

LEGAL NEWS UPDATE – MAY 2016

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PART I: REGULATION HIGHLIGHTS

1. EXTENDING OBJECTS NOT SUBJECT TO THE VALUE ADDED TAX

On 06 April 2016, The National Assembly passed the Law No. 106/2016/QH13 on amending and supplementing a number of articles of the law on value-added tax, the law on special excise duty, and the law on tax administration.

Accordingly, such Law supplements a number of objects which are not subject to the VAT. Besides, the timetable for special excise duty application with regard to motor vehicles of less than 24 seats is also amended.

With regard to the tax administration, the fine rates for the arrearage of tax payment is 0,03%/day calculated on the total amount of the arrearage of tax payment. In addition, the tax administration agencies will grant tax exemption and reduction for non-taxable objects specified in the legislative documents on taxation.

This Law is effective from 01 July 2016.

2. REGULATIONS ON ANTI-DUMPING DUTY, COUNTERVAILING DUTY AND SAFEGUARD DUTY

On 06 April 2016, The National Assembly adopted the Law No. 107/2016/QH13 on export and import duty.

According to this Law, Anti-dumping duty shall be applied to cases where the imports being dumped in Vietnam and the dumping margin being determined in the details. Anti-dumping duty shall be applied for a period not exceeding 5 years from the day on which the decision to apply anti-dumping duty takes effect.

In addition, the Law also regulates on the application of countervailing duty and safeguard duty.

This Law is effective from 01 September 2016 and the Law No. 45/2005/QH11 on export and import duty is abolished.

3. CONDITIONS AND STANDARDS TO BE CONSIDERED FOR THE ISSUANCE OF PRESS CARD

On 05 April 2016, The National Assembly issued the Law No. 103/2016/QH13 on the Press Law.

According to this Law, objects to be considered for the issuance of press card which are provided to be the Vietnamese citizens and are permanently residing in Vietnam; having university diploma or higher; in case of being the ethnic minorities who are carrying out the publications of printed newspapers, broadcasting and television programs, the specialized page of electronic newspaper in the language of ethnic

minorities, such persons must graduate from college or have higher education; in case of issuing card for the first time, there must be the working time for 02 consecutive years or more at the press agency requesting the issue of card by the time of consideration for issuing of card, except for the editor in chief of scientific magazine and other cases as stipulated by law; are recommended for issue of card by the press agency or the current agency.

This Law is effective from 01 January 2017 and the Press Law on 28 December 1989 is abolished.

4. CHILDREN HAVE THE RIGHT TO KEEP PERSONAL SECRETS

On 05 April 2016, The National Assembly issued the Law No. 102/2016/QH13 on the Children Law.

According to this Law, children have the imprescriptible right to privacy and keep personal and family secrets, all are for the best interests of children.

Furthermore, the children are protected under the law on their honor, dignity, personal prestige, mail, telephone and telegram security and other personal information exchange types; they are protected and resist illegal interventions against personal information.

Announcement and disclosure of information about the privacy or secret of the children must have the consent of the children who are enough 07 years old or older and the consent of their parents or guardians.

Besides, the Law also provides prohibited acts in order to ensure children's rights and obligations.

This Law is effective from 01 June 2017 and the Law No. 25/2004/QH11 on child protection, care and education is abolished.

5. CITIZENS HAVE THE RIGHT TO REQUEST FOR THE PROVISION OF INFORMATION

On 06 April 2016, The National Assembly issued the Law No. 104/2016/QH13 on access to information.

According to this Law, all citizens are treated equal and not discriminated in exercising their right of access to information.

Citizens are permitted to access to information of the state agencies, excepted for classified information of the State or Information the access to which is considered as harming the national interests. The State agencies shall provide information they generate and those they receive to directly execute their functions, tasks and powers.

This Law stipulates prohibited acts in the access to information in the detail.

This Law is effective from 01 July 2018.

6. CIRCUMSTANCES THAT ENABLE IMPORTATION OF PRODUCTS UNDER THE IMPORT PROHIBITION LIST

On 06 May 2016, The Prime Minister issued the Decision No. 18/2016/QĐ on circumstances that enable importation of

used information technology ("IT") products under import prohibition list.

Accordingly, there are 06 circumstances that enable importation of products under the import prohibition list as specified in this Decision.

