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NEWLY ISSUED LEGAL DOCUMENTS

1. Amending and supplementing a number of articles of the Law on Tax Administration

On 30 October 2022, the Government issued Decree 91/2022/ND-CP (“**Decree 91/2022**”) amending and supplementing a number of articles of Decree 126/2020/ND-CP (“**Decree 126/2020**”) detailing a number of articles of the Law on Tax Administration, with many notable amendments and additions:

1.1 E-commerce platforms do not have to declare and pay taxes on behalf of sellers

According to Article 1.7 of Decree 91/2022, the owner of e-commerce platforms will not have to declare and pay taxes on behalf of sellers. However, the owner of e-commerce platforms is responsible for providing complete and accurate information of sellers on the platforms to the tax management agency in a timely manner. The information to be provided must include:

- (i) Name of the seller;
- (ii) Tax identification number or personal identification number or identity card or citizen identity card or passport, address, contact phone number; and
- (iii) Sales revenue generated through the ordering function of the platform.

1.2 Enterprises are allowed to temporarily pay 80% of corporate income taxes for 4 quarters

Previously, Decree 126/2020 required enterprises to temporarily pay 75% of the total corporate income tax in the first 3 quarters of the year. Currently, Decree 91/2022 stipulates that the total amount of corporate income taxes (*including*

foreign carriers) temporarily paid for 4 quarters must not be less than 80% of the payable corporate income tax amount according to the annual tax finalisation. In case taxpayers pay less than the amount of tax payable for 4 quarters, they must pay late payment interest calculated on the underpaid tax amount from the day following the last day of the time limit for temporarily paying corporate income tax of the fourth quarter to the day immediately preceding the date of paying the outstanding tax amount into the state budget.

1.3 If personal income taxes are not incurred, then it is not required to submit tax declaration documents

According to Article 1.2 of Decree 91/2022, if personal income tax declarants are organisations or individuals that pay income and personal income tax declarations are made monthly or quarterly, but in that period of time, there is no deduction of personal income tax, then taxpayers are not required to submit tax declaration documents.

1.4 Post-tax profits of a state-owned enterprise must not be less than 80% of the post-tax profit balance after appropriations are made for all funds

Article 1.4 of Decree 91/2022 stipulates that for enterprises in which 100%

charter capital is held by the State, the total after-tax profit after setting aside temporarily paid funds of 4 quarters must not be low more than 80% of the after-tax profit balance after setting aside funds according to the annual finalisation. In case taxpayers pay less than the amount that must be temporarily paid for 4 quarters, they must pay a late payment interest calculated on the underpaid amount from the day following the last day of the time limit for temporarily paying the after-tax profit balance after setting aside funds for the fourth quarter to the day immediately preceding the date of paying the after-tax profit balance after making appropriations for the funds and payment to the state budget.

1.5 Pushing back the time of declaration and payment of tax on behalf of individuals receiving dividends and bonuses in form of securities

According to Article 1.8 of Decree 91/2022, enterprises are allowed to

declare and pay taxes on behalf of individuals who receive dividends or bonuses in form of securities from 01 January 2023, instead of 05 December 2020 as stipulated in Article 42.1 of Decree 126/2020.

In case an individual receives a dividend in form of securities, or an individual being a shareholder who receives a bonus in form of securities and this is recorded in the investor's securities account from 31/12/2022 backward and taxes have not yet been declared or paid, such individual will declare and pay personal income taxes as stipulated by the law on personal income tax and they will not be sanctioned administratively for late submission of tax declaration documents, and late payment interest (if any) will not be charged from 05 December 2020 to the end of 31 December 2022.

Decree 91/2022 will take effect from the date of signing, i.e. 30 October 2022.

2. Guidance on tax obligations when enterprises set up and use the Fund for Science and Technology Development

On 07 November 2022, the Ministry of Finance issued Circular 67/2022/TT-BTC ("Circular 67/2022") providing guidance on tax obligations when enterprises set up and use the Fund for Science and Technology Development (the "Fund"), with some noteworthy novelties as follows:

2.1 Enterprises are allowed to decide whether to use the maximum rate of deduction of 10% of the taxable income in order to create the Fund

According to Article 2 of Circular 67/2022, every year, enterprises are entitled to deduct a percentage (%) of the income which is used for calculating

corporate income tax (CIT) to create the fund, specifically:

- *For state-owned enterprises:* make an appropriation of 3% to 10% of the taxable income in the tax period. The specific appropriation rate is dependent on the enterprise's ability and the need to spend on

scientific and technological (S&T) activities.

