LEGAL UPDATES

2018 – 03

U&I AUDIT
CPA & Business Advisors

Increasing the maximum penalties in the field of accounting and auditing up to 100 million dongs

Decree No. **41/2018/ND-CP** dated March 12, 2018 of the Government provided the regulations on the penalty of the administrative violations in the field of accounting and independent auditing.

Compared with the old regulation, this Decree has already adjusted to **increase the maximum penalty** in the field of accounting and auditing **from 30 million to 50 million VND** (for individuals) and **from 60 million to 100 million VND** (for the organizations).

For specific penalties, the Decree has adjusted to increase the penalty **for acts misapplied the provisions of letters, numbers, currency and accounting period from the frame of 5 - 10 million VND to the frame of 10 - 20 million VND**; **fake financial statements from the frame of 20 - 30 million VND to the frame of 40 - 50 million VND.**

In addition, the Decree has also supplemented the penalty regulations on other acts, such as:

- Applying the wrong accounting system **from 10 to 20 million VND**;
- Signing the accounting vouchers with red ink, fade color ink, signing accounting vouchers by the available engraved signature stamp, payment vouchers without signing in each sheet **from 3 to 5 million VND**.
- No translation of accounting vouchers from foreign languages into Vietnamese as prescribed **from 5 to 10 million VND**.
- Preparing the financial statements with the incorrect **from from 5 to 10 million VND**.

The Decree takes effect from May 01, 2018 and replaces the Decree No. 105/2013/ND-CP dated September 16, 2013.

HIGHLIGHTS

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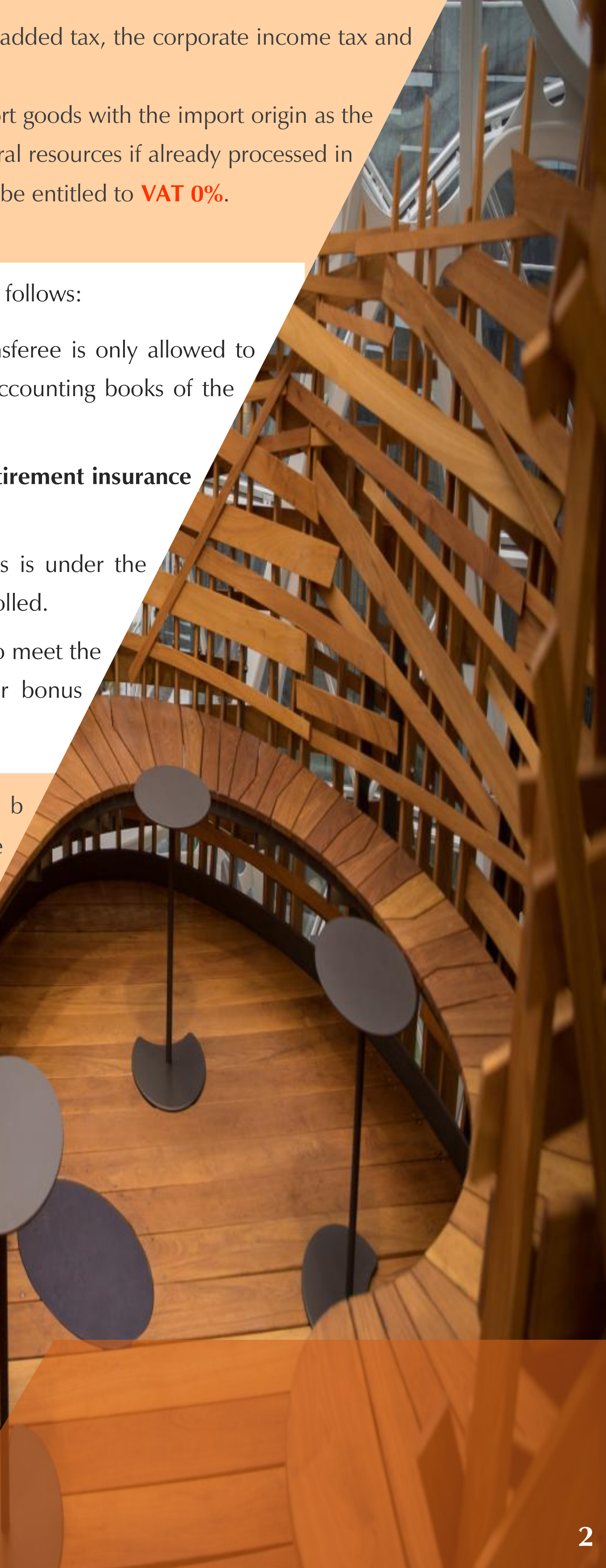
Amending many policies on the value added tax (VAT), the corporate income tax (CIT) and the personal income tax (PIT)

Circular No. 25/2018/TT-BTC (Circular No. 25) dated March 16, 2018 of the Ministry of Finance provided the guideline on Decree No. 146/2017/ND-CP dated December 25, 2017 of the Government and amended and supplemented some articles of Circular No. số 78/2014/TT-BTC dated June 18, 2014 of the Ministry of Finance, Circular No. 111/2013/TT-BTC dated August 15, 2013 of the Ministry of Finance.

