
TAX BULLETIN June 2022

1. General Department of Taxation issued Official letter No. 2194/TCT-KK dated 23rd June 2022 on the implementation of Decree 34/2022/ND-CP on extension of deadline for tax payments

As refer to our Tax Bulletin of May 2022, the Government issued Decree 34/2022/ND-CP on the extension of the deadline for paying VAT, CIT, PIT and land rental in 2022 on 28th May 2022. Please read the Official Letter No. 2194/TCT-KK dated 23rd June 2022 of the General Department of Taxation for instructions on how to declare required information in the Request for extension of tax payment in 2022, tax declaration applications (eTax, iCaNhan, HTKK) and internal process of tax payment extension by tax authorities.

2. Decree No. 41/2022/ND-CP dated 20th June 2022 of the Government amending and supplementing Decree No. 123/2020/ND-CP on invoices and the Decree No. 15/2022/ND-CP providing tax exemption and reduction policies

- Issuing Form No. 01/TB-HDSS - Notice of receipt and processing results of e-invoices with errors to replace Form No. 01/TB-SSDT, Appendix IB enclosed to the Decree No. 123/2020/ND-CP.
- Amending regulations on invoicing for goods and services eligible for VAT reduction to 8% as follows:
 - In case a business establishment applies credit method of calculating VAT, when selling goods or providing services with different tax rates, the VAT invoice must clearly state the tax rate of each good or service. According to current regulations, business establishments must issue separate invoices for goods and services eligible for VAT reduction. In case a business establishment does not issue a separate invoices for goods and services eligible for VAT reduction, VAT reduction will be not accepted.
 - In case a business establishment applies direct method of calculating VAT, when selling goods or providing services, the sales invoice must clearly state the amount of the reduction as prescribed.
 - In case from 1st February to 20th June 2022, those business establishments which has issued VAT invoices according to the above provisions will still be entitled to VAT reduction and will not have to adjust the invoice, and will not be penalized.

This Decree took effect from the date of signing.

3. Minimum salaries increase by 6% from 1st July 2022

On 12 June 2022, the Government issued Decree 38/2022/ND-CP on new minimum salaries which will come into effect from 1 July 2022. Unlike previous Decrees, Decree

38/2022/ND-CP stipulates not only the minimum monthly salaries but also the minimum hourly ones, as follows:

| | Minimum monthly salary | Minimum hourly salary |
|-------------------|---|-----------------------|
| Region I | VND 4,680,000 (increase from VND 4,420,000) | VND 22,500 |
| Region II | VND 4,160,000 (increase from VND 3,920,000) | VND 20,000 |
| Region III | VND 3,640,000 (increase from VND 3,430,000) | VND 17,500 |
| Region IV | VND 3,250,000 (increase from VND 3,070,000) | VND 15,600 |

4. Treatment with respect to goods hired, borrowed from EPEs by domestic enterprises (Official letter No. 1400/TCHQ-TXNK dated 21st April 2022 of General Department of Customs)

➤ Customs procedures

In case where an EPE leases or lends its goods to a domestic enterprise for production of products of the EPE, the export processing enterprise shall open the declaration of temporary export and the domestic enterprise shall open the declaration of temporary import; upon terminating the lease or lending contract, the domestic enterprise shall perform procedures for re-export of the leased or lent goods, and the EPE shall perform procedures for re-import of these goods.

➤ Import duty on hired or borrowed goods

In case where a domestic enterprise hires or borrows goods from an EPE under a hiring or borrowing contract to serve its manufacturing, it shall not be eligible for exemption from import duty as provided for in Point a Clause 9 Article 16, Law on Export and Import Duties No. 107/2016/QH12, and it is required to declare and pay import duty when temporarily importing such goods, and shall also not be eligible for refund of the paid import duty when re-exporting such goods as provided for in Point đ Clause 1 Article 19, the Law on Export and Import Duties No. 107/2016/QH13 because these are hired or borrowed goods. The taxable value of hired or borrowed goods shall be determined in accordance with Clause 9 Article 1, Circular No. 60/2019/TT-BTC of the Ministry of Finance.

➤ VAT on goods hired or borrowed in the form of temporary import for re-export

- Goods hired or borrowed by a domestic enterprise from an EPE and for which the declaration of temporary import has been registered shall not be subject to VAT. Upon the end of the hiring or borrowing period, if the domestic enterprise fails to re-export such hired or borrowed goods, it shall, immediately after ending the hiring or borrowing period, declare and pay VAT and import duty on a new customs declaration as provided for in Clause 12 Article 1, Decree No. 59/2018/ND-CP dated 20th April 2018 of Government.

- In case of the hired or borrowed goods which are damaged while being used and for which destruction procedures have been carried out in accordance with regulations of law, the domestic enterprise is not required to declare and pay VAT on these hired or borrowed goods.

➤ Additional declaration

If an error in the customs value of an enterprise's hired or borrowed goods which are declared on the declaration of temporary import registered on 15th October 2019 or afterwards (the effective date of the Circular No. 60/2019/TT-BTC) and have not yet been re-exported is found and the enterprise is entitled to make additional declaration of the taxable value of hired or borrowed goods as prescribed in Clause 9 Article 1, Circular No. 60/2019/TT-BTC dated 30th August 2019 of the Ministry of Finance, the enterprise shall make an additional declaration as provided.

The customs authority shall inspect conditions for making the additional declaration, the additionally declared customs value, tax policies and other regulations on the additional declaration as provided.

➤ Handling the overpaid tax

If an enterprise is entitled to make an additional declaration due to wrong statement of the taxable value resulting in the tax paid greater than the amount payable, the overpaid amount shall be refunded when the taxpayer no longer has outstanding tax, late payment interest or fine. The customs authority shall inspect the reasons for making additional declaration, the submitted declaration, relevant documents used for determining the customs value and tax policies as provided.

➤ 6. Handling the tax in case of failure to re-export temporarily imported goods

- If a domestic enterprise hires or borrows goods from an EPE under a hiring or borrowing contract to serve its manufacturing, it shall re-export such hired or borrowed goods upon the expiry of the lease or lending period.
- The enterprise that fails to re-export their hired or borrowed goods shall, immediately after ending the hiring or borrowing period, perform procedures for registration of a new customs declaration and fully pay taxes and fines (if any) as provided. If the enterprise fails to declare and fully pays taxes upon the expiry date of the hiring or borrowing period, the customs authority shall assess the tax amount payable according to Clause 4 Article 17, Decree No. 126/2020/ND-CP dated 19th October 2020 of Government.

5. Depreciation of unused fixed assets due to no orders (Official Letter No. 1475/CTBNI-TTHT dated 9th May 2022 of Bac Ninh Tax Department)

In case of production stoppage due to no purchase orders, which is not due to either seasonal production for an inactive period of less than 9 months, nor repair, relocation, periodic

maintenance for a period of less than 12 months, the company still has to depreciate fixed assets during the production stoppage. However, the depreciation expense in such period is not considered deductible expenses as it does not serve business activities.