

LEGAL UPDATES

August 2018

HIGHLIGHTS

- **Region-based minimum wage levels of 2019**
- **Declaration of the value of processing waste**
- **Requirements for electronic invoicing**
- **Responsibility for the accuracy of the applications for tax refund**
- **Amendments to many regulations on enterprise registration**

Region-based minimum wage levels 2019: Increasing from 160,000 dong to 200,000 dong

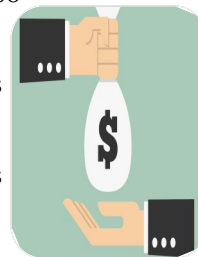
The National Council of Salary has finalized the region-based minimum wage levels which would be applied in the year 2019, of which details are as follows:

- Region I: 4,180,000 dong (200,000 dong higher than that as prescribed by prevailing regulations of the Government's Decree No. 141/2017/ND-CP).
- Region II: 3,710,000 dong (180,000 dong higher).
- Region III: 3,250,000 dong (160,000 dong higher).
- Region IV: 2,920,000 dong (160,000 dong higher).

Accordingly, the average region-based minimum wage level of the 4 regions in 2019 which was proposed by the National Council of Salary increases of about 5.3% compared to the year 2018.

The plan of increase of the region-based minimum wage levels of 2019 will be submitted to the Government for issuance of the new Decree providing for region-based minimum wage levels in the year 2019.

The new Decree will replace the Decree No. 141/2017/ND-CP providing for region-based minimum wage levels for laborers working under labor contracts (taking effect from January 01, 2019 onwards).



Being allowed to self-declare the value of processing waste which is donated

Official letter No. 4556/TXNK-TGHQ dated August 10, 2018 of General Department of Customs provides guidelines on the customs value of waste, discarded products.

“Waste” is material which is removed in the course of processing, production of goods for export and no longer has initial value, obtained to be used for other production process.

“Discarded products” are finished products, semi-products which fail to meet technical standards (specifications, dimension, nature, etc.) removed in the course of

processing, production of goods for export and their quality is not met for export.

Based on Clause 5 Article 17 of Circular No. 39/2015/TT-BTC, with regard to raw materials for processing, export production, which are redundant and no longer used, given by the partner without sale contracts or commercial invoices, the enterprises are allowed to declare their value on the declaration of change of purpose.

However, if there is evidence proving that the declared value is unconfirmable, the customs authority shall determine the value again.



What are the requirements for electronic invoicing?

Official Letter No. 4862/CT-TTHT dated May 30, 2018 of the Tax Department of Ho Chi Minh City provides guidelines for the creation, issuance and use of electronic invoices.

Under Clause 2, Article 1 of Decree No. 04/2014/ND-CP, the enterprises may use different forms of invoice at the same time, in which the use of electronic invoices is encouraged.

However, in order to create and issue electronic invoices, the enterprises must satisfy the conditions as specified in Clause 2, Article 4 of Circular No. 32/2011/TT-BTC, as follows :

- + Having made electronic declarations of taxes or conducted e-banking transactions.

- + Having a place and lines for information transmission and communication networks and transmission devices meeting requirements on control, use, preservation and storage of e-invoices.

- + Having qualified and capable personnel for creating, billing and using e-invoices.

- + Having e-signature.

- + Having sale software linked with the accounting software, enabling automatic transfer of data of e-invoices to the accounting software billing invoices.

- + Having processes for backup, recovery and storage of data, which meet essential requirements on storage quality.

The enterprises are not responsible for the accuracy of the declaration included in the tax refund dossiers

Official letter No. 2890/TCT-KK dated July 25, 2018 of the General Department of Taxation provides guidelines for the refund of VAT on exported goods.

According to the General Department of Taxation, when applying for VAT refund for exported goods, the enterprises only need to submit the export declarations having finished the customs procedures, but not being responsible for the accuracy of their declarations.

Instead, the customs office has to take the responsibility for the accuracy and completeness of the declarations and is obliged to provide information at the request of the tax authorities as a basis for tax refund (Article 7 of Circular No. 99/2016/TT-BTC).



However, it should be noted that in the case of the dossiers which have been notified by the tax office as not being qualified for tax refund, if the enterprises then meet the conditions and wish to apply again for tax refund, the enterprises must submit a new dossier for application.

Amendments to many important regulations on enterprise registration

Decree No. 108/2018 /ND-CP was promulgated by the Government on August 23, 2018 to amend and supplement a number of articles of Decree No. 78/2015/ND-CP dated September 14, 2015 of the Government on business registration.

One of the new regulations which should be noticeable in this Decree is that the application for enterprise registration, the notice of changes of enterprise registration contents and the resolutions, the decisions, the meeting minutes included in the enterprise registration dossiers are not required to be stamped (Clause 1, Article 1).

Documents of authorization by which having any other individual to implement the enterprise registration procedures are not required to be notarized or authenticated (Clause 2, Article 1).

In addition, under Clause 5 of Article 1, the enterprises may register the change of type and at the same time register the change of enterprise registration contents, except for registration of change of the legal representative.

For business locations, the Decree has removed the regulations compelling the business location shall be set up only where the head office or the branches are located (Clause 9, Article 1).

The procedures for notifying the seal of the enterprise can be made online via the internet and there is no need to submit additional written documents to the Business Registration Office (Clause 10, Article 1).

Other important procedures such as registration of enterprises through the electronic network; registration of changes of charter capital, change of capital contribution ratio; changes of information of founder shareholders; announcement of the content of enterprise registration, etc. are also amended.

The Decree takes effect from October 10, 2018.



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".