The importation of IT products under the import prohibition list must adhere to relevant safety and quality regulations, standards and national technical regulations. Used specialized IT products that enable importation must be satisfied the requirements as defined in this Decision.

This Decision is effective from 01 July 2016.

7. CONDITIONS FOR ISSUING THE CERTIFICATE OF BIDDING OPERATION

On 05 May 2016, The Ministry of Planning and Investment issued the Circular No. 03/2016/TT-BKHDT on the detailed regulations for the training and retraining of bidding.

According to this Circular, since 2018, Individuals who directly participate in elaboration and appraisal of dossiers of invitation for expression of interest, dossiers of invitation for pre-qualification, bidding dossiers, dossiers of requirements; assessment of dossiers of expression of interest, dossiers of prequalification participation, bid dossiers, dossiers of proposals; appraisal for results of invitation for interest; results of pre-qualification, results of contractor selection of professional bidding organizations, enterprises, units operating in advisory for bidding,

professional management board of projects, the unit of concentrated procurement must have the certificate of bidding operation.

In order to be issued the Certificate, Individuals who must satisfy the requirements as stipulated in this Circular. The Certificate of bidding operation is valid for 05 years from the issue date, if the Certificate is expired which must be submitted the procedures for reissue.

This Circular is effective from 01 July 2016.

8. PROCEDURES FOR APPRAISAL OF IMPORTED TOYS UNDER THE ONE-STOP-SHOP MECHANISM

On 25 April 2016, the Ministry of Finance, the Ministry of Culture, Sports and Tourism promulgated the Joint Circular No. 64/2016/TTLT-BTC-BVHTTDL on the national one-stop-shop mechanism with regard to the procedures for content appraisal of imported toys under the scope of specialized management of the Ministry of Culture, Sports and Tourism.

According to this Joint Circular, the customs declarant must complete imported procedures at the Customs Authorities. Customs Authorities have responsibility for assessment or send the assessment requirements in electronic documents through the national one-stop-shop mechanism to

the Ministry of Culture, Sports and Tourism in order to solicit expertise or take the opinions of the relevant management State Authorities to determine whether such goods are allowed to import or not.

The Joint Circular also provides the time of receiving assessment requirements for children's imported toys.

This Joint Circular is effective from 15 July 2016.

9. REGULATIONS ON BIDDING FOR SUPPLY OF DRUGS FOR PUBLIC HEALTH FACILITIES

On 11 May 2016, The Minister of Health promulgates a Circular No. 11/2016/TT-BYT on bidding for supply of drugs for public health facilities.

According to this Circular, competitive offering shall be applied upon the procurement value does not exceed 05 billion Vietnamese Dong; there is a contractor selection plan approved by the competent state agencies the drug to be procured is on the list of essential medicines or a commonly available drug on the market whose technical characteristics and quality have been standardized and equivalent.

Direct procurement shall be applied if all of the conditions are satisfied as specified in this Circular.

This Circular is effective from 01 July 2016

PART II: LIST OF NEW LEGAL DOCUMENTS

No.	NAME OF DOCUMENT	EFFECTIVE DATE
THE MINISTRY OF FINANCE		
1	<i>Official Letter No. 5840/BTC-TCDN dated 29 April 2016 of the Ministry of Finance relating to report on financial supervision and corporate operation evaluation in 2015</i>	29/04/2016
2	<i>Official Letter No.5680/BTC-TCHQ dated 27 April 2016 of the Ministry of Finance on application of safeguard duty</i>	27/04/2016
3	<i>Official Letter No.5613/BTC-CST dated 26 April 2016 of the Ministry of Finance on export duty incentives stipulated in Decision No.19/2015/ND-CP</i>	26/04/2016
4	<i>Official Letter No.5492/BTC-TCT dated 25 April 2016 of the Ministry of Finance on classification of examining VAT refund dossiers.</i>	25/04/2016
THE GENERAL DEPARTMENT OF TAXATION		
1	<i>Official Letter No.1847/TCT-CS dated 04 May 2016 of the General Department of Taxation on corporate income tax policy</i>	04/05/2016
2	<i>Official Letter No.1843/TCT-CS dated 04 May 2016 of the General Department of Taxation on tax policy</i>	04/05/2016
3	<i>Official Letter No.1842/TCT-CS dated 04 May 2016 of the General Department of Taxation on corporate income tax policy</i>	04/05/2016
4	<i>Official Letter No.1841/TCT-CS dated 04 May 2016 of the General Department of Taxation on VAT policy</i>	04/05/2016
5	<i>Official Letter No.1823/TCT-CS dated 04 May 2016 of the General Department of Taxation on land rent policy</i>	04/05/2016
6	<i>Official Letter No.1818/TCT-KK dated 29 April 2016 of the General Department of Taxation on replacing taxpayer dependent's code with tax code for individual on the TMS application</i>	29/04/2016
7	<i>Official Letter No.1817/TCT-KK dated 29 April 2016 of the General Department of Taxation on VAT refund</i>	07/04/2016
8	<i>Official Letter No.1894/TCT-CS dated 05 May 2016 of the General Department of Taxation on personal income tax policy</i>	05/05/2016

