



# LEGAL NEWSLETTER

Issue No. 06 | June 2020



GLOBAL VIETNAM  
LAWYERS

[www.gvlawyers.com.vn](http://www.gvlawyers.com.vn)



## MAIN CONTENTS

01

**REMARKABLE REGULATIONS**

02

**ARTICLE**

03

**READING FOR YOU**

04

**ANSWER TO QUERIES**

05

**LIST OF DOCUMENTS ISSUED IN  
MONTH**



01

## REMARKABLE REGULATIONS

- Income Portions Exempted From Personal Income Tax From 01 July 2020
- Some novelties on unemployment allowance entitlement under Decree 61/2020/ND-CP
- Regulations On Compulsory Social Insurance Premium Payment Rates To The Occupational Accident And Disease Insurance Fund
- Regulation On The Applicable Time Of Submitting Certificates Of Origin For Imports During

## Income Portions Exempted From Personal Income Tax From 01 July 2020

On 13 June 2019, the XIV National Assembly officially passed the Tax Administration Law 2019, No. 38/2019/QH14 ("**Law No. 38**"). Law No. 38 specifies many contents in the management of taxes, other revenues of the state budget, provisions on e-invoices and e-documents, etc. In particular, it is worth taking notes of additional provisions on the cases of personal income tax exemption.

Accordingly, Article 79.2.b of Law No. 38 stipulates that individuals with the annual payable tax amount of VND 50,000 or less after finalization of personal income tax from wages and remuneration will be exempt from personal income tax.

In addition, Article 79.1 of Law No. 38 also provides that the tax exemption and reduction will be effected in accordance with the tax laws. Therefore, tax-exempt income amounts under Article 4 of the 2007 Law on Personal Income Tax (amended and supplemented in 2012 and 2014) remain the same. Specifically:

- Income from real property transfers between husband and wife; between biological parents and biological children or foster parents and adopted children; between parents-in-law and children-in-law; between paternal grandparents and paternal grandchildren; between maternal grandparents and maternal grandchildren and among siblings.
- Income from transfer of the residential housing, rights to use residential land and assets attached to land by an individual who owns only one residential housing or residential land plot.
- Income from the value of a land use right of an individual to whom the State allocated such land.
- Income from receipt of an inheritance gift in form of real property between husband and wife; between biological parents and biological children or foster parents and adopted children; between parents-in-law and children-in-law; between paternal grandparents and paternal grandchildren; between maternal grandparents and maternal grandchildren and among siblings.

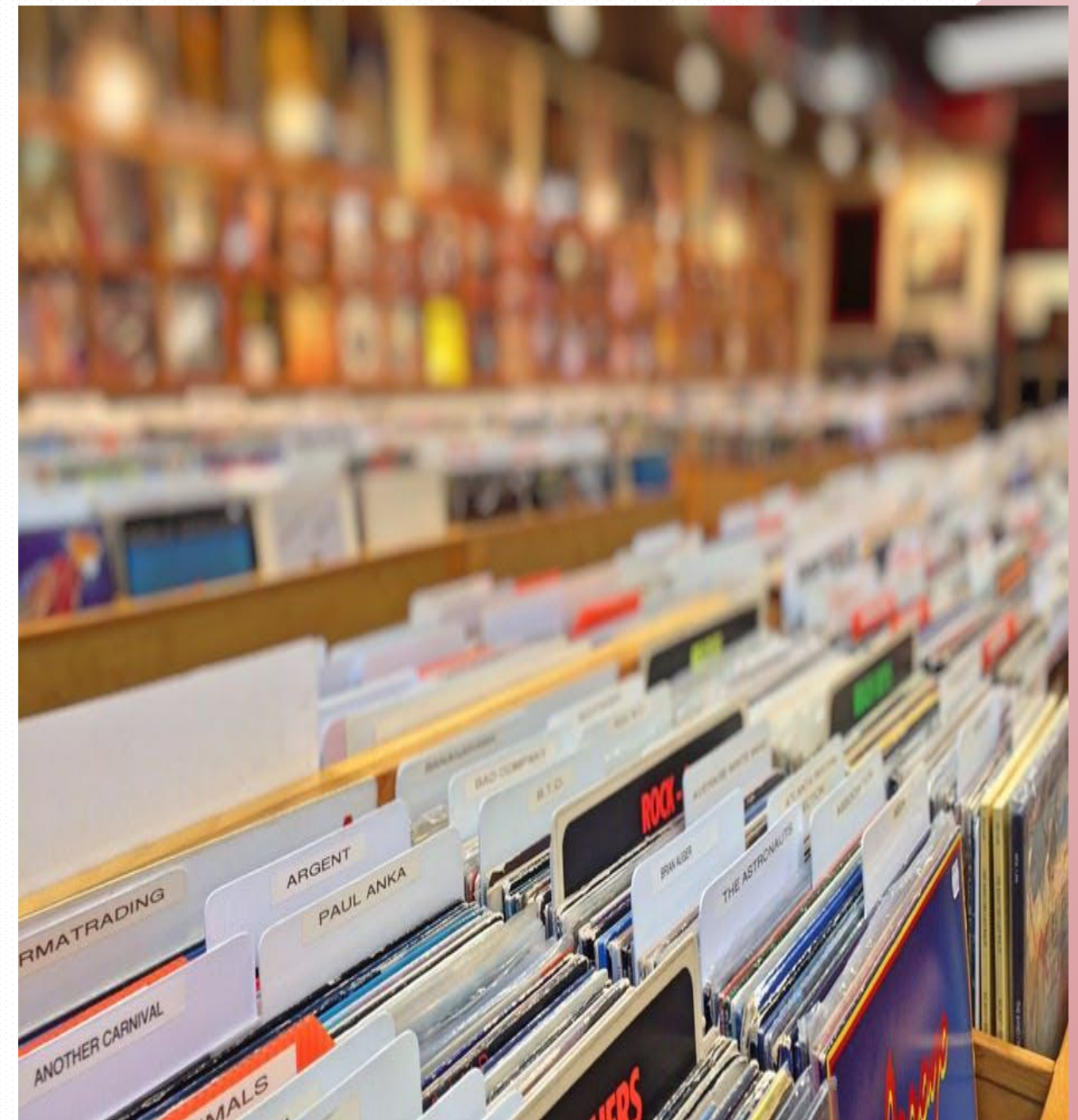
- Income of a family household or individual directly engaged in agricultural production, forestry, salt mining, breeding animals, farming and fishing aquacultural products that have not yet been processed into other products or have only gone through preliminary processing.
- Income from conversion of agricultural land by a family household or individual to whom the State allocated such land for production.
- Income being interest on money deposited at a credit institution, and interest from life insurance policies.
- Income from overseas Vietnamese remittances.
- Income being the part of night shift or overtime salary which is higher than the day shift or normal working hour salary stipulated by law.
- Pensions paid by the Social Insurance Fund; and monthly pensions paid by the voluntary pension fund.
- Income being scholarships, including any scholarship received from the State Budget; any scholarship received from a domestic or foreign organization pursuant to its program to assist and encourage study.
- Income being compensations from life and non-life insurance policies, compensations for labour accidents, State compensations and other compensations paid pursuant to law.
- Income received from charitable funds which the competent State authority permits to be established or recognizes, which operate for charitable, humanitarian and nonprofit purposes.
- Income received from foreign aid sources for charitable and humanitarian purposes in both governmental and non-governmental forms approved by the competent State authority.
- Income being salary and wages of Vietnamese crew working for foreign or Vietnamese shipping firms engaged in international carriage.
- Income of individuals being ship owners, of individuals having the ship use right, and of individuals working on ships through the supply of goods and services directly serving the activities of exploiting and fishing aquacultural creatures offshore.

