



# LEGAL, LABOR AND TAX UPDATES

**August 2019**

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## **A. NEW LEGAL INSTRUMENT**

### **❖ GOVERNMENT**

#### **31 July 2019 | Decree No. 67/2019 / ND-CP prescribing charges for granting mining right and calculation methods thereof**

This Decree deals with:

1. Charges for granting mining right and calculation methods thereof.
2. Collection, management and use of charges for granting mining right.

Regulated entities:

1. Regulatory authorities involved in or related to the calculation, collection and transfer of charge for granting mining right.
2. Entitles licensed to perform mining operation without auction of mining right.

*(This Decree shall take effect from 15 September 2019)*

### **❖ STATE BANK**

#### **26 June 2019 | Circular No. 06/2019/TT-NHNN guiding the foreign exchange management for the foreign direct investment in Vietnam**

Accordingly, foreign and Vietnamese investors are allowed to contribute capital in foreign currencies and Vietnamese dong (VND) according to registered amount in:

- Investment Registration Certificate;
- License of establishment and operation in accordance with specialized law (for FDI enterprises established and operated under the specialized law);
- Notice of the foreign investor's eligibility to contribute capital or purchase shares/stakes;
- PPP contracts signed with competent authorities and other documents which can prove the compliance with law of capital contribution of foreign investors.

(At present, foreign investors and Vietnamese investors in FDI enterprises are allowed to contribute capital in foreign currencies and Vietnamese dong (VND) according to the investment stated in the Investment Certificate).

*(Circular No. 06/2019/TT-NHNN shall take effect from 06 September 2019)*

## ❖ MINISTRY OF INDUSTRY AND TRADE

**30 July 2019| Circular No. 12/2019/TT-BCT prescribing rules of origin in the master agreement on comprehensive economic co-operation between the Association of South East Asian Nations and the People's Republic of China**

### **Scope of regulation**

This Circular provides for the rules of origin in the Master Agreement on Comprehensive Economic Co-Operation between the Association of South East Asian Nations and the People's Republic of China (hereinafter referred to as "ACFTA").

### **Regulated entities**

This Circular applies to:

1. Regulatory authorities and entities authorized to issue Certificate of Origin (C/O).
2. Traders, regulatory authorities, organizations and individuals that perform activities related to origin of goods.

This Circular shall supersede the following legislative documents:

- a) The Decision No. 12/2007/QĐ-BTM dated 31 May 2007 of the Ministry of Commerce;
- b) The Circular No. 36/2010/TT-BCT dated 15 November 2010 of the Ministry of Industry and Trade;
- c) The Circular No. 01/2011/TT-BCT dated 14 January 2011 of the Ministry of Industry and Trade;
- d) The Circular No. 37/2011/TT-BCT dated 10 October 2011 of the Ministry of Industry and Trade;
- đ) The Circular No. 21/2014/TT-BCT dated 25 June 2014 of the Ministry of Industry and Trade;
- e) The Circular No. 14/2016/TT-BCT dated 05 August 2016 of the Ministry of Industry and Trade.

*(This Circular shall take effect from 12 September 2019)*

## ❖ MINISTRY OF FINANCE

**08 August 2019| Circular No. 48/2019/TT-BTC guiding the appropriation and treatment of allowances for inventories, investment loss, doubtful debts and warranty for products, goods, services and construction works at enterprises**

### **Scope of regulation and applicable subjects**

1. This Circular provides guidance on the appropriation and treatment of allowances for inventories, investment loss, doubtful debts and warranty for products, goods, services and construction works as the basis for determining deductible expenses upon CIT calculation as prescribed.

The appropriation of provisions for preparation and presentation of the financial statements of economic organizations complies with the accounting law.

2. This Circular is applicable to economic organizations (hereinafter referred to as enterprises) established and operated in accordance with the Vietnam law.

Credit institutions, branches of foreign banks which are legally established in Vietnam shall apply regulations on appropriation and treatment of allowances in accordance with this Circular. Particularly, provisions for operations of credit institutions, branches of foreign banks shall be appropriated and used according to regulations of the State Bank of Vietnam in agreement with the Ministry of Finance.

