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- ▶ Official Letter No. 4657/TCT-DNL dated 23 November 2018 of the General Department of Taxation on tax refund for enterprises after conversion.
- ▶ Official Letter No. 4571/TCT-TNCN dated 20 November 2018 of the General Department of Taxation on taxation of business trip allowances.

**SALIENT POINTS OF DECREE NO. 119/2018/ND-CP REGARDING INVOICE USE AND ADMINISTRATION, EFFECTIVE FROM 01 NOVEMBER 2018**

**Key features of E-invoices**

- ▶ Can be audited by tax authorities anytime.
- ▶ Can be looked up from website/ portal of the tax authorities.
- ▶ Can be looked up to track goods in transit without having to refer to paper based invoice.
- ▶ Have all types of invoices as traditional paper invoices (sales invoice, VAT invoice, stamp, ticket...).

**Management of use of E-invoices**

- ▶ E-invoices are created using the standard data format and are under the management of the tax authority via connection to their database of E-invoices.

**Conversion of e-invoices into paper invoice**

- ▶ The conversion from E-invoices into paper invoice shall NOT be valid for use in transactions and payments except for cases where invoices are created from POS cash registers connected with tax authorities' electronic data.

**Application of E-invoices**

**Enterprises are allowed to use E-invoices without tax authority's identification code if:**

- ▶ Enterprises do business in following sectors: electricity, clean water, telecommunication, petroleum, etc.
- ▶ Enterprises have already transacted or will transact with tax authorities via electronic means, building technology infrastructure to ensure electronic data can be transferred to buyers and to tax authorities.

**E-invoices with tax authority's identification code are applied for:**

- ▶ Enterprises are not prescribed in the above clauses.
- ▶ Enterprises with high tax risk.
- ▶ Business households or individuals regularly hire at least 10 employees and have the preceding year's revenue of at least VND 3 billion (regarding agriculture, forestry, construction...) or VND 10 billion (regarding commerce, service...).

**Registration of E-invoices from tax authorities**

- ▶ Registration is based on Form No. 01 at the Web Portal of the General Department of Taxation: <https://laphoadon.gdt.gov.vn>.
- ▶ The tax authority shall send a notification of acceptance or refusal under the Form No. 02 within 01 working day after receipt of the registration.

- ▶ In case of refusal, Enterprises can use E-invoices with tax authority's identification code– similar registration procedure.
- ▶ Enterprises destroy paper invoices upon using E-invoices.
- ▶ Issue E-invoices, digitally sign or electronically sign via Web Portal of the Tax authority or organizations providing E-invoice services.
- ▶ The code issuing system of the tax authority automatically issues the E-invoice code and send the results to the sender.

**Providing E-invoice services**

The General Department of Taxation shall provide the following entities with e-invoice services without charging fees:

- ▶ Enterprises, cooperatives, business households and individuals in areas with socio-economic difficulties or extreme socio-economic difficulties.
- ▶ Start-ups, business households or individuals transformed into enterprises within 12 months from their establishment.
- ▶ Business households or individuals.
- ▶ Other cases.

**Addressing E-invoice errors**

- ▶ **E-invoices which have not been delivered to the buyer:** The seller makes Form No. 04, requesting the tax authority to cancel the old invoice and to prepare a new invoice.
- ▶ **E-invoices which have been delivered to the buyer:** both parties shall make the error notification form on E-invoice, and the seller shall inform the tax authority by using the Form No. 04 requesting for cancellation and to prepare a new one instead.
- ▶ **Tax authority discovers the error:** Tax authority will inform the seller of the errors using Form No. 05. The seller shall subsequently inform the tax authority under the Form No.04 to cancel the old E-invoices and to prepare a new one within 2 days from the receipt of the notification from the tax authority.

**Transition provisions**

- ▶ Enterprises submitting the notifications of E-invoices issuance prior to the effective date of the Decree shall continue to use registered invoices.
- ▶ Enterprises using paper invoices prior to the effective date of the Decree shall continue to use these invoices until 31 October 2020. From 01 November 2018 to 31 October 2020, Enterprises are entitled not to use E-invoices per tax authority's request, but such Enterprises are liable for sending the tax authority their invoice data under the Form No. 03 along with their VAT returns.
- ▶ Enterprises established between 01 November 2018 and 31 October 2020 will apply E-invoices upon being requested by the tax authority. Otherwise, such Enterprises will continue to use paper invoice if failing to meet infrastructure requirements.

Should you need additional information or assistance on the process of E-invoices registration and application, please do not hesitate to contact us.

**Circular 82/2018/TT-BTC dated 30/082018 removes Example 37 mentioned in Circular 219/2013/TT-BTC on VAT**

- ▶ In Circular No. 219/2013/TT-BTC, example No. 37 illustrates a case where Company A obtains land use right from an individual and then resell it to another party, and the land price allowed to be deducted for VAT purpose is based on the price at the time of sale.
- ▶ Circular No. 82/2018 removes Example 37 as mentioned in Point a4, Clause 10, Article 7, Circular 219/2013/TT-BTC.
- ▶ Other contents of Point a.4. Clause 10, Article 7 of Circular No. 219/2013/TT-BTC shall still be effective.

Circular No. 82/2018/TT-BTC comes into force from 15 October 2018.

