



LEGAL, LABOR AND TAX UPDATES June 2021

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A. NEW LEGAL INSTRUMENT

❖ GOVERNMENT

04/06/2021| Supplementing Point g, Clause 2, Article 20 of the Decree No. 218/2013/ND-CP (amended and supplemented by the Decree No. 12/2015/ND-CP) regarding enterprise income tax incentives for projects manufacturing supporting industry products

Remarkable issues

Enterprises having investment projects (newly invested projects and expanded investment projects) manufacturing products in the list of products of supporting industries prioritized for development which, are implemented before January 01, 2015, satisfy conditions for projects manufacturing supporting industry products as prescribed in the Law No. 71/2014/QH13, and have been granted with an incentive certificate for manufacture of supporting industry products shall be entitled to enterprise income tax incentives.

(This Decree took effect on 04 June 2021)

❖ MINISTRY OF FINANCE

01/06/2021| No. 40/2021/TT-BTC guiding on value-added tax personal income tax and tax administration of household businesses and individual businesses

Scope

This Circular provides guidance on value-added tax personal income tax and tax administration of household businesses and individual businesses.

Regulated entities

1. Household businesses, individual businesses that are residents having activities manufacture, sale of goods and services (hereinafter referred to as “business operation”) in any of the business lines and sectors prescribed by law, including the following cases:

- a) Independent practitioners in the business lines or sectors under licenses or practice certificates as prescribed by law;
- b) Lottery agents; insurance agents, multi-level marketing (MLM) agents of individuals that directly sign commission agent contracts with lottery enterprises, insurers, MLM enterprises respectively;
- c) Business cooperation with organizations;
- d) Agricultural production and business, forestry, salt production, aquaculture that are not eligible for tax exemption as prescribed by value-added tax (VAT) laws and personal income tax (PIT) laws;
- dd) E-commerce, including individuals earning incomes from provision of digital products or services as prescribed by e-commerce laws.

2. Household businesses and individual businesses having business operation at bordering markets, checkpoint markets, markets within border-gate economic zones in Vietnam;
3. Individuals leasing out their property
4. Individuals transferring Vietnam's top-level domains ".vn";
5. Organizations having business cooperation with individuals;
6. Organizations and individuals declaring and paying tax on behalf of other individuals;
7. Lottery enterprises, insurers, MLM enterprises paying individuals who directly sign commission agent contracts with them;
8. Tax authorities, state authorities; relevant organizations and individuals.

(This Circular shall take effect on 01 August 2021)

11/06/2021 | Circular No. 43/2021/TT-BTC amendment to Clause 11 Article 10 of Circular No. 219/2013/TT-BTC dated December 31, 2013 of Ministry of Finance guiding implementation of law on value-added tax and Decree No. 209/2013/ND-CP dated December 18, 2013 of the Government on elaborating to law on value-added tax (and amendment thereto under Circular No. 26/2015/TT-BTC dated February 27, 2015 of Ministry of Finance)

Noteworthy issues

The Circular supplements medical equipment and tools subject to 5% value-added tax as follows:

"11. Medical equipment and tools including medical machines and equipment: screening, scanning and imaging equipment for medical examination and treatment; specialized equipment for surgery, treatment, emergency medical service vehicle; measuring instrument for measuring blood pressure, cardiac activities, pulse, blood transfusion instrument; syringes; contraception equipment; medical equipment requiring import permit, circulation registration certificate or notice on receipt of standard declaration according to regulations and law on medical or according to list of medical equipment under specialized management of Minister of Health with commodity code identified according to list of Vietnamese import and export commodities attached to Circular No. 14/2018/TT-BYT dated May 15, 2018 of Minister of Health and amending documents (if any).

Medical cotton, bandages and first-aid; medical prevention and treatment medicine including final medicine products, pharmaceutical starting materials, except functional food; vaccine; medical biologicals, distilled water for diluting injectable medicines, intravenous fluids; hat, clothes, facemasks, surgical gloves, gloves, leg cover, shoe cover, towels, specialized medical gloves, breast implants and dermal fillers (excluding cosmetics); chemicals for experiment and sterilization in medical."

(This Circular shall take effect on 01 August 2021)

18/6/2021| Circular No. 45/2021/TT-BTC guidance on application of advance pricing agreements (APA) to enterprises having related-party transactions

Accordingly, the transactions proposed to apply APA are as follows:

- Transactions proposed to apply APA are associated transactions specified in Clause 2, Article 1 of Decree No. 132/2020/ND-CP (Currently, transactions allowed to adopt APA are business transactions among parties having associateship, except for business transactions related to goods and services subject to price stabilization within the scope of the State's regulation in line with the law on prices).
- The transactions applied to APA must fully satisfy the following conditions:
 - + Actual transactions arise in the taxpayer's production and business activities and will continue to take place during the proposed APA application period.
 - + Transactions have any basis for determination of the nature of transaction deciding tax liabilities, and any basis for analysis, comparison and selection of independent comparables according to the provisions in Articles 6 and 7 of the Decree No. 132/2020/ND-CP, based on information and data in compliance with the provisions in Point b Clause 6 Article 42 of the Law on Tax Administration.
 - + Transactions are not involved in tax disputes or complaints.
 - + Transactions are made in a transparent manner, not for the purpose of tax evasion, avoidance or misuse of tax treaties.

(Circular No. 45/2021/TT-BTC shall take effect from August 3, 2021 and replace Circular No. 201/2013/TT-BTC dated December 20, 2013)

B. OFFICIAL INSTRUCTIONS

OFFICIAL DISPATCH ON TAXATION

1/6/2021| Official Letter No. 1883/TCT-CS on revenue as a basis for determining subjects eligible for CIT reduction in 2020

Total revenue in 2020 as a basis for determining the subjects eligible for a 30% CIT reduction in the year is the enterprise's sales of goods and service provision, reflected in item [01] of Appendix of production and business performance, Form No. 03-1A/TNDN issued together with Circular No. 156/2013/TT-BTC dated November 6, 2013 of the Ministry of Finance.

In which, item [01] is the sales of goods and service provision before adjusting for revenue deductions.

1/7/2021| Official Letter No. 2393/TCT-DNNCN on PIT declaration

(1) Monthly or quarterly declaration of PIT

If regulatory agencies, public sector entities, Party organizations, unions, socio-political organizations, etc. pay salaries or wages but do not earn revenues from goods sold or services rendered, they are eligible for quarterly tax declaration.

(2) Declaration of PIT by organizations or individuals who do not pay income

Only payers of income subject to personal income tax must declare personal income tax. Therefore, if organizations or individuals do not pay income subject to personal income tax, they are not regulated by the Law on personal income tax. Accordingly, organizations or individuals are not required to declare personal income tax for a month/quarter in which they do not pay income subject to personal income tax.

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❖ **Accounting.**

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❖ **Property appraisal.**

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