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### **NEWLY ISSUED LEGAL DOCUMENTS IN OCTOBER**

## 1. Amending and supplementing the policies to support businesses and workers plagued by the Covid-19 epidemic woes

On 06/11/2021, the Prime Minister issued Decision 33/2021/QD-TTg (**Decision 33/2021**) amending Decision 23/2021/QD-TTg on the implementation of a number of policies to support employees and employers who are plagued by COVID-19 woes with the following notable points:

### 1.1 Adding the cases where employees can get support

According to Decision 33/2021, employees who work under labour contracts (LCs), and must suspend the performance of LCs, take unpaid leave, have to stop working, have their LCs terminated but are not eligible for unemployment benefits, and if they meet the prescribed conditions and fall into one of the following cases, they can get support:

- Under treatment for COVID-19, medical isolation, get stuck in locked down areas, unable to go to the workplace as required by a competent state agency to prevent and control the COVID-19 epidemic.
- Due to the employer's suspension of operation in whole or in part as required by a competent state agency to prevent and control the COVID-19 epidemic:
  - ✓ Or having its head office, branches, representative offices, production and business locations in the locality where measures to prevent and control the epidemic are being implemented in accordance with Directive 16/CT-TTg of the Prime Minister;
  - ✓ Or applying the measures where operations must be

stopped/suspended/ limited/ or carried out with some conditions as prescribed in Resolution 128/NQ-CP of the Government;

- ✓ Or rearranging production activities and labour forces to prevent and control the COVID-19 epidemic.

### 1.2 Adjustment of the conditions for suspending contributions to the pension and death gratuity fund

The support condition is that employers have fully paid social insurance premiums or are suspending contributions to the pension and death gratuity fund until the end of 01/2021 but are hit by the Covid-19 pandemic resulting in a reduction of 10% or more of the number of employees participating in social insurance at the time of filing applications as compared to 01/2021.

The novelty is more favorable than the previous one when it is required that employers have fully paid social insurance premiums or are temporarily suspending contributions to the pension and death gratuity fund until the end of 04/2021 and the number of employees participating in social insurance must be reduced by 15% or more.

### 1.3 Enterprises can apply for financial support for vocational training on several occasions

According to Decision 33/2021, an enterprise can submit applications, on various occasions depending on production, business and labour usage conditions, for financial support for training, retraining and improving vocational skills to the Department of Labour, War Invalids and Social Affairs where its head office is located or where the enterprise registers its participation in social insurance. Employees may only get one-off support.

### 1.4 Removing the condition that requires borrowers to have no bad debts at

### credit institutions at the time of borrowing

Decision 33/2021 has abolished the condition that requires enterprises to *have no bad debts at credit institutions and foreign bank branches at the time of borrowing*, that is, if the enterprise is having a bad debt, it can still take out a loan to pay wages to employees for work suspension, or for reviving production and business.

Decision 33/2021 takes effect from 06/11/2021 and does not apply to the cases where, according to Decision No. 23/2021/QD-TTg, support money has been paid, or the support list has been approved by a competent authority but support money has not yet been paid.

## 2. Guidelines for implementing tax exemption and reduction policies to support enterprises and household businesses

On 27/10/2021, the Government issued Decree 92/2021/ND-CP (Decree 92/2021) detailing the implementation of Resolution No. 406/NQ-UBTVQH15 on a number of solutions to support businesses and people hit by the COVID-19 epidemic. Decree 92/2021 takes effect from the effective date of Resolution No. 406/NQ-UBTVQH15, i.e. 19/10/2021, specifically as follows:

### 2.1 Reduction of corporate income tax payable in 2021 by 30%

#### a. Conditions

- Organizations manufacturing and trading in goods and services, and established in accordance with the law of Vietnam.
- Revenue in the tax period 2021 is not more than VND200 billion and lower than revenue in the tax period 2019 in which revenue in the tax period of corporate income

tax (CIT) includes all proceeds from sales, processing fees, charges for service provision and from business activities in the form of business cooperation contracts, including price subsidies, surcharges and extras that enterprises are entitled to under regulations, *excluding deductions from revenue, revenue from financial activities and other incomes.*

In case of newly established, consolidated, merged, splitted

enterprises in the tax period of 2020 and 2021, the condition that requires revenue in 2021 to be lower than revenue in the tax period of 2019 will not be applied.

