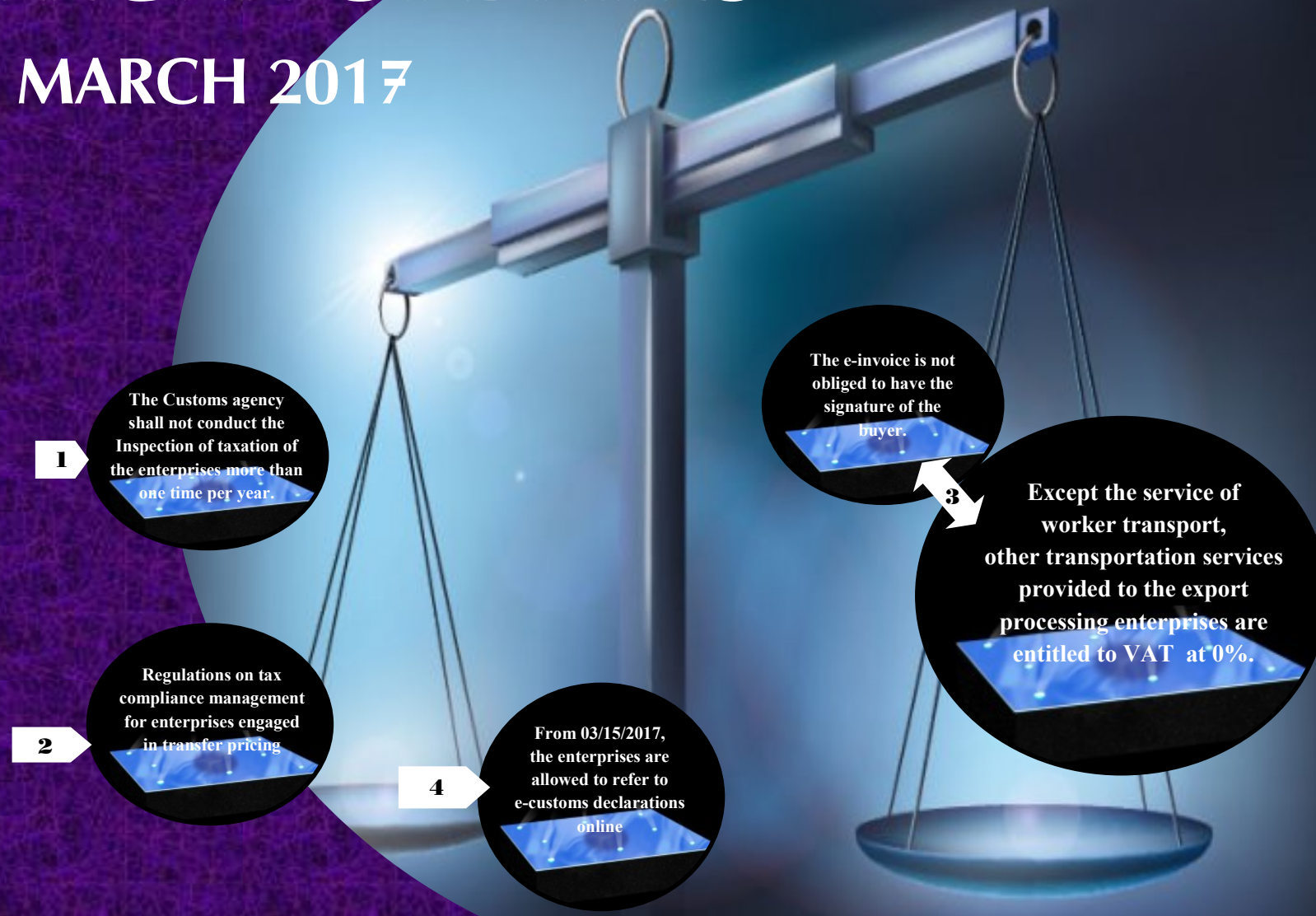


LEGAL UPDATES

MARCH 2017



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The Customs agency shall not conduct the Inspection of taxation of the enterprises more than one time per year.

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From 03/15/2017, the enterprises are allowed to refer to e-customs declarations online

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The e-invoice is not obliged to have the signature of the buyer.

Except the service of worker transport, other transportation services provided to the export processing enterprises are entitled to VAT at 0%.



The Customs agency shall not conduct the inspection of taxation of the enterprises more than one time per year.



Official Letter No. 1597/TCHQ-TTr dated March 14, 2017 of the General Department of Customs provides guidelines on inspection, examination of finance and taxation of the enterprises.

The official letter notices the provincial customs department on some matters in the arrangement of inspection and examination of finance and taxation of the enterprises.

Accordingly, the customs inspection plan must ensure that it does not overlap with the financial inspection and examination plan of the Ministry of Finance, the Government Inspectorate, the State Audit, the specialized inspection plan of the General Department which was approved by the Minister of Finance.

The inspection and examination of finance and taxation of the enterprises shall not exceed one time per year, ensuring that they are not overlapped and must be notified in advance to the enterprises.

Forms of irregular inspections at the enterprises shall be conducted only when detecting signs of law violation or at the request of the settlement of complaints, denunciations and prevention or combatting of corruption at the request of the superior managing agencies, the inspection unit, the audit unit, the investigation unit.

No re-inspection or re-examination shall be conducted when there are no bases as prescribed by law or there are matters but have been settled or concluded before by the competent agencies.



Regulations on tax compliance management for enterprises engaged in transfer pricing



The Government has promulgated the Decree No. 20/2017/NĐ-CP dated February 24, 2017 dealing with principles, methods, processes and procedures for determining prices of related-party transactions; obligations of a taxpayer in declaration and determination of the price of a related-party transaction, and tax declaration and payment; responsibilities of regulatory authorities for tax compliance management, check and audit for a taxpayer engaged in the transfer pricing.

