

# LEGAL UPDATES

## JULY 2016

**Changes in policy on refund  
of Value Added Tax from 01 July 2016** **1**  
*Law No. 106/2016/QH13*

**New regulations on time limit for  
settlement of claims for VAT refund** **2**  
*Circular No. 99/2016/TT-BTC*

**Amending many  
regulations on non-cash payments** **2**  
*Decree No. 80/2016/ND-CP*

**Introduction of new points on procedures  
of tax payment from 01 August 2016** **3**  
*Official letter No. 3276/TCT-KK*

**The enterprises must  
report the situation of occupational  
accidents every 6 months and annually** **3**  
*Circular No. 08/2016/TT-BLĐTBXH*

## Changes in policy on refund of Value Added Tax (VAT) from 01 July 2016

Since 01 July 2016, there remain two cases entitled to VAT refund, and domestic purchasing or selling goods are entitled to deduction and consecutive deduction rather than refund.

According to the amendment in Clause 3 Article 1 of the Law No. 106/2016/QH13, there are three significant changes in VAT refund policy, applied immediately from 01 July 2016.

 **Domestic purchasing and selling goods** are not entitled to tax refund:

Clause 3 Article 1 of the Law No. 106/2016/QH13 promulgates:

*"Business establishments that pay VAT according to the tax credit method are entitled to be deducted the input VAT, which is not completely deducted in the month or in the quarter, in the next period".*

In comparison with previous regulations in which Clause 7 Article 1 of the Law No. 31/2013/QH13 not only allowed the VAT input deduction and brought-forward of that, but also "... if the input VAT is not completely deducted after at least 12 months or 4 quarters from the month or the quarter in which the un-deducted VAT arises, the business entity shall receive a tax refund".

Therefore, since 01 July 2016, the amount of input VAT incurred from domestic purchasing and selling goods are only entitled to deduction and consecutive deduction without limitation of how many times in the following tax years. VAT refund acquired from domestic trading shall be considered no longer existent.

 **Conditional tax refund** for new investment project:

According to the Law No. 106/2016/QH13, the input VAT of new investment projects having insufficient contributed charter capital or unqualified business requirements is only entitled to deduction rather than applying for refund.

Although it still remains the regulation that the new projects which are in the stage of investment, having the accumulated VAT amount from above 300 million dong are entitled to apply for VAT refund, they should be satisfied the conditions as follows:

- Sufficient contribution of charter capital.
- In case the project engages conditional business lines, it shall be satisfied and maintained the eligibility for its business during the operation.

Specifically, the investment project on exploitation of minerals, natural resources shall be met the following:

- Being licensed before 01 July 2016.
- Total cost of the minerals, natural resources added with the energy cost shall account for less than 50% of the cost price.

 **Goods imported for export and exported goods outside the customs operational areas** are not considered for VAT refund:



Still according to current regulations, exported goods with the accumulated input VAT over 300 million dong are entitled to apply for VAT refund. New regulations at Clause 3 Article 1 of the Law No. 106/2016/QH13 excludes 2 of cases which are not entitled to tax refund:

- Goods imported for export.
- Exported goods not carried out in the customs operational areas.

## New regulations on time limit for settlement of claims for value added tax (VAT) refund

On 29 June 2016, the Ministry of Finance released Circular No. 99/2016/TT-BTC guiding on the management of VAT refund. Accordingly, the time limit for settlement of claims for VAT refund shall be performed as follows:

**F**or the VAT refund dossier subject to the case of “refund first, inspect later”:

- If the refund dossiers are not considered under the refundable cases and objects or lacking of information to determine whether they are entitled for refund or not, the tax authorities will send a notice to the taxpayer within 03 working days from the date of receiving the acceptable refund dossiers.
- If the refund dossiers are eligible for tax refund, the tax authorities will issue an approval on tax refund not later than 06 working days from the date of receiving the acceptable refund dossiers.

**F**or the refund dossiers subject to the case of “inspect first, refund later”: the tax authorities will carry out the inspection at the taxpayer’s premises and issue an approval on tax refund within the period not later than 40 working days from the date of receiving the acceptable refund dossiers.

**T**he provincial State Treasury shall pay for the VAT claims to the taxpayers not later than 03 working days from the date of receiving the refund order of the State budget, the refund order and reimbursement of the State budget from the tax authorities.



Circular No. 99/2016/TT-BTC comes into force as from 13 August 2016 and replaced Circular No. 94/2010/TT-BTC, Decision No. 2404/QĐ-BTC, Circular No. 150/2013/TT-BTC.

