoice, there must be a record of the incident between the seller and the buyer. - “A fine ranging from VND 5,000,000 to VND 10,000,000 shall be imposed for losing, burning or damaging invoices already issued and taxes have been declared and paid whilst using or storing, except for the case specified in Clause 1, 2 and 3 of this Article”.
Cases where late payment interest, penalty is not imposed	- During the consideration and decision period of penalty reduction and exemption.	- Trong thời gian xem xét, quyết định miễn tiền phạt.
Reduction and exemption of penalty on administrative violations of tax and invoice	- Cases for exemption, reduction of penalty on administrative violations of tax and invoice; authorization and procedure to exempt and reduce such penalty as prescribed in Article 77, the Law on Handling of administrative violations and clause 38, Article 1, the Law amending and supplementing articles of the Law on Handling of administrative violations and clause 2, 3, 4 and 5 of Article 43 of this Decree. - Provide regulation on the dossier proving the value of the damaged property or goods and insured value or indemnity value for taxpayer who has suffered damages due to force majeure.	- Exemption of penalty on administrative violation on tax and invoice for taxpayers who has suffered damages due to force majeure as prescribed in clause 27, Article 3, the Law on Tax Administration. - Provide regulation on the dossier for penalty exemption for administrative violations on tax and invoice.



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Trade & Customs



NEW REGULATION (cont.)

Decree No. 102/2021/ND-CP dated 16 November 2021 amending and supplementing Decree 128/2020/ND-CP on customs-related administrative penalties

Amended and supplemented content	Regulations in the Decree 102	Regulations in the Decree 128
Principles of administrative penalties in customs for repeated administrative violations (<i>Article 2a</i>)	<ul style="list-style-type: none"> - Organizations and individuals that repeatedly commit administrative violations shall be penalised for each single violation; - In the case where multiple violations on declarations/documents have been detected at the same time, and the statute of limitations for handling which have not has not expired, it will be treated as a one-time violation, but administrative penalties at aggravating levels will be imposed. 	- Not yet regulated
Deadline for administrative penalties in customs (<i>Article 4</i>)	The deadline for imposition of administrative penalties shall comply with Article 6, Law on penalties for administrative violations 2012, and Clause 4, Article 1, Law amending and supplementing articles of Law on penalties for administrative violations (which refers to the new Law on Tax Administration).	- Deadline for administrative penalties shall comply with Article 6, Law on penalties for administrative violations 2012 .
Penalties and recovery measures (<i>Article 5</i>)	<ul style="list-style-type: none"> - When imposing a penalty, if there are extenuating circumstances, each circumstance shall be entitled to a 10% reduction of the average penalty level in the penalty range but must not fall below the minimum level of penalty in the range; - If there are aggravating circumstances, each circumstance will be subject to a 10% increase of the average penalty level in the penalty range but must not exceed the maximum level of the penalty range; - In case there are both aggravating and extenuating circumstances, they shall be offset according to the principle that one extenuating circumstance is offset against one aggravating circumstance. 	- Not yet regulated
Implementation of recovery measures (<i>Article 33a</i>)	<ul style="list-style-type: none"> - Regulations on the implementation and procedures for supervision and notification by Customs authorities in case goods are forced to be re-exported from the territory of Vietnam; - Regulations on the implementation of measures relating to disposal of harmful goods and items; changing the product's packaging; enforcing reimbursement of an amount equal to the value of the goods that have been illegally consumed or destroyed in Vietnam; enforcing full reimbursement of any insufficient or evaded tax, and payment of any exempted, reduced, or refunded tax amounts. 	- Not yet regulated



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