## Income Portions Exempted From Personal Income Tax From 01 July 2020

For dossiers on personal income tax exemption, Article 80 of Law No. 38 provides for as follows:

- In case taxpayers determine by themselves the tax amount to be exempted, a tax exemption dossier must comprise (i) a tax return; (ii) documents relating to the determination of the tax amount to be exempted.
- In case tax administration offices decide on taxes, a tax exemption dossier must comprise (i) a written request for tax exemption, clearly stating the kind of tax requested for exemption; reasons for tax exemption; and the tax amount proposed for exemption or reduction; (ii) documents relating to the determination of the tax amount to be exempted.
- In case of tax exemption, taxpayers will determine by themselves the exempted tax amounts on the basis of the final personal income tax return.
- At the same time, the National Assembly assigns the Minister of Finance to specify the details on tax exemption dossiers in Article 80 of Law No. 38; and specify the cases in which taxpayers determine by themselves the tax amounts to be exempted and the cases in which tax administration offices determine the tax amounts to be exempted.

The Law on Tax Administration No. 38/2019/QH14 takes effect on 01 July 2020 and replaces the Law on Tax Administration No. 78/2006/QH11, which has been amended and supplemented under Law No. 21/2012/QH13, Law No. 71/2014/QH13 and Law No. 106/2016/QH13; *particularly, provisions on e-invoices and e-documents take effect on 01 July 2022.*



## Some novelties on unemployment allowance entitlement under Decree 61/2020/ND-CP

On 29 May 2020, the Government issued Decree 61/2020/ND-CP amending and supplementing a number of articles of the Governmental Decree No. 28/2015/ND-CP dated 12 March 2015 detailing a number of articles of the Law on Employment regarding unemployment insurance ("**Decree 61**"). Accordingly, Decree 61 contains a number of important amendments and supplements on the unemployment insurance regime that employees need to be aware of in order to ensure their rights, specifically as follows:

### ❖ Join and pay unemployment insurance

Decree 61 regulates that the subjects who participate in and pay unemployment insurance are related to 03 additional cases in which employees are considered to be paying unemployment insurance (UI) under Article 49 of the Law on Employment are:

- Any employee who has paid UI premiums for the month terminating the labor contract or employment contract and has been certified in the social insurance (SI) book by the social insurance agency.
- Any employee who takes unpaid leave for 14 working days or more in the month joining preceding the month terminating the labor contract or employment contract or the month terminating the labor contract or employment contract and this is certified by the social insurance agency in the SI book.
- Any employee who takes leave due to sickness or maternity for 14 working days or more in the month joining preceding the month terminating the labor contract or employment contract or the month terminating the labor contract or employment contract but not enjoying monthly salary at the enterprise and this is certified by the social insurance agency in the SI book.

In addition, in case any employee has been approved to enjoy unemployment allowance and only after the termination of unemployment allowance entitlement, the social insurance agency will additionally certify the time of paying UI premiums, then this period will be determined as the time of payment but not yet entitled to unemployment allowance under Article 45.1 of the Law on Employment.

### For dossiers requesting unemployment allowance entitlement

Decree 61 adds the documents that can be used in the dossier for unemployment allowance. Specifically, in addition to the employment contract or the decision on resignation, employees may submit the original or a certified true copy or a copy enclosed with the original for comparison of one of the following papers certifying the termination of the labor contract or employment contract:

- The confirmation of an employer, which contains specific contents on the information about any employee; type of the signed labor contract; reason and date of terminating the labor contract with such employee.
- The confirmation of the competent State agency about the dissolution or bankruptcy of an enterprise or a cooperative or the decision on dismissal or demotion of the titles appointed in case any employee is a manager of the enterprise or cooperative.

In particular, if the employee does not have documents confirming the termination of the labor contract because the enterprise employing such employee has no legal representative, the Department of Labor, War Invalids and Social Affairs or the provincial Social Insurance Agency will send a written request to the Department of Planning and Investment for confirmation or feedback on the said content within 10 working days.

### ❖ Deadline for receiving any decision on unemployment allowance entitlement

Decree 61 amends and supplements the provisions on the time limit for employees to receive any decision on unemployment allowance entitlement as follows: within 03 working days of being indicated in the result delivery slip which is made according to Form No. 01 attached to this Decree, if any employee fails to receive the decision on unemployment allowance entitlement or fails to authorize another person to receive the decision and fails to notify the employment service center about reasons for not coming, he/she shall be regarded as not wishing to receive unemployment allowance. *(The previous regulation was 01 day).*

## Some novelties on unemployment allowance entitlement under Decree 61/2020/ND-CP

### ❖ Regarding termination of unemployment allowance entitlement when any employee has found a job

According to Article 1.9 of Decree 61 amending and supplementing Article 21.1.b of Decree 28/2015/ND-CP, an employee will be regarded as having found a job to terminate unemployment allowance entitlement in one of the following cases:

- He/she has signed a seasonal/job-specific labor contract or employment contract for a term of at least one month. The date the employee is regarded as having found a job is when his/her labor contract or employment contract takes effect in accordance with law. *(The previous regulation was 03 months).*
- He/she receives a recruitment decision or appointment decision if he/she does not fall into the cases where he/she must sign a labor contract or employment contract. The date the employee is regarded as having found a job in such case is when he/she is recruited or appointed according to the recruitment or appointment decision. *(The previous regulation does not provide for the case of appointment).*
- Having a certificate of business household registration if the employee is the owner of the business household or has a business registration certificate for the case where he/she is the owner of the enterprise. The date the employee is regarded as having found a job is when he/she notifies the employment service center about the commencement of his/her business household.
- The employee sends a notice to the employment service center that he/she has found a job. The date the employee is regarded as having found a job is the date stated in such notice.