**b. How to determine the tax amount to be reduced**

The reduced CIT amount is calculated on the payable CIT amount of the tax period of 2021, after deducting the CIT amount that the enterprise is preferentially entitled to as stipulated by law.

**c. Declaration for tax reduction**

- Based on revenue in the 2019 tax period and the expected revenue in the 2021 tax period, the enterprise will determine the tax amount to be reduced when paying quarterly CIT in advance.
- When making final payment of the CIT in 2021, the underpaid or overpaid tax amount of the quarterly advanced tax payment compared to the payable tax amount according to the annual final payment will be handled in accordance with the tax administration law.

**2.2 Reducing by 30% value added tax from 01/11/2021 until end of 31/11/2021**

**a. Subjects of application**

The category of goods and services according to Appendix 1 of Decree 92/2021 (except for published software, and goods and services that are provided or traded online), including: (i) Transportation

services; (ii) Accommodation and catering services; (iii) Information and communication; (iv) Administrative and support services; and (v) Arts, recreation and entertainment services.

**b. How to determine the reduction rate**

- For the value-added tax (VAT) withholding method: 30% reduction of the VAT rate for goods and services.
- Enterprises that pay VAT according to the method of percentage on revenue: reducing the rate of VAT by 30% for goods and services.

**c. Declaration for tax reduction**

- *Deduction method:* when making tax reduction invoices, in the VAT rate line, write "the prescribed tax rate (5% or 10%) x 70%"; value added tax; the total amount to be paid by the buyer. Based on the value-added invoice, the seller declares the output VAT, and the buyer declares and deducts the input VAT according to the reduced tax stated on the invoice.
- *Method of percentage on revenue:* when making a sales invoice, in the column "Total amount" write all the money for goods and services before the reduction, in the line "Amount paid for goods and services" write the amount that has already been reduced by 30% of the revenue, and also note that: "reduced by... (amount) equivalent to 30% of the rate to

calculate value-added tax according to Resolution No. 406/NQ-UBTVQH15".

**taxes, and environmental protection taxes in the third and fourth quarters of 2021**

### **2.3 Exemption from late payment of taxes, land use levies and land rent arising in 2020 and 2021**

#### **a. Subjects of application**

Enterprises, organizations (including dependent units, business locations) incur losses in the tax period 2020.

#### **b. How to determine the late payment amount subject to exemption**

The head of the tax administration agency, based on tax administration data, determines the amount of late payment by the taxpayer arising in 2020 and 2021 to issue a decision on exemption of amounts of late payment.

#### **c. Declaring the late payment amount to be exempted**

- Taxpayers must make a written request for exemption from late payment amounts, clearly stating the losses incurred in the tax period of 2020 and send it directly to the tax administration agency.
- Within 15 working days of receiving the written request, the tax authority shall issue the taxpayer a Notice of disapproval of exemption or a Decision on exemption of late payment amounts.

### **2.4 Exemption of personal income tax, value added taxes, special consumption taxes, natural resource**

#### **a. Subjects of application**

Household businesses and resident individuals operating in all industries, forms of tax declaration and payment, and whose production and business activities are hit by the Covid-19 epidemic in 2021 according to the list of geographical areas issued by the Chairman of the People's Committee of the centralized provinces and cities.

#### **b. How to determine the exempted tax amount**

- In case the tax authority must issue a notice of payment, it will rely on the payable tax amount of the months in the third and fourth quarter of 2021 on the notices of payment.
- In case the tax authority does not have to issue a notice of payment, the taxpayer will rely on the tax payable according to the tax declaration form.
- In case taxes must be declared according to the annual period of tax declaration or payment (for property tax, private house construction, declaration on other occasions), the exempted tax amount is the payable tax amount corresponding to the actual revenue generated in the months of the third and fourth quarters of 2021.

- If the actual revenue generated in the months in the third and fourth quarters of 2021 cannot be determined based on the contract for supply of goods and services, the average monthly revenue according to the contract value will be used for determination.
- In case a contract for supply of goods and services is signed within a month, the contract duration will be counted to a full month.

#### c. Declaration for tax exemption

- In case the tax authority must issue a notice of payment, it shall make a list of household businesses and individuals eligible for tax exemption, based on the actual tax amount payable by each household business or individual, to determine the exempted tax amount and issue a tax exemption decision together with the list of household businesses and individuals eligible for tax exemption.
- In case the tax authority is not required to issue a notice of payment: household businesses, trading individuals; organizations and individuals withholding, declaring and paying tax on behalf of household businesses and individuals; household businesses using books/sheets of invoice will determine the amount of tax payable after exemption to declare on the tax declaration form, and also make a statement of the exempted tax amount to submit together with the tax declaration form.

