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# LEGAL ALERT

(NOVEMBER 2022)

## DO E-COMMERCIAL FLOORS DECLARE AND PAY TAXES ON BEHALF OF SELLERS?



On 30 October 2022, the Government issued Decree 91/2022/ND-CP (“Decree 91/2022”)<sup>1</sup> detailing a number of articles of the Law on Tax Administration, notably featuring the regulation that E-commerce exchange owners will not have to declare and pay taxes on behalf of sellers.

However, according to Article 1.7 of Decree 91/2022, the owner of an E-commerce platform is responsible for providing the tax agency with complete, accurate and timely information on traders, organizations or individuals that conduct in part or in whole the process of buying and selling goods and services on the E-commerce trading floor. Information to be provided includes:

- (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 through the online ordering function of the floor.

The provision of information is carried out on a quarterly basis, no later than the last day of the first month of the next quarter, by electronic method, via the Portal of the General Department of Taxation under the data format announced by the General Department of Taxation.

Thus, Decree 91/2022 has reduced the tax compliance burden for E-commerce platforms according to the controversial previous regulations<sup>2</sup> that E-commerce platforms must declare and pay taxes on behalf of individuals who sell goods and services through the floor (on the basis of authorization under civil law).

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

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<sup>1</sup> Decree 91/2022 amending and supplementing a number of articles of the Governmental Decree 126/2020/ND-CP dated 19 October 2020.

<sup>2</sup> Circular 100/2021/TT-BTC of the Ministry of Finance dated 15 November 2021 guiding the said Decree 126/2020 on amending and supplementing a number of articles of Circular No. 40/2021/TT-BTC dated 01 June 2021 of the Minister of Finance providing guidance on value added tax, personal income tax and tax administration for business households and individuals.



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