In addition, Decree 61 supplements regulations for the case where unemployment allowance is terminated when: (i) the employee has found a job; (ii) the employee performs the military or public security service obligation; and (iii) The employee attends a training course of at least 12 months without making notice as prescribed, the period of payment of unemployment insurance premiums equivalent to the remaining period during which the employee has not yet received unemployment allowance is not reserved.

Decree 61 takes effect from 15 July 2020 and partially invalidates Decree 28/2015/ND-CP detailing a number of articles of the Law on Employment regarding unemployment insurance.



## Regulations On Compulsory Social Insurance Premium Payment Rates To The Occupational Accident And Disease Insurance Fund

On May 27, 2020, the Government issued Decree No. 58/2020 / ND-CP stipulating the compulsory social insurance premium payment rates to the insurance fund for occupational accidents and diseases (“Decree 58”). Accordingly, Decree 58 has some notable contents as follows:

### ❖ Subjects of application

- Any Employer prescribed in Article 2.3 of the Law on Social Insurance (“SI”).
- Other agencies, organizations and individuals involved in the payment of compulsory social insurance for the occupational accident and disease insurance fund.

### ❖ Rate and method of paying the insurance fund for occupational accidents and diseases

- Any Employer who pays monthly social insurance premium for employees from salary fund for SI as prescribed in Article 2 of the Law on social insurance (except for those who are domestic helpers) at one of the following rates:

(i). The normal contribution rate equal to 0.5% of the salary fund used as a basis for payment of SI premiums will be applicable to the employees who are officials, civil servants, public employees, and personnel of the armed forces of Party and State agencies, socio-political organizations, the army, the public security, or public non-business units using the state budget;

(ii). The contribution rate equal to 0.3% of the salary fund used as a basis for payment of SI premiums will be applicable to the enterprises that satisfy the conditions as prescribed in Article 5 of this Decree.

- In addition, the employer pays monthly to the occupational accident and disease insurance fund a 0.5% amount of base salary for each employee as a non-commissioned officer or soldier of the People's Army; non-commissioned officers and men of People's Public Security Forces; military students, police officers, cryptography students who are enjoying the living costs while studying.
  - For employers who are enterprises, cooperatives, individual business households, cooperative groups operating in the fields of agriculture, forestry, fishery or salt production, pay by piecework or under lump sum contract, the respective monthly payment rate will be based on the conditions set by each case; payment mode is made monthly, quarterly or semestrally.
- ### ❖ Enterprises may be reduced in terms of the compulsory social insurance payment rates

According to Article 5 of Decree 58, enterprises may apply for a lower level of social insurance premium payment (they must pay only 0.3% of the salary fund used as a basis for SI payment instead of 0.5%) when meeting the following 4 conditions:

- (i) Enterprises operating in industries with high risk of occupational accidents and diseases.
- (ii) Within 3 consecutive years preceding the applying year, enterprises are not sanctioned for administrative violations in the form of fines, not examined for penal liability related to occupational safety and sanitation, social insurance.
- (iii) To make periodic reports on occupational accidents, occupational safety and sanitation, accurately, completely and promptly within 3 consecutive years preceding the applying year.
- (iv) The frequency of occupational accidents of the year adjoining preceding the applying year must be reduced by 15% or more compared to the average frequency of occupational accidents of 3 consecutive years preceding the applying year or not letting occupational accidents occur will be counted from 3 consecutive years preceding the applying year.



## Regulations On Compulsory Social Insurance Premium Payment Rates To The Occupational Accident And Disease Insurance Fund

### ❖ Applicable time limit of lower payment rate than normal to the occupational accident and disease insurance fund

- Article 9.1 of Decree 58 stipulates that the time limit for applying the payment rate equal to 0.3% of the salary fund serving as a basis for payment of social insurance premium is 36 months from the effective month of applying premium payment rates.
- Within 60 days before the time limit for application of premium payment rate as prescribed in Article 9.1 of Decree 58, if the employer still needs to continue the lower- than-normal payment rate to the occupational accident and disease insurance fund, he will prepare 01 set of dossiers as prescribed in Article 6 (*Application dossiers for lower-than- normal premium payment rate to the occupational accident and disease insurance fund*) and make the application according to Article 8, Decree 58 (*Sequence and procedures for deciding the application of lower-than-normal payment rates to the Occupational Accident and Disease Insurance Fund*).

Decree 58 officially takes effect on July 15, 2020, so Decree No. 44/2017 / ND-CP dated April 14, 2017 of the Government stipulating the compulsory social insurance premium payment rates to the occupational accident and disease insurance fund and Article 13.1.b of Decree No. 143/2018 / ND-CP dated October 15, 2018 of the Government detailing the Law on Social Insurance and the Law on Occupational Safety and Sanitation regarding the compulsory social insurance for employees who are foreign citizens working in Vietnam expires accordingly.



## Regulation On The Applicable Time Of Submitting Certificates Of Origin For Imports During The COVID-19

In order to remove difficulties and create conditions for customs clearance for the business community affected by Covid-19 epidemic, on May 27, 2020, the Ministry of Finance issued Circular No. 47/2020 / TT-BTC regulating the applicable time of submitting certificates of origin for imports during the acute respiratory infection epidemic caused by Coronavirus (COVID-19) ("**Circular 47**"). Accordingly, Circular 47 provides the subjects, time and form of submitting certificates of origin for imports applied during the epidemic phase as follows:

### ❖ For subjects of application

Subjects of application prescribed in Article 2 of Circular 47 include (i) customs declarants, (ii) customs authorities, customs officers and (iii) other organizations and individuals with rights and obligations related to determining the origin of exports and imports.