### 3. Guidelines for implementation of trade remedies under the UKVFTA

On 29/10/2021, the Ministry of Industry and Trade issued Circular 14/2021/TT-BCT (“Circular 14/2021”) guiding the implementation of trade remedies under the Free Trade Agreement between Vietnam and the United Kingdom of Great Britain and Northern Ireland (UKVFTA). Circular 14/2021 will take effect from 15/12/2021 with the following notable points:

#### 3.1 Governing scope

Circular 14/2021 guiding the investigation and application of anti-dumping, anti-subsidy and bilateral safeguard measures to implement the UKVFTA, which are applicable to the imports originating from the United Kingdom of Great Britain and Northern Ireland under the UKVFTA.

#### 3.2 Application of anti-dumping and anti-subsidy measures

The anti-dumping or anti-subsidy duties cannot exceed the margin of dumping or the level of subsidy. Based on the investigation agency’s conclusion, the Ministry of Industry and Trade will consider applying an anti-dumping and anti-subsidy duty rate lower than the dumping margin or the subsidy level if this lower duty rate



is enough to set off damages to the domestic industry.

### 3.3 Application of bilateral safeguard measures

a. **In principle:** at the same time, a bilateral safeguard measure and a safeguard measure as specified in Article XIX of the General Agreement on Trade and Tariffs 1994 may not be applied simultaneously to the same import entitled to preferential tariffs under the UKVFTA.

b. **Bilateral safeguard measures may include:**

- (i) Suspend the further reduction of import duty rates in accordance with the UKVFTA; or
- (ii) Increase the import duty rate for such goods but not exceed the preferential import duty rate in force at the time of application of this measure or the base import duty rate specified in the tariff schedules in Appendix 2-A (Abolition of customs duties) under Article 2.7 (Reduction or elimination of customs duties on

imports) of the EVFTA (which has been included in Part 2 of the Appendix amending a number of articles of the EVFTA in the UKVFTA), whichever is the lower import duty rate.

### c. Term for application of bilateral safeguard measures

- Not more than 02 years.
- If the investigation agency concludes that it is necessary to continue to apply a bilateral safeguard measure to prevent or remedy serious damage and facilitate the adjustment of the domestic industry, the term for applying such measure may be extended for a maximum of two years, and the intensity of the bilateral safeguard measure must be gradually reduced throughout the application process.
- Upon expiration of application of a bilateral safeguard measure, the import duty rate applied to the relevant goods shall comply with the UKVFTA, effective at the time of termination of that bilateral safeguard measure.

## 4. Novelties on management of medical equipment

On 08/11/2021, the Government issued Decree 98/2021/ND-CP (“**Decree 98/2021**”) on the management of medical equipment, notably regulations on price management of medical equipment.

### 4.1 Wholesale and retail prices of medical equipment must be posted

According to Article 44 of Decree 98/2021, establishments trading in

medical equipment must declare the price of medical equipment before they are circulated in Vietnam and update the prices upon any changes. At the same time, they must post the

wholesale and retail prices of medical equipment in Vietnamese dong at the place of transaction, and make a public announcement on the board, on paper or in other forms. In particular, medical equipment may not be traded without the declared price and must not be purchased or sold higher than the price declared on the website of the Ministry of Health at the time of purchase and sale.

**4.2 Only the owner of the registration number, or the distributor authorized by the owner, may declare prices**

According to Article 45.4 of Decree 98/2021, only the holder of the registration number of medical equipment or the distributor appointed by the owner of the medical equipment (in case the owner is a foreign trader) are entitled to make price declaration. In case there are many distributors distributing the same product, the holder of the medical equipment registration number must appoint a distributor to declare the price. Other distributors are not required to declare a price but may not sell above the price declared by the designated distributor. At the same time, the distributor must be responsible for declaring and

explaining the price constituents to the tax administration agency or as required by the state management agency.

