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MORE CASES OF AN ENTERPRISE'S RELATED-PARTY TRANSACTION ARE NOW UNVEILED

On November 5, 2020, the Government promulgates the Decree No. 132/2020/ND-CP on the tax administration for enterprises performing related-party transactions.

In addition to those prescribed in clause 2 of Article 5 in the Decree No. 20/2017/ND-CP the followings are defined by this document as the related parties:

- Two enterprises that are put under the personnel, financial and business management or control of individuals who are: Stepparents or parents-in-law; and Stepchildren, daughters-in-law or sons-in-law.

- Any enterprise performing the following transactions with individuals holding executive or supervisory positions or individuals having one of the relationships stipulated in point g of clause 2 of Article 5 in the Decree No. 132: Disposition and acceptance upon transfer of shares making up at least 25% of total capital contribution during a tax period; and Borrowing or lending of funds making up at least 10% of the capital contribution at the time which such transaction is performed during a tax period.

Notes: Related parties are parties having any of the following relationships:

- A party is directly or indirectly involved in the management, control of, contribution of capital to, or investment in, the other party;

- Parties are directly or indirectly affected by the management, control of, contribution of capital, or investment, from the other party.

Decree No. 132/2020/ND-CP is entering into force on December 20, 2020 and applies from the corporate income tax term of 2020.

See more:

[Decree No. 132/2020/ND-CP](#)

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REGULATIONS ON RELIEF FROM ADMINISTRATIVE PENALTIES FOR VIOLATIONS ARISING FROM CUSTOMS ACTIVITIES

The Government promulgates the Decree No. 128/2020/ND-CP regulating administrative penalties for violations arising in the customs sector, comprising regulations on relief from administrative fines as follows:

Beneficiaries of administrative penalty relief

(1) Entities and persons that are fined for administrative violations arising from their tax administration of exports and imports may be granted the exemption from payment of fines under laws on tax administration;

(2) Persons subject to other forms of administrative penalties for violations arising from customs activities may be entitled to fine exemption or reduction under the provisions of Article 77 in the 2012 Law on Handling of Administrative Violations.

(According to current regulations, persons subject to administrative penalties for violations arising from customs activities may request relief from a fine of at least VND 3,000,000 if they are in an extremely or suddenly difficult situation caused by natural disaster, conflagration, calamities, accidents, disease or fatal diseases).

Decree No. 128/2020/ND-CP is entering into force from December 10, 2020, replacing the Decree No. 127/2013/ND-CP and the Decree No. 45/2016/ND-CP

See more:

[Decree No. 128/2020/ND-CP](#)

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FOUR NEW REGULATIONS ON INVESTMENT INCENTIVE POLICIES TAKE EFFECT

ON JANUARY 1, 2021

Below are significant new regulations regarding investment incentive policies set forth in the 2020 Law on Investment (entering into force on January 1, 2021).

1. Additional investment incentives
2. New regulations on entities eligible for investment incentives
3. More business lines eligible for investment incentives

The 2020 Law on Investment prescribes new business lines eligible for investment incentives that have not yet been covered by current regulations, including:

- Higher education;
 - Manufacturing of products developed from scientific and technological research achievements according to laws on science and technology;
 - Manufacturing of products on the List of prioritized supporting products;
 - Storage of medicinal products, manufacturing of medical equipment;
 - Manufacturing of goods and provision of services for the purposes of creating or participating in value chains and industrial clusters.
4. New regulations on special investment incentive and assistance policies

See more:

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FOUR IMPORTANT REGULATIONS REGARDING INVOICES ARE SET FORTH IN DECREE 123/2020

Below are four important regulations regarding invoices and e-invoices set out in the Decree No. 123/2020/ND-CP in force from July 1, 2022.

1. Abolishing the regulation ‘compulsorily using e-invoices from November 1, 2020’ under Decree 119.
2. Permitted uses of invoices printed to meet tax authorities’ purchase orders after July 1, 2022
3. Regarding the use of issued invoices
4. Regarding the use of invoices by newly-established business establishments

With respect to businesses established during the period from October 19, 2020 to June 30, 2022, if tax authorities do not order them to use e-invoices in accordance with the Decree No. 123/2020, they must follow the tax authority’s instructions.