### ❖ For the time of filing the certificate of origin of goods

- Customs declarants submit certificates of goods origin at the time of customs clearance to apply the special preferential tax rates.
- In case the certificate of origin ("CO") is not available at the time of customs clearance to apply the special preferential tax rate, the declarant must declare late submission of the CO in import customs declaration and make additional declaration, submit the CO within the validity period of the CO.
- Customs declarants will declare at the most favored nation or common preferential import tax rates and additionally submit the CO within the effective time of the CO to apply the respective special preferential preferential tax rates; customs offices will be responsible for refunding the difference due to tax overpayment.

### ❖ For the form of the CO

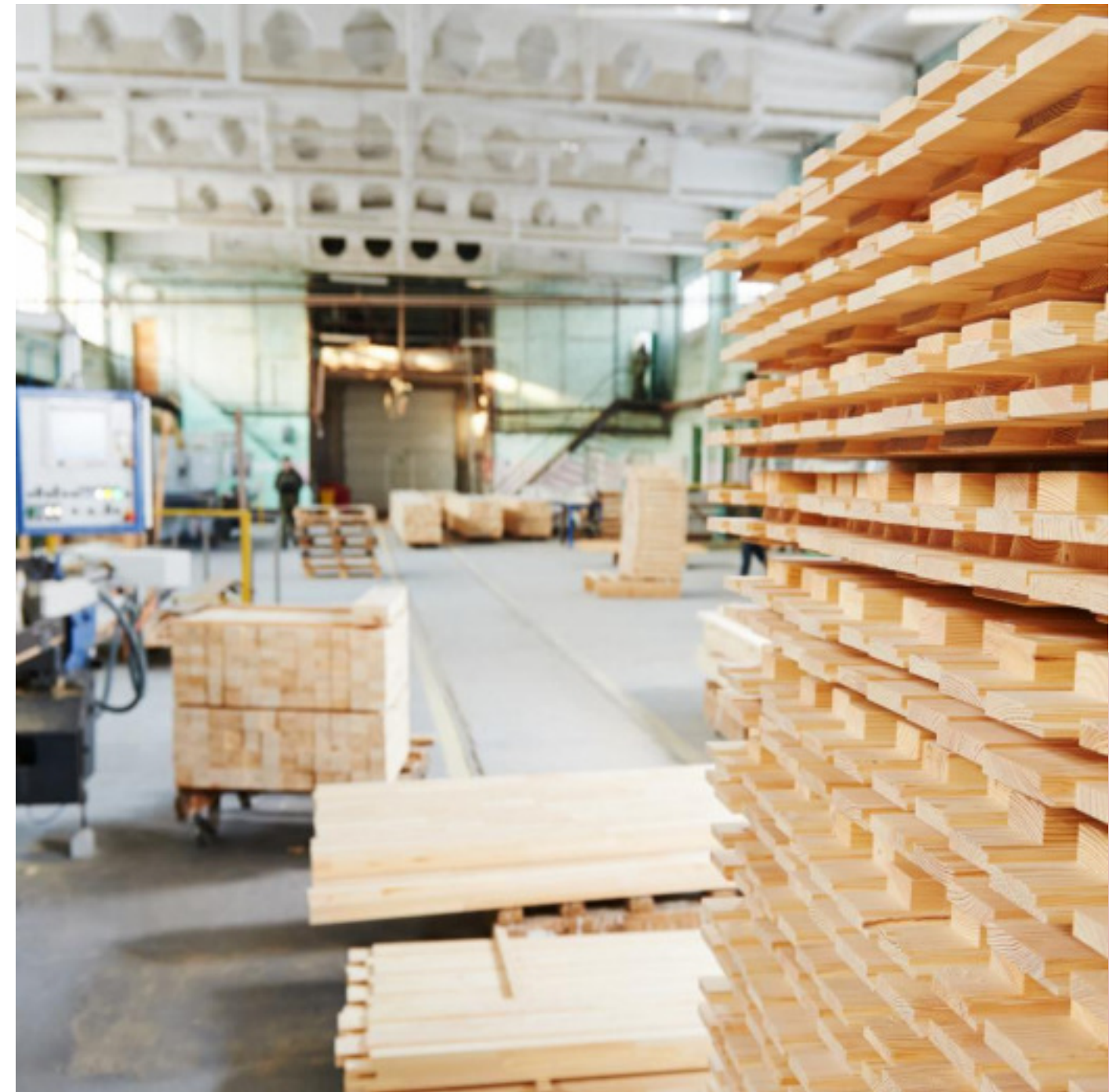
- In case of any imports subject to special preferential tax rates, the customs declarant will submit the certificate of origin as follows:
  - (i) Regarding the CO using electronic signatures and seals, customs authorities accept the CO using electronic signatures and seals provided that the competent authorities of the exporting countries have notified on issuing the CO using signatures, electronic seals and providing websites for the CO lookup or other CO lookup methods. The customs office will check the validity of the CO on its website or other search method of the issuing agency to apply the special preferential tax rates as prescribed and print a copy of the CO for customs filing.
  - (i) *Regarding the copy/scan of the CO*, the customs authority will accept the copy/scan of the CO provided that the competent authority of the exporting country informs about the use of the copy/scan of the original CO and provide the copy/scan of the CO or electronic information or other inspection methods for customs authorities to determine the validity of the CO. Customs authorities check the validity of the copy/scans of the CO on the electronic information page or according to other inspection methods provided by the agency to apply the special preferential tax rates as prescribed and print a copy of the CO for customs records.

## Regulation On The Applicable Time Of Submitting Certificates Of Origin For Imports During The COVID-19

- In case of any imports requesting the certificate of origin of goods as prescribed in the Article 4.2 of the Circular No. 38/2018/TT-BTC, customs declarants must submit the original CO to customs authorities. If there is no original CO at the time of carrying out the customs procedures, the declarant may submit a copy/scan of the CO to the customs office and *be legally responsible for the accuracy and validity of the CO / scan.*
- In case of any imports requesting its certificate of origin to be submitted to the customs office:
  - i. The declarant submits the original CO to the customs authority. If there is no original the CO at the time of carrying out the customs procedures, the declarant may submit a copy / scan of the CO to the customs office and take responsibility before law for the accuracy and validity of the copy/scan of the CO.
  - ii. Customs authorities will rely on copies / scans of the CO, customs records, actual cargo, shipment itinerary and other relevant information for verifying the origin of goods and deciding customs clearance.
  - iii. The declarant is responsible for returning one original CO within 180 days of registration of the import customs declaration.