**4.3 Adding the cases of exemption from announcement of applicable standards and registration of circulation for medical equipment imported into Vietnam**

Compared with the previous regulations, Article 24 of Decree 98/2021 adds a number of cases eligible for exemption from announcement of applicable standards and registration of circulation for medical equipment imported into Vietnam such as: medical supplies only for humanitarian aids, medical examination and treatment; medical equipment imported without registration numbers to meet the urgent needs of epidemic prevention and control, and to overcome the consequences of natural disasters or catastrophes for which there is no substitute medical equipment available on the market.

Decree 98/2021 will take effect from 01/01/2022 and replace Decree 36/2016/ND-CP, Decree 169/2018/ND-CP and Decree 03/2020/ND-CP.



GV Lawyers would like to introduce readers an article by Lawyer Le Quang Vy, Partners of GV Lawyers titled: **“Administrative business governance and management”** published in the Saigon Economic Times No. 36-2021 (1,603) on 02 September 2021.

*During the epidemic, many state agencies as well as officials made mistakes in the process of administration, management, and performance of official duties. It happened that an agency issued three documents in one day to revoke two documents that had just been issued; or the case of a vice-chairman of the ward who behaves himself towards citizens in noncompliant with conduct standards; then the case that residents must obtain the seal of the ward People’s Committee on their travel papers to be allowed to go out... There are also many cases where the different legal effects of the act of revoking and the act of canceling administrative documents cannot be distinguished.... Are these errors due to stress due to anti-epidemic requirements or administrative problems?*

### **Principles of public service management**

In administrative jurisprudence, administrative profession is the legal principles and techniques for the management of public affairs. Social order and security is an inevitable and direct consequence of administrative discipline.

As an administrative decision that violates the law and is unpopular with residents is issued, the disastrous consequences are incalculable.

Internally, any executive level will get annoyed as he has to correct the wrong document again and again, and this will affect the reputation of a leader. In society, residents will get confused, lose faith, and be thrown into an instability due to a lot of buzzing public opinion, and even this deprives the government of popular trust.

The power to make regulations is the one that is constitutionally vested in an administrative authority. According to Article 94 of the 2013 Constitution, the Government is the highest administrative agency in the country. For localities, the administrative agencies are People's Committees at all levels (Article 114 of the 2013 Constitution). With the power conferred by the constitution, the administrative agency is the body that executes and enforces the laws



promulgated by the National Assembly through useful and common types of administrative acts, which are administrative documents. Administrative documents are considered material means for administrative agencies to perform their duties.

The right to make regulations cannot be equal to the legislative power, the right to make regulations must submit to the legislative power, and administrative professions call it the *Principle of rule of law*. Accordingly, before issuing any administrative document, drafting officers and administrative agencies need to respect the constitution, refer to the law and strictly abide by the documents of their superiors.

In addition, with professional conscience, administrative officers need to find out *the Reason* for a law or a document of superiors to be promulgated by raising questions: why, or for what purpose is there the advent of such law or document? At the same time, it is necessary to find out *the Evidentness* that upon implementing the law or document, what advantages and disadvantages will happen? How should it be implemented? Upon seeing an injustice in society stem from the evidentness and the reason of a law or a document issued by a superior, officials or administrative agencies need to boldly struggle and propose a motion for the National Assembly to amend or abolish inadequacies in the law; or request superiors to revoke or cancel the issued administrative documents. By doing so, the official or administrative agency has had merit in consolidating the power of public authority, protecting the State's trust and social order.

The principle of respect for the law is not only respecting the law, but also all delayed acts in law enforcement and execution of any documents by superiors. Any said delays are considered violations.

The fact that a health department has to quickly issue three documents in one day to revoke the previously issued document is also a violation of the rule of law. Specifically: (i) The naming of the drug, the manufacturer and the company selling the drug characterized as "mandatory" is a violation of article 22 of the Bidding Law, resulting in unfair competition (violation of the law); (ii) Spreading psychological panic, causing people to rush to buy medicine and hoard it. This is likely to lead to a violation of the directives of the Government and of the City People's Committee on social distancing (violation of superior documents).

The second rule to follow is *the respect for an agreement*. Indeed, A Latin saying "*Pacta Sunt Servanda*" means that once you have made a commitment, you must be faithful to what you have pledged. This has become one of the important principles in international public law as well as domestic public and judicial law of most countries. Accordingly, once the State has committed or promised something to residents, it must absolutely keep its credibility. In administrative profession, the principle of respect for

an agreement must be strictly and thoroughly implemented.

