



MAIN CONTENTS

REMARKABLE REGULATIONS

1. Extension of deadline for tax and land rent payment in 2021.
2. New mechanism on development and management of social houses according to Decree 49/2021/ND-CP.
3. Some new regulations on construction contracts.
4. Expenses to support Covid-19 prevention and control are deductible when calculating corporate income tax.

GOOD READINGS FOR YOU

1. Branches of land registration offices may sign and issue certificates.
2. Ho Chi Minh City to impose pilot tax collection on lessors of apartments and offices in condominiums.

LEGAL GUIDANCE'S

1. Personal income tax policy for foreign experts.
2. Abbreviating the business address on the invoice.
3. Value added tax on crop products.
4. Issuing a value-added tax invoice.

NEWLY ISSUED LEGAL DOCUMENTS IN APRIL

1. Extension of deadline for tax and land rent payment in 2021

In order to provide assistance to businesses, organizations, business households and individuals affected by Covid-19 epidemic, on 19 April 2021, the Government issued Decree 52/2021/ND-CP (“**Decree 52/2021**”) on extending the deadline for payment of value added tax (VAT), corporate income tax (CIT), personal income tax (PIT) and land rent in 2021. Decree 52/2021 features the following main contents:

1.1 Subjects of application

- (1) Enterprises, organizations, business households and individuals which operate in the following economic sectors:
- Agriculture, forestry and fisheries.
 - Food production and processing; weaving; manufacture of garment; manufacture of leather and related products; wood processing and making products from wood, bamboo and cork (except for beds, cabinets, tables and chairs); producing products from straw, and plaiting materials; production of paper and paper products; manufacture of products from rubber and plastic; manufacture of other non-metallic mineral products; metal production; mechanical processing; metal treatment and coating; manufacture of electronic products, computers and optical products; manufacture of automobiles and other motor vehicles; manufacture of beds, cabinets, tables and chairs.
 - Construction.
 - Publication and film industries, television program production, music recording and publishing.
 - Exploiting crude oil and natural gas (no extension for corporate income tax on crude oil, condensate, natural gas collected under agreements and contracts).
 - Beverage production; printing, copying records of all kinds; production of coke, refined petroleum products; manufacture of chemicals and chemical products; manufacture of products from prefabricated metal (except for machinery and equipment); manufacture of motorcycles and motorbikes; repair, maintenance and installation of machinery and equipment.
 - Drainage and wastewater treatment.
 - Transportation and warehousing; accommodation and catering services; education and training; health care and social assistance activities; real estate business.
 - Labour and employment service activities; activities of travel agencies, provision of travel tours and support services,

- related to the promotion and organization of travel tours.
- Creative, artistic and entertainment activities; activities of libraries, archival systems, museums and other cultural activities; sports and entertainment activities; cinema activities.
 - Radio and television activities; computer programming, consulting services and other computer-related activities; information service activities.
 - Mining support services.
- (2) Enterprises, organizations, business households and individuals which engage in production of supporting industrial products prioritized for development; key mechanical products.
- (3) Small and micro enterprises which are specified according to the Law on Supporting Small and Medium Enterprises No. 04/2017/QH14 and Decree No. 39/2018/ND-CP.
- (4) Credit institutions, foreign bank branches which put in place the solutions to support customers being businesses, organizations and individuals affected by Covid-19 epidemic in accordance with regulations of the State Bank of Vietnam.
- 1.2 Extension of time limits for paying tax and land rent**
- ❖ *For VAT (except for import VAT)*
 - Extension of the payment deadline for the VAT amounts payable (including the taxes allocated to other localities at the provincial level where the taxpayer is headquartered, the tax amount paid on each time of incurring) during the tax period from March to August 2021 (for the case where VAT declaration is made monthly) and in the tax periods of the first and second quarters of 2021 (for the case where VAT declaration is made quarterly) with respect to enterprises and organizations.
 - Extension period:
 - ✓ 5 months for VAT amounts from March to June 2021 and the first and second quarters of 2021.
 - ✓ 4 months for VAT amounts of July 2021.
 - ✓ 3 months for VAT amounts of August 2021.
 - The extension period is counted from the end of the time limit for VAT payment in accordance with the law on tax administration.
 - ❖ *For CIT*
 - Extension of the payment deadline for the temporarily paid CIT amounts of the first and the second quarters of the CIT period of 2021 with respect to relevant enterprises and organizations.