Thus, Circular 47 is one of the solutions of the Ministry of Finance to supporting, disentangling problems, creating conditions for goods clearance for the business community affected by the Covid-19 pandemic, especially against the backdrop of its complicated developments stubbornly lasting in some countries.

Circular 47 takes effect from the date when the Prime Minister of the Socialist Republic of Vietnam announces the COVID-19 epidemic (i.e. January 23, 2020), and is applicable to import customs declarations registered from January 23, 2020. Based on the developments of the COVID-19 epidemic all over the world, the Minister of Finance announces the invalidation of this Circular.





02

## LEGAL ARTICLE

### Legal Insight Into Acts Of “Cancelling” Rice Reserve Contracts

In this issue of Legal Newsletter No.6, we would like to introduce you an article of **Mr. Luong Van Ly** with the title “**Legal insight into acts of “cancelling” rice reserve contracts**” published in the Legal Perspectives column – Saigon Times Online dated April 22, 2020.

As one of the key commodities domestically consumed and exported to the world market, the rice commodity has recently faced a series of market fluctuations under the influence of Covid-19. The toughest obstacle occurred when the rice industry encountered two unexpected events, namely the export of rice having troubles with customs clearance and the cancellation of bidding contracts for providing rice for domestic reserves. From the perspective of an experienced expert in contract research and consultancy, commercial disputes, Mr. Luong Van Ly analyzed the relevant legal provisions and raised profound legal judgments on this problem.

(Saigon Times Online) – As one of the key commodities domestically consumed and exported to the world market, the rice commodity has recently faced a series of market fluctuations under the influence of Covid-19. The toughest obstacle occurred when the rice industry encountered two unexpected events, namely the export of rice having troubles with customs clearance and the cancellation of contracts in bidding to provide rice for domestic reserves.

Following the events related to rice export, the rice industry faced another difficulty where a series of companies cancelled the signing of contracts to sell rice to the General Department of State Reserves (GDSR).

This act affected the total rice reserve significantly, prompting the GDSR to plan for re-bidding.

There were opinions that enterprises registered to export rice rather than signing the contracts to supply rice for the national reserve as awarded because they had put main focus on profit, causing insecurity in food supplies. These enterprises should be restricted from export as a strict penalty for the breach of bidding agreement.

### IS THIS STATEMENT LEGALLY APPROPRIATE?

#### Violations and remedies

Whether refusing to sign contracts is a violation or not. According to Article 65 of the 2013 Bidding Law, people wishing to procure goods and winning bidders “must sign contracts to carry out the bidding packages”. Thus, it is an obligation under the bidding law.

In addition, Circular No. 05/2015/TT-BKHDT of June 16, 2015 of the Ministry of Planning and Investment details the preparation of invitation-to-bid dossiers for goods procurement (referred to as “**Circular 05/2015**”), this regulation is concretized by a fairly detailed contract form any bid solicitor must include in the invitation-to-bid dossiers sent to all bidders.



All citizens are obliged to obey the law and any violation must be remedied. According to the press, rice enterprises that refused to sign contracts would only be penalized by losing the deposit as security for bidding, which is from 1% to 3% of the bidding package price under Article 19 of Decree No. 63/2014/ND-CP dated June 26, 2014 of the Government detailing the implementation of some articles of the bidding law on contractor selection (“**Decree 63/2014**”).

As a matter of law, it is actually not that simple. Decree No. 50/2016 dated June 1, 2016 of the Government stipulates the sanctions against administrative violations in the field of planning and investment (“**Decree 05/2016**”); Article 21.1 thereof provides for that “a fine of VND 10,000,000 to 15,000,000 will be imposed on the failure to conduct contract negotiation in contractor selection, preliminary contract negotiation in investor selection”.

The intention of the person who drafted Decree 63/2014 is clear: not signing a contract is a violation of law but the penalty thereon is only a fine of 1% to 3% of the bidding package price plus an administrative fine of VND10 to 15 million. The question is “if the contractor is subjected to a more serious legal/financial liability, does the current law allow it?”

In principle, it is absolutely possible to take this violation out of the scope of Article 19 of Decree 63/2014 and put it back in the right place to which it should belong, as it is by nature a “violation of the bidding law” pursuant to Article 90 of the 2013 Bidding Law (on handling violations).

If Article 90 of the 2013 Bidding Law is applied and if it is impossible to conduct criminal prosecution or the ban from participation in bidding is not necessary for imposition on the refusal to sign contracts, at least the violating party should be held accountable for damage compensation. How to pay damages can be a matter for debate (this is a potential dispute as discussed below), but the obligation to pay damages by the violating party is also an opportunity to partly re-establish the balance of interest for both parties.

In addition, we should consider supplementing the provision on obligations in Article 65 of the 2013 Bidding Law. According to the aforesaid current regulation, in the invitation-to-bid dossiers, the main contents must be clearly stated and enclosed with the contract form (pursuant to Circular 05/2015).

However, the regulation on the contents of bidding documents, specifically the legal confirmation on participation in bidding (as required by the invitation-to-bid dossier) does not include provisions on contract and contract signing. Given the recent realities of the rice industry, the said regulation be considered to be added to Circular 05/2015.

Accordingly, this will be a commitment of the parties to sign contracts; the reasoning demonstrating the violation due to failure to sign contracts is also well grounded and clearer.



## DISPUTE RESOLUTION

In case of any dispute, the subject of dispute cannot be the contract signing obligation or the loss of the bid security amount. In other words, only with the governing of Decree 63/2014 and its Article 19, there will be no potential dispute related to any failure to sign contracts.

Disputes only arise if Article 90 of the 2013 Bidding Law is applied, specifically related to the liability for damages (in this case, tort claims for damages). Particularly, the GDSR is the bid solicitor, who is also most likely to suffer damage, will sue to request the rice enterprises as winning bidders to compensate for the damage as a result of the failure to sign contracts.

Regarding the jurisdiction to resolve disputes, Article 93 of the 2013 Bidding Law stipulates “the settlement of disputes in bidding at the Court will comply with the law on civil procedure”. Article 26.6 of the 2015 Civil Procedure Code provides for disputes related to non-contractual compensation under the jurisdiction of the court.

