

SOME OUTSTANDING CONTENTS OF DECREE 92/2021/ND-CP

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On October 27, 2021, the Government issued Decree 92/2021/ND-CP (**Decree 92**) detailing the implementation of Resolution 406/NQ-UBTVQH15 of the National Assembly Standing Committee on the solutions to support businesses and people affected by the COVID-19 pandemic (**Resolution 406**). Regarding tax exemption and reduction solutions to support enterprises, Decree 92 has delivered 03 groups of solutions, including: (i) reduction of corporate income tax (CIT); (ii) reduction of value added tax (VAT); (iii) exemption of late payment interest. The followings are some main contents of the solution groups mentioned in Decree 92:

Firstly, reducing 30% of CIT for the tax period of 2021

- Application subjects: The organizations engaged in production and business activities of goods and services, established under Vietnamese law, of which the revenue of the tax period in 2021 is not more than VND 200 billion and reduces as compared to that of 2019 tax period (excluding revenue deductions, revenues from financial activities and other incomes). However, the revenue reduction criterion is not applied to enterprises which are newly established or perform consolidation, merger, division, separation in the tax period of 2020 and 2021.
- Determination of reduced tax amount: The reduced CIT amount is calculated based on the payable CIT of the tax period of 2021, after deducting the CIT incentive amount entitled by enterprises under the Law on CIT and its guiding documents.
- Procedures for implementation: Based on the revenue in the tax period of 2019 and the expected revenue in the tax period of 2021, enterprises shall self-determine the reduced tax amount when temporarily paying the quarterly CIT. When finalizing CIT for 2021 period, the underpaid or overpaid amount of taxes temporarily paid in quarters compared with the annually finalized payable tax amount shall be handled in accordance with the law on tax administration. To perform the procedures, enterprises shall declare taxes according to the declaration form enclosed with Circular 80/2021/TT-BTC and the Annex on CIT reduction of



Appendix II, Decree 92.

Secondly, reducing 30% of VAT from November 1, 2021 to December 31, 2021

- The application subjects are the goods and services in the field of transportation services; accommodation and food services; travel services; publishing products and services; information and communication services; art and entertainment services, etc. The details of goods and services eligible for tax reduction are specified in Appendix I on the list of goods and services eligible for VAT reduction enclosed with this Decree.
- Tax reduction rates: Enterprises calculating VAT by the credit-invoice method are eligible for 30% reduction in VAT rate for the goods and services applied with tax reduction. Enterprises calculating VAT by the direct method (% on revenue) are entitled to a 30% reduction in the rate for direct VAT calculation for goods and services applied with tax reduction.
- Procedures for implementation: Enterprises shall declare the goods and services eligible for VAT reduction under Appendix II on VAT reduction, Resolution No. 406/NQ-UBTVQH15 in accordance with Appendix II of this Decree and the VAT declaration form. Besides, in particular case, they need to pay attention to the invoice contents as guided at point a, clause 3, Article 3 of Decree 92.

Thirdly, exempting the late payment interest arising in 2020 and 2021 of all tax debts, land use levies, land rents

- Application subjects: Enterprises and organizations (including their dependent units and business locations) that incur losses in the tax period of 2020.
- Determination of exempted late payment interest: Based on tax administration data, the Heads of tax departments managing directly and tax departments managing taxes, land use levies and land rents ("**tax authority**") shall determine the late payment interest incurred in 2020 and 2021 of taxpayers to issue the decisions on exemption of late payment interest.
- Procedures for implementation: Enterprises shall complete an application form for exemption of late payment interest, which specifies the losses incurred in the tax period of 2020 according to Form No. 01/MTCN, Appendix II, Decree 92. Within 15 business days after receiving the application form, the tax authority shall issue a Notice on disapproval of late payment interest exemption or a Decision on exemption of late payment interest.

COMMENTS AND RECOMMENDATIONS

Decree 92 has ensured the principle of simplicity, transparency, ease for understanding and implementation, as well as relevance with socio-economic life, created maximum convenience for enterprises and people, thereby encouraging them to resume production and business according to guidelines of the Party and the State. Many enterprises also highly appreciate the realism and timeliness of Decree 92, especially those heavily affected by the COVID-19 pandemic such as small and medium enterprises, enterprises operating in the fields of tourism, transportation, accommodation and food, movies, sports, and entertainment.



After promulgation of Decree 92, the General Department of Taxation has issued an official dispatch asking provincial tax departments to create favorable conditions for enterprises, organizations and people when implementing Resolution 406 and Decree 92. In addition, the General Department of Taxation emphasizes the responsibility of inspecting and monitoring the selling prices of goods and services by enterprises and organizations within the areas to ensure the objective that the consumers can enjoy the benefit from VAT reduction.

During their declaration and preparation of the documents, any enterprise that incurs obstacles or problems in approaching and obtaining the support policies can send their questions, feedbacks and recommendations to the Portal of General Department of Taxation and provincial tax departments, directly contact or send email to the tax departments for timely instructions and answers. Thereby, enterprises should take advantages of these official information sources to study the support regulations and complete the declaration and submit support documents, especially the guidelines, some specific cases in Decree 92, Resolution 406 as well as relevant tax legal documents. Especially, in the period affected by the COVID-19 pandemic as currently, the policies and incentives for enterprises are still being issued, revised regularly, and diversified for various subjects and fields; therefore, enterprises also need to regularly update information and study newly issued documents so that they can approach and optimally use the state's support.