

LEGAL NEWS UPDATE – APRIL 2016

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PART I: REGULATION HIGHLIGHTS

1. AMENDING AND ADDING A NUMBER OF ARTICLES ON THE CORPORATE ACCOUNTING SYSTEM

On 21 March 2016, the Ministry of Finance promulgated the Circular No. 53/2016/TT-BTC on amending and adding some articles of Circular No.200/2014/TT-BTC dated 22 December 2014 which guiding the corporate accounting system.

According to this new Circular, upon disposal/ liquidation and sale of trading securities (based on each type of securities), the prime cost of trading securities is determined by one of the methods of first in first out or weighted average. The enterprises must consistently apply its selected method to calculate the prime cost of trading securities during the fiscal year.

In case of changing method to calculate the prime cost of trading securities, the enterprises must make presentation and explanation in accordance with the accounting standards. In addition, the Circular also provides guidelines on translating the accounting documents into Vietnamese.

This Circular is effective from its signing date and applicable for the fiscal year starting on or after 1 January 2016.

2. CONDITIONS FOR IMPLEMENTING THE UNIVERSAL LIFE INSURANCE PRODUCTS

On 21 March 2016, the Ministry of Finance promulgated the Circular No. 52/2016/TT-BTC on guiding the implementation of universal life insurance products.

Under this Circular, upon implementing the universal life insurance products, the insurers must meet the conditions as follows: (1) The solvency margin of insurers is larger than the minimum solvency margin of 100 billion Vietnamese Dong; (2) Have suitable information technology system for prudent and effective management and control of universal life fund; (3) The universal life insurance products have been approved by the Ministry of Finance.

The insurers have the obligations to maintain solvency and make operational provision in accordance with the regulations in this Circular. The insurers and the insurance buyers are free to make agreement on benefits but must ensure the minimum amount of insurance as specified by the laws. Besides, Circular also stipulates that the insurers should provide the complementary insurance products to universal life insurance products.

This Circular is effective from 01 June 2016 and supersedes the Decision No. 96/2007/QĐ-BTC dated 23 November 2007.

3. REQUIREMENTS ON ONSTRUCTION MATERIALS TRADING

On 05 April 2016, the Government promulgated the Decree No. 24a/2016/ND-CP on management of construction materials.

Accordingly, activities of trading in construction materials should conform with regulations of the law on commerce and meet the requirements as follows: (1) With respect to shops, outlets or supermarkets trading in construction materials; they must have sufficient storage area, warehouse to ensure the preservation and input-output of construction materials products; (2) Have enough fire prevention and fighting system, safety signs in trading areas for construction materials that are highly flammable, smelly, having hazardous chemicals and dirt; (3) For construction materials being damaged and reduced in quality in the process of transportation, storage and trading, relevant organizations and individuals shall be responsible for recovery and treatment.

In this Circular, the Government regulates on research and development projects, investment and production of construction materials, savings on natural resources of minerals and energy, environmental friendliness which eligible for incentive policy and subsidies from the State.

This Decree is effective from 26 May 2016 and supersedes the Decree No. 124/2007/ND-CP dated 31 July 2007.

4. HANDLING CORPORATE NAMES THAT INFRINGE INDUSTRIAL PROPERTY RIGHTS

On 05 April 2016, The Ministry of Science and Technology – The Ministry of Planning and Investment promulgated the Joint Circular No. 05/2016/TTLT-BKHCN-BKHDT on detailed regulations and guidelines on handling case of corporate names that infringe industrial property rights.

Accordingly, the forcible change of the company's name or forcible removal of infringing elements from the company's name shall apply to cases where the violating company fails to terminate its act of using infringing name on products, means of business, means of services, signboards or transaction documents, or fails to change such infringing name according to the notice given by the competent business registration office or agreements made between concerned parties.

In addition, this Joint Circular provides guidelines on the application of remedial measures including “the forcible change of the company’s name or forcible removal of infringing elements from the company’s name” and “revocation of enterprise registration certificates” in the case that enterprises infringe industrial property rights.

This Joint Circular is effective from 20 May 2016.

5. FINANCIAL MANAGEMENT OF INVESTMENT PROJECTS IN THE FORM OF PUBLIC-PRIVATE PARTNERSHIP

On 23 March 2016, the Ministry of Finance promulgated the Circular No. 55/2016/TT-BTC on providing for certain contents of financial management of investment projects in the form of public-private partnership and costs of investor selection.

The Circular stipulates that all expenses and legitimate income during the investment preparation, the execution and operation of project must be fully specified in the financial plan of such project in Vietnamese Dong. Financial indicators of the project shall be calculated on the basis of the discounted after-tax cash flow according to the discounted rate of weighted average.

Besides, in this Circular, the Ministry of Finance also stipulates on loan capital interest and the period for calculating the loan interest as well as loan capital interest rate.

This Circular is effective from 05 May 2016.