On the other hand, Article 2 of the 2010 Commercial Arbitration Law stipulates that “disputes between the parties in which at least one party has commercial activities” are within the jurisdiction of arbitration. In this case, we have the one party (GDSR) as a state management agency and the other party as a rice enterprise that has commercial activities.

The aforesaid legal documents show that both the court and the arbitration have jurisdiction over these disputes.

The choice will be made by the parties in dispute. If there is a written agreement that the parties agree to bring the dispute to arbitration, the court will refuse to accept this dispute.

*(\*)Mr. Luong Van Ly, Senior advisor to Global Vietnam Lawyers  
Arbitrator of Vietnam International Arbitration Center (VIAC)*



03

## READING FOR YOU

- Foreigners Traveling To Phu Quoc City Are Exempt From A 30-day
- The National Assembly Passed Two Agreements EVFTA and EVIPA
- The National Assembly agrees to reduce 30% of corporate income tax in 2020

## Foreigners Traveling To Phu Quoc City Are Exempt From A 30-day Visa

With recently issued Resolution No. 80, the Government has agreed to exempt visa for foreigners to enter Phu Quoc economic zone, Kien Giang province, starting from July 1, 2020.

Phu Quoc is allowed to apply the visa exemption policy for foreigners entering Vietnam by satisfying the following conditions: having an international airport; having separate space; having definite geographical boundaries separated from the mainland; it is consistent with the socio-economic development policy and does not hurt Vietnam's defense, national security, social order and safety.

These conditions are stated in the Law amending and supplementing a number of articles of the Law on entry, exit, transit and residence of foreigners in Vietnam. The new law, effective July 1, 2020, also adds a 30-day visa exemption for foreigners to enter the coastal economic zone.

According to enterprises, a visa-free policy with a stay of no more than 30 days will create favorable conditions for Phu Quoc's tourism and economy to flourish with the advantages and potential boasted by this pearl island has.

Presently, during recovery of the international tourist market from the COVID-19 epidemic, Phu Quoc is acclaimed by tourism experts as an ideal destination for isolated tourism products, that is, bringing international visitors to the designated resorts on charter flights.

Here visitors can participate in outdoor activities such as sunbathing, relaxing, playing water sports on beautiful beaches and being quarantined for COVID-19 periodically during vacation.

By N. Binh, [dulich.tuoiitre.vn](http://dulich.tuoiitre.vn)





## The National Assembly Passed Two Agreements EVFTA and EVIPA

In the morning of June 8, 2020, the National Assembly deputies officially voted to approve the Free Trade Agreement between the Socialist Republic of Vietnam and the European Union (EVFTA) and the Investment Protection Agreement between the Socialist Republic of Vietnam and the European Union and European Union member countries (EVIPA).

Overall, EVFTA will help diversify the market so that it does not depend too much on any market, thereby ensuring Vietnam's economic security. EVFTA is expected to have a positive impact on both sides, nearly 100% of Vietnam's export value to the EU will be eliminated import duties after a short roadmap. Among the signed trade agreements, this is the highest level of commitment that partners have to Vietnam. Therefore, EVFTA is considered by many experts to create a huge boost for Vietnam's exports, helping to diversify markets and export commodities.

With EVFTA approved, Vietnam will be the destination for many investors from the EU and around the world. Moreover, as the inflow of foreign investment increases, the number of trade complaints will increase.



Regarding the application of international treaties, the General Secretary of the National Assembly cum Head of the National Assembly Office, Nguyen Hanh Phuc said that the Agreement will be applied in its entirety, in which the provisions of the Agreement in Appendix 2 attached to this Resolution will be applied directly; the provisions of the Agreement in Appendix 3 attached to this Resolution will be applied until the Intellectual Property Law No. 50/2005 / QH11 was amended and supplemented under a number of articles of Law No. 36/2009 / QH12 and Law No. 42/2019/QH14 as amended, supplemented and effective; and the Agreement with the United Kingdom will concurrently apply from the date of its entry into force until end of December 31, 2020 (which may be extended to 24 months as agreed between the United Kingdom and the European Union regarding The UK's departure from the European Union).

General Secretary of the National Assembly cum Head of the National Assembly Office Nguyen Hanh Phuc said that the Government, the Supreme People's Court, the Supreme People's Procuracy and relevant agencies and organizations, within their authority, conducted a review of legal normative documents in Appendix 4 attached to this Resolution and other relevant legal normative documents for self-amendment or proposing competent state agencies to promptly amend, supplement, abolish or promulgate new ones, ensuring the uniformity and consistency of the legal system, effectively implementing and strictly following the schedule of commitments under the Agreement.

The Resolution assigned the Prime Minister to organize the implementation of the Agreement; approve and direct relevant central and local agencies and organizations to develop the Agreement implementation plan; prepare resources to ensure making the most of and promotion of opportunities and advantages provided by the Agreement; formulating and effectively implementing measures to prevent and handle adverse impacts that may arise during the implementation of the Agreement; propagating and disseminating in a timely manner all contents of the Agreement in order to create a uniformity in the awareness and action of the political system, enterprises and people; regularly review and evaluate the results and effectiveness of the implementation of commitments signed in the Agreement, and annually report to the National Assembly on the implementation of the Agreement.

By PN, voh.com.vn

## The National Assembly Agrees To Reduce 30% Of Corporate Income Tax In 2020

In the morning of June 19, the National Assembly has passed the Resolution on reducing 30% of corporate income tax in 2020 for businesses with turnover of less than VND 200 billion.

The Resolution has been adopted with the approval rate of more than 92%, effective after 45 days from the date of signing and applied for the taxation period 2020.

As such, the National Assembly has removed criteria on the number of employees paying insurance premiums to ensure fairness for labor-intensive businesses and supplement the subject enjoying 30% reduction of corporate income tax for enterprises with medium scale.

According to Head of the Finance and Budget Committee Nguyen Duc Hai, with the addition of the said tax reduction enjoying subjects, State budget revenue diminutions in 2020 will be up from VND 15,840 billion to around VND 23,000 billion compared to the Government's submitted plan.

Before the National Assembly vote, many opinions said that in addition to reducing corporate income tax, there should be other measures that have enormous and direct effects to help enterprises recover from production and business.

