

NEW PROVISIONS ON ADMINISTRATIVE SANCTIONS FOR TAX AND INVOICE-RELATED VIOLATIONS

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On November 16, 2021, the Government issued Decree 102/2021/ND-CP amending and supplementing a number of provisions of several decrees on sanctioning administrative violations in the field of taxes and invoices; customs; insurance business, lottery business; management and use of public property; thrift practice and waste combat; national reserve; State Treasury; accounting and independent audit (**Decree 102**). This Decree will take effect from January 01, 2022, amending and supplementing a number of provisions in Decree No. 125/2020/ND-CP on administrative sanctions for taxes and invoices-related violations (**Decree 125**) with the following notable points:

Firstly, increasing the statute of limitations for sanctioning invoice-related administrative violations from 1 year to 2 years.

Secondly, supplementing sanctions on the following tax and invoices-related violation acts:

- (i) Acts of giving and selling invoices (excluding giving and selling externally ordered invoices which have not yet been released or giving and selling invoices ordered by clients to other organizations and individuals) will be fined from VND 20,000,000 to VND 50,000,000;
- (ii) Issuance of invoices that do not contain all compulsory contents as prescribed will be fined from VND 4,000,000 to VND 8,000,000;
- (iii) Acts of losing, burning or damaging issued invoices for which taxes have not been declared will be fined from VND 4,000,000 to VND 8,000,000. The loss, burning or damage of invoices must be recorded in writing by the concerned parties.



Thirdly, supplementing the remedy of "reducing fines for tax and invoice-related administrative violations" and specifying circumstances, conditions and procedures for "fine reduction or exemption" under the Law on Handling Administrative Violations 2012 and the Law amending and supplementing a number of provisions of the Law on Handling Administrative Violations, which shall come into effect from January 1, 2022 (collectively referred to as the **Law on Handling Administrative Violations**) and the Law on Tax Administration. Enterprises should note the conditions to enjoy the exemption or reduction of fines in the Law on Handling Administrative Violations as follows:

- (i) An organization for which the execution of the pecuniary sanctioning decision has been postponed will be entitled to a partial reduction of the fine stated in the sanctioning decision if it continues to face with special or unexpected economic difficulties due to natural disasters, fire, epidemic and obtains certification for such difficulties by the People's Committee of the local commune, the Management Board of the industrial park, export processing zone, high-tech zone, economic zone, the direct managing tax agency or the superior agency.
- (ii) An organization is exempted from the remaining fine as stated in the sanctioning decision when it fully meets the following conditions: (a) it has received a partial reduction of the fine as prescribed in Clause 1, Article 77 of the Law on Handling Administrative Violations or already paid the fine for the first or second time in the case where it is permitted to pay the fine in several times as prescribed in Article 79 of the Law on Handling Administrative Violations; (b) it has completed the additional sanctioning forms, the remedial measures stated in the sanctioning decision; (c) it continues to face with special or unexpected economic difficulties due to natural disasters, calamity, fire, epidemic and obtains certification for such difficulties by the People's Committee of the local commune, the Management

Board of the industrial park, export processing zone, high-tech zone, economic zone, the direct managing tax agency or the superior agency.

(iii) An organization is exempted from the total fine amount as stated in the sanctioning decision when it fully meets the following conditions: (a) The execution of the sanctioning decision is postponed according to Article 76 of the Law on Handling Administrative Violations; (b) it has completed the execution of additional sanctioning forms, the remedial measures stated in the sanctioning decision; (c) it continues to face with special or unexpected economic difficulties due to natural disasters, calamity, fire, epidemic and obtains certification for such difficulties by the People's Committee of the local commune, the Management Board of the industrial park, export processing zone, high-tech zone, economic zone, the direct managing tax agency or the superior agency.

COMMENTS AND RECOMMENDATIONS

In comparison with Decree 125, the regulations on administrative sanctions relative to tax and invoices as amended and supplemented in Decree 102 are stricter for individuals/organizations. i.e. the supplementation of administratively sanctioned acts which individuals and organizations easily encounter, such as the issuance of invoices that do not contain all compulsory contents, losing/burning/damaging invoices. At the same time, the regulations regarding (i) statute of limitations for sanctioning and (ii) fine exemption/reduction are amended and supplemented to be consistent with the provisions of the Law on Handling Administrative Violations.

Decree 102 will take effect in the coming time; therefore, corporates should closely update and study the provisions of this Decree to ensure comprehensive compliance with the obligations under law and avoid unnecessary legal risks.