PART II: LIST OF NEW LEGAL DOCUMENTS

No.	NAME OF DOCUMENT	EFFECTIVE DATE
THE MINISTRY OF FINANCE		
1	<i>Consolidated Document No. 05/VBHN-BTC dated 14 March 2016</i> of the Ministry of Finance on consolidation of the Circular guiding on the implementation of the law on personal income tax and the law on amending and supplementing a number of articles of the law on personal income tax and Decree No. 65/2013/ND-CP of Government on the detailed regulations of a number of articles of the law on personal income tax and the law on amending and supplementing a number of articles of the law on personal income tax.	
2	<i>Decision No. 542/QD-BTC dated 22 March 2016</i> of the Ministry of Finance on the promulgation of administrative procedures in the field of tax management under the Ministry of Finance's authority.	30/07/2015
3	<i>Official Letter No. 3689/BTC-CST dated 21 March 2016</i> of the Ministry of Finance on the problems of export tax specified in the Decree No. 19/2015/ND-CP	21/03/2016
THE GENERAL DEPARTMENT OF TAXATION		
1	<i>Official Letter No. 1228/TCT-KK dated 23 March 2016</i> of the General Department of Taxation on the problems of VAT reimbursement	04/05/2016
2	<i>Official Letter No. 1202/TCT-KK dated 23 March 2016</i> of the General Department of Taxation on VAT deduction at the rate of 2%	23/03/2016
3	<i>Official Letter No. 1041/TCT-CS dated 16 March 2016</i> of the General Department of Taxation on declaration and payment of VAT	16/03/2016
4	<i>Official Letter No. 1452/TCT-CS dated 07 April 2016</i> of the General Department of Taxation on tax policy	07/04/2016
5	<i>Official Letter No. 1444/TCT-KK dated 07 April 2016</i> of the General Department of Taxation on deduction and refund of input VAT for the on-spot exporting goods	07/04/2016
6	<i>Official Letter No. 1443/TCT-KK dated 07 April 2016</i> of the General Department of Taxation on refund of VAT	07/04/2016

7	<i>Official Letter No. 1442/TCT-CS dated 07 April 2016 of the General Department of Taxation on VAT</i>	07/04/2016
8	<i>Official Letter No. 1409/TCT-DNL dated 05 April 2016 of the General Department of Taxation on using of self-print invoices and invoices printed by orders</i>	05/04/2016
9	<i>Official Letter No. 1405/TCT-TNCN dated 05 April 2016 of the General Department of Taxation on personal income tax policy</i>	05/04/2016
10	<i>Official Letter No. 1359/TCT-CS dated 01 April 2016 of the General Department of Taxation on answer to problems related to registration fees</i>	01/04/2016
11	<i>Official Letter No. 1354/TCT-CS dated 01 April 2016 of the General Department of Taxation on answer to questions related to tax policy</i>	01/04/2016
12	<i>Official Letter No. 1401/TCT-KK dated 05 April 2016 of the General Department of Taxation on handling of declaration, adjustment and refund of VAT in case of the project transfer not being subjects to declare, calculate and pay VAT</i>	05/04/2016
13	<i>Official Letter No. 1386/TCT-CS dated 04 April 2016 of the General Department of Taxation on VAT</i>	04/04/2016
14	<i>Official Letter No. 1381/TCT-CS dated 04 April 2016 of the General Department of Taxation on VAT</i>	04/04/2016
15	<i>Official Letter No. 1378/TCT-KK dated 04 April 2016 of the General Department of Taxation on VAT reimbursement</i>	04/04/2016
16	<i>Official Letter No. 1374/TCT-TNCN dated 04 April 2016 of the General Department of Taxation on personal income tax policy</i>	04/04/2016
17	<i>Official Letter No. 1368/TCT-TNCN dated 04 April 2016 of the General Department of Taxation on foreign contractor tax policy</i>	04/04/2016
18	<i>Official Letter No. 1361/TCT-CS dated 01 April 2016 of the General Department of Taxation on tax policy</i>	01/04/2016
19	<i>Official Letter No. 1360/TCT-CS dated 01 April 2016 of the General Department of Taxation on tax policy</i>	01/04/2016
THE GENERAL DEPARTMENT OF CUSTOMS		
1	<i>Official Letter No. 2881/TCHQ-TXNK dated 08 April 2016 of the General Department of Customs on exemption from import duty of goods</i>	08/04/2016

2	Official Letter No. 2876/TCHQT-XNK dated 08 April 2016 of the General Department of Customs on predetermination of commodity codes	08/04/2016
3	Official Letter No. 2830/TCHQ-TXNK dated 06 April 2016 of the General Department of Customs on the entry of revenues and expenditures	06/04/2016
4	Official Letter No. 2829/TCHQ-TXNK dated 06 April 2016 of the General Department of Customs on the classification of goods	06/04/2016

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