

LEGAL UPDATES

JULY, 2012



I - Tax exemption and reduction in 2012

- On July 30, 2012, the Government issued Decree No. 60/2012/ND-CP detailing the implementation of Decree No 29/2012/QH13 promulgating a number of tax policies in order to resolve difficulties for organizations and individuals. Accordingly:

Regarding corporate income tax



- Reducing 30% of the corporate income tax amount payable in 2012 for the enterprises prescribed in Point 1, Article 1 of Decree No. 29/2012/QH13:

+ Medium and small enterprises, excluding medium and small enterprises doing lottery, real estate, securities, finance, banking, insurance business, producing goods, providing services subject to special consumption tax; first-class enterprises, special-class enterprises belonging to economic corporation and general companies. The medium and small enterprises eligible for tax reduction in accordance with the regulation are enterprises, including cooperative (excluding non-business unit) satisfying the criterion on capital or labor under Point 1, Article 3 of Decree No. 56/2009/ND-CP dated June 30, 2009 of the Government giving assistance to the development of medium and small enterprises.

+ Labor - intensive enterprises in the field of manufacture, production and processing: agricultural products, forestry products, aqua cultural product, textile and garment, leather and footwear, electronic components; labor - intensive enterprises in building construction of socio-economic infrastructure. Labor- Intensive enterprises belonging to subjects eligible for tax reduction in accordance with the regulation are those having total average number of regular employees in 2012 over 300 people, excluding employees with short-term labor contract less 03 months. In case the enterprises are organized under parent company– subsidiary model, the number of employees which is the basis to determine whether or not the parent company belongs to the subjects eligible for tax reduction excludes the number of subsidiary's employees; activities to manufacture, process and produce: agricultural products, forestry products, aqua cultural product, textile and garment, leather and footwear, electronic components prescribed in this Point are determined in accordance with system of Vietnamese economic branches issued with Decision No. 10/2007/QD-TTg dated January 23, 2007 of the Prime Minister;

Activities to build construction of socio-economic infrastructure in accordance with the regulation include execution, construction and installation: water plants, power plants, projects of electrical distribution and installation: water plants, power plants, projects of electrical distribution and transmission; water supply and drainage system; roads, railways; airports, seaport, river port, airport, railway station, bus station; a construction of schools, hospitals, culture house, cinema, an establishment of art performance, practice and competition in sports, system of solid waste and wastewater treatment; communication works, hydraulic works serving for agriculture, forestry and fishery.

And the amounts of corporate income tax eligible for reduction of the enterprises in accordance with this Decree are the amounts to be temporarily paid quarterly and 2012 tax finalization.

I - Tax exemption and reduction in 2012 (continued)

Regarding value-added tax, personal income tax and corporate income tax

- To exempt presumptive tax (value-added tax, personal income tax) and corporate income tax in 2012 for households, individuals and organizations in accordance with Point 2, Article 1 of Decree No. 29/2012/QH13 as follows:



+ To exempt presumptive tax (value-added tax, personal income tax) in 2012 for households, individuals leasing accommodation to workers, laborer, students, and pupils; for households, individuals providing child care services and for households, individuals providing shift meals for workers.

+ To exempt value -added tax and corporate income tax payable arising in 2012 for the enterprises' activities of providing shift meals for workers (excluding activities of providing shift meals for enterprises in transport, air and other business activities).

An object eligible for tax exemption in accordance with this Point must satisfy Point 4, Article 2 and Point 3, Article 3 of this Decree and pay value-added tax according by deductive method; must commit to retain the stability of price level for leasing accommodation, providing child care services and providing shift meals and ensure that level price is not higher than that in December, 2011.

Regarding personal income tax

To exempt personal income tax as from July 01, 2012 to the end of December 31, 2012 for individual who has assessable income from salary, wage and from business at the bracket 1 of the scale of progressive tax tariff prescribed in Article 22 of Law on Personal income tax. The assessable income which is the basis of determining tax exemption in accordance with this Point is individuals' monthly average assessable income actually received in 2012.

