



S&S Auditing and Consulting Co., Ltd.

41 Nguyen Thi Minh Khai, District 1, HCMC.
Tel: 08-39104996-39104997
Fax: 08-39104998

Email: SAMUEL230@HANMAIL.NET
Website: SSAUDIT.COM

S&S's Newsletter – July & Aug 2017

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Dear our Readers,

Below are S&S's Newsletter for July & Aug 2017.

We trust that you will enjoy this edition and welcome any feedback or queries that may arise to our email address: samuel230@hanmail.net

S&S Auditing and Consulting Co., Ltd

Head office:

8th Floor, Yoco Building
41 Nguyen Thi Minh Khai St, District 1, HCMC, Vietnam

Tel: 84 (8) 39 104 996

Fax: 84 (8) 39 104 998

Hanoi:

Room 1506. Block 24T2. Trung Hoa, Nhan Chinh, Cau Giay, Hanoi, Vietnam

Tel: 84 (4) 62 512 199

Fax: 84 (4) 62 512 201

Web: <http://www.ssaudit.com>

Enjoy your reading! And we would be happy to meet up with you to discuss how best we can assist your company in this regard.



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DECREE NO. 68/2017/ND-CP REGARDING TO PREFERENTIAL POLICIES ON INDUSTRIAL CLUSTER DEVELOPMENT

The Government has issued a series of preferential policies on industrial cluster development in Decree No.68/2017/ND-CP, in which:

- Production and business investment projects in industrial clusters will be exempt from land lease fees in 7 years and enjoy other incentives in accordance with the legal regulations.
- Investment projects on industrial zones' technical infrastructure will be exempt from land rent for 11 years. They will also be considered eligible for credit loans from the State, at a level not exceeding 70% of their total investment, along with enjoying other preferences under the current provisions of law.
- Incentives for trade village industrial clusters:
 - ✓ *Business and investment projects in trade village industrial clusters will enjoy 11-year-land lease exemption and be considered to borrow State credits under 70% of their total investment capital; together with other incentives and supports for industrial clusters.*
 - ✓ *Technical infrastructure business projects will be exempt from 15 years-land lease fees and considered for State credit loans up to 70% of their total investment; together with other incentives and supports for industrial clusters.*

In addition, Decree 68 also provides guidelines on encouraged investment fields and industries; expansion of investor's rights in technical infrastructure business projects; cases of building permit exemption, etc.

The Decree takes effect from **15 July 2017**.

DECISION NO. 1381/QD-BTC - THE REGULATION ON FINANCIAL EXAMINATION AT FOREIGN INVESTED ENTERPRISES

On 24 July 2017, the Ministry of Finance issues Decision No. 1381/QD-BTC on promulgation of the "Regulation on coordination in examination of performance of mechanisms, policies on corporate finance at foreign-invested economic organizations and foreign-invested projects"

This Regulation provides for forms and contents of the coordination between the Ministry of Finance and agencies involved in the examination of performance of mechanisms, policies on corporate finance at foreign-invested economic organizations and foreign-invested projects in Vietnam.



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In accordance with the regulation, the Department of Corporate Finance under the Ministry of Finance shall assume the prime responsibility for, and coordinate with involved agencies such as the General Department of Vietnam Customs, Department of Tax Policy, etc. in, conducting annual examination or irregular examination in term of financial status at foreign – invested enterprises.

8. *Implementation of commitments and satisfaction of conditions for enjoyment of financial incentives and investment support (exclusive of tax - related incentives) after projects commence operation.*

This Decision takes effect from signing date 24 July 2017.

The examination contents include 8 points below:

OFFICIAL LETTER NO. 4999/TCHQ-TXNK DATED 27 JULY 2017 OF THE GENERAL DEPARTMENT OF VIETNAM CUSTOMS REGARDING EXPORT DUTY POLICIES

1. *Value of assets contributed as capital by parties (value of land use rights, value of tangible assets such as machinery, equipment, manufactories, etc. intangible fixed assets, etc.).*
2. *Use of machinery and equipment imported free of duty to create fixed assets for proper purposes.*
3. *Performance of loans (bank loans, issuance of corporate bonds, etc.).*
4. *Setting up and use of provisional funds, fixed asset depreciation, accounting of exchange rate differences.*
5. *Share of profits from state-contributed capital in foreign-invested economic organizations or projects.*
6. *Preservation of capital contributed by state-invested economic organizations and projects.*
7. *Transfer of capital, projects of parities contributed capital to enterprises.*

According to Clause 7, Article 16 of the Law on Import and Export Duties No. 107/2016/QH13 and Article 12 of the Government's Decree No. 134/2016/ND-CP, from September 1st, 2016, raw materials, supplies, and parts imported for manufacture of exports shall be exempt from import duty.

However, the new Law removes the policy on exemption from export duties on goods that are wholly manufactured, processed from imported materials.