The general trend of today's advanced administration is the moral conception of morality by the concept of *Justifiable* and the legal conception by the notion of *Legitimacy*, so administrative jurisprudence indicates that the State administrative agency must legitimize what's just, reasonable but has not yet been legal; never justify what is legal without being justifiable, unreasonable. The case where a ward vice-chairman said that bread is not an essential item, is not only an abuse of power but also a lack of understanding of the legitimate, reasonable and essential needs of residents.

### **Difference between revocation and cancellation of administrative documents**

The act of revoking an administrative document means withdrawing a previously issued document. The legal consequences of this act are considered to be without absolute existence of this administrative document, that is, retroactively from the time of issuance of the administrative document. Thus, the rights and

obligations arising from the execution of an administrative document that is later revoked, will also be revoked. For example, revoking an award decision will be meant to revoke the material benefits received by the awardee, i.e., as if such awardee has never received the award.

On the contrary, annulment of an administrative document has no retroactive effect. The act of canceling an administrative document has the effect of suspending the enforcement of the previously issued administrative document from the date the cancellation decision is issued. This means that prior to the date of issuance of the cancellation decision, the previously issued administrative document still exists. For example, to cancel a job assignment decision, which means that from the date of the cancellation decision, the

person assigned a job will stop the act of further receiving any assignment. The acts for the assigned person to perform before the decision to cancel are still in effect.

In fact, there is a provincial chief inspector who signed and promulgated an administrative decision on "Cancellation of the decision to sanction administrative violations". The reason for the cancellation is that the act of posting contents with pictures on Facebook by a citizen does not provide enough grounds to impose an administrative sanction. The chief inspector should have signed a decision to revoke the decision on sanctioning administrative violations because there were no violations and the decision on administrative sanctioning decision is considered never existent. Meanwhile, he signed an annulment decision, which means that before the

cancellation, the decision on administrative sanctioning is still valid, although no violation has occurred.

### **Is administrative work necessary for enterprises?**

Today, most businesses have an administrative department. However, it should be known that administrative affairs is a professional occupation. Therefore, mastering the above-mentioned administrative principles will help enterprises to govern and manage their unit more scientifically and systematically, which means that the governance will be highly persuasive, reasonable, clear and strict. The fact that enterprises strictly comply with the law and politicize what is considered to be legitimate and reasonable by employees, bring out both tangible and intangible benefits to themselves.

## 1. Enterprises may by themselves decide on their salary scales and payrolls

*Enterprises may establish their own salary scale, payroll, salary regulations, and the State only stipulates the regional minimum wage...*

On the morning of 11/11/2021, the Minister of Labour, War Invalids and Social Affairs Dao Ngoc Dung had nearly an hour more to answer questions from National Assembly deputies.

Regarding the matter mentioned by Deputy Nguyen Duy Minh, the Da Nang Delegation believes that the minimum wage is currently very low, not enough to cover the worker's daily needs, Minister Dao Ngoc Dung reiterated that according to Resolution 27 of the Central Committee on reforming the wage policy, the wage policy reform in the corporate sector should have been carried out from 01/07/2021.

However, due to the epidemic, the time for reforming the wage policy in the corporate sector must be "delayed" a little bit. Currently, the wage reform in this sector is under pilot implementation in three corporations, thereby it will serve as a basis for implementation on the national scale.

Regarding the matter of wages in the business sector, according to Minister Dao Ngoc Dung, in the coming time, there will be a very fundamental change when salary is considered to be the price of labour power, therefore, wages must be paid based on the market principles, with certain

interventions by the State, but within the allowable extent.

The new wage policy also upholds the autonomous role of the employer whereby enterprises and employers will be the ones to decide on the salary scale and payroll, the State will no longer intervene but only stipulate the minimum wage.

In addition, employees and employers will agree on the salary and income on the basis of three factors: growth of the enterprise; income and welfare of employees; regional minimum wage.

The regional minimum wage is the minimum level set by the State, forcing the employer not to pay lower than that, and if the employee proposes a higher wage, the employer has the right to decide whether to accept it or not when the agreement does not meet the requirements.

"However, we also understand that employees are always in a weaker position than employers. Therefore, in order to apply this wage, it is necessary to rely on many factors such as labour productivity growth rate, price index, the enterprise's financial ability and finally the problem of harmonizing the interests of both sides. Minister Dao Ngoc Dung said that this matter is in need of a coordination among three parties in a labour relationship including the state management agencies, representatives of employers and representative organizations of workers.