- The extension period is 3 months from the end of the CIT payment deadline in accordance with the tax administration law.
 - ❖ *For VAT and personal income tax of business households and individuals*
 - Extension of payment time limits for VAT and PIT amounts payable in 2021 with respect to business households and individuals operating in the economic sectors mentioned in (1) and (2) as above.
 - Business households and individuals will pay the tax amounts subject to extension no later than 31 December 2021.
 - ❖ *For land rent*
 - Extension of payment time limits for the land rent payable for the first period of 2021 with respect to relevant enterprises, organizations, business households and individuals to which land is leased directly by the State under a Decision by or Contract with a competent state agency in the form of annual land rent payment.
 - The extension period is 6 months from 31 May 2021.
- eligible for extension will submit an application for extension of tax and land rent payment for the first time or for replacement when detecting errors (by electronic means; submitting a paper copy to the tax office by hand or via postal services) in the form as provided in the Appendix issued with Decree 52/2021 to the tax authority once for all tax periods in which the tax and land rent are eligible for extension at the time of submitting the monthly (or quarterly) tax returns in accordance with the law on tax administration.
- The deadline for submitting the application for extension is 30 July 2021.
 - In order to receive an extension for tax and land rent payment, taxpayers must fully pay the tax and land rent which have been extended for payment according to Decree No. 41/2020/ND-CP and the corresponding late payment amounts (if any) before 30 July 2021.
 - Taxpayers will determine by themselves if they are eligible for extension and take responsibility for the same. If taxpayers submit the application for extension of tax and land rent payment to the tax office later than 30 July 2021, they will not be granted an extension for tax and land rent payment as provided for by Decree 52/2021.

1.3 Notes for taxpayers

- Taxpayers who directly declare and pay tax to tax authorities and are

2. New mechanism on development and management of social houses according to Decree 49/2021/ND-CP

On 01 April 2021, the Government issued Decree 49/2021/ND-CP (“**Decree 49/2021**”) amending and supplementing a number of articles of Decree 100/2015/ND-CP on development and management of social houses. Decree 49/2021 takes effect from the date of signing for promulgation, i.e. 01 April 2021, and features a number of new, revised and supplemented regulations as follows:

2.1 Allocating a land fund of 20% to build social housing

According to Article 1.4 of Decree 49/2021, the allocation of a land fund for developing social housing with respect to construction investment projects of commercial houses and urban areas is regulated as follows:

- For investment projects in construction of commercial houses and urban areas with an area of 2 hectares or more in special and grade I urban centers or 5 hectares or more in grade II and grade III urban centers, it is required to allocate 20% of the total residential land area in detailed planning projects approved by competent agencies, which has been invested with technical infrastructure systems for social housing construction.
- For investment projects in construction of commercial houses and urban areas with an area of less than 2 hectares in special and grade I urban centers or less than 5 hectares in grade II and grade III urban centers, the investor is not required to set aside 20% of the land fund and is obliged to pay land use levy for the entire land area of the project in accordance with the land law.
- If a project is required to allocate 20% of the land fund for

construction of social housing as prescribed, but it is no longer suitable, the provincial People's Committee must report this to the Prime Minister for consideration and approval. If approved by the Prime Minister, the provincial People's Committee shall be responsible for clearly determining the replaced location and area of land at another location within the locality, and perform the land allocation and lease, and determine the payable land use levy for the land fund of 20% of the project in accordance with the land law and relevant laws; the proceeds must be added to the local budget for investment in the construction of social housing within the locality.

