



## **TAX ALERT**

*Updates on Draft Law on Tax Administration 2019*

19 June 2019

On 13 June 2019, the National Assembly has officially ratified the Draft amended Law on Tax Administration. This Law shall take effect from July 1, 2020. Particularly, regulations on electronic invoices and documents prescribed in this Law must be applied no later than two (02) years from the effective date of this amended Law.

In this alert, we would like to summarize some notable proposals in the most recent Draft version that was provided to the National Assembly for ratification; for which we assess to have significant impacts on the business operations of businesses.

## **Supplement of the prohibited actions in tax administration**

Some prohibited actions in tax administration has been supplemented, including (but not limited to):

- Collusion, concatenation, cover-up between taxpayers and tax/customs officers, tax/customs authorities (“the authorities”) for the purposes of transfer pricing and tax evasion;
- Troubling and harassing taxpayers;
- Deliberately not declaring or declaring incompletely, untimely, and inaccurately the amount of tax payable amounts;
- Using other taxpayer’s tax code to commit law violations or letting others use your tax code not in accordance with regulations;
- Not issuing invoices for goods sold and service provided in accordance with regulations, using illegal invoices and illegally using invoice.

## **Risk management in tax administration**

The authorities apply risk management in tax administration contents, on the basis of assessing the law compliance of the taxpayers and assesing the risk classification in tax administration, specifically:

- The assessment of tax compliance of taxpayers is based on a set of criteria and information about: the history of taxpayers’ operation; legal compliance process and cooperation relationship with the authorities in implementing tax regulations; and the extents of tax violations;
- In the process of classifying risk levels, the authorities would consider the relevant information on taxpayers, including: risk signs; signs and violations in tax administration; information on results of professional activities of tax administration agencies and other competent agencies in accordance with Law on Tax Administration.

## **Rights of taxpayers**

The taxpayers are not penalized, not charged late payment interest for cases where taxpayers comply with the guiding documents and decisions of the authorities, or other competent authorities regarding the treatment policies on taxpayers’ tax liability.

## **Deadlines for declaration of Personal income tax (“PIT”)**

The deadline for filing personal income tax dossiers for individuals directly finalizing tax is the last day of the fourth month from the calendar year-end date.

## Detailed provisions of electronic transactions in tax

In case of being eligible for electronic transactions in tax, taxpayers must conduct the electronic transactions with the authorities. In case the taxpayers having conducted electronic transactions in tax, there is no need to implement other transaction methods.

The obligations of taxpayers and the authorities, as well as the requirements for electronic documents are also specified in the Draft Law.

## Amend tax declaration dossiers upon being audited

After tax agencies, other competent agencies have issued conclusion, decision on tax treatment upon performing tax audit at taxpayers' offices, if the taxpayers identify errors in the submitted tax declaration dossiers which decrease their payable tax amount or increase the amount of tax deduction, increase the amount of tax exemption, tax reduction, tax return, then they can follow the regulations on tax appeal.

## Tax administration principles

The Draft Law supplements the principle of the nature of operations and transactions determining tax obligations in tax administration in order to analyze transactions and business activities of taxpayers, then determine tax obligations corresponding to the value created from the nature of the transaction and business activities.

## Tax imposition

The Draft Law supplements the circumstance for tax imposition, when conducting transactions not in line with the economic nature, not true to the actual purpose in order to reduce taxpayers' tax obligations.

## Tax payment during appeal and law-suit process

To maintain the fairness for tax payers, the Draft Law makes more specific regulation that the tax payers have rights to request the authorities to pay late payment interest of 0.03%/late day on the overpaid tax, interest and penalties amount; in the case that such amounts are higher than those concluded by competent authorities or the court upon handling appeal or law-suit process.

## Tax administration in cross-border electronic commerce (e-commerce)

For e-commerce activities and other services provided by overseas suppliers without a permanent establishment in Vietnam, the overseas suppliers have an obligation or should authorize organization or individuals in Vietnam to register, declare and pay tax in Vietnam;

At the same time, the commercial banks are obliged to withhold and pay taxes on behalf of the foreign organizations and individuals with e-commerce activities that generate income from Vietnam.

## Other notable points

- Additional provisions on first-time tax registration dossiers, and locations for submission of first-time tax registration dossiers;
- Additional regulations on registration of operation and business suspension; on tax registration in case of reorganizing operation, transforming operation model; and restoring tax code;

- Additional deadline for revising tax declaration dossiers (within 10 years) before tax agencies and competent agencies announce decisions on tax audit, tax inspection;
- Additional deadline for provisional payment of CIT by quarter, which is no later than the 30<sup>th</sup> day of the first month of the following quarter;
- Individuals who have payable tax amount, after finalizing PIT from salaries and wages, from fifty thousand (50,000) VND or less are exempt from tax payment;
- Additional provisions on case of tax debt, fines, late payments and corresponding procedures and documents;
- Additional regulations on obligations, authorities, and responsibilities of the State Auditors and the State Inspectors in the case of direct audits of taxpayers or non-direct audits of taxpayers that are performed at the tax administration agencies.
- Extend the maximum tax inspection period up to 10 working days at the taxpayers' offices; and eligible to be extended once for not more than 10 working days;
- Additional cases of tax inspection upon request of the State Auditors, or conclusions of State Inspectors and other competent agencies.

## Deloitte Vietnam's comments

The Draft Law on Tax Administration creates a basic legal framework, so that the consistency in tax collection management policies, in line with tax laws and international practices, will create favorable conditions for tax administration and perform tax obligations in accordance with the regulations.

It can be seen that the above proposals may create certain effects on taxpayers' rights and obligations when conducting business operation and activities. The National Assembly has proceeded to carefully consider and take feedbacks from relevant authorities, businesses and people to make appropriate adjustments on the regulations in order to create consistency and improve clarity and transparency; at the same time, it will create a favorable environment for taxpayers to comply with tax regulations.

We will keep you updated on these issues.

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Should you have any concerns and problems, please contact us directly.

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