

# MONTHLY LEGAL UPDATES

## JANUARY 2013



### I - Taxes

- On January 07, 2013, the Government promulgated Resolution No. 02/NQ-CP on a number of solutions to remove difficulties for business production, and support market, and handle doubtful debts. In which, there are a number of solutions to help enterprises to reduce business and production expenses, facilitate for enterprise to reduce cost and boost product consumption proposed should be paid attention as follow:



a) **To defer for 6 months payment of corporate income tax** for corporate income tax payable in the first quarter and 03 months of time limit for corporate income tax payable in the second and third quarters of year 2013; **To defer for 6 months payment of value added tax** for value added tax payable in January, February and March 2013 for enterprises conducting pay value added tax by tax deduction for subjects as follows:

- + Medium- and small-sized enterprises (employing less than 200 laborers working full time and attaining annual turnover not exceeding 20 billion dong);
- + Intensive-labor enterprises (employing more than 300 laborers) in producing and processing: agricultural products, forestry products, aquarium products, textile and garment, leather and footwear, electronic components; construction of socio-economic infrastructural works;
- + Intensive-labor enterprises (employing more than 300 laborers) in producing and processing: agricultural products, forestry products, aquarium products, textile and garment, leather and footwear, electronic components; construction of socio-economic infrastructural works;
- + Investment - business enterprises (sale, lease, purchase and lease) house are entitled to defer tax payment for income from activities of house investment and business, regardless of scale of enterprises and number of laborers used. In particular for enterprises belonging to those subjects, they are entitled to defer 6 months payment of value added tax payable in January, February, and March 2013 including *enterprises producing items such as: Iron, steel, cement, bricks and tiles*. And deferring only for products of houses, iron, steel, cement, bricks and tiles; in the case of failing to separately account, allocated by turnover proportion.

b) To refund environment protection tax paid from January 01, 2012 until the end of November 14, 2012 for nylon bags used for prepackages of goods according to as prescribed in the Decree No. 69/2012/ND-CP dated September 14, 2012 of Government.



c) To reduce 50% of land rent in 2013 and 2014 applicable to economic organizations, households, individuals leased land by the State which land rent payable as prescribed in Decree No. 121/2010/ND-CP dated December 30, 2010 of the Government increase over 2 times in comparison with the payable level in 2010 (according to the land rent collection policy before the effectiveness of Decree No. 121/2010/ND-CP). In case the land rent after being reduced still is more than 2 times in comparison with the land rent payable in 2010 shall be reduced the land rent to level equal to 2 times of the land rent payable in 2010.

d) To permit investors of projects which handed over land by the State but have not yet completed the land use payment obligations because having financial difficulties are entitled to pay land use by progress of goods sale payment within maximum 24 months after having notice on land use payment from tax offices.

e) The Minister of Finance under authorization of the Prime Minister **shall report to National Assembly for consideration and decision:**

+ Application of enterprise income tax rate being 20% from July 01, 2013 (sooner than 06 months in comparison with anticipated roadmap of implementation of Law on amending and supplementing a number of articles of the Law on enterprise income tax) for medium- and small-sized enterprises (employing less than 200 laborers working full time and attaining annual turnover not exceeding 20 billion dong).

+ Application of enterprise income tax rate being 10% from July 01, 2013 (sooner than 06 months in comparison with anticipated roadmap of implementation of Law on amending and supplementing a number of articles of the Law on enterprise income tax) for income from social houses business - investment. Social houses are defined as prescribed by law on housing.

+ To reduce 50% of output value added tax from July 01, 2013 until the end of June 30, 2014 for activities of social house business and investment.

+ To reduce 30% of output VAT from July 01, 2013 until the end of June 30, 2014 for business - investment activities (sale, lease, purchase lease) of dwelling houses being apartment with floor area under 70 square meters and sale price is under 15 million dong per square meter.

+ To supplement tax incentives for expanding investment in preferential fields, sectors or localities as prescribed in Law on enterprise income tax to be implemented from July 01, 2013 sooner than 06 months in comparison with anticipated roadmap of implementation of Law on amending and supplementing a number of articles of the Law on enterprise income tax). Time of tax exemption or reduction applicable to expanding investment is equal to time of tax exemption or reduction applicable to new establishment enterprises in same locality, field of enterprise income tax incentives.



## I - Taxes (continued)



- On January 15, 2013, General Department of Taxation promulgated the Official Letter No. 187/ TCT-TNCN on the guidance to finalize the personal income tax for the year 2012. Some noteworthy points:

- + Objects to declare tax finalization detailed more specifically in Part I of the Official Letter.
- + Authorization for tax finalization clearly stated in two cases:

\* In case individuals who sign long-term labor contracts (over 3 months) earn incomes from salary and wages in a solar calendar year at only a place and require to be finalized, shall be entitled to authorize organization paying incomes to conduct personal income tax finalization on behalf of them, **including case which those individuals work less than 12 months in the year but earn incomes at only one place.**