2.2 More incentives for investors in social housing construction projects

In addition to the incentives specified in Decree 100/2015/ND-CP, Decree 49/2021 adds a number of incentives provided for the investors in social housing construction projects as follows:

- Allowed to allocate 20% of the total residential land area which has been invested with technical infrastructure systems within the scope of a social housing construction investment project (including projects using the land fund of 20%) to invest in the

construction of commercial housing.

- Allowed to deduct compensation and site clearance expenses when the investor fulfills their financial obligations to the State.
- To be assisted by the Provincial People's Committee with the connection of the technical infrastructure system in the project to the general technical infrastructure system of the area if the construction of technical infrastructure in a social housing project is completed within 12 months from the date of land allocation or land lease.

2.3 Reducing the number of months for which deposits must be paid for social housing tenants

Decree 49/2021 stipulates that tenants of social housing are responsible for paying a deposit in advance to the lessor as agreed by the two parties, but not exceeding 3 months, and not less than 1 month's rent to secure the performance of a tenant's obligations. (previously stipulating a maximum of 12 months and 3 months as a minimum)

2.4 Changing the term of preferential loans to purchase or lease-purchase social housing units

According to Article 1.10 of Decree 49/2021, the term of preferential loans for purchase or lease-purchase of social housing units shall be agreed upon by the bank and their customers consistent with the customer's debt repayment ability and must not exceed 25 years from the date of the first loan disbursement. (previously stipulating a minimum of 15 years)

3. Some new regulations on construction contracts

On 01 April 2021, the Government issued Decree No. 50/2021/ND-CP (“**Decree 50/2021**”) amending and supplementing a number of articles of Decree 37/2015/ND-CP stipulating the details of a construction contract. Decree No. 50/2021 takes effect from the date of signing, i.e. 01 April 2021 and features some new points as follows:

3.1 Subjects of application in construction contracts

Decree 50/2021 applies to organizations and individuals involved in the establishment and management of construction contracts under construction investment projects using public investment capital or non-public investment capital of the State, and construction contracts between enterprises performing PPP projects and construction contractors

implementing bidding packages of PPP projects.

3.2 Projects in which EPC contracts are prioritized

- EPC contracts are prioritized to apply to complex projects with high technical and technological requirements, whose uniformity and consistency must strictly be ensured from the design stage to the stages of equipment supply, construction, technology transfer training.

- Before deciding to apply the type of EPC contract, the investment decision maker is responsible for assessing the technical and technological requirements, shortening the project implementation time, and the uniformity from the design stage, equipment supply, construction work to the stage of operation training and technology transfer to meet the objectives and requirements of the approved project and ensuring the feasibility of an EPC contract compared to other types of contracts.
- For a package contract, there are two additional cases where a contract may be amended:
 - ✓ When the State changes the policies that directly affect the performance of a contract, unless otherwise agreed by the contracting parties.
 - ✓ When the adjusted project affects a contract, unless otherwise agreed by the contracting parties.

3.3 Principles for amending construction contracts

Compared with Decree 37/2015, Decree 50/2021 has added a number of contents on the principle of amending construction contracts as follows:

- The amendments may be made throughout the extension period of construction contracts.
- For a fixed unit price contract, the contract unit price may be amended in the following cases:
 - ✓ When the State changes the policies that directly affect the performance of a contract, unless otherwise agreed by the contracting parties.
 - ✓ When the adjusted project affects a contract, unless otherwise agreed by the contracting parties.
 - ✓ Force majeure cases as prescribed by law.

3.4 Unit price of construction contract

Article 1.14 of Decree 50/2021 amending and supplementing regulations on adjustment of construction contract unit prices as follows:

- In case the volume of actually performed work increases or decreases by more than 20% of the corresponding work volume stated in the contract, and at the same time causes a change of more than 0.25% of the contract value and over 1% of the unit price of the work or the arising volume has no unit price in the contract, the parties will agree to determine a new unit price according to the principles agreed in the contract on the unit price for these volumes for payment.
- In case the volume of actually performed work increases by more than 20% of the corresponding work volume stated in the contract, the new unit price will only be applied to the portion of the actually performed volume exceeding 120% of the volume stated in the contract.