Mr. Nguyen Duc Hai said that in order to support enterprises in removing difficulties, promoting production and business and restarting the economy in the face of the Covid-19 epidemic, the Government has proactively built and implemented a series of solutions on fiscal period, taxes, fees, land rent, etc in which the solution package for extending the time of paying tax and land rent is worth about VND 180,000 billion.

He said that in the upcoming days, the Government, ministries and branches will have more solutions to helping enterprises to overcome difficulties because of Covid-19 crisis.

*By Anh Minh, vnexpress.net*





04

## ANSWER TO QUERIES

- Corporate Income Tax, Personal Income Tax With Respect To The Amounts Paid To Employees During Covid-19 Epidemic
- Guidance On Tax Policies For Promotional Programs
- Enterprise Income Tax Incentives For Education And Training

## Corporate Income Tax, Personal Income Tax With Respect To The Amounts Paid To Employees During Covid-19 Epidemic

- If during Covid-19 epidemic the Company incurs some expenses related to the purchase of masks, hand sanitizer, some protective equipment and testing of infectious diseases for employees to prevent transmission of Covid-19 virus, and if the expense clearly indicates the name of the beneficiary, this expense shall be calculated into the income subject to personal income tax (PIT), if the expense does not specify the name of the beneficiary but general spending for the employee collective, this expense is not included in the income subject to PIT.
- 
- The said expenditures are direct payments to employees in addition to salary and bonus payments as agreed and in accordance with law in order to improve the material and spiritual life of employees and are determined to be deductible expenses when determining the income subject to corporate income tax if they meet Article 4.1 of Circular 96/2014/TT-BTC and the total amount of welfare does not exceed 01 month's actual average salary in the taxation year of the enterprise.

*Ha Noi City Tax Department replies to reader Duong Binh Minh in Ha Noi sent by the web portal - Ministry of Finance in Official Letter 44403/CT-TTHT dated 01 June 2020.*



## Guidance On Tax Policies For Promotional Programs



- In case the Company authorizes distributors to carry out promotional programs for customers "buy goods X get free goods Y" in accordance with the commercial law, when offering promotional goods to customers, distributors must make an invoice, specify the name and quantity of the goods on the invoice, indicate that promotional goods and the value-added tax (VAT) price are equal to zero (0).
- If the Company pays distributors for the goods value to implement promotional programs, when receiving the payment, the distributor must make VAT invoice and calculate VAT at the rate of 10% if the distributor is VAT payers using the deduction method, or use sales invoices and determine payable tax amounts (%) on turnover as prescribed if distributors are VAT payers by direct method on the VAT.
- 
- For promotional expenses paid by the Company to distributors if they meet Article 4 of Circular No. 96/2015/TT-BTC dated 22 June 2015 of the Ministry of Finance, the Company may deduct such expenses when determining the income subject to corporate income tax.

*Ha Noi City Tax Department replies to Diana Unichann Joint Stock Company in Official Letter 40840/CT-TTHT dated 25 may 2020.*

## Enterprise Income Tax Incentives For Education And Training

- In case the Company is an enterprise established under the Enterprise Law (27 November 2018), establishing Foreign Language Centers in Ha Noi City if it meets the List of types, size criteria, standards of establishments implementing socialization in the field of education issued together with the Prime Minister's Decision No. 1470/QD-TTg dated 22 July 2016, the enterprise income tax incentives are applied on the following principles:
  - ✓ Tax rate of 10% throughout the entire operation of the enterprise's income from the socialization of education and training.
  - ✓ 4-year tax exemption, 50% reduction of payable tax amount for 5 subsequent years, for incomes of enterprises from the implementation of new investment projects in the field of socialization carried out in localities not on the list of areas have difficult or extremely difficult socio-economic conditions under the guidance in Article 20.2 of Circular No. 78/2014/TT-BTC.
- New investment projects eligible for tax incentives must meet the provisions of Article 10.3 of the Finance Ministry's Circular No. 96/2015/TT-BTC.
- Regarding the certification that the enterprise meets the type, criteria of size and standards of establishments implementing socialization in the field of education under the Prime Minister's Decision, request the Company contact the agency. competent State management under the guidance of Decision No. 11/2015/QD-UBND dated 19 May 2015 of Ha Noi People's Committee.
- The company itself determines the tax incentive conditions, the preferential corporate income tax rates for self-declaration and self-finalization with tax authorities.

*Ha Noi City Tax Department responded to Northern Education and Training Joint Stock Company in Official Letter 40845/CT-TTHT dated 25 May 2020.*



No.	Document title	Issuance date	Effective date
<b>GOVERNMENT</b>			
1	Decree 61/2020/ND-CP amending and supplementing a number of articles of the Governmental Decree No. 28/2015/ND-CP dated March 12, 2015 detailing a number of articles of the Law on Employment regarding unemployment insurance	29/05/2020	15/07/2020
2	Decree 60/2020/ND-CP amending and supplementing the list of narcotic substances and precursors promulgated together with the Governmental Decree No. 73/2018/ND-CP dated May 15, 2019 on the list of narcotic substances and precursors	29/05/2020	29/05/2020
3	Decree 59/2020/ND-CP on providing for the databases on execution of criminal judgments	27/05/2020	05/06/2020
4	Decree 58/2020/ND-CP on the rate of payment of compulsory insurance into the occupational accident and disease insurance fund	27/05/2020	15/07/2020
5	Decree 57/2020/ND-CP amending and supplementing a number of articles of Decree No. 122/2016/ND-CP dated September 01, 2016 of the Government on the Export Tariff, the Preferential Import Tariff and the list of commodity items and their specific duty rates, combined duty rates and out-of-quota duty rates and Decree No. 125/2017/ND-CP dated November 16, 2017 amending and supplementing a number of articles of Decree No. 122/2016/ND-CP	25/05/2020	10/07/2020
6	Decree 56/2020/ND-CP on management and use of official development assistance (ODA) and concessional loans of foreign donors	25/05/2020	25/05/2020
7	Resolution 80/NQ-CP on visa waiver program for foreigners entering into Phu Quoc economic zone, Kien Giang province.	25/05/2020	25/05/2020
8	Resolution 79/NQ-CP on providing the list of countries of which citizens are eligible for grant of e-visas and list of border gates permitting foreigners' entry and exit with e-visas	25/05/2020	25/05/2020
9	Decree 55/2020/ND-CP on detailing a number of articles of the Law on Execution of Criminal Judgments regarding judgment enforcement against commercial legal entities	22/05/2020	15/07/2020
10	Decree 54/2020/ND-CP amending and supplementing a number of articles of Decree 127/2015/ND-CP dated December 14, 2015 of the Government on the organization and inspection activities of the branch of industry and trade	18/05/2020	07/07/2020
11	Decree 53/2020/ND-CP on environmental protection charge for wastewater	05/05/2020	01/07/2020
<b>MINISTRY OF INDUSTRY AND TRADE</b>			
1	Circular 09/2020/TT-BCT on providing the roadmap for the application of import and export border gates with regard to goods temporarily imported for re-export, border-gate transit business and goods deposited in bonded warehouse	14/05/2020	30/06/2020
<b>MINISTRY OF LABOR, WAR INVALIDS AND SOCIAL AFFAIRS</b>			
1	Circular No. 04/2020/TT-BLDTBXH guiding the implementation of the regulation on unit price under lump sum contract and salary funds of employees and the Executive Committee prescribed in Articles 7 and 8 of Governmental Decree No. 20/2020/ND-CP dated February 17, 2020 on the pilot management of labor, salaries and bonuses over a number of state economic groups and corporations	25/05/2020	10/07/2020
2	Official Letter 1511/LDTBXH-BHXH on the suspension of payment to pension fund and death benefit fund	04/05/2020	04/05/2020