Circular No. 25 has amended and supplemented some policies related to the value added tax, the corporate income tax and the personal income tax.

Accordingly, **regarding on VAT**, the enterprise is allowed to refund the VAT of export goods with the import origin as the refund policy is recovered. In addition, if export goods manufactured from the mineral resources if already processed in other products or processed under the closed process, then these export goods shall be entitled to **VAT 0%**.



Regarding on CIT, there are some amendment on some important regulations as follows:

- For **fixed assets transferred under the transfer contract of equity**, the transferee is only allowed to make depreciation on the carrying amount of the fixed assets based on the accounting books of the transferor.
- Increasing the accounting limit of **the expense for purchasing the voluntary retirement insurance** for the employee from 1 to 3 million VND/person/month.
- However, **the expense for purchasing the life insurance** for the employees is under the control at the limit no more than 3 million/person, instead of previously uncontrolled.
- The expense for purchasing the life insurance for the employee does not need to meet the conditions of stipulating in the labor contract, collective labor agreement or bonus regulation and financial regulation.

Regarding on PIT, Circular No. 25 has amended and supplemented Point b Clause 4 Article 2 of Circular No. 111/2013/TT-BTC dated August 15, 2013 of the Ministry of Finance as follows:

"b. **Incomes from securities transfer**, including: incomes from transferring shares, call options on shares, bonds, treasury bills, fund certificates, and other securities in accordance with the regulation at Clause 1 Article 6 of the Law on Securities; incomes from transferring shares of the persons in the joint-stock company in accordance with the regulation at Clause 2 Article 6 of the Law on Securities and Article 120 of the Law on Enterprise."

The Circular takes effect from May 01, 2018.

For those cases incurred from February 01, 2018, then they are subject to the adjustments at Decree No. 146/2017/ND-CP and shall implement in accordance with the regulation at Decree No. 146/2017/ND-CP and the guidelines at Article 1, Article 2, Clause 2, 3, 4 Article 3 of this Circular.

The enterprises those are likely to be inspected in the year 2018.

Official letter No. 5339/TCT-TTr dated November 20, 2017 of the General Department of Taxation provided the preparation of the inspection plans for the year 2018. Accordingly, regarding on the tax inspection plans, the General Department of Taxation requires **the number of tax inspections at the headquarter of the enterprise of each tax department** must achieve a minimum of **18.5%** with unlimited maximum.

In which, the tax inspection shall be specially focused on **the following enterprises**:

- Having the business industries with great receiving such as: Oil and Gas; Petroleum; Hospital; Aviation; Bank; Pharmaceutical products; Tourism, hotel, restaurant, casino, lottery; and so on;
- The foreign corporations in Vietnam and the Corporations have big revenue and payment to the state budget;
- The enterprises incur the transfer of capital, brand and project;
- The enterprises have the related transactions with large proportion, results of business operations with loss for many years or lower than other enterprises with the same industry and field;
- Inspection on VAT refund with regard to those enterprises having the high-risk of invoices, a large tax refund, incurring extraordinary tax refund;
- The enterprises that are not inspected for many years, particularly large enterprises, enterprises that are not inspected from 5 years, enterprises enjoying tax incentives of tax exemption and deduction.

Implementation of online report about the investment situation of the projects with foreign direct investment capital (FDI)

Official letter No. 9459/BKHDT-DTNN dated November 15, 2017 of the Ministry of Planning and Investment provided the guidelines on the issuance of accounts to report online on FDI.

Regarding to the issue of reporting FDI, the Letter requires the People's Committees of Provinces to urgently issue accounts for the whole of local FDI projects and urge enterprises to report online on the national information system on the investment in accordance with the provisions at Decree No. 118/2015/ND-CP.

For the case that the enterprise does not perform online reporting under the regulations, then the People's Committee shall conduct prompt and sanction as prescribed at **Decree No. 50/2016/ND-CP**, simultaneously report to the Ministry of Planning and Investment to coordinating management.

As prescribed at Article 53 **Decree No. 118/2015/ND-CP**, the enterprise performing FDI must make online reporting on investment through the national information system as follows:

1. Reporting monthly on the implementation of investment capital: in the case of the investment project incurring the investment capital in the month, then the economic organization shall report within 12 days from the ending date of the reporting month.
2. The quarterly report must be made by the 12th of the first month of the following quarter including contents: the made investment, net sales, export, import, labor, Taxes and amounts payable to State budget, the use situation of land and water surface.
3. The yearly report shall be made by March 31 of the following year including the indicators of the quarterly report's and the indicator on profits, labor income, expenses and investment for scientific research and technological development, processing and protecting the environment, the source of the used technology.