- In case the volume of actually performed work is reduced by more than 20% of the corresponding work volume stated in the contract, the new unit price will be applied to the entire actually completed work volume that has been accepted.

3.5 Adding two new types of construction contracts

Decree 50/2021 adds two new types of construction contracts: (i) Simple and

small-scale construction contracts and (ii) Cost-plus-cost contracts in which simple and small-scale construction contract is a construction contract for the implementation of bidding packages and the value does not exceed the limit of small-scale bidding packages in accordance the law on bidding and at the same time the content of work within the scope of the contract is of a simple technical nature, easy to perform.

4. Expenses to support Covid-19 prevention and control are deductible when calculating corporate income tax

On March 31, 2021, the Government issued Decree 44/2021/ND-CP (“**Decree 44/2021**”) guiding the implementation of deductible expenses when determining income subject to corporate income tax with respect to support and sponsorship expenses of enterprises and organizations for Covid-19 epidemic prevention and control activities. Decree 44/2021 takes effect from the date of signing, i.e. 31 March 2021 and applies to the corporate income tax period of 2020 and 2021.

Accordingly, enterprises may include in the deductible expenses when determining their taxable income for expenditures on support and sponsorship in cash and in kind for Covid-19 epidemic prevention and control activities in Vietnam through the recipients of support and funding such as Vietnam Fatherland Front Committees at all levels; health facilities; armed forces units; units and organizations assigned by competent state agencies to serve as concentrated isolation establishments; educational institutions; press agencies; Ministries,

ministerial-level agencies, governmental agencies; partisan organizations, youth unions and trade unions at central and local levels; local government agencies and units at all levels having the function of mobilizing sponsorship; fund for Covid-19 prevention and control at all levels; national humanitarian portal; charitable and humanitarian funds and organizations with the function of mobilizing sponsorship are established and operate in accordance with law.

Dossier to determine support and sponsorship expenditures includes: Minutes of confirmation of support, sponsorship, according to the form or in writing, documents certifying support and sponsorship expenditures, signed and stamped by the enterprise representative as a supporter or sponsor and representative of the unit receiving the support or sponsorship; accompanied by legal invoices and documents of donations or sponsorships in cash or in kind as prescribed by law.

1. Branches of land registration offices may sign and issue certificates

On 05 May 2021, Ho Chi Minh City Department of Natural Resources and Environment announced Decision 08/2021 of Chairman of the City People's Committee Nguyen Thanh Phong on amending and supplementing a number of articles of the Regulation on settlement of land allocation and land lease procedures, conversion of land use purpose, registration of land and other land-attached assets; granting, changing and re-issuing certificates of land use rights (LURC) and ownership of other land-attached assets in the city, promulgated together with the previous Decision 36/2017.

According to this decision, there will be 11 procedures to be amended and supplemented in consistency with reality and aimed at contributing to solving the rate of backlogged applications. Most notably, the People's Committee of Ho Chi Minh City allowed the Department of Natural Resources and Environment to authorize 22 branches of the Land Registration Office to sign and issue the

Certificate instead of transferring it to the City Land Registry Office to sign as usual. According to Decision 08, the said documents will be signed by the directors of the branch offices of the land registration office, then transferred to the City Land Registration Office for stamp and finally returned to citizens.



Image: Ngoc Duong

Ms. Bui Thi Bich Tuyen, Director of the City's Land Registry Office, said that the implementation time is 24 hours from the date of receipt of the application, confirmation of the list, stamping and updating until transferring the application to the branch to send to citizens.

According to the assertion of Mr. Nguyen Toan Thang, Director of the Department of Natural Resources and Environment, the authorization for branches to sign the certificate will overcome the long-delayed situation. As soon as the city issues Decision 08, the Department will issue a plan to implement immediately at the branches.

By Dinh Son, thanhnien.vn

2. Ho Chi Minh City to impose pilot tax collection on lessors of apartments and offices in condominiums

According to the plan recently issued by the Steering Committee against loss

of state budget revenue in Ho Chi Minh City, one of the topics to strengthen the management of revenue, urge the

collection, and combat the loss of state budget revenue in 2021 is to collect tax on lessors of apartments, offices and business premises in the apartment building.