No.	Document title	Issuance date	Effective date
<b>MINISTRY OF FINANCE</b>			
1	Circular No. 47/2020/TT-BTC on promulgating the deadline for submitting certificates of origin and forms of certificate of origin for imports applied during the the acute respiratory disease epidemic caused by a novel Coronavirus (COVID-19)	27/05/2020	23/01/2020
2	Circular No. 46/2020/TT-BTC providing for the rate of collection and remittance of aviation charges and fees	27/05/2020	27/05/2020
3	Circular No. 45/2020/TT-BTC providing for the rate of collection and remittance of registration (confirmation) fee on using foreign codes and bar codes and fees of industrial property	26/05/2020	26/05/2020
4	Circular No. 44/2020/TT-BTC providing for the rate of collection and remittance of appraisal charges for goods and services subject to business restriction; goods and services subject to conditional commercial business and fees for grant of licenses for establishment of the Mercantile Exchange	26/05/2020	26/05/2020
5	Circular No. 43/2020/TT-BTC providing for the rate of collection and remittance of appraisal charges for non-business documents for licensing any publication, fees of licensing any import of non-business publication products, fees of registration for any import of publication products for business purposes	26/05/2020	26/05/2020
6	Circular 42/2020/TT-BTC stipulating information criteria and forms of document to conduct goods transit procedures in accordance with Decree No. 46/2020/ND-CP dated April 09, 2020 of the Government on customs procedures, inspection and supervision of goods in transit via the ASEAN Customs Transit System in compliance with Protocol 7 on the Customs Transit System	22/05/2020	06/07/2020
7	Circular No. 41/2020/TT-BTC amending and supplementing a number of articles of Circular No. 219/2016/TT-BTC dated November 10, 2016 providing for the rate and regime of collection and remittance of, the management and use of charges and fees related to exit from, entry into, transit through and residence in Vietnam	18/05/2020	01/08/2020
8	Circular No. 40/2020/TT-BTC guiding the reporting regime in the field of independent audit and accounting as prescribed in the Decree No. 174/2016/ND-CP dated December 30, 2016 of the Government detailing a number of articles of the Accounting Law and Decree No. 17/2012/ND-CP dated March 13, 2012 of the Government detailing and guiding the implementation of a number of articles of the Law on Independent Audit	15/05/2020	01/07/2020
9	Circular No. 39/2020/TT-BTC amending and supplementing the reporting regime specified in some Circulars in the field of accounting and independent audit	15/05/2020	01/07/2020
10	Circular No. 37/2020/TT-BTC providing for the rate of collection and remittance of charges and fees in securities sector	07/05/2020	07/05/2020
11	Circular No. 35/2020/TT-BTC providing for the rate of collection and remittance of appraisal charges for granting international tour operator licenses or domestic travel service business licenses; appraisal charges for granting tour guide cards	05/05/2020	05/05/2020
12	Circular No. 34/2020/TT-BTC providing for the rate of collection and remittance of fees and charges in the field of construction	05/05/2020	05/05/2020
13	Circular No. 33/2020/TT-BTC providing for the rate of collection and remittance of fees for issuing licenses for establishment and operation of banks and non-banking credit institutions	05/05/2020	05/05/2020
14	Circular No. 31/2020/TT-BTC amending and supplementing a number of articles of Circular No. 263/2016/TT-BTC dated November 14, 2016 of the Minister of Finance providing for the rate of collection and remittance of, the management and use of industrial property fees and charges	04/05/2020	01/07/2020



GLOBAL VIETNAM  
LAWYERS



GLOBAL VIETNAM  
LAWYERS

## CONTACT US

[info@gvlawyers.com.vn](mailto:info@gvlawyers.com.vn)

### HCMC - Head Office

8/F, Centec Tower  
72 – 74 Nguyen Thi Minh Khai  
Ward 6, District 3  
Ho Chi Minh City, Vietnam  
Tel: +84 (28) 3622 3555

### Ha Noi - Branch

10A/F, CDC Building  
25 Le Dai Hanh  
Hai Ba Trung District  
Ha Noi, Vietnam  
Tel: +84 (24) 3208 3555

### Da Nang - Branch

3/F, Indochina Riverside Tower  
74 Bach Dang  
Hai Chau District  
Da Nang City, Vietnam  
Tel: +84 (28) 3622 3555

[www.gvlawyers.com.vn](http://www.gvlawyers.com.vn)

LEGAL NEWSLETTER  
Issue No.06 | June 2020

The contents of the newsletter do not constitute legal advice and do not necessarily reflect the opinions of our firm or any of our attorneys or consultants. The newsletter provides general information, which may or may not be correct, complete or current at the time of reading. The content is not intended to be used as a substitute for specific legal advice or opinions. Please seek appropriate legal advice or other professional counselling for any specific issues you may have. We, GV Lawyers, expressly disclaim all liability relating to actions taken or not taken based on any or all contents of the newsletter.