

TAX NEWSLETTER

July 2018



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NEW DOCUMENT

DECISION NO. 888/QD-BHXH DATED 16 JULY 2018

Decision No. 888/QD-BHXH dated 16 July 2018 on amendment and supplement of some articles of the Process of collecting social insurance, health insurance, unemployment insurance, occupational accident insurance; Management of social insurance books and health insurance cards issued under Decision No. 595/QD-BHXH dated 14 April 2017 of the General Director of Vietnam Social Insurance.

Some important amendments of Decision 888/QD-BHXH:

- Allow branches to select to pay social insurance at the parent company or localities, instead of having to pay at the localities where the branches are located (Item 1, Article 1).

- Health insurance card data are centrally managed and linked to collection data. In case the enterprises make late payment of health insurance premium in 30 days, the health insurance cards will automatically expire. Under the provisions of Section 4 of Article 1 of Decision No. 888/QD-BHXH, when the enterprises make late payment of health insurance premium in 30 days or more:





- The enterprises shall pay in full the unpaid amount and pay the interest amount at interest rate equal to twice of interbank interest rate calculated on the amount and time of late payment; If failing to do so, at the request of competent person, bank or credit institution or State treasury shall deduct money from the deposit accounts of the agencies, organizations or employers in charge of paying health insurance in order to pay the unpaid amounts, delayed amounts and interests of these amounts into the accounts of the health insurance fund;
- The enterprises shall refund all expenses to the laborers within the scope of benefits and health insurance benefits paid by laborers during the period of absence of health insurance cards.



DRAFT DOCUMENT



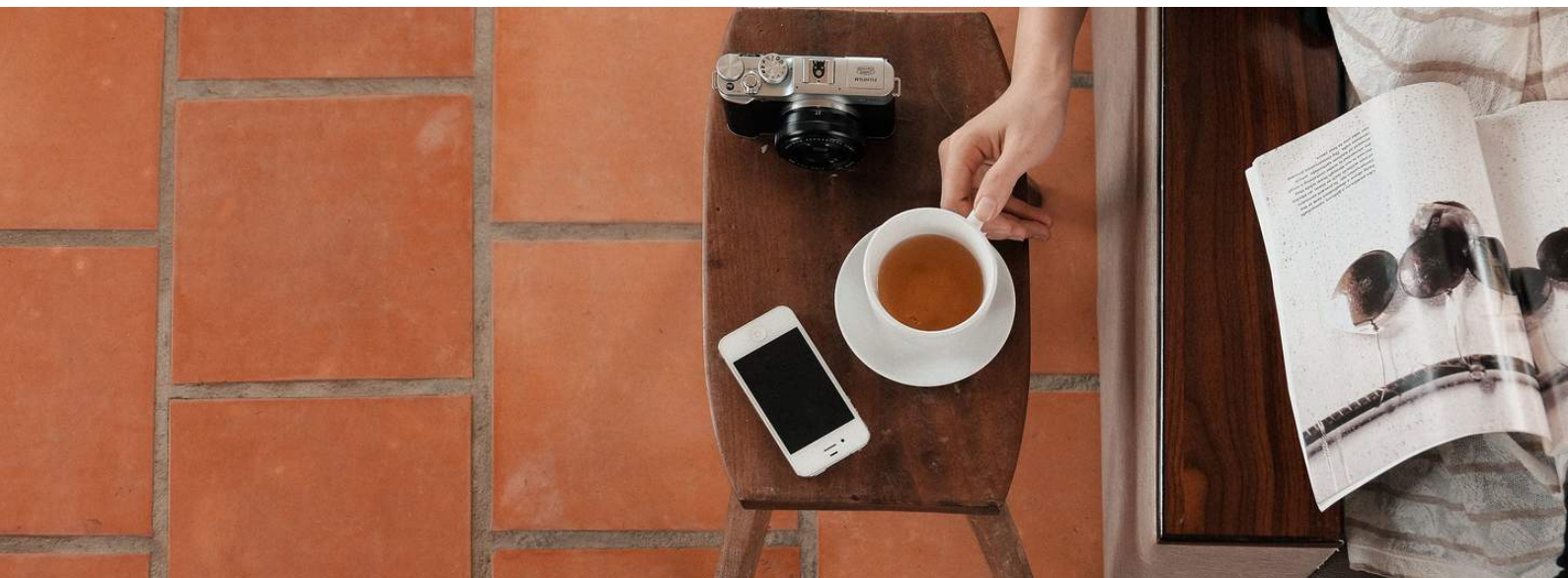
***DRAFT DECREE ON AMENDING AND SUPPLEMENTING
A NUMBER OF ARTICLES OF THE GOVERNMENT'S
DECREE NO. 134/2016/ND-CP OF SEPTEMBER 1ST,
2016 ON DETAILING A NUMBER OF ARTICLES AND
MEASURES TO IMPLEMENT THE LAW ON EXPORT TAX
AND TAX IMPORT.***

