

LEGAL UPDATES

SEPTEMBER, 2012



I - Tax law

Law on Environmental Protection Tax

- On September 14, 2012, the Government promulgated Decree No. 69/2012/ND-CP, amending and supplementing Clause 3 Article 2 of the Government's Decree No. 67/2012/ND-CP dated August 08, 2011, detailing and guiding the implementation of a number of articles in the Law on Environmental Protection Tax. Specifically as follows:



*"3. The taxable nylon bags (plastic bags) specified in Clause 4 Article 3 of the Law on Environment protection tax are the thin bags and packages in form of bags (with an opening, base, body, and able to contain products) made of high density polyethylene resin (HDPE), low density polyethylene (LDPE), or linear low density polyethylene resin (LLDPE), **except for prepackages of goods and nylon bags satisfying the eco-friendly criteria as prescribed by the Ministry of Natural Resources and Environment.***

Prepackages of goods prescribed in this Clause (whether or not the form of bags), including:

- a) Prepackages of imported goods;*
- b) Packages self-produced or imported by organizations, households, individuals to pack the products which these organizations, households, individuals produce, process, or purchase products to pack, or provide packaging services;*
- c) Packages purchased directly by organizations, households, individuals from the producers or importers to pack the products which these organizations, households, individuals produce, process, or purchase products to pack, or provide packaging services."*

In Decree No. 67/2011/ND-CP has not prescribed in details for the types of these prepackages.

Exempting and reducing non-agriculture land use tax

- Related to exempt and reduce non-agriculture land use tax for subjects *“Residential land in the area limit with difficult socio-economic conditions”*., the Ministry of Finance promulgated Official Letter No. 11850/BTC-TCT dated September 04, 2012, sent to Tax Departments of provinces and cities directly under Central on this issue. Accordingly, as from January 01, 2012, the determination of areas with difficult socio-economic conditions, areas with particularly difficult socio-economic conditions to implement the exemption and reduction the non-agriculture land use tax as prescribed in Clause 4 Article 9 and Clause 2 Article 10 of Law on non-agriculture land use tax, implemented under **Decree No. 108/2006/ND-CP of the Government dated September 22, 2006 and amending, supplementing documents (if any).**

Value-Added Tax

- On September 26, 2012, Official Letter No. 1551/TTg-KTTH promulgated by the Deputy Prime Minister Vu Van Ninh regarding value-added tax to loans for organizations, individuals of non-credit institutions. The Official Letter presented: *“Pursuant to the provisions in Clause 5 Article 8 of Law on Value-Added Tax; Point a Clause 5 Article 1 of Decree No. 121/ND-CP of the Government dated December 27, 2011 then bank credit activities allowed existing by law (including: Law on credit Institutions, Law on the State bank of Vietnam, Civil Code) or activities with credit and banks nature not prohibited by law are not subject to value-added tax ...”*.The Ministry of Finance will guide particularly implementation of this issue.

Personal Income Tax

- ◆ Related to tax refund dossiers of personal income tax in 2011, on August 27, 2012, General Department of Taxation promulgated the Official Letter No. 3053/TCT-TNCN, guiding this issue. Pursuant to the provisions of the law in:
 - + Article 8 Circular No. 02/2010/TT-BTC dated January 11, 2010 of the Ministry of Finance guiding and supplementing Circular No. 84/2008/TT-BTC: *“In case individuals who are eligible for personal income tax refund but submit their tax finalization declarations late are not liable to pay a fine for the administrative violation of making late tax finalization declaration”*.
 - + Point 1.2.7 Item II Paragraph D of Circular No. 84/2008/TT-BTC dated September 30, 2008 of the Ministry of Finance guiding the implementation of a number of articles of personal income tax law and guiding the implementation of Decree No. 100/2008/ND-CP dated September 08, 2008 of the Government detailing a number of articles of personal income tax law: *“Organizations and individuals that pay incomes from which tax has been withheld under the above guidance shall issue tax withholding vouchers at the request of individuals from whom tax is withheld”*.
- General Department of Taxation guides: certificate of personal income tax withholding of year 2011 granted after March 31, 2012 are eligible for using in personal income tax refund and finalization dossiers; And personal income tax refund dossiers of year 2011 submitted after March 31, 2012 satisfying tax refund conditions under law are eligible for personal income tax refund.
- ◆ Perceiving reflections of a number of enterprises regarding inconsistent performance in personal income tax calculation for the amount employees get from social insurance fund according to maternity regime, General Department of Taxation has opinion as follows: *“The mount employees get from social insurance fund according to maternity regime is deductible upon determining taxable income of personal income tax.”*. Please make reference to Official Letter No. 3367/TCT-TNCN dated September 24, 2012 of General Department of Taxation.

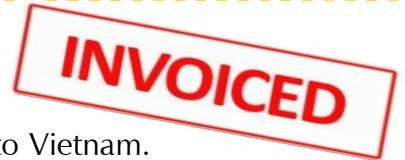
I - Tax law (continued)

Import duty tax

- On September 11, 2012, the Ministry of Finance promulgated No. 148/2012/TT-BTC amended preferential import duty taxes for some items belonging to Group 2710 (Group petroleum oil and oil from bituminous mineral, except for crude oil; unspecified preparations or preparations specified at other places that 70% and above thereof is petroleum oil or oil from bituminous mineral. These kinds of oil are primary composition of such preparations; waste oil.) *provided in preferential import duty tariffs mentioned in Circular No. 109/2012/TT-BTC dated July 03, 2012 of the Ministry of Finance. The preferential tax rate is provided in list attached with the Circular. This Circular takes into effect from September 12, 2012 and replaces Circular No. 109/2012/TT-BTC dated July 03, 2012 of the Ministry of Finance.*

II - Use of invoices

On September 05, 2012, Provincial Tax Department of Ho Chi Minh City promulgated No. 6655/CT-TTHT guiding the issue of invoices in case goods are purchased and sold outside of Vietnam, not imported into Vietnam.



Accordingly, in case enterprises enter into sale contract with their clients in Vietnam but delivery of goods is conducted in foreign country by third parties who are suppliers of goods in foreign country, then sale activities of goods, services belong to case which goods and services are provided outside of Vietnam, the enterprises do not declare and pay value added tax. Upon forming **value added invoices**, line of tax rate is not marked with cross but detailed with goods purchased and sold in foreign country; And goods are purchased and sold outside of Vietnam, not imported into Vietnam so the enterprises must not open customs declarations of imported goods.

III - Relevant legal documents



- Circular 130/2012/TT-BTC dated August 10, 2012 of the Ministry of Finance guiding the repurchase of shares, the sale of treasury shares, and the additional shares issuance of public companies.

- Circular No. 28/2012/TT-BCT dated September 27, 2012 of the Ministry of Industry and Trade detailing the right of export and import of foreign businessmen not presenting in Vietnam.

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 comprehensive and recipients should not act upon it without seeking professional advice".