

LEGAL NEWS UPDATE – SEPTEMBER 2016

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1. GUIDING THE APPLICATION OF ANY INTERIM INJUNCTIVE RELIEF ACCORDING TO THE BANKRUPTCY LAW

On 26 August 2016, the Council of Justices of the Supreme People's Court promulgated the Resolution No. 03/2016/NQ-HDTP guiding the implementation of a number of articles of the Bankruptcy Law.

Accordingly, during the handling of a petition for the initiation of bankruptcy proceedings, any entity with eligibility and liability for submitting a petition as prescribed in Article 5 of the Bankruptcy Law. The asset management officer or the enterprise providing asset management liquidation services, can request the competent People's Court to make a decision on the imposition of one or a number of interim injunctive reliefs mentioned in Clause 1 Article 70 of the Bankruptcy Law.

In the emergency case, the interim injunctive relief may be adopted at the same time a petition for initiation of bankruptcy proceedings is filed in order to prevent any serious consequences.

The interim injunctive relief shall be applied as prescribed in this Resolution.

This Resolution is effective from 16 September 2016.

2. GUIDING ON ACCOUNTING SYSTEM FOR SMALL AND MEDIUM-SIZED ENTERPRISES

On 26 August 2016, the Ministry of Finance promulgated the Circular No. 133/2016/TT-BTC guiding on accounting system for small and medium-sized enterprises.

Accordingly, the small and medium-sized enterprises are allowed to buy or design template, self-printed vouchers but must be ensure that the contents of the vouchers in accordance with the law. The vouchers must be well preserved, not to damage or rotting, cheques and valuable papers must be managed as currency.

The enterprises use currencies other than Vietnamese Dong as an accounting monetary unit, the legal financial statements for public disclosure and submitting to the competent authorities in Vietnam must be denominated in Vietnamese Dong.

In addition, the Circular also provides that accounting vouchers written in foreign language, if being used to record in accounting books and preparation for financial statements in Vietnam must be translated the main contents into Vietnamese. The accounting entity shall be responsible for the contents to be correct and complete which translated from foreign language into Vietnamese.

This Circular is effective from 01 January 2017.

3. GUIDING ON DEDUCTING THE VALUE ADDED TAX ("VAT") TO THE NEXT PERIOD

On 08 August 2016, the Ministry of Finance promulgated the Circular No. 130/2016/TT-BTC guiding the Decree No. 100/2016/ND-CP dated 01 July 2016 of the Government detailing the implementation of the Law on Amendments and Supplements to some articles of the VAT Law, the Special Consumption Law and the Law on Tax Administration and Amendments to some articles of the tax-related Circulars.

Accordingly, if a business subject to VAT payment under the deduction method having the monthly or quarterly amount of input VAT which has not been fully deducted in the period shall be deducted from the VAT incurred in the subsequent period. If having the amount of VAT is not fully deducted before the tax period of July 2016 or of the 3rd quarter of 2016 but that taxpayer is eligible for VAT refund, the tax authorities shall refund the tax as per the laws.

This Circular is effective from 16 July 2016.

4. THE ORDINARY IMPORT DUTY SCHEDULE

On 01 September 2016, the Government promulgated the Decision No. 36/2016/QD-TTg on prescribing the application of ordinary import duties for the imported goods.

Accordingly, issuing together with this Decision (1) A list of articles to which rate of 0% import duty is applied as specified in Section I and II of the Appendix II of the Government's Decree No. 122/2016/NĐ-CP dated 01 September 2016; (2) Ordinary rate on each article in the ordinary import duty schedule for the imported goods as specified in Appendix of regulations of the ordinary import duty schedule for imported goods.

The imported goods that are not included in the list of the ordinary import duty schedule and are not eligible for concessional duties or special concessional duties specified in Clause a and b Article 5 of the Law on export and import duties No. 107/2016/QH13 shall be applied to rate of 150% of the concessional duty rates on corresponding articles as specified in Appendix II of the Government's Decree No. 122/2016/NĐ-CP dated 01 September 2016.

This Decision is effective from 01 September 2016.

**5. APPLICATION OF
NEW REGULATIONS ON SCHEDULES
PREFERENTIAL IMPORT AND
EXPORT TARIFFS**

On 01 September 2016, the Government promulgated the Decree No. 122/2016/ND-

CP on schedules of import tariff and preferential import tariff, list of goods and its flat tax, compound tariff, and out-of-quota import tariff.

Accordingly, the charcoal products with the code 4402.90.90 applying export duty rate of 5% shall meet 04 criteria according to this Decree.

The jewelry products and parts thereof, of gold or jewelry (heading 71.13), furniture and parts of golden furniture (heading 71.14) and other products of gold (heading 71.15) applying an export duty rate of 0% if they meet all the conditions on customs procedures and having the certificate of testing that certifies gold content of not exceeding 95%.

With regard to the import tariffs on used cars, a flat tax shall be applied on passenger cars not exceeding 09 seats (including driver's seat) with the cylinder capacity of less than 1,500cc of heading 87.03 and those from 10 to 15 seats (including driver's seat) of heading 87.02. A compound tariff shall be applied on passenger cars not exceeding 09 seats (including driver's seat) with the cylinder capacity of at least 1,500cc of heading 87.03.

This Decree is effective from 01 September 2016.

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