Some contents remarkably changed in the draft:

1. The draft supplement specifies application of tax rate for on-spot export and import goods, specifically (Clause 3, Article 3 of the Draft).

a, For on-spot import goods that are ordered for processing in Vietnam by the foreign party to sell to enterprises in Vietnam or goods traded between Vietnamese enterprises and foreign parties without presence in Vietnam and designated by the foreign trader to deliver and receive goods with other enterprises in Vietnam, the preferential tax rate as prescribed at Point a, Clause 3, Article 5 of the Law on Export Tax and Import Tax shall be applied.

b, For on-spot import goods that are traded between inland enterprises and export processing enterprises, enterprises in non-tariff areas, the preferential tax rate as specified at Point b, Clause 3, Article 5 of the Law on Export Tax, Import Tax shall be applied. In addition, taxpayers must have a certificate of origin issued by a Vietnamese competent authority to the customs office when carrying out customs procedures.



Draft Decree on amending and supplementing a number of articles of the Government's Decree No. 134/2016/ND-CP of September 1st, 2016 on detailing a number of articles and measures to implement the Law on Export Tax and Tax import

2. The draft amendment of contents of letter of guarantee, the submission of letter of guarantee and the inspection, monitoring and processing of the letter of guarantee. (Clause 3, Article 1 of the Draft).



3. Draft supplement: auxiliary materials; Equipment and machinery temporarily exported for re-import for performance of tax-exempt processing contracts (Clause 4, Article 1 of the Draft).

4. The draft stipulates that the declarants perform the procedures to calculate tax for domestic raw materials and supplies constituting the export processing products on the written declaration of export processing products under the value and tax rate of materials, supplies, components (Point g, Clause 1, Article 10 of the Draft).



5. The draft removes 3% tax exemption for waste materials, substandard products and surplus raw materials and supplies imported for processing (Clause 4, Article 10 of the Draft).

6. The draft add the investment project with a scale of VND 6,000 billion or more and the investment project in rural area employing 500 workers or more, the import goods creating fixed assets shall be exempted from import tax (Clause 1, Article 14 of the Draft).



7. The draft stipulates that at the time of final account report or at the expiry date of the processing contract, the abundant import goods for processing must be re-exported or transferred to the intermediary processing or destructed or made as a gift. In case of changing the use purpose or transfer of domestic consumption shall be declared for tax payment at the tax rate at the time of change of use purpose (Article 10 of the Draft).

OFFICIAL DISPATCH ON GUIDELINE AND RESPONSES RELATED TAXATION



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**OFFICIAL LETTER NO. 2499/TCT-CS DATED 22 DATED 2018
OF THE GENERAL DEPARTMENT OF TAXATION (“GDT”) ON
INVOICES, VOUCHERS AND DECLARATION AND PAYMENT
FOR CAPITAL CONTRIBUTION ASSETS.**



- Pursuant to Clause 7, Article 5 of the Circular No. 219/2013/TT-BTC, capital contribution assets to establish an enterprise are exempted from invoicing and declaration for VAT payment.

