

# LEGAL UPDATES

July 2014



## I-Summarizing a number of new noteworthy points on invoice are guided in the Circular No. 39/2014/TT-BTC

As we have mentioned in the previous Newsletters, the Enterprise's usage of invoices has been guided in the Circular No. 39/2014 / TT-BTC dated March 31, 2014. Subsequently, on May 20, 2014, General Department of Taxation promulgated the Official Letter No. 1839/TCT-CS guiding more details with the new and notable points are as follows:



### Individuals are not entitled to issue (create) Value added tax (VAT) invoices

The regulation in Clause 1, Article 3 of this Circular clearly stated that VAT invoice is an invoice which organizations declare and calculate VAT by the deductible method (excluding the individual objects).

Therefore, the object is entitled to create VAT invoice but excluded the business households and individuals under the regulations of Chapter II of this Circular.

Individuals and households who have demand to use the invoices, they are able to use sale invoice sold by the tax Departments (procedure of buying invoices is in accordance with Article 12) or outsource printed invoices.

### Abrogating the export invoice

Under the regulation in the Article 3, the Enterprises will use the **value added tax invoice** or **sale invoice** when exporting and depending on each case:

- Enterprises declare VAT by deductible method: using VAT invoices;
- Enterprises declare VAT by direct method: using sale invoices;
- Enterprises in non-tariff zones: using sale invoices (specifying in the invoices "For organizations and individuals in non-tariff zones").

### Capital is more than 15 billion dong which is entitled to self-print invoices

One of the conditions for self-printed invoice under the regulation in Article 6 of the Circular is "Enterprises and banks with a charter capital of 15 billion dong or more which calculated by the actual contributed capital at the time of announcing invoice issuance".

Comparing with the conditions before the charter capital was only over 01 billion dong, this is a big change.

In addition, Enterprises have been incorporated after June 01, 2014, these Enterprise have charter capital less than 15 billion dong who want to self-print invoices, they must have "performing in investing and purchasing of fixed assets, machinery and equipment with value from 01 billion dong or more than stated in invoices of purchasing of fixed assets, machinery and equipment at the time of notifying invoice issuance."

Enterprises have been incorporated before this date (having capital is less than 15 billion dong), they are entitled to use the remaining invoices have been already announced of issuance, after this date they must buy invoices from tax authorities (Clause 2, Article 32).

Enterprises have high tax risks and want to self-print invoices, they must use the software provided by the tax authorities, in order that the tax authorities ensure all data of self-printed invoices

### For self- printed invoices and outsource printed invoices by computer shall not be crossed out

This is the new regulation in point b, clause 1 Article 16.

### Being able to abbreviate in invoice

The Circular officially regulated on being able to abbreviate the popular words in the invoice (before this content was guided only in temporary Official Letters).

In case of name, address of the buyer is so long, in the invoice, the seller is entitled to write briefly some of popular nouns such as: "Phường" into "P", "Quận" into "Q", "Thành phố" into "TP", Việt Nam into "VN", Cổ phần" into "CP", Trách nhiệm hữu hạn" into "TNHH", Khu Công nghiệp" into "KCN", sản xuất" into "SX", "Chi nhánh" into "CN" ect. But this must ensure that the fully number of home, street, ward, communes, districts, cities and still define the correct name, address of the Enterprises and in conformability with the business registration and tax registration of the Enterprises.

(point b, clause 2, Article 16).

### Sale invoice or service provision overseas shall not require the buyers' signatures

(point dd, clause 2, Article 16).

### New regulations on invoice usage

In case there is no invoice used but this must report Quarterly (stating quantity of invoice being used is zero (=0). Specially the newly incorporated Enterprises, Enterprises use self-printed invoices, outsource printed invoices and they have the acts of violation that they are not entitled to use of those invoices, and Enterprises with high tax risks shall submit the monthly reports on the usage of invoices.

The time limit of the submission is no later than the 20<sup>th</sup> of the following month. The submission of such monthly report shall be performed within 12 months from the date of incorporation or the date changing to buy invoices from tax authorities. (Article 27).

### The transition regulation on suing export invoice

- From June 01, 2014, the tax authorities will not receive Announcement of export invoice issuance.