As stipulated at Decree No. 20/2017/NĐ-CP, the taxpayers engaged in transfer pricing must make declaration of their related-party transactions; eliminate factors causing reduction in tax obligations that are controlled or affected by related-party relationships in order to define tax obligations imposed on related-party transactions which are comparable to independent transactions having the same requirements.

The tax authorities should manage, check and inspect the prices of related-party transactions performed by the taxpayers according to the arm's-length and substance-over-form principles in order to refuse to recognize related-party transactions reducing tax obligations of enterprises to the state budget and make adjustment to the prices of related-party transactions so as to correctly define tax obligations as prescribed by this Decree.

Also as prescribed at this Decree, related parties are parties having relationship under the following cases: a party participates directly or indirectly in the management, control or equity of the other, or puts investment in the other; parties participate directly or indirectly in the common management, control, or the capital of or put investment in, other parties.

For example, an enterprise participates directly or indirectly in at least 25% of equity of the other enterprise, or both enterprises own at least 25% of equity in which a third party participates directly or indirectly, etc. are considered related parties.

The taxpayers engaged in the transfer pricing as covered by this Decree shall be held responsible for declaring and determining transfer prices, and shall not be exempted from taking on obligations to pay corporate income tax within the territory of Vietnam in accordance with this Decree. The taxpayers shall assume responsibility for demonstrating their compliance with this Decree in selection of a pricing method at the request of regulatory authorities.

Even if necessary, the taxpayers shall be responsible for retaining and providing the transfer pricing documentation package which includes the country-by-country report of an ultimate parent company.

The Decree will come into effect as from the 1st of May 2017 onwards.



Tax inspection



Related-party transactions



E-invoice



Tax rate



E-declarations

0%



Except the service of worker transport, other transportation services provided to the export processing enterprises are entitled to VAT at 0%.



The e-invoice is not obliged to have the signature of the buyer.

This is one of the contents of responses to issues on the application of electronic invoices (e-invoices) as stated in Official Letter No.820/TCT-DNL by the General Department of Taxation.

Accordingly, the buyer is not an accounting firm or being an accounting firm but has documentations proving the provision of goods and services between the seller and the buyer, the seller then still sets up the e-invoice for the buyer on which it is not obliged to have the signature of the buyer.

Documents, vouchers evidencing the relationship of purchase and sale include: Economic contracts, ex-warehousing bills, goods, delivery receipts, payment receipts, receipt vouchers and other relevant documents.

In addition, the General Department of Taxation also guides some of other provisions in the application of the e-invoice as follows:

- ◇ Conditions for initiating the e-invoice for the sale of goods and provision of services;
- ◇ Criteria of the signature and the seal of the seller on the e-invoice converted to paper form;
- ◇ Setting up and display of the e-invoice containing the number of rows longer more than one page.



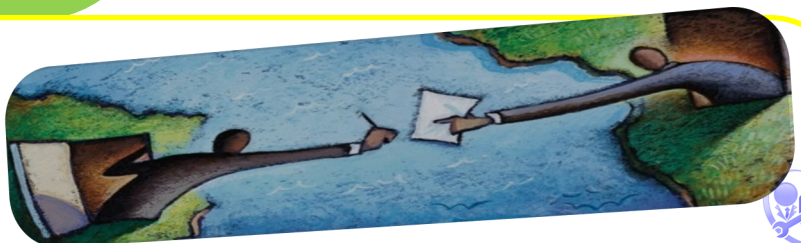
That is the content of Official Letter No. 610 / BTC-CST dated January 16, 2017 of the Ministry of Finance on the VAT on transportation activities for export processing enterprises (EPEs).

At Clause 3, Article 9 of Circular No. 219/2013/TT-BTC, in respect of transportation services for EPEs, only the service of worker transport is not entitled to a VAT rate of 0% by this provision.



Accordingly,

other transportation services provided to EPEs will still be entitled to VAT at 0% (if the conditions on dossiers and procedures specified at Point b, Clause 2 of Article 9 are met).



Excerpt from Point b, Clause 2, Article 9 of Circular No. 219/2013/TT-BTC:

- Having service provision contracts signed with organizations, individuals overseas or organizations, individuals in non-tariff zones;
- Having receipts of payment for exported services through banks and other documents as prescribed by laws;"

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From the 15th of March 2017, the enterprises are allowed to refer to e-customs declarations online



INTERNET

That is the content of Official Letter No. 1606/TCHQ- CNTT dated March 14, 2017 of the General Department of Customs on the implementation of Decision No. 33/2016/QĐ-TTg.

The official letter notifies that the General Department of Customs has completed the set-up of the e-customs declaration portal which was officially put under operation from the 15th of March 2017 .

Apart from the state agencies, the credit institutions and the C/O issuers who are allowed to use this Portal to inspect the e-customs declarations as a basis for settling tax procedures, granting the C/O, paying through the bank, other administrative procedures, the enterprises are also allowed to access this portal to refer to their declarations.

The enterprises can choose the following methods:

Directly look up the declarations by visiting <https://www.customs.gov.vn>, using the function "Customs declaration lookup".

Indirectly look up the declarations by subscribing to receive messages from the General Department of Customs (from the telephone number **08 69600633**). Address for registration is at <http://tkhqdt.customs.gov.vn> .

In case of any support needed, the enterprises can directly contact the provincial customs department where the procedures are carried out or by hotline of the General Department of Customs or via email at bophanhotrotchq@customs.gov.vn.

While waiting for the ministries, branches and related agencies to officially connect to the Portal, the requests of signing and affixing the customs declarations of enterprises shall still be accepted for normal settlement.

T E N D



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"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".