- According to GDT, if the company contributes additional charter capital to other companies by the value of assets attached to land, such assets are also exempted from invoicing and declaration for VAT payment.



- According to the provisions of Point b, Clause 2.15, Appendix 4 issued together with Circular No. 39/2014/TT-BTC dated 31 March 2014, the capital contribution dossier comprises: the minutes of capital contribution and minutes of valuation enclosed with a record of the origin of assets.





**OFFICIAL LETTER NO. 2515/TCT-CS
DATED 22 JUNE 2018 OF THE
GENERAL DEPARTMENT OF
TAXATION ON THE USE OF THE
CARVED SIGNATURE ON THE
INVOICE:**

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- According to Clause 1, Article 19 of the Law on Accounting No.88/2015/QH13, the accounting voucher must be signed with ink pen, not red ink pen and not be stamped with curved signature.
- "Invoice" is also considered as an accounting voucher (Clause 1 of Article 20 of Law on Accounting No.88/2015/QH13). Therefore, the enterprise are not allowed to use the carved signature to stamp on the invoice.





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**OFFICIAL LETTER NO.
2710/TCT-PC DATED 9 JULY
2018 OF GDT ON FINES FOR
LATE VAT PAYMENT**

Pursuant to the provisions of **Clause 2 and Clause 3, Article 110 of the Law on Tax Management No. 78/2006/QH11**, the limitation for sanctioning acts of late tax payment and inadequate declaration of tax is 5 years.

Exceeding the term of 5 years will not be sanctioned but it's required to still pay the full amount of tax.

Thus, if the foreigner submits dossier of VAT final account late more than 5 years, he/she shall not be fined for late payment of tax due to exceeding time limit for sanctioning.

However, the outstanding tax amount and late payment interest shall still be fully paid as follows:

- Period from 01 July 2013 - before 01 June 2015: 0.07% per day calculated on the late paid tax amount for the number of days of late payment exceeding 90 days.

- Period from 01 January 2015 - before 01 July 2016: 0.05% per day calculated on the late paid tax amount.

- Period from 01 July 2016 onwards: 0.03% per day calculated on the late paid tax amount.



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OFFICIAL DISPATCH NO. 48085/CT-TTHT DATED 10 JULY 2018 OF THE TAX DEPARTMENT OF HANOI CITY ON THE RELATED-PARTY TRANSACTION DOCUMENTS:

According to the provisions of Clause 4, Article 10 of Decree 20/2017/ND-CP and Clause 2, Article 4 of the Circular No. 41/2017/TT-BTC, in case the Company has an overseas ultimate parent company, in the declaration of related-party transaction, the Company shall be responsible for submitting a copy of its ultimate parent company's Country-by-Country report.

Where the Company fails to provide a Country-by-Country report, the Company obligated to provide a place

with the report for the previous fiscal year and a written explanation letter in which reasons for such failure.

Where the Company fails to provide a Country-by-Country report, the Company is obligated to provide a written explanation letter in which reasons for such failure, legal bases, and references to specific legislative regulations of the counterparty country on prohibiting taxpayers from providing Country-by-Country reports, should be stated.

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OFFICIAL DISPATCH NO. 51690/CT-TTHT DATED 25 JULY 2018 OF THE TAX DEPARTMENT OF HANOI CITY ON DEDUCTION OF VAT FOR EVIDENCES OF VAT PAYMENT OF DEFECTIVE IMPORTED GOODS.



For tax amounts paid to the local tax office, if the information on the payment evidences is incorrectly recorded, the enterprise shall make the application for amendment I (Form No. C1-11/NS promulgated in the Circular No. 84/2016/TT-BTC), enclosed with tax payment documents or information related to the contents of the request for adjustment of errors to the tax office.

The input VAT amount and expenses for imported goods, if satisfying the conditions as specified in Article 15 of the Circular No.219/2013/TT-BTC, Clause 10, Article 1 of the Circular No. 26/2015/TT-BTC and Article 4 of the Circular No. 96/2015/TT-BTC, are deductible and accounted.





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