

LEGAL UPDATES

Conditions for recognition of allowances for employees

Official letter No. 2761/TCT-CS dated July 10, 2010 of the General Department of Taxation refers to the tax policies.

According to the General Department of Taxation, in principle, the enterprise is allowed to recognize the allowances offered to its employees as long as general conditions under Clause 1 and particular conditions under Clause 2.6, Article 4 of Circular No. 96/2015/TT-BTC are completely fulfilled.

According to Clause 1, Article 4 of Circular No. 96/2015/TT-BTC, all expenditures of the enterprise must meet 3 following general conditions:

(1) *actually arisen and related to the enterprise's production and business activities;*

(2) *with legitimate invoices and vouchers;*

(3) *with non-cash payment vouchers (via bank) for payments more than 20 million dong.*



In addition, for payments of wages, allowances, bonuses, the enterprise must ensure the conditions that all of those are actually arisen within the accounting period and for which the entitlement conditions and levels are specified in the labor contracts, the collective labor agreements, the regulations on finance or bonuses.

Allowances of tuition fees for children of foreign employees must be specified in the labor contracts and not other than the tuition for preschool to high school.

Allowances of house rents must be specified in the labor contract as salaries, wages.

HIGHLIGHTS

- * Conditions for recognition of allowances for employees
- * Regulations on use of electronic invoices
- * Paper invoices are allowed to be used in parallel with e-invoices until October 31, 2020
- * Costs prior to establishment with invoices bearing the name of the person authorized to make the payment are still acceptable
- * How imported materials with wrong type code declaration is handled



Regulations on use of electronic invoices 2019

According to the latest Decree 119/2018/ND-CP on electronic invoices, from November 01, 2018 onwards, electronic invoices shall be applied by new businesses or existing businesses that have run out of paper invoices and from November 01, 2020 onwards, electronic invoices shall be applied by all businesses.

What is electronic invoice?

Electronic invoice (e-invoice) is a new type of invoice applied by the Ministry of Finance for current businesses to replace the issuance and use of paper invoices in order to help to manage and store information more convenient; bring efficiency, success for the business of the enterprises as well as make the tax calculation easier.

According to Clause 1, Article 3 of Circular No. 32/2011/TT-BTC taking effect from March 14, 2011 of the Ministry of Finance:

“E-invoice is a compilation of e-data messages on goods sale or service provision, which is created, billed, sent, received, stored and managed electronically. E-invoices shall be created, billed and processed in the computer system of an organization having a tax identification number upon sale of goods or provision of services and stored in computers of involved parties under the law on e-transactions. An e-invoice must enable the identification of its serial number on the principle of consecutiveness and in sequential time and must be billed and used only once for each invoice number.”

Issuance procedure

- * Registering the issuance with the tax authority
- * Initiating e-invoices
- * Issuing e-invoices

Time of applying e-invoices by the enterprises

The time that requires application of e-invoices shall be in accordance with Decree No. 119/2018/ND-CP dated September 12, 2018.

Effectiveness

- * Before November 01, 2018:

The enterprises are still allowed to have paper invoices externally printed and used, used up as long as the issuance of such externally printed invoices has been notified.

- * After November 01, 2018:

⇒ Enterprises that have yet to use up the paper invoices are allowed to continue using until using up. By November 01, 2020, the enterprises must destroy the paper invoices which still have not been used up in order to apply the e-invoices.

⇒ Enterprises that run out of paper invoices before November 01, 2020 are no longer allowed printing of paper invoices, but must switch to use e-invoices.

Enterprises that have been established since November 01, 2018 must use e-invoices.

Benefits of applying e-invoices

1. Cost saving:

- * Printing invoices (only in case customers request to use paper invoices);
- * Issuing invoices to customers (via electronic means through portal, email);
- * Storing invoices (by electronic means with a negligible cost).

2. Easy for management:

- * Convenient for recognition, accounting and data collation;
- * Avoiding loss, damage of invoices;
- * Simplifying the tax finalization of the Company;
- * Convenient for inspection of the Taxation Administration Unit.

3. Convenient to use:

- * Quick release in a great volume;
- * Easy to store and archive;
- * Simplifying the management, count and search of invoices.

Paper invoices are allowed to be used in parallel with e-invoices until October 31, 2020

Official letter No. 3509/TCT-DNL dated September 04, 2019 of the General Department of Taxation refers to the guidance on the implementation of e-invoices.

As stipulated at Clause 2, Article 1 of Decree No. 04/2014/ND-CP, the enterprises are allowed to use different forms of invoices at the same time.

Decree No. 04/2014/ND-CP remains in force for application during the period from November 01, 2018 to October 31, 2020 (Clause 3, Article 35 of Decree No. 119/2018/ND-CP).

Accordingly, from now until October 31, 2020, the enterprises are still allowed to use the externally printed invoices (paper invoices) in parallel with the e-invoices.

Regarding the signature of the buyer, according to the Official letter No. 2402/BTC-TCT date February 23, 2016, if the goods for sale or purchase has full contracts, delivery vouchers, records of delivery, receipt of payment, etc., it is then not necessary to have the signature of the buyer upon preparing e-invoices.



Costs prior to establishment with invoices bearing the name of the person authorized to make the payment are still acceptable



Official letter No. 67819/CT-TTHT dated August 28, 2019 of the Taxation Department of Ha Noi City refers to the expenditures before the establishment of the company.

As prescribed at Clause 12.b, Article 14 of Circular No. 219/2013/TT-BTC, in case the company's founders authorized another entity or individual to pay on their behalf some amounts of expenditures prior to the establishment of the company, then after the establishment, the company is allowed to declare for deduction of input VAT according to the invoices bearing the name of such authorized entity or individual.

Accordingly, in case a foreign company authorized an individual to pay on its behalf the costs incurred before establishment of its subsidiary in Vietnam, of which input invoices bear the name of such foreign company or of the payer who is authorized to make the payment, the Subsidiary is still entitled for deduction and recognition relating to such invoices after the establishment.

For the cases where the foreign company will pay all the costs incurred before establishing the subsidiary and offset against the capital that must be contributed, if this offset method is specified in writing with the records of comparison after offset agreed by the two parties, it is still acceptable in accordance with the regulations at Clause 10, Article 1 of Circular No. 26/2015/TT-BTC.

How imported materials with wrong type code declaration is handled

Official letter No. 5246/TCHQ-GSQL dated August 16, 2019 of the General Department of Customs refers to wrong declaration of type code.

As stipulated at Clause 9, Article 1 of Circular No. 39/2018/TT-BTC, “type code” is the item that is not allowed additional declaration or amendment.

Accordingly, for the cases where the type code of materials and supplies imported for processing is accidentally wrong declared as for production to export by the enterprise, additional declaration for amendment or supplementation is not allowed.

For these cases, the customs authorities will carry out the post-clearance inspection with the enterprise to clarify the process of managing, monitoring and movement status of goods with wrong type code declaration.

If the inspection results prove that the goods is used for processing purpose right with the enterprise’s declaration, without taking advantage of wrong type code declaration to make tax fraud and evasion, fraudulent origin or violation of import and export policies, the enterprise’s wrong type code declarations will be accepted by the customs authorities.



Thank
you



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.”