- *For non-state enterprises:* they can decide their own rates of appropriation, but not more than 10% of the taxable income in the tax period.

The appropriated amount is determined for each CIT calculation period and is deducted from the taxable income when determining the CIT payable in the tax period.

2.2 Enterprises are allowed to use the Fund to purchase machinery and equipment

In principle, the Fund can only be used for the enterprise's S&T research. However, according to Article 5.1.c of Circular 67/2022, enterprises can use the Fund to purchase machinery and equipment for technological innovation, directly serving their production and business activities for 2 years (in 2022 and 2023.)

2.3 Tax obligations when enterprises do not use or use less than 70% of the annual fund

According to Article 4.2 of Circular 67/2022, within 5 years of setting aside the Fund, if the enterprise does not use or uses less than 70% of the annual fund, the enterprise must pay to the State budget the part of CIT calculated on the appropriated income which is unused or not used up 70%, and must pay interest accrued from that CIT amount. In which, the interest rate for calculating interest on the recovered CIT amount in respect of the unused portion of the Fund is the one-year term treasury bond

interest rate applied at the time of collection and the interest calculation period is two years.

In case the enterprise receives the fund transfer, the period of 5 years in respect of the Fund transfer amount starts from the CIT calculation period in which the Fund transfer is received.

2.4 Fixed assets may be used simultaneously for S&T research and production and business activities of the enterprise

According to Article 5.4 of Circular 67/2022, in case the fixed assets that have been purchased using the Fund and have not been fully depreciated and used simultaneously for both S&T research and production and business activities, enterprises only need to continue monitoring and managing those assets according to regulations and do not have to calculate depreciation of fixed assets into deductible expenses when determining the income for CIT calculation.

2.5 Determining CIT when enterprises set apart the Fund during the incentive period and receives the Fund transfer from another enterprise

According to Article 4.4.b of Circular 67/2022, in case an enterprise makes appropriations for the Fund while enjoying CIT incentives and receives the Fund transfer from another enterprise (the transferring enterprise), if the enterprise uses it for improper purposes or fails to use or does not use up 70% of the Fund transferred, the recovered CIT amount will be determined as follows:

- For the appropriated amount for setting up the Fund at the enterprise, the recovered CIT amount is determined according to the CIT incentives at the time of setting up the Fund.
- For the amount received by the transfer from enterprise to enterprise, the recovered CIT amount is determined at the time of receiving the fund transfer, specifically:
 - In case the transferring enterprise is not entitled to CIT incentives, the recovered CIT amount will be determined at the non-incentive CIT rate.
 - In case the transferring enterprise is enjoying CIT incentives, the recovered CIT amount is determined according to the incentive CIT rate of the transferring enterprise at the time of transfer.

The transferred amount that is determined as used for improper purposes, unused or not using up 70% is allocated according to the ratio between the transferred amount and the Fund in the tax period (including the amount of the appropriated Fund and the transferred amount.)

Circular 67/2022 takes effect from 23 December 2022 and applies to the tax obligations from the corporate income tax period of 2022.

3. Amendment of regulations on granting special loans to credit institutions placed under special control

On 28 October 2022, the State Bank of Vietnam issued Circular 13/2022/TT-NHNN (“Circular 13/2022”) amending and supplementing a number of articles of Circular 08/2021/TT-NHNN (“Circular 08/2021”) on granting special loans to credit institutions placed under special control

3.1 Borrowers may use other assets as securities for special loans

According to Article 1 of Circular 13/2022, in case the borrower has used up all the securities for the special loan, the borrower can use other assets including (i) mortgaging the right to claim debts arising from the credit facilities the borrower has provided to customers and (ii) mortgaging the property rights which is the interest arising from the borrower's credit extension to customers (*except credit institutions*) as securities for borrowing

special loans, or extending special loans not yet fully repaid.

3.2 Abolishing the provision on the mortgage of the right to claim debts arising from the borrower's loans

Compared with Circular 08/2021, Circular 13/2022 has removed the case where the borrower must use securities for a special loan, which is *mortgaging the right to claim debts arising from the borrower's loans to its customers (except credit institutions)*.