## Amending many regulations on non-cash payments

The Government has promulgated Decree No. 80/2016/ND-CP amending Decree No. 101/2012/ND-CP on non-cash payments. Accordingly, the Decree stipulates some of the new outstanding contents as follows:

- When the payment service providers detect errors or mistakes occurred during the money transfer, only the cash in the range of amount mistaken shall be blocked.
- Clarifying the concept “Means of non-cash payment”, including: checks, payment orders, collection orders, bank cards and other payment instruments as prescribed by the State Bank.
- Supplementing more objects that are allowed to provide intermediary non-cash payment services: commercial banks, branches of foreign banks that are permitted to provide the service of “electronic wallet”.
- Repealing the regulation “account blockade when the payment service providing organizations discover the signs of fraud, violation of the laws related to the payment operation”.

Decree No. 80/2016/ND-CP comes into force as from 01 July 2016.

### Intermediary payment service providing organizations

are: Organizations other than banks that are granted the licenses to provide the intermediary payment services by the State bank;

Commercial banks, branches of foreign banks that are permitted to provide the service of “electronic wallet”.



**Electronic wallet service** is the practice that provides the customers with an nominal electronic account set up by the intermediary payment service providers on an information carrier (such as electronic chip, mobile phone sim, computer, etc.) that enables the customers to hoard a sum of money guaranteed by



a deposit equivalent to the sum of money transferred from the customer’s payment account opened at a certain bank to the payment security account of the provider supplying the electronic wallet service with the ratio of 1:1.

## Introduction of new points on procedures of tax payment from 01 August 2016

Official letter No. 3276/TCT-KK dated 21 July 2016 of the General Department of Taxation introduces new contents of the Circular No. 84/2016/TT-BTC on procedures of payment and collection to/from the State budget in respect of the tax amounts and local receivables; with some noticeable points as follows:

**NEW!** While previous regulations prescribed the submission procedures shall be applied for other receivables of State budget, including administrative fines, the new regulations narrowed the scope of adjustment which applies only for taxes, fees, land and water surface rents, fees for land use, natural resources exploitation and others collected by the tax managing agency.

**NEW!** Clarifying the “date of tax payment” in respect of paying tax via authorized collection organizations and on-behalf payment organization.

**NEW!** Providing guidelines on preparation of tax payment procedures via e-portal of the General Department of Taxation, preparation of tax payment procedures at trading desk of the banks coordinating to collect tax, authorized bank for collection, the State treasury agencies.

**NEW!** Regulating the information which must be presented on the E-payment form when using the service of electronic tax payment provided by the banks.

**NEW!** Allowing to use the notices, the approvals of the tax authorities to replace the tax payment spreadsheets.

**NEW!** Supplementing the procedures on paying/collecting tax at the trading desk of the banks yet to coordinate for collection.

Also, as mentioned in this official letter, it is expected up to the first quarter of 2017, the tax authorities will have upgraded their system to allow the taxpayers to search for their already-paid tax amounts, adjust their payment information, confirm their already-paid amounts online.

## The enterprises must report the situation of occupational accidents every 6 months and annually.

Circular No. 08/2016/TT-BLDTBXH dated 15 May 2016 of the Ministry of Labor, Invalids, and Social Affairs provides the guidelines to compile, archive, summarize, disclose, announce or assess the situation of occupational accidents and technical problems which may impact the occupational safety and hygiene.

Similar to the former regulations, all enterprises must organize the compilation and

accidents that ensue at their premises.

Besides, according to the new regulations prescribed in this Circular, the enterprises must also assess and announce on-site occupational accidents to employees on 6-month and annual basis. 6-month data and 1-year data must be announced by the 10<sup>th</sup> of July of the year and by the 15<sup>th</sup> of January of the following year (Article 4).

In respect to the announcement method, in addition to being publicly displayed at the premises, location, workshops, such information must also be published on the enterprise’s website (Clause 1 Article 4).

The information which must be announced at

least comprises the followings: the number of occupational accidents and of those with fatalities; the



number of victims and fatalities of occupational accidents; primary reasons of the accidents; damage caused by occupational accidents; changes in statistical data (i.e. quantity, ratio) in comparison with those in the same period or time of reporting; analyzing of reasons of such changes and efficiency of measures to prevent occupational accidents (Clause 6 Article 4).



storage of information and maintain a logbook of occupational

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