

LEGAL UPDATE

No. 02 – October 2021

(15 Oct 2021 – 31 Oct 2021)



News in focus

New Decree stipulates on tax exemption and reduction, reduction of late payment amount for enterprises and people affected by COVID-19



New legal documents

Remarkable among documents:

The Standing Committee of the National Assembly's Resolution 406/NQ-UBTVQH15 in 2021 on a number of solutions to support enterprises and people affected by the COVID-19

A - News in focus



New Decree stipulates on tax exemption and reduction, reduction of late payment amount for enterprises and people affected by COVID-19 pandemic

(Taking effect from 19 Oct 2021)

On 27 Oct 2021, the Government enacted Decree 92/2021/ND-CP stipulating in detail the Standing Committee of the National Assembly's Resolution 406/NQ-UBTVQH on a number of solutions to support enterprises and people affected by the COVID-19 epidemic (*hereinafter referred to as "Decree 92/2021/ND-CP"*), taking effect from 19 Oct 2021.

In this legal update, we reveal the most highlights of Decree 92/2021/ND-CP.

Corporate income tax (CIT) reduction

<p>Applicable object</p>	<ul style="list-style-type: none"> • Enterprise established in accordance with the laws of Vietnam. • Organization established under the Law on Cooperatives. • Non-business units established in accordance with the laws of Vietnam. • Other organizations established under Vietnamese laws with income, business activities.
<p>Reduction levels</p>	<p>30% of the payable CIT amount of the CIT period of 2021, provided that:</p> <ul style="list-style-type: none"> • Revenue in the tax period of 2021 is not more than VND 200 billion; • The revenue in the tax period of 2021 is lower than that of 2019 (<i>not apply to newly established, consolidated, merged, divided, split-up enterprises in the tax period of 2020 and 2021</i>).
<p>Tax period</p>	<ul style="list-style-type: none"> • Determined by calendar year. • If the enterprise applies a fiscal year which is different from the calendar year => determined according to the provisions of the Law on CIT and guiding documents.
<p>Revenue in the tax period</p>	<p>Including all proceeds from sales, processing, service provision and from business activities in the form of business cooperation contracts, including price subsidies, surcharges and extras that enterprises are entitled to, excluding deductions from revenue, revenue from other financial activities and income.</p> <p>- With newly established enterprises; business transformation, ownership transformation, consolidation, merger, division, separation, dissolution or bankruptcy in the tax period but operating under 12 months:</p> $\text{Revenue in the tax period} = \frac{\text{Actual revenue in the tax period}}{\text{Actual months do business}} \times 12 \text{ months}$ <ul style="list-style-type: none"> • If an enterprise is newly established... in a month => operating time is full month. • The reduced revenue and tax amount is only applicable for 12 months of the tax period of 2021 if: The first tax period for newly established enterprises is 2020; or the tax period of the last year for enterprises converting the type of business... is 2022, that: <ol style="list-style-type: none"> (i) The tax period is less than 3 months; and (ii) Enterprises are added to tax period 2021 to form a tax period. <p>- For an enterprise with a dependent unit, business location => revenue in the tax period includes the revenue of the dependent unit and business location shown in the annual general financial report.</p>
<p>Determine the amount of tax to be reduced</p>	<ul style="list-style-type: none"> • The reduced tax amount of the tax period of 2021 is calculated on the entire income of the enterprise, including the incomes specified in Clause 3, Article 18 of the Law on CIT. • The tax reduction according to Decree 92/2021/ND-CP is calculated on the payable CIT amount of the tax period of 2021, after deducting the CIT amount that the enterprise is enjoying incentives under the provisions of the Law on CIT and guiding documents.