*By Phuc Minh, vneconomy.vn*

## 2. Proposal on allowing enterprises to postpone payment of 75% of income tax for the whole year

*The Ministry of Finance plans to suspend the requirement that businesses have to temporarily pay 75% of income tax for the whole year and promises to direct it on a more appropriate trajectory.*

According to Decree 126, by the deadline of 30/10/2021, enterprises must temporarily pay tax for the first three quarters of the year not less than 75% of the tax amount for the whole year. In case of underpayment, enterprises will be charged for late tax payment.

The Ministry of Finance admitted that if the late payment interest is calculated according to Decree 126, it will cause difficulties to businesses.

In the third quarter of this year, there were 23 provinces which had to apply social distancing, so business activities of enterprises were temporarily suspended during this time. Many enterprises do not have a source of revenue and do not incur temporary corporate income tax.

The epidemic situation in the fourth quarter is less complicated, many localities have lifted social distancing, so the Ministry of Finance believes that corporate income tax will mainly arise in the fourth quarter.

In order for enterprises to rest assured to resume production and business, the Ministry of Finance (General Department of Taxation) will make a proposal to the competent authority to temporarily suspend the regulation that “enterprises must temporarily pay

taxes for the first three quarters of the year not less than 75% of the income tax for the whole year”.

In addition, the Ministry of Finance (the General Department of Taxation) will request permission from the competent authority to amend the regulations on the rate of temporary payment of corporate income tax and a more appropriate time for calculating late payment interest.

This regulation in Decree 126, upon its issuance, also made many businesses bewildered. Because of the seasonal nature of production and business, many businesses are concerned that if their revenue in the fourth quarter increases sharply compared to the previous quarters, it is easy to violate the requirement that the temporary tax payment for the three quarters must be at least 75% of the annual final payment. Therefore, businesses will inadvertently have to pay late payment interest.

At a meeting at the end of March this year, Ms. Le Thi Duyen Hai, Director of Tax Declaration and Accounting Department (General Department of Taxation) affirmed that the amount of temporary payment in the first three quarters of the year did not need to be greater than 75% of the tax payable according to the annual final payment. She said that the document was misleading and “the tax authority will issue another document to explain and further clarify this issue, before 30/10 of this year”.

*By Quynh Trang, vnexpress.net*



## 1. Dossiers and procedures for VAT refund of ODA projects

- In case the Project Management Board, on behalf of the project owner, carries out the procedures for VAT refund for goods and services purchased domestically with ODA capital, the application file and procedures for completion are done according to the guidance in Article 80.2 of Decree No. 56/2020/ND-CP and Article 50.1 of Circular 156/2013/TT-BTC, including “A written request for certification of valid non-business capital expenses for public service expenses and the application for payment of investment capital for investment expenditures of the project owner”.
- From 01/01/2022, ODA, for cases where ODA is directly managed and implemented by the program owner or project owner, VAT refund dossiers and procedures for programs and projects funded by non-refundable ODA capital are studied and implemented by the unit according to the detailed guidance Article 28.c1 of Circular 80/2021/TT-BTC, including “A written request for certification of valid non-business capital expenses for public service expenses and the application for payment of investment capital for investment expenditures of the project owner.”

*Ha Noi City Tax Department replies to the question of Department of Chemicals - Ministry of Industry and Trade in Official Letter No. 43970/CTHN-TTHT dated 04 November 2021.*

## 2. Deductible expenses upon calculating the income subject to Corporate income tax

- In case the Company is a one-member limited liability company (owned by an individual), the salary and wages of the company owner will not be included in deductible expenses upon calculating the income subject to corporate income tax as prescribed in Article 4.2.2.6 of Circular 96/2015/TT-BTC.
- In case the Company is owned by an organization, the Company will compare with the said regulations based on the actual situation thereof to determine whether or not to directly participate in production and business management of the founders, members, members of the Members' Council, the Board of Management, thereby providing a basis for determining whether the above-mentioned salaries and wages are included in deductible expenses when calculating corporate income tax as prescribed in Article 4.2.2.6 of Circular 96/2015/TT-BTC.