### **Appropriation for allowances for inventories:**

- Inventories including materials, supplies, tools, merchandises, goods in transit, goods on consignment, goods stored in bonded warehouse, finished goods of which costs in accounting books are higher than net realizable value shall be provided for in case the following conditions are satisfied:

+ Being invoiced and documented in line with regulations of the Ministry of Finance or otherwise proving costs of inventories.

+ Under ownership of enterprises as of the reporting date.

- Formula for appropriation is as follows:

Allowances = Actual amount of inventories as of the reporting date X (costs of inventories in accounting books - net realizable value).

*(This Circular shall take effect from 10 October 2019 and has been applied since 2019)*



## **B. OFFICIAL INSTRUCTIONS**

### **GENERAL DEPARTMENT OF TAXATION**

#### **22 July 2019 | Official Letter No. 2875/TCT-DNNCN guiding on personal income tax**

In case the customer is an **Individual who achieve the turnover are awarded as a tour (not in cash) according to the promotion**, the provisions of Decree No. 81/2018/ND-CP of 22 May 2018 of the Government, it is **determined that income from gifts is not subject to ownership registration, so it is not subject to PIT.**

#### **31 July 2019 | Official Letter No. 2969/TCT-DNNCN guiding the PIT declaration when non-resident individuals transfer shares to non-resident individuals**

In case a non-resident individual transfers the shares of CV Securities Joint Stock Company to another shareholder who is also a non-resident is considered as an activity of income generating by shares transfer and individuals directly declare PIT according to the form No. 04/CNV-TNCN promulgated in Circular No. 92/2015/TT-BTC of 15 June 2015 of the Ministry of Finance.

In case a CV Securities Joint Stock Company declares PIT declaration and pays tax on behalf of an individual, the phrase "Declaration on behalf" must be written in front of the phrase "taxpayer" or "the legal representative of the taxpayer" concurrently sign, specify full name and stamp of CV Securities Joint Stock Company. Due to tax obligations are those of individuals who transfer securities, their PIT declaration must fully display tax code of securities transfer individuals according to the provisions at Point a, Clause 2, Article 5 of Circular No. 95/2016/TT-BTC dated on 28 June 2016 of the Ministry of Finance.

#### **01 August 2019 | Official Letter 3002/TCT-DNL guiding the determination of interest expenses under Clause 3, Article 8 of Decree No. 20/2017/ND-CP**

The application subjects specified in Clause 3, Article 8 of Decree No. 20/2017/ND-CP are taxpayers that make transactions with related parties as prescribed in Article 5 of Decree No. 20/2017/ND-CP, except for case taxpayers are the subject of the Law on Credit Institutions and the Law on Insurance Business.

- ✓ The total interest expense incurred in the period of the taxpayer shall be deducted when determining taxable income in accordance with Clause 3 Article 8 of Decree No. 20/2017/ND-CP calculated on the **total interest expense incurred in period, irrespective of loan interest expenses arising from loan transactions with associated or independent parties and not offset against interest income on deposits, loan interests.**

- ✓ Regarding determination of deducted interest expenses to determine taxable income in accordance with Clause 3 Article 8 of Decree No. 20/2017/ND-CP in the fiscal year 2017:
  - Applicable regulations for **interest expenses incurred from 1 May 2017 until the end of the fiscal year**, regardless of loan contracts signed before or after 1 May 2017;
  - In case the taxpayer records separately the business results from 1 May 2017 to the end of the fiscal year, the **criteria to calculate “Total net profit from business activities plus interest expenses, depreciation expenses in the period” is determined according to actual arising figures**;
- ✓ In case the taxpayer cannot separately account and monitor the business results from 1 May 2017 to the end of the fiscal year, the criteria to **calculate “Total net profit from business activities plus loan interest expenses and depreciation expenses during the period” is allocated in proportion to the remaining months of the fiscal year from 1 May 2017.**

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- Financial statements.
- Finalized investment accounts.
- Estimates and finalized accounts of construction projects.
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## ❖ **Accounting.**

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## ❖ **Consultancy in respect of legality, investment, privatization, taxation, enterprise finance, business administration, transfer pricing , etc.**

## ❖ **Training and improving competency of workforce in auditing, accounting, finance, taxation and other topics in respect of market and economy.**



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