If they continue to use the invoices prescribed in the Decree No. 51/2010/ND-CP dated May 14, 2010 and the Decree No. 04/2014/ND-CP dated January 17, 2014 because of their failure to meet information technology infrastructure requirements, they must send their invoice data to their supervisory tax authorities by using the Form No. 03/DL-HDDT given in the Appendix IA to the Decree No. 123/2020 and must submit their VAT declaration forms. Receiving tax authorities must set up the database containing their invoice data and have it posted on the Web Portal of the General Department of Taxation to enable e-invoice data searches.

Decree No. 123/2020/ND-CP in force from July 1, 2022.

See more:
[Decree No. 123/2020/ND-CP](#)

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USING E-INVOICES IS NOT A MUST FROM NOVEMBER 1, 2020

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This is the highlight of the Decree No. 123/2020/ND-CP on invoices and evidencing documents, in force on July 1, 2022:

In particular, Clause 2 and 4 of Article 35 in the Decree No. 119/2018/ND-CP setting forth the following regulations on e-invoices, must be repealed:

“2. The implementation of e-invoices and e-invoices with tax authorities’ identification codes as provided by this Decree shall be completed by enterprises, economic or other organizations, sole proprietorship households and individuals by November 1, 2020 at the latest”.

“4. From November 1, 2020, the Decree No. 51/2010/ND-CP dated May 14, 2010 and the Decree No. 04/2014/ND-CP dated January 17, 2014 of the Government on invoices for sale of goods and provision of services shall expire.”

This means that enterprises, economic or other organizations, sole proprietorship households and individuals are not compelled to complete the implementation of e-invoices and e-invoices with tax authorities’ identification codes any more from November 1, 2020.

In addition, the Decree No. 51/2010/ND-CP the Decree No. 04/2014/ND-CP and the Decree No. 119/2018/ND-CP continue their effect till June 30, 2022.

Authorities, entities and persons meeting information technology infrastructure requirements are encouraged to apply the regulations on electronic invoices and other evidencing documents in accordance with the Decree No. 123/2020/ND-CP by July 1, 2022.

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INTERNATIONAL COMMERCIAL FLIGHTS IS REOPENED

FROM SEPTEMBER 15TH AND 22ND THIS YEAR

This is the highlight of the Notice No. 330/TB-VPCP regarding the Deputy Prime Minister Pham Binh Minh's conclusion at the meeting discussing permission for conventional international commercial flights between Vietnam and several partners.

He approves that plan to resume conventional international commercial flights carrying passengers between Vietnam and several partners which is submitted by the Ministry of Transport, specifically including the following decisions:

- From September 15, 2020, reopening the flight routes: Vietnam – China (Guangzhou), Vietnam – Japan (Tokyo), Vietnam – South Korea (Seoul), Vietnam – Taiwan, China (Taipei).
- From September 22, 2020, reopening the flight routes: Vietnam – Cambodia (Phnom Penh), Vietnam – Laos (Vientiane).

The maximum reopening frequency is 2 flights/week per an airline party and partner (the number of flights will increase, depending on actual condition).

Resumption of these flights is subject to the principle of reciprocity applied to airline partners in terms of total number of flight passengers, collection of fares and other immigration conditions.

For more details, please read the Notice No. 330/TB-VPCP issued on September 15, 2020.

See more:
[Notice No. 330/TB-VPCP](#)



NOVEMBER 2020

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TGT & PARTNERS

LAW BULLETIN



INTRODUCTION

At **TGT & PARTNERS**, our deeds reflect our creed – to provide the very best professional legal service and gain our client's trust and satisfaction.

TGT & PARTNERS, with its headquarters at Hanoi and an office in HCM City, is step-by-step expanding its operations into other countries, especially in areas of international commerce and settlement of disputes involving foreign elements. Our lawyers have provided legal advisory and support to foreign investors, non-governmental organizations, state-owned enterprises and private corporations operating business in Vietnam.

To become a top-level legal consultancy service provider on all domestic and international legal matters, we have associated with many local, national and international organizations to exchange knowledge, experience and skills. The firm prides itself in its ability to leverage applicable laws and build client trust. This approach has enabled the TGT & PARTNERS to record a very high rate of success in effectively accomplishing our clients' objectives, consistently exceeding expectations.

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- ▶ Corporate Governance: Corporate and Compliance, Business Structure and Management, Enterprise Management;
- ▶ Dispute Resolution: Mediation Services, Litigation Services;
- ▶ Taxation.