



LEGAL, LABOR AND TAX UPDATES

May 2019

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NEW LEGAL INSTRUMENTS

09 May 2019 | Decree No. 38/2019/NĐ-CP providing for statutory pay rate for public officials and public employees and armed forces' personnel.

19 April 2019 | Decision No. 18/2019/QĐ-TTg regulating the import of used machinery, equipment and technology lines.

19 April 2019 | Circular No. 07/2019/ TT-BCT regulating the export of textiles and garments to Mexico according to CPTPP.

LATEST GUIDANCE DOCUMENTS

25 Mar 2019 | Official Letter No. 999/TCT-CS on guiding the loss transfer when calculating CIT for accounting in foreign currency.

04 April 2019 | Official Letter No. 1211/TCT-DNNCN on tax policy for transferring shares of individuals in joint stock companies.

05 April 2019 | Official Letter No. 1241/TCT-DNNCN on personal income tax policy on income from deposit interest of cooperative members.

10 April 2019 | Official Letter No. 1315/TCT-DNL on interest expenses for enterprises with associated transactions.

A. LATEST LAW DOCUMENTS

❖ GOVERNMENT

09 May 2019 | Decree No. 38/2019/NĐ-CP providing for statutory pay rate for public officials and public employees and armed forces' personnel.

From July 1, 2019, the basic salary is VND 1,490,000/month, an increase of VND 100,000/month compared to the current regulations.

This new base salary will be used as a base:

- Calculating the salary in the payrolls, the allowance level and implementing other regimes according to the provisions of law for the subjects prescribed in Article 2 of Decree No. 38/2019/ND-CP of the Government;
- Calculating the fee level, cost of living according to the provisions of law;
- Calculating deductions and regimes entitled to base salary.

(Decree 38/2019/ND-CP will take effect from July 1, 2019 and replace Decree No. 72/2018/ND-CP dated May 15, 2018).

❖ PRIME MINISTER

19/04/2019 | Decision No. 18/2019/QĐ-TTg regulating the import of used machinery, equipment and technology lines.

Used machinery and equipment are allowed to import when meeting the following criteria:

- Age of equipment does not exceed 10 years; for machinery and equipment in a number of specific domains, it may be over 10 years but must not exceed 15 years or 20 years (prescribed in Appendix I of this Decision).

(Decision 18 has provided more details on age of equipment for machinery and equipment in some specific areas compared to Circular No. 23/2015/TT-BKHCN dated November 13, 2015).

- Produced according to standards:

- + Compliance with QCVN regulations on safety, energy saving and environmental protection;

- + In case there is no related QCVN, imported machinery and equipment must be:

Manufactured in accordance with Vietnamese technical standards of Vietnam or national standards of one of G7 and Korea countries on safety, energy saving and environmental protection.

(Decision takes effect from June 15, 2019)

❖ MINISTER OF INDUSTRY AND TRADE

19/04/2019 | Circular No. 07/2019/TT-BCT regulating the export of textiles and garments to Mexico according to CPTPP.

Scope

This Circular provides for tariff quotas and a monitoring system for textile and garment exports to Mexico under CPTPP.

Subject of application

This Circular applies to textile and garment exporters to Mexico and related organizations and individuals.

(Circular takes effect from June 20, 2019)

B. LATEST GUIDANCE DOCUMENTS

✚ GENERAL DEPARTMENT OF TAXATION

25/03/2019 | Official Letter No. 999/TCT-CS on guiding the loss transfer when calculating CIT for accounting in foreign currency.

In case, Cathay United Bank - Chu Lai Branch is allowed by the Ministry of Finance to use the US dollar as an accounting currency and converted into Vietnamese Dong when submitting tax declaration dossiers to tax authorities **when the Company transfers losses according to regulations, the loss amount to be transferred is the loss amount calculated in Vietnam dong already declared in the enterprise income tax finalization dossier of the previous years already submitted to the tax authorities.**

04/04/2019 | Official Letter No. 1211 / TCT-DNNCN on tax policy for transferring shares of individuals in joint stock companies.

The General Department of Taxation stated that because "Stock" is a form of "share", individuals **who transfer capital in joint stock companies** in accordance with Enterprise Law and Securities Law are **determined as income from stock transfer.**

Therefore, individuals who have income from real securities transfer, currently declare and pay tax at the rate of 0.1% on the transfer price are guided in Article 16 and Article 21 of Circular No. 92/2015/TT- BTC.

05/04/2019 | No. 1241/TCT-DNNCN on personal income tax policy on income from deposit interest of cooperative members.

Based on current regulations, the cooperative is not a people's credit fund or a cooperative bank having internal credit activities not subject to the Law on Credit Institutions.

Therefore, **the deposit interest of individuals who are cooperative members from the cooperative internal credit activity is not subject to tax-exempt income** as stipulated in Clause 1, Article 3 of Circular No. 111/2013/TT-BTC.

10/04/2019 | Official Letter No. 1315/TCT-DNL on interest expenses for enterprises with associated transactions.

The General Department of Taxation considers that in the case where the Company has investment activities in subsidiaries, **arising profits are distributed from the after-tax profit of subsidiaries and accounted into financial revenue** as prescribed in Circular No. 200/2014/TT-BTC, the index "**Net profit from production and business activities**" is used to calculate the deductible interest expense limit when determining income subject to corporate income tax according to Decree No. 20/2017/ND-CP and Circular No. 41/2017/TT-BTC, the following are determined:

*Net profit from production and business activities is equal to (=) Gross profit on sales and service provision minus (-) Selling expenses minus (-) General management expenses plus (+) **Financial income** minus (-) Financial costs.*

Thus, it can be seen that the General Department of Taxation accepts the calculated the parent company/group's profit shared from the after-tax profit of subsidiaries is accounted into financial revenue to calculate the cost limit of interest deductible (item "**Net profit from production and business activities**").

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