As planned, Ho Chi Minh City will impose the pilot tax collection on lessors of apartments in condominiums

and buildings in District 11 including: RES apartment building at 205 Lac Long Quan, Thuan Viet commercial housing area at 319 Ly Thuong Kiet, Bao Gia building 184 Le Dai Hanh, The Everrich apartment complex at 968 Ba Thang Hai, apartment building at 70 Lu Gia, Khai Hoan building at 624 Lac Long Quan.

People subject to tax collection are individuals and organizations that rent out apartments, houses, and business premises in apartment buildings; individuals and organizations who directly conduct business and provide services in the apartment building; individuals and organizations leasing offices.

The tax authority will work with the apartment management board to collect a list of apartment leasing households, households directly doing business in the apartment building, coordinate with local police, review the list of

temporary residence and absence declarations to spread to owners leasing houses and apartments for them to

declare and pay rental tax through the apartment management board...

Individuals and organizations renting out apartments, houses and offices in the

apartment building will be guided to declare and pay taxes electronically.

In addition to collecting taxes on lessors of offices and apartments, HCMC will strengthen management of leasing, land use levy collection, registration fees, and personal income tax in land management activities and real estate business.

Specifically, tax authorities will compare tax declaration data with real estate transactions in the same area, location, scale and area to require taxpayers to properly declare tax on the actual transfer value.

The tax authority will coordinate with the Notary Information and Consulting Center (Department of Justice) to exchange information related to real estate transfer contracts at notary organizations in the area.

By D.N. Ha, nhadat.tuoitre.vn



Image: Tu Trung

1. Personal income tax policy for foreign experts

In case the Company has Japanese experts working in Vietnam and the salary expenses are paid by the Company contributing capital abroad, then:

- In case the foreign expert meets the condition that he/she is an individual residing in the tax year, the PIT assessable income will be the income generated within and outside the Vietnamese territory, regardless of the place of income payment. Individuals will declare PIT according to the Partially Progressive Tariff as guided in Article 26.7 of Circular No. 111/2013/TT-BTC and Article 16.7 of Circular 156/2013/TT-BTC.
- In case the foreign expert satisfies the condition that he/she is a non-resident individual in the tax year, the PIT assessable income will be the income generated in Vietnam (regardless of where the income is paid and received). Individuals will declare tax at the tax rate of 20% guided in Article 26.8 of Circular No. 111/2013/TT-BTC and Article 16.8 of Circular 156/2013/TT-BTC.
- In case the foreign expert is eligible for PIT exemption under the Agreement on the avoidance of double taxation between Vietnam and Japan and Article 31 of Circular 205/2013/TT-BTC, the foreign experts must prepare tax exemption and reduction application dossiers according to Article 16.3 of Circular No. 156/2013/TT-BTC.

Ha Noi Tax Department answers the queries of Hinode International Education and Trade Joint Stock Company in Official Letter No. 11900/CTHN-TTHT dated 16 April 2021.

2. Abbreviating the business address on the invoice

During the period from the date Decree No. 123/2020/ND-CP is issued to 30 June 2022, Decrees No. 51/2010/ND-CP and No. 04/2014/ND-CP stipulate on invoices for selling goods and providing services are still valid. Whereby:

In case the Company's branch has the too long name and address on the business registration certificate, making it difficult to display fully on the input and output invoices, the branch may write a short number of common words that must be correct, complete and consistent with the business registration, tax registration of the enterprise and still identify the correct name and address of the buyer and the name and address of the seller; if other criteria on the invoice are still sufficient and in accordance with regulations, it is considered a valid invoice for use for declaration and accounting as prescribed in Article 3.7 (b) of Circular No. 26/2015/TT -BTC.

Ha Noi Tax Department answers the queries of Mirae Asset Securities (Vietnam) Limited Liability Company - Ha Noi branch in Official Letter No. 10857/CTHN-TTHT dated 9 April 2021.