In case enterprises and business organizations have not used up all outsource printed of export invoices and have already announced of issuance, then registering the quantity of the remaining export invoices and sending to the direct tax management authorities but no later than July, 31, 2014 (Form No. 3.12 provided in Appendix 3 promulgated together with this Circular).

- From August 01, 2014, the remaining export invoices which have already registered according to this Clause are being continuously used. Unregistered export invoices or invoices registered after July 31, 2014 shall be expired.

## II- The General Department of Taxation provides new guidance on Corporate Income Tax (CIT) in accordance with the Circular No. 78/2014/TT-BTC

On July 23 recently, the General Department of Taxation promulgated the Official Letter No. 2785/TCT-CS introducing new contents of the Circular No. 78/2014/TT-BTC on CIT.

The Official Letter has been issued to help Enterprises applying CIT to grasp the new and the difference from the previous CIT regulations.

Accordingly, a number of the notable points are explained in the Official Letter as follows:



- CIT calculation method;
- Determining the taxable income;
- Determining revenues to calculate the taxable income;
- Time for determining revenues to calculate the taxable income;
- Determining revenues to calculate the taxable income in certain cases;
- Non-deductible and deductible expenses in determining the taxable income etc.

The General Department of Taxation has required the tax Departments to be responsible for the dissemination of these contents to taxpayers for implementation.

### III - Only Vietnamese citizens are entitled to deposit foreign currencies

This is one of the most notable points of the Decree No. 70/2014/ND-CP regulating and detailing the implementation of the Ordinance on Foreign Exchange and the amended Ordinance on Foreign Exchange recently promulgated by the Government.



Accordingly, only Vietnamese residents are entitled to use foreign currencies for deposit at the licensed credit institutions, and they are entitled to deposit, withdraw principal or interest in the currency that they deposited. While under the previous regulations, all residents who are individuals being able to deposit foreign currencies, regardless of whether they are Vietnamese citizens or not.

The Decree also regulated the new points related to the remittance of incomes from direct investment in Vietnam to overseas countries; the payment and remittance related to exports and imports such as in case that investors have demand of transferring their legal revenues in Vietnamese dong from their direct investment in Vietnam to overseas countries, the foreign investors are entitled to purchase foreign currencies at the licensed credit institutions and transfer overseas within 30 (thirty) working days from the purchase date of foreign currencies.

This Decree shall take effect from September 05, 2014, and replace the Decree No. 160/2006 /ND-CP.

### IV - Conditions for importation of used technology lines

On July 15, 2014, the Ministry of Science and Technology promulgated the Circular No. 20/2014/TT-BKHHCN providing the regulations on the importation of used machinery, equipment and technology lines.

Accordingly, the used technology lines shall be eligible for importation if they are not in the case of importation prohibition, and shall satisfy the following requirements:

- The using time does not exceed 05 years;
- The remaining quality gains 80% in comparison with original quality or more;
- The utilization of used technology lines have already been specified in the investment documents and sent to the investment management agencies or other competent authorities for their approvals;
- Those are compliance with the under the sectorial management of Ministries and sectors;
- The quality must be tested at exporting countries before dismantling, packaging for the importation.

In addition, the Circular also regulated the import procedures and conditions and for some other special cases. This Circular shall take effect on September 01, 2014.

### V - The new notable points of the amended Law on Health insurance 2014



The amended Law on Health Insurance (HI) is adopted in June 2014 by the National Assembly, taking into effect from January 01, 2015 with a number of new notable points are as follows:

#### **Social insurance organizations are responsible for paying HI to people who are on maternity leave**

During the period when employees are in maternity leave as regulated by law on social insurance, the monthly maximum payment by 6% of monthly salary of employees before their maternity leave and the payments are made by social insurance organizations.

#### **Increasing the penalty level to Enterprises evade paying health insurance**

Agencies, organizations, and employers are responsible for paying health insurance without paying or inefficiently paying, they do not only pay efficiently amount unpaid but also pay double the interest by the inter-bank interest rates (double compared to before).

In addition, the employers must refund the full expenses to the employees within the benefit scope, the health insurance benefit level that employees paid during the period they have not had the health insurance card.

This Law shall take effect on the date January 01, 2015.

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