9	<i>Official Letter No.1873/TCT-CS dated 05 May 2016 of the General Department of Taxation on corporate income tax policy</i>	05/05/2016
10	<i>Official Letter No.1872/TCT-CS dated 05 May 2016 of the General Department of Taxation on adjusting invoice</i>	05/05/2016
11	<i>Official Letter No.1871/TCT-CS dated 05 May 2016 of General Department of Taxation on explanation for registration fee policy</i>	05/05/2016
12	<i>Official Letter No.1870/TCT-CS dated 05 May 2016 of the General Department of Taxation on application of tax calculation method</i>	05/05/2016
13	<i>Official Letter No.1869/TCT-CS dated 05 May 2016 of the General Department of Taxation on land rent collection policy</i>	05/05/2016
14	<i>Official Letter No.1868/TCT-CS dated 05 May 2016 of the General Department of Taxation on tax policy</i>	05/05/2016
15	<i>Official Letter No.1867/TCT-CS dated 05 May 2016 of the General Department of Taxation on answer to problems related to tax on natural resources</i>	05/05/2016
16	<i>Official Letter No.1865/TCT-CS dated 05 May 2016 of the General Department of Taxation on VAT</i>	05/05/2016
17	<i>Official Letter No.1864/TCT-CS dated 05 May 2016 of the General Department of Taxation on tax policy</i>	05/05/2016
18	<i>Official Letter No.1863/TCT-CS dated 05 May 2016 of the General Department of Taxation on VAT</i>	05/05/2016
19	<i>Official Letter No.1861/TCT-CS dated 05 May 2016 of the General Department of Taxation on VAT</i>	05/05/2016
20	<i>Official Letter No.3700/TCHQ-TXNK dated 04 May 2016 of the General Department of Taxation on VAT liquidity</i>	04/05/2016
21	<i>Official Letter No.1840/TCT-CS dated 04 May 2016 of the General Department of Taxation on tax policy</i>	04/05/2016
22	<i>Official Letter No.1838/TCT-CS dated 04 May 2016 of the General Department of Taxation on land rent collection policy</i>	04/05/2016
23	<i>Official Letter No.1837/TCT-CS dated 04 May 2016 of the General Department of Taxation on land rent collection policy</i>	04/05/2016
24	<i>Official Letter No.1834/TCT-TNCN dated 04 May 2016 of the General Department of Taxation on determination of taxable income threshold of individuals leasing their property</i>	04/05/2016

