



# MONTHLY LEGAL UPDATES

## APRIL, 2012

### 1- Value added tax (VAT)

On April 12, 2012, the Ministry of Finance issued Circular No. 58/2012/TT-BTC giving guidelines on implementing Decision No. 05/2012/QĐ-TTg dated January 19, 2012 of the Prime Minister regarding the pilot of VAT refund for goods purchased in Vietnam and brought as exiting entrance gate of Noi Bai and Tan Son Nhat International Airports. Accordingly, foreigners and Vietnamese settled in overseas country are eligible for VAT refund for goods meeting conditions regulated in Article 3 of Decision No. 05/2012/QĐ-TTg.

The foreigners' amount of VAT eligible for refund is worth 85% (eighty – five percent) of total amount of goods brought as exiting entrance gate of Noi Bai or Tan Son Nhat International Airports by the foreigners meeting conditions to be eligible for VAT refund.

The currency eligible for VAT refund is Vietnamese Dong. In case there is a suggestion from the foreigners that the VAT refund amount must be converted from Vietnamese Dong into free foreign currency exchange, the commercial bank will sell foreign currency to the foreigners as regulated by Law, according to the exchange rate quoted at the time of conversion by the commercial bank and in conformity with the regulations of the State Bank of Vietnam.

The Circular also specified conditions and procedures for choosing enterprises selling pilot products as well as the commercial banks acting as pilot agencies of VAT refund in Article 11 and Article 13.

### 2– Invoices, vouchers

On April 03, 2012, the Ministry of Finance issued Official Letter No. 4355/BTC-TCT given to Taxation Department of provinces and cities directly under the Central Government in respect of the currency stated in VAT invoices. Especially, this Official Letter drew attention to:

***Before the date when this Official Letter was issued, in case an enterprise had purchased goods, services; paid in Vietnamese Dong and received invoices from suppliers stated in foreign currency and specified exchange rate into Vietnamese according to average transaction rate in inter-bank foreign currency market announced by the State Bank of Vietnam at the date when invoices prepared; it will be examined by Taxation Department and in case the invoices prepared attached to goods traded and services supplied in practice and the enterprise selling goods and supplying services had been declared and paid VAT as regulated and met conditions of VAT refund as regulated, the enterprise purchasing goods, services will be eligible for VAT refund and as determining corporate income tax, the amount of tax will be deductible. In case an enterprise which is not allowed to sell goods and get foreign currency but it prepared VAT invoices and gave them to customers stated in foreign currency and specified exchange rate into Vietnamese according to average transaction rate in inter-bank foreign currency market announced by the State Bank of Vietnam at the date when invoices prepared and it received payment from customers in Vietnamese Dong, the enterprise preparing invoices will be fined under the regulations of the prevailing law on foreign exchange management.***

#### Notes

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