



AUGUST 2016

# LEGAL UPDATES



## Since 01 September 2016, the goods imported for manufacturing exported products are free from import duty

On 06 April 2016, the National Assembly adopted the (amended) Law on Export and Import Duties No. 107/2016/QH13 (the Law on Export-Import Duties 2016), taking into effect from 01 September 2016.

According to the Law on Export-Import Duties 2016, the raw materials imported for manufacturing exported products has no longer be entitled to tax refund, but to the tax exemption, giving a clear regulation on import duty imposed on goods imported for manufacturing exported products. Concurrently, this simplifies the administrative procedures in respect of “withhold first, refund later” applicable to the raw materials imported for manufacturing exported products.

The most noticeable point is that, in addition to when the raw materials imported for manufacturing exported products are free from the import duty since 01 September 2016, even the imported shipments before such effective date which have yet to produce any products for export, could enjoy the import duty exemption as long as of which no tax has been paid (Article 21).

As a result, the shipments entitled to the grace payment period of 275 days, which are imported from December 2015 till now, will benefit from the transitional regulations as stipulated at Article 21 of the Law on Export-Import 2016.

### Import duty

*The Law on Export-Import Duties 2016*



### New guidelines on tax registration

*Circular No. 95/2016/TT-BTC*



### Goods whose intended use is changed

*Official letter No. 8230/TCHQ-TXNK*



### Region-based minimum wage levels year 2017

Besides providing the cases entitled to import duty exemption, the amended Law also additionally stipulated some of the cases which are subject to export-import duties including:

On-spot imported and exported goods; goods exported and imported by enterprises exercising the rights of exporting, importing, distributing.

(According to the current regulations, the taxed goods only comprises: goods exported and imported through Vietnam's border and border checkpoints; goods exported from the domestic market into free trade zones; goods imported from free trade zones into the domestic market).

Besides, the Law on Export-Import 2016 also specifies the calculation of export-import duty incentives within the remaining incentive period for some projects still entitled to tax incentives. Details are as in Clause 1 of Article 21 - Transition Article:

*“Any project given export duty or import duty incentives that are more advantageous than the incentives specified in this law may keep having such incentives for the remaining incentive period of the project. If the incentives given are less advantageous or incentives have not been given as prescribed by this Law, incentives specified in this Law shall be given for the remaining incentive period of the sproject.”*

## New guidelines on tax registration

From 12 August 2016, tax registration shall be performed under the regulations at Circular No. 95/2016/TT-BTC newly issued by the Ministry of Finance, with some detailed instructions on some contents:

- Dossiers, order and procedures for tax registration; changes in tax registration information.
- Invalidation of the tax code, tax code recovery, business suspension.
- Tax registration on the cases of re-organization, operating model transformation of the organization.
- Responsibility for the management and use of the tax code.

Accordingly, economic organizations and others are granted only one tax code for use during operations from the date of tax registration to the date of operation termination, except for the specified cases.

Individual is granted only one tax code for use during entire life of that individual. The dependent of the individual is granted the tax code for the family allowances for the tax-payer. The dependent's tax code is also the tax code of the individual when the individual incurs the obligations with the State Budget.

Issued tax code shall not be used to re-grant to other tax-payers. Tax code of economic organization, other organizations after the transformation, sale, donation, inheritance is retained.

The tax-payer must use the tax code issued under the regulations at Article 28 of the Law on tax management. Specifically, the tax-payer uses the tax code to make tax declaration, tax submission, tax refund and to perform other tax procedures with respect to all the obligations payable to the State Budget, including the case of tax-payer engaged in business operation at different areas.



If enterprises and organizations that are granted the tax codes arise new business operation activities or business expansion to other cities and provinces but not establish the branches or subsidiaries or affiliated production facilities (including the processing and assembly facilities) on the location which is different from the province, city which the head office is located, entitled to account the revenue of State Budget under the regulation of the Law on tax management, they are allowed to use the issued tax codes to make the tax declaration, tax submission to the tax authorities at the location where arise the new business operation activities or business expansion and so on.

The Circular also provides the guides on the tax registration term of the taxpayer as follows:

The tax-payer is responsible for the tax registration performance under the regulations at Article 22 of the Law on tax management.

In particular, the economic organizations, other organizations having the business operation activities have to perform the tax registration within a period of 10 working days, since: the date on the establishment and operation license, or the establishment Decision, or equivalent licenses issued by the competent authorities; date on the Certificate of affiliated unit, or the establishment Decision, or equivalent licenses issued by the competent authorities.

The individual who submits the personal income tax makes the tax registration for the dependent along with the term for the

implementation of the procedure to apply the family allowance under the regulation of the law on personal income tax.

The company paying the income shall perform the tax registration for the individual who has the income from the salary, wage and makes the tax registration for the individual's dependent once a year with the latest day is 10 working days prior to the submission time of the personal income tax finalization every year.

A new noticeable point is that the tax authorities will make public the tax registration information of the tax-payer on the electronic information of the General Department of Taxation in the particular cases. According to the Circular, the information of the tax-payer will be posted publicly on the website of the General Department of Taxation if the tax-payer ceases the operation.

The Circular takes effect from 12 August 2016.



## A fine of from 2 million to 5 million dongs shall be imposed on any delay in declaration of goods whose intended use is changed

That is the instruction content of the General Department of Customs under Official letter No. 8230/TCHQ-TXNK dated 24 August 2016 for the goods whose intended use is changed.

According to the regulations stipulated at Article 21 of the Circular No. 38/2015/TT-BTC, imported goods with free duty is only allowed for domestic sale or re-purposing of use after being completed with new customs declaration as well as tax declaration and payment, and penalty (if any).

Simultaneously, according to Point b Clause 3 Article 6 of the Decree No. 127/2013/ND-CP, a fine of from 2 million dongs to 5 million dongs shall be imposed on the acts of "failure to make declaration and follow procedures on schedule when goods are sold domestically; repurposing goods".

Therefore, in case that the company makes the declaration for repurposing the use of imported goods exceeding the prescribed term, there will be the additional penalty from 2 million to 5 million dongs in addition to the tax payable.



# Finalizing region-based minimum wage levels year 2017

## **Region I: 3,750,000 dongs/month**

*(increasing 250,000 dongs/month compared with the year 2016's)*

## **Region II: 3,320,000 dongs/month**

*(increasing 220,000 dongs/month compared with the year 2016's)*

## **Region III: 2,900,000 dongs/month**

*(increasing 200,000 dongs/month compared with the year 2016's)*

## **Region IV: 2,580,000 dongs/month**

*(increasing 180,000 dongs/month compared with the year 2016's)*

On 02 August 2016, the National Wage Council agreed to fix the plan of increasing the region-based minimum wages applicable for the year 2017.

Hence, generally considering the average level of all 4 regions, the increased amount of the region-based minimum wage of the year 2017, which was agreed by the National Wage Council is 213,000 VND per month, increased by 7% compared with the year 2016's.

The plan of these region-based minimum wage levels of the year 2017 will be submitted to the Government to adopt the new Decree on the region-based minimum wage of 2017.

The new Decree will replace Decree No. 122/2015/ND-CP stipulating region-based minimum wage levels for laborers working for enterprises, cooperative unions, cooperatives, cooperative groups, farms, households, individuals and agencies, organizations employing laborers under labor contracts.

### **Notice:**

*"The purpose of this news is to provide the clients with further information. Although we have focused much on the ensure of accuracy, the information that is given on this news is not absolutely thorough and the clients would better consult professional opinions before application".*