Tax exemption for business households, business individuals

Applicable objects	<p>Resident individuals operate in all business lines, forms of tax declaration and payment, and have business activities in districts, towns, urban districts, provincial cities, and cities under central authority (hereinafter referred to as district-level area) with the following conditions:</p> <ul style="list-style-type: none"> • affected by the Covid-19 epidemic in 2021; and • be on the list of district-level areas affected by the COVID-19 epidemic issued by the Chairman of the People's Committee of the province or municipalities.
Type of exempted tax	<ul style="list-style-type: none"> • Exemption of payable PIT, VAT, special consumption tax, natural resources tax and environmental protection tax arising from business activities of the months in the third and fourth quarters of 2021. <i>(does not apply to income and revenue from providing software products and services; products and services which have digital information content on entertainment, video games, digital movies, digital photos, digital music; digital advertising).</i> • If the tax amount arising from business activities of the months in the third and fourth quarters of 2021 has been paid, the tax agency will: <ul style="list-style-type: none"> (i) handle the overpaid tax amounts with debts or arising amounts of subsequent periods; and (ii) refund the overpaid tax (if any) in accordance with the laws on tax administration.
Basis for determination of exempted tax amount	<ul style="list-style-type: none"> - In case the tax agency has to issue a Notice of payment: The tax agency shall rely on the payable tax amount of the months in the third and fourth quarter of 2021 on the Notice of payment to determine the exempted tax amount of business households and individuals. - In case the tax agency is not required to issue a Notice of payment: The taxpayer shall rely on the payable tax amount according to the tax declaration to determine the exempted tax amount of business households and individuals from business activities of the months in the third and fourth quarters of 2021. • In case of tax declaration according to the payment period or tax declaration by year (for property tax, private house construction, declaration of each other arising) => determined according to the actual revenue generated in the months of quarter III and IV of 2021. • In case on the goods and service supply contract of business households and individuals, the actual revenue generated in the months of quarter III and IV of 2021 cannot be determined => determined according to the average revenue monthly via the contract value. If the contract is signed in a month, the duration of the contract is counted as full month.

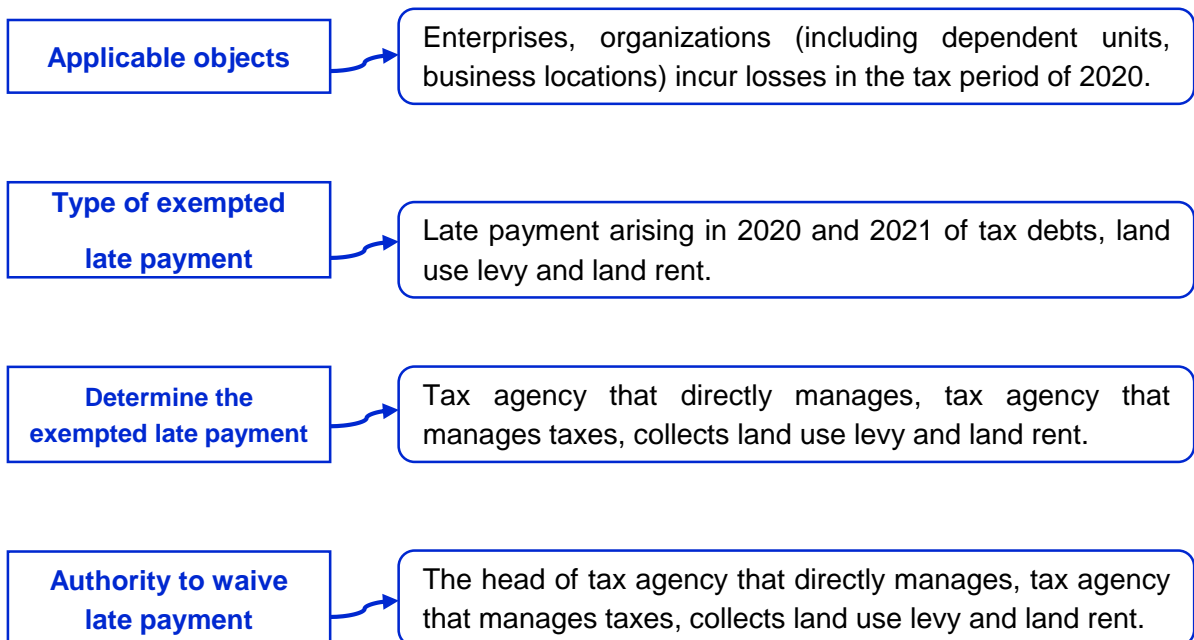


Value-added tax (VAT) reduction

Applicable objects	<ul style="list-style-type: none"> Regulate in detail at Appendix I of Decree 92/2021/ND-CP. If the goods and services specified in Appendix I are not subject to VAT according to the provisions of the Law on VAT => comply with the provisions of the Law on VAT.
The levels of reduction	<ul style="list-style-type: none"> In case an enterprise or organization calculates VAT by the credit method => 30% reduction in VAT rate. In case an enterprise or organization calculates value-added tax by the method of percentage on revenue => 30% reduction of the percentage level for VAT calculation.
Time for application	<p>From 01 November 2021 until the end of 31 December 2021.</p>