*Ha Noi City Tax Department replies to the question of Worliding Vietnam Co., Ltd in Official Letter No. 43221/CTHN-TTHT dated 01/11/2021.*

## 3. Fulfilling tax obligations to foreign partners

- In case a foreign organization does business with or without a permanent establishment in Vietnam (hereinafter referred to as a foreign contractor), or earns income in Vietnam on the basis of a contract, agreement or commitment between a



foreign contractor and a Vietnamese organization or individual, the foreign contractor is subject to the application of contractor tax in Vietnam as prescribed in Article 1.1 of Circular No. 103/2014/TT -BTC.

- In case the foreign contractor fails to satisfy one of the conditions to declare tax directly in Vietnam mentioned in Article 8, Section 2, Chapter II of Circular No. 103/2014/TT-BTC, the Center (the Vietnamese side) is responsible for declaring and paying tax on behalf of foreign contractors according to the guidance in Articles 12 and 13, Section 3, Chapter II of Circular No. 103/2014/TT-BTC.

*Ha Noi City Tax Department replies to the question of Center for Planning and Investigation of marine resources and environment in the North region in Official Letter No. 41616/CTHN-TTHT dated 25/10/2021.*

#### **4. Tax declaration and payment on behalf of household businesses and trading individuals**

From the effective date of Decree No. 126/2020/ND-CP (from 05/12/ 2020) to

before the effective date of Circular No. 40/2021/TT-BTC (from 01/08/2021):

- In case the Company pays bonuses, supports to achieve sales, sales promotion, trade discount, payment discount, cash or non-cash support to individuals being household businesses and trading individuals paying tax by the presumptive method, the Company is responsible for declaring and paying taxes on behalf of the individual as prescribed in Article 7.5.dd of Decree 126/2020/ND-CP.
- From 01/08/2021, enterprises pays bonuses, supports to achieve sales, promotions, trade discounts, payment discounts, cash or non-cash supports to individuals as household businesses and trading individuals paying tax according to the presumptive method, the organization will pay and declare tax on behalf of the individual at the rate of 1% VAT and 0.5% PIT as prescribed in Article 2 of Circular No. 40/2021/TT-BTC.

*Ha Noi City Tax Department replies to the question of Green Chicken Co., Ltd in Official Letter No. 41213/CTHN-TTHT dated 21 October 2021.*

No.	Document title	Issuance date	Effective date
<b>NATIONAL ASSEMBLY STANDING COMMITTEE</b>			
1	Resolution 406/NQ-UBTVQH15 promulgating a number of solutions to support enterprises and people hit by the Covid-19 pandemic.	19/10/2021	19/10/2021
<b>GOVERNMENT</b>			
1	Decree 94/2021/ND-CP amending and supplementing Article 14 of Decree 168/2017/ND-CP detailing a number of articles of the Law on Tourism regarding deposits for provision of travel services.	28/10/2021	28/10/2021
2	Decree 92/2021/ND-CP detailing the implementation of Resolution 406/NQ-UBTVQH15 promulgating a number of solutions to support enterprises and people hit by the Covid-19 pandemic.	27/10/2021	19/10/2021
3	Resolution 128/NQ-CP promulgating the Interim Regulation on “safe and flexible adaptation and effective control over the COVID-19 pandemic”	11/10/2021	11/10/2021
4	Resolution 126/NQ-CP amending and supplementing the Resolution 68/NQ-CP on policies to support employees and employers plagued by the COVID-19 pandemic woes.	08/10/2021	08/10/2021
<b>PRIME MINISTER</b>			
1	Decision 29/2021/QD-TTg providing for special investment incentives.	06/10/2021	06/10/2021
2	Decision 28/2021/QD-TTg providing policies to support employees and employers hit by the COVID-19 pandemic.	01/10/2021	01/10/2021
<b>MINISTRY OF INDUSTRY AND TRADE</b>			
1	Circular 14/2021/TT-BCT guiding the implementation of the Free Trade Agreement between the Socialist Republic of Vietnam and the United Kingdom of Great Britain and Northern Ireland regarding trade remedies.	29/10/2021	15/12/2021
<b>MINISTRY OF FINANCE</b>			
1	Circular 88/2021/TT-BTC guiding the accounting regime applicable to household businesses and trading individuals.	11/10/2021	01/01/2022
<b>VIETNAM SOCIAL INSURANCE</b>			
1	Official letter 3138/BHXH-CSXH determining beneficiaries of support under Decision 28/2021/QD-TTg.	06/10/2021	06/10/2021
2	Official letter 3535/LĐTBXH-VL determining beneficiaries of support under Decision 28/2021/QD-TTg.	11/10/2021	11/10/2021



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