\* Individuals granted tax deductible dossiers by organizations and individuals paying incomes (except for case that organizations and individuals pay income withdrew and cancelled tax deductible dossiers granted to individuals); individuals do not enter into labor contract or labor contract less than three months; individuals enter into service provision contract deducted 10% or 20% (including the case of there is income only in one place) **if there is requirement of personal income tax finalization, they then will finalize by themselves, not authorize to organization or individual paying income to conduct finalization on behalf of them.**

## II - Enterprise registration



- On January 09, 2013, the Prime Minister promulgated Decree No. 05/2013/ND-CP to amend and supplement a number of articles of administrative procedures of Government's Decree No. 43/2010/ND-CP dated April 15, 2010, on enterprise registration. The amended points are as follows:

- + To supplement Article 8a, 8b, 8c of Article 8 regarding: Number of registration dossiers for enterprises, business households; regulation on valid copies of documents in dossier of enterprise registration; And announcement of enterprise registration content. Accordingly:

\* Enterprises shall submit 01 set of dossier at the provincial business registration Office when perform enterprise registration, registration for operation of branches, representative offices, announcement for establishment of business location or registration for changed of enterprise registration contents; Business households shall submit 01 set of dossier at district-level business registration agencies when registering for establishment of business households or changes of contents registered.

\* *Valid copies* of documents in dossier of enterprise registration mean documents being *certified or confirmed as true* by competent agencies or organizations; For registration dossiers which must have transfer contract, written certification of donation of part of capital contribution, enterprises may send their original or valid copies.

\* Within 30 days, after day of establishment or registration for changes of enterprise registration contents, enterprises must publish the enterprise registration content on the national enterprise registration portal as prescribed in Article 28 of Enterprise Law and pay charge for announcement of enterprise registration content.

## II - Enterprise registration (continued))

\* Joint-stock companies, which additionally issue ordinary shares and offer for sale of such shares to all ordinary shareholders under rate of their available shares at companies, must send written notice on additional issuance of ordinary shares to permanent residences of shareholders in form of guarantee sending. This notice must be published on the National enterprise registration Portal or printed on press for three consecutive issues within 10 working days, after the day of notice.

\* Within 07 working days after day of passing the decision on enterprise dissolution as prescribed in clause 1 Article 158 of the Enterprise Law, an enterprise must: Copy and send the dissolution decision to business registration agency, all creditors, persons with relevant rights, obligations and benefits, employees in enterprise. Enterprises must publicly posted decision on enterprise dissolution at its head office and branches and publish this decision on the National Enterprise Registration Portal.

+ Additional regulating on confirmation time limit of business registration agencies in case enterprise temporarily ceases its business operation in Article 57: The business registration agencies shall grant a receipt of dossier for applicant after receiving notice of temporary cessation of business operation of enterprise or business household. **Within 05 working days**, after receiving valid dossier, business registration agencies shall issue confirmation on registration for temporary cessation of business operation of enterprises, business households in according to Form provided by the Ministry of Planning and Investment.

Also related to enterprise registration, on January 21, 2013 Minister of Planning and Investment promulgated Circular No. 01/2013/TT-BKHDT guiding and detailing on this issue.



### III - Relevant documents and software supporting tax declaration

- Decision No. 128/QĐ-BTC dated January 17, 2013 of the Ministry of Finance promulgating action plan of the Ministry of Finance to implement Resolution No. 01/NQ-CP dated January 07, 2013 of the Government on primary solutions for supervising and operating socio-economic development plan and State budget plan of year 2013 and Resolution No 02/NQ-CP dated January 07, 2013 of the Government on a number of solutions to reduce difficulties for production and business, support the market and deal with bad debt.

- Circular No. 39/2012/TT-BCT dated December 20, 2012 of the Ministry of Finance detailing a number of articles of Decree No. 94/2012/ND-CP dated November 12, 2012 of the Government on production and business of alcohol.

- Announce to upgrade the software supporting tax declaration:

On January 15, 2013, General Department of Taxation announced on completing to upgrade application of bar code declaration supporting (HTKK) version 3.1.5 (HTKK 3.1.5 software), software supporting Personal Income Tax finalization (QTTTNCN) version 3.0.2 and application of online tax declaration (iHTKK) version 2.2.9 which satisfy finalization transaction of Personal income Tax, Corporate Income Tax in 2012.

This upgrade is to satisfy the transaction requirements of personal income tax finalization in 2012 for individuals having income at level 1 who declare tax exemption and reduction prescribed in Circular No. 140/2012/TT-BTC of the Ministry of Finance guiding the implementation of the Resolution No. 29/2012/QH13 of the National Assembly promulgated a number of tax policies to reduce difficulties and requirements for Corporate Income Tax finalization for businesses are entitled to Corporate Income Tax incentives because of meeting favorable conditions on export ratio which terminated incentives accordingly to WTO commitment under Circular No. 199/2012/TT-BTC.

To download link:

- + Software supporting tax declaration 3.1.5: <http://www.gdt.gov.vn/wps/portal/home/hotrokekhai>
- + Application of Corporate Income Tax finalization version 3.0.2: <http://tncnonline.com.vn>.
- + Application of online tax declaration 2.2.9: to declare at <http://kekhaithue@gdt.gov.vn>



#### Notes

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