Exemption of late payment



B - New legal documents



Remarkable new legal documents (Enacted from 15 Oct 2021 to 31 Oct 2021)

No.	Legal documents
INVESTMENT	
1	The Prime Minister's Decision 1773/QD-TTg in 2021 on investment policy of Sa Pa airport construction project, Lao Cai province in the form of public-private partnership (PPP)
	Enactment date: 21 Oct 2021
2	Dispatch 26/CD-BGTVT on reviewing and correcting the disbursement plan for public investment in 2021 for projects managed by the Ministry of Transport
	Enactment date: 18 Oct 2021
COMMERCIAL	
3	The Government's Resolution 131/NQ-CP in 2021 approving the ASEAN Trade in Services Agreement (ATISA)
	Enactment date: 18 Oct 2021

No.	Legal documents	
ENTERPRISES		
4	Decree 92/2021/ND-CP guiding Resolution 406/NQ-UBTVQH15 on solutions to support enterprises and people affected by the COVID -19 epidemic	
	Enactment date: 27 Oct 2021	Effective date: 19 Oct 2021
5	The Standing Committee of the National Assembly's Resolution No. 406/NQ-UBTVQH15 in 2021 on a number of solutions to support enterprises and people affected by the COVID-19 epidemic	
	Enactment date: 19 Oct 2021	Effective date: 19 Oct 2021
RESOURCES - ENVIRONMENT		
6	Decree 93/2021/ND-CP on mobilizing, receiving, distributing and using voluntary contributions to support overcoming difficulties caused by natural disasters, epidemics and incidents; to support patients with critical illnesses	
	Enactment date: 27 Oct 2021	Effective date: 11 Dec 2021
7	The Minister of Industry and Trade's Circular 13/2021/TT-BCT regarding the National technical regulation on risk-based testing for pressure vessels of petrochemical refineries, gas processing plants and nitrogenous plants	
	Enactment date: 27 Oct 2021	Effective date: 01 June 2022
8	Circular 18/2021/TT-BTNMT stipulating the collection levels of fees for using marine areas under the assigned competence of the Prime Minister and the Ministry of Natural Resources and Environment	
	Enactment date: 29 Oct 2021	Effective date: 15 Dec 2021 (until the end of 31 Mar 2026)
LABOR		
9	Circular 137/2021/TT-BQP amending Circular 08/2017/TT-BQP on safety technical inspection, machines, equipment and supplies which are subject to strict requirements on occupational safety in the Ministry National Defense	
	Enactment date: 25 Oct 2021	Effective date: 06 Dec 2021

No.	Legal documents	
ADMINISTRATIVE - JUDICIARY		
10	Decree 89/2021/ND-CP amending Decree 101/2017/ND-CP on training and fostering cadres, civil servants and officials	
	Enactment date: 18 Oct 2021	Effective date: 10 Dec 2021
11	Decree 91/2021/ND-CP stipulating the coordination mechanism among provinces and cities in the Capital Region to enforce the provisions of the laws on the Capital	
	Enactment date: 21 Oct 2021	Effective date: 05 Dec 2021
12	Decree 94/2021/ND-CP amending Article 14 of Decree 168/2017/ND-CP guiding the Law on Tourism on deposit levels for travel service business	
	Enactment date: 28 Oct 2021	Effective date: 28 Oct 2021
13	The Minister of National Defense's Circular 138/2021/TT-BQP stipulating professional marks, the management and use of professional marks in inspection, calibration and testing activities in the field of military and defense	
	Enactment date: 25 Oct 2021	Effective date: 10 Dec 2021
14	The Minister of Public Security's Circular 98/2021/TT-BCA stipulating the reception of citizens to lodge complaints, denunciations, petitions and reports in the People's Public Security	
	Enactment date: 20 Oct 2021	Effective date: 03 Dec 2021
EXPORT AND IMPORT		
15	Decree 90/2021/ND-CP on Vietnam's Special Preferential Import Tariff to implement the Trade Agreement between Vietnam-Laos from October 4, 2020 to October 4, 2023	
	Enactment date: 19 Oct 2021	Effective date: 19 Oct 2021
INSURANCE		
16	The Prime Minister's Decision 32/2021/QD-TTg on the insurance payment limit	
	Enactment date: 20 Oct 2021	Effective date: 12 Dec 2021