3. Value added tax on crop products

The enterprise is the management unit of the pomelo garden that has signed a contract to assign the grapefruit garden (including the trees attached to the planted area) to the staff of the contracting enterprise who directly takes care of the trees and distributes the received products (grapefruits) according to the agreed ratio. In case the Enterprise sells received products (grapefruits), the sold products will be not subject to VAT as prescribed in Article 1 of Circular No. 26/2015/TT-BTC dated 27 February 2015 of the Ministry of Finance.

Ha Noi Tax Department answers the queries of Branch of Hanoi Agricultural Development and Investment One Member Company Limited - Tu Liem Tourist Orchard Enterprise in Official Letter No. 10774/CTHN-TTHT dated 9 April 2021.

4. Issuing a value-added tax invoice

In case a branch of the Company pays service feesto customers (business organizations and individuals) to implement programs of sales support and customer care support, activities of trade promotion, marketing and displaying products for the branch of the Company, when receiving money, the customer (distributor) as a VAT payer by credit method, will issue a VAT invoice and calculate VAT at the rate of 10%, in case the customer is a VAT payer by the direct method, the sales invoice shall be used and the payable tax amount shall be determined according to the percentage (%) of the revenue as prescribed in Article 3 of Circular No. 26/2015/TT-BTC.

Ha Noi Tax Department answers the queries of Branch of Vietnam Animal Industry Joint Stock Company - Vissan Hanoi in Official Letter No. 10143/CTHN-TTHT dated 05 April 2021.

No.	Document title	Issuance date	Effective date
GOVERNMENT			
1	Decree 52/2021/ND-CP on extending deadlines for payment of value-added tax, corporate income tax, personal income tax and land rent in 2021.	19/04/2021	19/04/2021
2	Decree 50/2021/ND-CP amending and supplementing a number of articles of the Government Decree 37/2015/ND-CP of 22 April 2015, detailing construction contracts.	01/04/2021	01/04/2021
3	Decree 49/2021/ND-CP amending and supplementing a number of articles of Government Decree 100/2015/ND-CP on development and management of social housing.	01/04/2021	01/04/2021
4	Decree 47/2021/ND-CP detailing a number of articles of the Law on Enterprises.	01/04/2021	01/04/2021
MINISTRY OF PLANNING AND INVESTMENT			
1	Decision 426/QD-BKHDT on the announcement of new administrative procedures, administrative procedures to amend and supplement the field of outbound investment under the management functions of the Ministry of Planning and Investment.	14/04/2021	14/04/2021
2	Circular 03/2021/TT-BKHDT regulating the form of documents and reports related to investment activities in Vietnam, outbound investment and investment promotion.	09/04/2021	09/04/2021
MINISTRY OF NATURAL RESOURCES AND ENVIRONMENT			
1	Circular 01/2021/TT-BTNMT on technical regulations on formulation and adjustment of master plans and plans on land use.	12/04/2021	26/05/2021
MINISTRY OF FINANCE			
1	Circular 27/2021/TT-BTC amending and supplementing a number of articles of the Circular 19/2014/TT-BTC prescribing procedures for temporary import, re-export, destruction and transfer of automobiles and motorbikes of subjects entitled to privileges and immunities in Vietnam.	19/04/2021	02/06/2021
2	Circular 25/2021/TT-BTC prescribing the rates and regime of collecting, remitting, managing and using costs and fees related to exit from, entry into, transit through and residence in Vietnam.	07/04/2021	22/05/2021
MINISTRY OF HEALTH			
1	Circular 04/2021/TT-BYT providing guidance on the payment of costs for medical examination and treatment by capitation health insurance.	29/04/2021	01/07/2021
STATE BANK OF VIETNAM			
1	Circular 03/2021/TT-NHNN amending and supplementing a number of articles of the Circular 01/2020/TT-NHNN on credit institutions and foreign bank branches carrying out debt rescheduling, giving exemption from or reduction of loan interests and charges, and maintaining classified loan groups in order to help their clients affected by the Covid-19 pandemic.	02/04/2021	17/05/2021



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