**Expenses regarding work permit issuance to foreign staff**

Official Letter No. 3545/TCT-TNCN dated 20 September 2018 by the General Department of Taxation confirms that the expenses regarding issuance of work permit to foreign staff are not subject to PIT, and deductible for CIT purpose.

**Taxation of gifts for staff from non-welfare fund source**

Pursuant to Official Letter No. 4003/TCT-CS dated 17 October 2018 by the General Department of Taxation, the enterprises are allowed to record expenses for gifts for staff out of welfare fund as deductible expenses for CIT purpose if such expenses do not exceed an averaged monthly salary amount. The enterprises are also entitled to input VAT credit corresponding to the deductible expenses however, VAT invoices must be issued on those gift expenses.

**Making and receiving payment via account of a dependent accounting entity**

Official Letter No. 3684/TCT-CS dated 29 September 2018 by the General Department of Taxation states that where enterprises authorize their dependent entities (*without legal entity status*) to make payment to and/or to receive payment from its partners, such payment and receipt vouchers from dependent entities meet requirements on non-cash payments.

**Tax incentives for enterprises entitled to tax incentives according to their locality**

Pursuant to the Official Letter No. 3097/CT-TTHT dated 01 October 2018 by Bac Ninh Tax Department, export-processing Enterprises which enjoy tax incentives under locality basis will be entitled to incentives regarding the income from selling semi-finished goods to domestic market.

**Treatment of overpaid import VAT**

Official Letter No. 3104/CT-TTHT dated 01 October 2018 by Bac Ninh Tax Department states that where the import VAT amount upon importing goods is overpaid, i.e the paid VAT amount to State Budget exceeds the payable VAT amount, the excessive amount shall not be entitled to tax deduction but to tax refund or offset with the payable VAT amount with subsequent imported goods following the decision of the customs authorities.

**Deductibility of motorcycle expenses**

Official Letter No. 2781/CT-TTHT dated 13 December 2018 by Bac Ninh Tax Department confirms that motorcycle service must be supported by invoices for CIT deduction on the basis that individuals performing this service are not categorized into the group of **households and individuals not doing business on goods and service** (*who needs to prepare the Form 01/TNDN only*).

**Deductible expenses for losses caused by hackers**

On 13 September 2018, Bac Ninh Tax Department released Official Letter No. 2817/CT-TTHT confirming that should hackers steal Enterprises' email accounts to transfer money to their account, and the risk has been warned, this event is not considered as force majeure. Hence, such losses cannot be regarded as deductible expenses for CIT purpose.

**Allocation of basement construction cost of mixed-use building when calculating CIT**

According to Official Letter No. 3030/CT-TTHT dated 21 September 2018 of the Bac Ninh Tax Department, should the basement of the building belong to the Owner and be used for providing parking services (including free of charge for visitors to the building), the depreciation expense of the basement is allocated into the cost of sales of the service business activity, not into the cost of sale of the real estates.

**VAT refund for projects without counterpart fund**

Pursuant to the Hanoi Tax Department via its Official Letter No. 78384/CT-TTHT dated 27 November 2018, where the project uses non-refundable ODA fund, and the Main Contractor receives the payment exclusive of VAT, and the project is not allocated counterpart fund to pay for VAT, the Main Contractor shall be entitled to VAT refund in connection with the goods and services purchased domestically for the project.

**Late payment interest regarding additional tax declaration dossier which reduces the tax payable amount**

Official Letter No. 4644/TCT-KK dated 23 November 2018 of the General Department of Taxation refers to Official Letter No. 5733/TCT-KK dated 12 December 2016. Accordingly, should Enterprises submit additional tax declaration dossier which reduces tax payable amount for the previous period, the late payment interest shall be calculated from the date of additional tax return to the date of making payment to State Budget. The previous late payment amount (*before Enterprises submit additional tax declaration dossier*) shall not be re-calculated, except for additional submission of finalization returns.

**Invoices issuance to Enterprises being enforced on invoices**

On 22 November 2018, the Hanoi Tax Department issued Official Letter No. 77479/CT-TTHT providing guidance for Enterprises with invoices being enforced. Specifically, the tax authorities shall consider issuing invoices for such Enterprises if (1) a written request for the use of invoices for sale of goods or services is available and (2) a deemed 18% tax on sale revenue is paid into State Budget. Should Enterprises violate their commitments, the tax authorities shall stop issuing invoices.

**VAT refund for Enterprise after conversion**

Pursuant to the General Department of Taxation via its Official Letter No. 4657/TCT-DNL dated 23 November 2018, where an Enterprise is still a branch of another Entity after this Entity transforms its business structure, such Enterprise is not eligible for VAT refund in accordance with Clause 3, Article 1 of Circular 130/2016/TT-BTC (*tax refund regarding transfer, conversion, merger, consolidation, division, dissolution, bankruptcy or shutdown*).

**PIT for business trip allowances**

On 20 November 2018, the General Department of Taxation issued Official Letter No 4571/TCT-TNCN confirming the following:

- ▶ **For non-refundable aid projects:** Should the business trip allowances be within the allowance range specified by the Donor or in the aid agreement, they shall not be subject to PIT. In case the allowances exceed the specified thresholds, the excessive amount shall be subject to PIT.
- ▶ **For refundable aid projects:** Should the business trip allowances be within the allowance range specified in Circular No. 219/2009/TT-BTC, they shall not be subject to PIT. In case the allowances exceed the maximum, the excessive amount shall be subject to PIT.

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