II - Sanction of a violation of invoices

The sanction of a violation of invoices under Point 2 and Point 3 of Official Letter No. 18036/BTC-TCT dated December 30, 2011 of the Ministry of Finance:

- On July 19, 2012 General Department of Taxation issued Official Letter No. 2560/TCT-CS sent to Provincial Tax Department of provinces, cities under central authority in response to some problem in guidelines of Official Letter No. 18036/BTC-TCT dated December 30, 2011 of the Ministry of Finance.

Under Point 2 and Point 3 of Official Letter No. 18036/BTC-TCT, in case organizations, individuals selling goods or providing services (except for entities that tax office grants invoices for them) hand in report on the performance of using invoices after 10 days from deadline, they will incur a minimum fine of penalty bracket prescribed in Point 3, Article 33, Decree No. 51/2010/ND-CP; in case the sellers issued an invoice and delivered it to customers within 10 days before sending a notice of issuing invoices to tax office in 2011, the sellers will incur a minimum fine of penalty bracket under Point 2, Article 32 of Decree No. 51/2010/ND-CP.

In case before Office Letter No. 18036/BTC-TCT dated December 31, 2011 of the Ministry of Finance was issued, tax office has already fined violation cases at a level higher than minimum sanction level of penalty bracket prescribed in Decree No. 51/2010/ND-CP then:

+ In case before Official Letter No. 18036/BTC-TCT dated December 30, 2011 of the Ministry of Finance was issued, tax office *has not issued a Decision on sanction* against organizations and individuals selling goods or providing services and having violation acts prescribed in Point 2 and Point 3 of Official Letter No. 18036/BTC-TCT dated December 30, 2011 of the Ministry of Finance, tax office will carry out sanction in accordance with the guidelines of Official Letter No. 18036/BTC-TCT dated December 30, 2011 of the Ministry of Finance.

+ In case before Official Letter No. 18036/BTC-TCT dated December 30, 2011 of the Ministry of Finance was issued, tax office has already issued a Decision on sanction against organizations and individuals selling goods or providing services and having violation acts prescribed in Point 2 and Point 3 of Official Letter No. 18036/BTC-TCT dated December 30, 2011 of the Ministry of Finance and they suggest re-handling, tax office will consider sanction in accordance with the guidelines of Official Letter No. 18036/BTC-TCT dated December 30, 2011 of the Ministry of Finance, Point 1 and Point 2, Article 28 of Circular No. 28/2011/TT-BTC dated February 28, 2011 of the Ministry of Finance.



III - Other issues



- On July 03, 2012 General Department of Taxation issued Official Letter No. 2353/TCT-CS guiding handling VAT refunded as an enterprise is dissolved. Accordingly, if input VAT of fixed assets, materials and goods used for production and trading is approved for tax refund by tax office and the enterprise is dissolved, handling VAT refunded is conducted as follows:

- + For fixed assets, tax office will carry out reimbursement for the amount of VAT which corresponds to fixed assets' carrying amount in accounting books until the time to dissolve.
- + For materials and goods in stock, tax office will carry out reimbursement for input VAT of total value of lot goods, materials in stock until the time to dissolve.

IV - Relevant legal documents

- Law on sanction of administrative violation No. 15/2012/QH13 which comes into effect as from July 01, 2013.
- Law on Anti-money laundering No. 07/2012/QH13 which comes into effect as from January 01, 2013.
- Circular No. 117/2012/TT-BTC guiding on practicing a service of tax procedure, coming into effect as from October 01, 2012 and substituting Circular No. 28/2008/TT-BTC dated April 03, 2008 of the Ministry of Finance.

Notes

"This newsletter is designed for the information of readers. Whilst every effort has been made to ensure the accuracy, information contained in this newsletter may not be comprehensive and recipients should not act upon it without seeking professional advice".