25	<i>Official Letter No.1785/TCT-TNCN dated 28 April 2016</i> of the General Department on tax policy applied to any individuals entering into an agreement on attending to apartment/villa rental program of Marble Mountain Beach Resort Joint Stock Company	28/04/2016
26	<i>Official Letter No.1783/TCT-TNCN dated 28 April 2016</i> of the General Department of Taxation on personal income tax policy	28/04/2016
27	<i>Official Letter No.1779/TCT-KK dated 28 April 2016</i> of the General Department of Taxation on guiding for handling wrong tax payment	28/04/2016
28	<i>Official Letter No.1774/TCT-KK dated 28 April 2016</i> of the General Department of Taxation on solving problems of VAT refund	28/04/2016
29	<i>Official Letter No.1773/TCT-KK dated 28 April 2016</i> of the General Department of Taxation on solving problems of VAT refund	28/04/2016
30	<i>Official Letter No.1772/TCT-KK dated 28 April 2016</i> of the General Department of Taxation on VAT refund	28/04/2016
31	<i>Official Letter No.1762/TCT-KK dated 27 April 2016</i> of the General Department of Taxation on declaration of VAT	27/04/2016
32	<i>Official Letter No.1760/TCT-CS dated 27 April 2016</i> of the General Department of Taxation on tax policy	27/04/2016
33	<i>Official Letter No.1755/TCT-HTQT dated 27 April 2016</i> of the General Department of Taxation on application of tax treaty to NEXI loan interest	27/04/2016
34	<i>Official Letter No.1754/TCT-TNCN dated 27 April 2016</i> of the General Department of Taxation on deduction and declaration of personal income tax at bank headquarter	27/04/2016
35	<i>Official Letter No.1749/TCT-CS dated 26 April 2016</i> of the General Department of Taxation on tax policy	26/04/2016
36	<i>Official Letter No.1746/TCT-CS dated 26 April 2016</i> of the General Department of Taxation on corporate income tax incentives	26/04/2016
37	<i>Official Letter No.1723/TCT-KK dated 25 April 2016</i> of the General Department of Taxation on requirement for guiding tax policy	25/04/2016
38	<i>Official Letter No.1720/TCT-CS dated 25 April 2016</i> of the General Department of Taxation on corporate income tax policy	25/04/2016
39	<i>Official Letter No.1715/TCT-CS dated 25 April 2016</i> of the General Department of Taxation on tax policy	25/04/2016

40	<i>Official Letter No.1712/TCT-KK dated 25 April 2016</i> of the General Department of Taxation on declaration and payment of VAT	25/04/2016
41	<i>Official Letter No.1708/TCT-CS dated 25 April 2016</i> of the General Department of Taxation on tax policy	25/04/2016
42	<i>Official Letter No.1706/TCT-CS dated 25 April 2016</i> of the General Department of Taxation on corporate income tax policy	25/04/2016
THE GENERAL DEPARTMENT OF CUSTOMS		
1	<i>Official Letter No.3870/TCHQ-TXNK dated 09 May 2016</i> of the General Department of Vietnam Customs on customs value of imported good	09/05/2016
2	<i>Official Letter No.3863/TCHQ-TXNK dated 09 May 2016</i> of the General Department of Vietnam Customs on classification of beverages containing collagen	09/05/2016
3	<i>Official Letter No.3858/TCHQ-CSQL dated 06 May 2016</i> of the General Department of Vietnam Customs on stamping product name on cosmetic products	09/05/2016
4	<i>Official Letter No.3858/TCHQ-CSQL dated 06 May 2016</i> of the General Department of Vietnam Customs on stamping product name on cosmetic products	06/05/2016
5	<i>Official Letter No.3827/TCHQ-TXNK dated 06 May 2016</i> of the General Department of Vietnam Customs on not collecting customs charges	06/05/2016
6	<i>Official Letter No.3821/TCHQ-TXNK dated 06 May 2016</i> of the General Department of Vietnam Customs on classification of printer	06/05/2016
7	<i>Official Letter No.3770/TCHQ-TXNK dated 05 May 2016</i> of the General Department of Vietnam Customs on tax policy applied to imported and exported goods	05/05/2016
8	<i>Official Letter No.3766/TCHQ-GSQL dated 05 May 2016</i> of the General Department of Vietnam Customs on experiment in clearance time of aquatic products at Kim Thanh Border Gate	05/05/2016
9	<i>Official Letter No.3745/TCHQ-TXNK dated 05 May 2016</i> of the General Department of Vietnam Customs on duty free imports of presses, documents of Cathay Pacific Airways Ltd	04/05/2016
10	<i>Official Letter No.3703/TCHQ-TXNK dated 04 May 2016</i> of the General Department of Vietnam Custom on pre-definition of code	04/05/2016
11	<i>Official Letter No.3613/TCHQ-TXNK dated 29 April 2016</i> of the General Department of Vietnam Custom on handling tax debt	29/04/2016

THE MINISTRY OF INDUSTRY AND TRADE

1	<i>Circular No.03/2016/TT-BCT dated 10 May 2016 of the Ministry of Industry and Trade on detailed regulation on a number of articles of Decree No.19/2016/ND-CP dated 22 March 2016 on gas trading</i>	15/05/2016
2	<i>Decision No.1656/QĐ-BCT dated 29 April 2016 of the Ministry of Industry and Trade on the result of first review of application of anti-dumping measures to imported cold rolled stainless steel products</i>	29/04/2016

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