3.3 Reducing security conversion rate for special loans

According to Circular 13/2022, for the value of security in case of (i) pledging bonds issued by commercial banks in which the State holds more than 50% of charter capital (except for commercial banks that have been acquired compulsorily); (ii) Pledging bonds issued by a credit institution that is not under special control (except for commercial banks specified in point (i) and other enterprises; and (iii) the borrower using up all securities and using other assets as securities for special loans and special loan extensions, the conversion rate of security is 120% (according to Circular 08/2021, the rate is 170 % for cases (i) and (ii))

3.4 Borrower's responsibilities during the special loan period

Article 1 of Circular 13/2022 amending and supplementing the borrower's responsibilities during the special loan period as follows:

- Preserve and keep in separate locations those credit files that give rise to the right to claim debts, the interest receivable being used as security for a special loan.
- Not use the properties being pledged or mortgaged for a special loan for other purposes.
- Monitor and evaluate the conditions of securities for special loans; add or replace the securities as required by law.
- Report to the Special Supervisory Board the case where the securities do not meet the prescribed conditions or when the security for a special loan has been used up.
- Report to the Special Supervisory Board on the amount recovered from the debts and from the interest used as a security for the special loan within 3 working days of the debt recovery.

Circular 13/2022 takes effect from the date of signing, i.e. 28 October 2022.

1. Value-added tax declaration for real estate transfer activities outside the province

In case the Company conducts real estate transfer activities of infrastructure investment projects, houses for transfer in another province than the locality where its head office is located, the Company will submit a declaration form 05/GTGT to separately declare value-added taxes of the project or each project (if the company has many different housing projects in the province or city) to the tax authority of the locality where the real estate transfer is carried out as prescribed in Article 11.1.b of Decree 126/2020/ND-CP.

For normal production and business activities at the head office, the Company declares according to form 01/GTGT, excluding the transfer of real estate outside the province.

Ha Noi City Tax Department replies to the question of Song Hong Land Investment Joint Stock Company in Official Letter No. 53403/CTHN-TTHT dated 04/11/2022.

2. Interest expenses to be deductible upon calculating corporate income taxes

In case the Company gains any loan from the Bank to serve production and business activities, the cost of paying interest on the loan will be included in the deductible expenses upon determining taxable income if the Company meets the conditions as prescribed in Article 4.1 of Circular 96/2015/TT-BTC.

In case the Company is subject to application by Decree 132/2020/ND-CP and there is a related party transaction, the total interest expenses (after deducting deposit interest and loan interest) incurred in the period of the Company are entitled to be deducted upon calculating taxable income if it fully meets the conditions as prescribed in Article 4.1 of Circular 96/2015/TT-BTC as well as the condition for failure to exceed the limit of deductible interest expenses as prescribed in Article 16.3 of Decree 132/2020/ND-CP.

Ha Noi City Tax Department replies to the question of Duoc Khoa Pharma Joint Stock Company in Official Letter No. 51206/CTHN-TTHT dated 24/10/2022.

3. Guidance on personal income tax declaration and finalization

Organisations paying income, upon carrying out procedures for declaration and finalization of personal income tax under authorization by employees must have in full their personal tax identification numbers. In case the income pay organisation only declares according to the employee's identity card number, they will guide employees to carry out the tax registration procedures as prescribed in Circular 105/2020/TT-BTC and such said organisations will make additional declaration for personal income tax declaration dossiers according to Article 47 of the Law on Tax Administration No. 38/2019/QH14.

Ha Noi City Tax Department replies to the question of Molex Vietnam Co., Ltd. in Official Letter No. 50820/CTHN-TTHT dated 20/10/2022.

4. Tax policy upon receiving sponsorship from overseas companies

In case the Company receives the proceeds from the sponsorship as prescribed in Article 5.1 of Circular 219/2013/TT-BTC, it is not required to declare, calculate and pay taxes and make payment receipts as prescribed.

In case a business establishment receives sponsorship money from an organisation or individual to perform services for that organisation or individual such as repair, warranty, promotion, or advertisement, it must declare and pay taxes as prescribed.

The sponsorship the Company receives from its overseas partner company, if it is not eligible for tax-exempted income as prescribed in Article 8.7 of Circular 78/2014/TT-BTC, will be determined as other income as prescribed in Article 7.15 of Circular 78/2014/TT-BTC. Taxable income in a tax period includes income from production and trading of goods and services and other incomes.

Ha Noi City Tax Department replies to the question of Diossoft Co., Ltd. in Official Letter No. 50626/CTHN-TTHT dated 19/10/2022.



