



LEGAL UPDATES

JULY 2013



I - To remove entanglement of receipt and payment of customs charges

An enterprise that only owes customs charges has not been regarded as not abided by law well, simultaneously still entitled to tax extension. Content above in the Official Letter No. 9297/BTC-TCHQ has been promulgated by the Ministry of Finance to remove entanglement of paying charges when conducting electronic customs declaration form.



Individual who conducts electronic customs declaration form is allowed to choose form of payment of charges per month or each arising time: if form of payment of charges per month has been chosen, the individual must register with customs office in advance, if per each arising time, customs officer will print notice of customs charges each time in order that the individual can base on to pay.

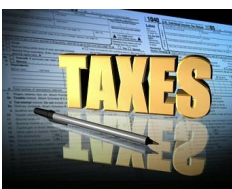
In case stamps of charges still remain but declarer changes into registration of paying charges per month, he/she must register with customs office in advance, simultaneously return the number of stamps of charges corresponding to the number of declaration form opened in the month.

The Official Letter shall be applied as from July 18, 2013.

II - Conditions of installment of tax debts

The Decree No.83/2013/ND-CP has just been promulgated to guide the implementation of a number of articles of Law on Amended Tax Administration 2012, in which there is a provision of condition of installment of tax debts.

As guided in the Decree, a taxpayer who has been coerced into implementing decision on tax administration but cannot afford to pay the full amount of tax debts as a lump sum, he/she can pay installment provided that he/she fulfills the following conditions:



- There is a guarantee of credit institutions.

- There is a commitment of implementation progress of installment of tax debts, late payment amount and divide the outstanding amount equally to pay per month.

The maximum of implementation time is not more than 12 months as from the date of beginning time limit of being coerced into implementing decision on tax administration.

In case taxpayer violates commitment of payment progress, the guarantors shall pay on behalf of taxpayer, including tax debts and late payment amount.

And besides, the Decree also gives guidelines on clearing tax debts of individuals and enterprises out. Accordingly, the following objects will be free from tax debts arising before July 01, 2007:

- Households, individuals that cease their business operation and still own taxes, fines and meet difficulties and cannot afford to pay taxes owed.

- State enterprises (SE) have dissolved still owed taxes, fines.

Corresponding debts of fines of late payment, late payment amount of principal taxes have also been cleared out.

The Decree takes into effect as from September 15, 2013.

III - To treat seriously for cases of tax evasion, tax fraud

A taxpayer having one of behaviors of tax evasion and tax fraud, he/she must pay sufficient tax amount as prescribed and incur fines of between one time and three times of the evaded tax amount.

This is one of new points prescribed in Joint Circular No.10/2013/TTLT-BTP-BCA-TANDTC-VKSNDTC-BTC of The Ministry of Justice, the Ministry of Public Security, the Supreme People's Court, the Supreme People's Procuracy and the Ministry of Finance guiding application of a number of articles of criminal code on crimes in tax, finance - accounting and securities fields.

Offender of tax evasion is person conducts one of acts specified in Law on tax administration, concurrently satisfy signs specified in the Criminal Code such as: Using illegal invoices and vouchers to account input goods and materials during operation arising tax liability to reduce tax amount payable or increase tax amount exempted, reduced or deducted, refunded; using illegal vouchers, documents to determine wrongly tax amount payable, refunded; declare wrongly compared with practical exported and imported goods but not conduct supplementary declaration of tax declaration dossiers after customs clearance within 60 days, since the registration day of customs declaration form; Intentionally not declare or declare wrongly tax amount for exported and imported goods; Colluding with the consignor to import goods for the purpose of tax evasion, etc.



And besides, committing tax evasion in other particularly serious circumstances is construed that cases in despite of the evaded tax amount has value of between 300 million dongs and less than 600 million dongs, but the offender concurrently conduct one of other concerned acts but not so serious to be examined for criminal liability on an independent crime, such as:



Offering bribes; resisting persons in the performance of their official duties; inflicting injury on persons in the performance of their official duties; destroying property of tax administration agencies, tax administration civil servants and other state agencies with responsibilities in tax administration execution. If these acts fully consist of elements of another crime, apart from tax evasion, the offender is also examined for criminal liability on corresponding crimes.

This Circular takes into effect as from August 15, 2013.

IV - Not submit statistical reports (SR), financial statements (FS): Fines up to VND 20,000,000

From September 05, fines up to VND 20,000,000 for behavior of not submitting SR, FS, increasing 03 times compared with former provisions (from VND 3,000,000 to VND 7,000,000). This new fines have been prescribed in the Decree No.79/2013/ND-CP regarding handling administrative violation in statistical field.



And besides, fines for behavior of unpunctual submission of SR, FS also sharply increase, many of those increase 06 times, the highest fine for unpunctual submission of SR, FS is VND 10 ,000,000.

Warnings against behavior of unpunctual submission of reports i.e. less than 05 days behind schedules for monthly statistical reports; less than 10 days for quarterly, biannual, 09-month SR, FS; less than 15 days for annual SR, FS). Specifically:

- A fine of from VND 1,000,000 to VND 3,000,000 for behavior of unpunctual submission of reports from 05 days to less than 10 days behind schedules for monthly statistical reports, from 10 days to less than 15 days for quarterly, biannual, 09-month SR, FS, from 15 days to less than 20 days for annual SR, FS.
- A fine of from VND 1,000,000 to VND 3,000,000 for behavior of unpunctual submission of reports from 05 days to less than 10 days behind schedules for monthly statistical reports, from 10 days to less than 15 days for quarterly, biannual, 09-month SR, FS, from 15 days to less than 20 days for annual SR, FS.
- A fine of from over VND 5,000,000 to VND 10,000,000 for behavior of unpunctual submission of reports i.e. from 20 days to 30 days behind schedules for quarterly, biannual, 09-month SR, FS; from 30 days to 45 days for annual SR, FS.

Also mentioned in the Decree, enterprises will not be fined for behavior of unpunctual submission less than 05 days for FS, less than 10 days for quarterly, biannual, 09-month FS; less than 15 days for annual FS.

The Decree No. 79/2013/ND-CP shall replace the Decree No. 14/2005/ND-CP.

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