1. Private enterprises are not required to establish a People’s Inspection Committee

On 10 November 2022, the National Assembly passed the Law on Implementation of Grassroots Democracy. Accordingly, the Law stipulates the establishment of People's Inspection Committees in communes, wards and townships, state agencies, public non-business units and state enterprises. However, there is no regulation on setting up the People's Inspection Committee at enterprises and other organisations employing non-state employees.



Delegates press the button to vote on the draft Law on Implementation of Grassroots Democracy. Photo: National Assembly Media.

The fact that enterprises and other organisations hire and use contract employees in the non-state sector shall comply with general regulations such as principles, scope and measures to ensure the implementation of democracy at grassroots level; rights and obligations of citizens in the implementation of grassroots democracy; prohibited acts and those handled in violation of the law.

By vnexpress.net

2. Proposal on commercial banks’ redemption of bonds at maturity

In the report to the Prime Minister, the Private Economic Development Research Board (Board IV) proposed permission for domestic commercial banks to participate in the purchase of upcoming bonds and treat them as a special form of credit as compared with ordinary credit.



The Board IV proposed that commercial banks buy back bonds at maturity. Photo: Tien Tuan.

In addition, Board IV also proposed an extension to the end of 2023 in favour of a number of policies to support businesses such as 2% VAT reduction, extending or delaying the application of the new land rental tariff according to Decree No. 96 of the Government; credit policies such as rescheduling debt repayment, maintaining debt groups...

At the same time, researching and designing preferential credit packages for key domestic production industries and fields, including items for small and medium enterprises so as not to exhaust business capacity.

Real estate credit being tightened, it is necessary to separate types of real estate so that types such as construction of social housing, hospitals, schools, projects to build production infrastructure... avoid negative influence amid embarkment on the common policy, thereby creating opportunities for many groups of businesses involved.

By dantri.com.vn

No.	Document title	Issuance date	Effective date
GOVERNMENT			
1	Decree 93/2022/ND-CP on management and guarantee of security and order at the airport border gate.	07/11/2022	22/12/2022
2	Decree 91/2022/ND- amending and supplementing a number of articles of Decree 126/2020/ND-CP detailing a number of articles of the Law on Tax Administration.	30/10/2022	30/10/2022
3	Decree 88/2022/ND-CP on penalties for administrative violations against regulations on vocational education.	26/10/2022	12/12/2022
4	Decree 82/2022/ND-CP amending and supplementing a number of articles of Decree 113/2017/ND-CP detailing and guiding the implementation of a number of articles of the Law on Chemicals.	18/10/2022	22/12/2022
MINISTRY OF FINANCE			
1	Circular 67/2022/TT-BTC providing guidance on tax obligations when enterprises set apart and use their science and technology development funds.	07/11/2022	23/12/2022
MINISTRY OF INDUSTRY AND TRADE			
1	Circular 31/2022/TT-BCT amending and supplementing a number of articles of Circular 57/2014/TT-BCT stipulating methods and procedures for formulating and promulgating electricity generation price bracket and Circular 57/2020/ TT-BCT stipulates methods of determining electricity generation prices and electricity purchase and sale contracts.	08/11/2022	28/12/2022
2	Circular 30/2022/TT-BCT amending and supplementing a number of articles of Circular 57/2018/TT-BCT detailing a number of articles of Decrees related to tobacco business.	04/11/2022	20/12/2022
GENERAL DEPARTMENT OF CUSTOMS			
1	Decision 2317/QD-TCHQ promulgating the process of managing tax debts and other revenues for imports and exports.	24/10/2022	24/10/2022
STATE BANK OF VIETNAM			
1	Circular 13/2022/TT-NHNN amending and supplementing a number of articles of Circular 08/2021/TT-NHNN on grant of special loans to credit institutions placed under special control.	28/10/2022	28/10/2022
2	Decision 1813/QD-NHNN on the maximum short-term loan interest rate in Vietnamese dong of credit institutions and foreign bank branches for borrowers to meet the capital demand in service of a number of economic sectors and industries as prescribed in Circular 39/2016/TT-NHNN.	24/10/2022	25/10/2022
3	Decision 1812/QD-NHNN on the maximum interest rate applicable to deposits in Vietnamese dong of organisations and individuals at credit institutions and foreign bank branches as prescribed in the Circular 07/2014/TT-NHNN.	24/10/2022	25/10/2022



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