Accordingly, goods manufactured for export shall be only exempt from import duties on raw materials, meanwhile, **export duties are still** paid even if they are wholly manufactured, processed from imported materials



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OFFICIAL LETTER NO. 49148/CT-TTHT DATED 21 JULY 2017 OF THE DEPARTMENT OF TAXATION OF HA NOI CITY REGARDING VAT UPON TRANSFER OF A PROJECT

In accordance with this Official Letter, in order to determine whether the activity of transfer of the **"Project on investment in construction of a hi-tech garment and textile factory"** is exempt from VAT or not, enterprises have to base on Article 45 of the Investment Law No. 67/2014/QH13 and Clause 4 Article 5 of Circular No. 219/2013/TT-BTC.

If the transferred project is within the investment phase not yet put into operation, meets the conditions on transfer of investment projects and the transferee continues performing the project's objective which is for the purpose of manufacturing and trade, **VAT may be exempt.**

REFUND OF VAT ON EXPORTED GOODS, SERVICES FROM 1 JULY 2016

Official Letter No. 3719/TCT-CS dated 17 August 2017 of the General Department of Taxation regarding refund of value added tax (VAT) on exported goods, services.

Similar to the earlier regulations, if input VAT on exported goods, services remains at least VND 300 million after having been deducted from payable VAT on goods and services sold domestically, enterprises shall be entitled to receive a refund of VAT.

However, according to the new regulations in Circular No. 130/2016/TT-BTC, from 1 July 2016, the refunded amount of VAT on exported goods and services **shall not exceed** the revenue from such exported goods and services multiplied by 10%.

CIRCULAR NO. 23/2017/TT-BLDTBXH DATED 15 AUGUST 2017 OF THE MINISTRY OF LABOUR, WAR INVALIDS AND SOCIAL AFFAIRS GUIDANCE ON ONLINE ISSUANCE OF WORK PERMIT TO FOREIGN WORKERS IN VIETNAM

This Circular provides for guidelines on carrying out **online** these procedures.

1. Approval for demand for employment of foreign workers;
2. Issuance and re-issuance of work permit;
3. Certification of foreign workers eligible for work permit exemption.



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Accordingly, upon wishing to carry out the aforesaid procedures, enterprises shall access to the address <http://dvc.vieclamvietnam.gov.vn> in order to submit the application form and dossier. Paper documents attached to the application form for issuance of work permit for foreign worker must be converted into portable document format (pdf), document (doc, docx) or joint photographic experts group (jpg) files before they are submitted.

Time limits for submitting the application:

- At least 20 days before the planned date of employing foreign workers (with regard to procedure for approval);
- At least 7 working days before the planned date on which foreign workers start working (with regard to procedure for issuance of work permit) and at least 05 working days before the planned date on which foreign workers start working (with regard to procedure for certification of foreign workers eligible for exemption from work permit).

This Circular takes effect from **2 October 2017**

OFFICIAL LETTER NO. 215/BXD-QLN DATED 4 AUGUST 2017 OF THE MINISTRY OF CONSTRUCTION REGARDING RAISING CAPITAL FOR HOUSING CONSTRUCTION AND REAL ESTATE TRADING UNDER THE LAW ON HOUSING AND THE LAW ON REAL ESTATE TRADING.

According to point a Clause 2 Article 19 of Decree No. 99/2015/ND-CP, investors in commercial housing projects are allowed to raise capital in the forms of capital contribution, investment cooperation, business cooperation, joint venture, association of other organizations.

However, the parties involved in the capital contribution, investment cooperation, business cooperation, joint venture, association shall be only distributed profits (in money or shares) according to their contribution ratio in the contracts; the investor is **not allowed to distribute housing products, land use rights to the parties involved in the investment cooperation** (except for contribution of capital for establishment of a new legal entity).



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In addition, Clause 8 Article 6 of the Law on Housing No. 65/2014/QH13 also prohibits investors in residential construction projects from authorizing or assigning the parties involved in investment cooperation, joint venture, association, capital contribution or other organizations, individuals to conclude agreements on housing lease, lease purchase, sale, and deposit agreements on housing-related transactions or agreement on trading of land use rights in the projects.

THE NEW LISTS OF GOODS PROHIBITED FROM TEMPORARY IMPORT, RE-EXPORT AND TEMPORARY IMPORT, RE-EXPORT UNDER CONDITIONS

Circular No. 11/2017/TT-BCT dated 28 July 2017 of the Ministry of Industry and Trade on temporary import, re-export, temporary export, re-import and merchanting trade of goods.

This Circular replaces 5 following Appendixes, applicable from **11 September 2017**.

1. The list of goods prohibited from temporary import, re-export and merchanting trade (Appendix I).
2. The list of goods suspended from temporary import, re-export and merchanting trade (Appendix II).

3. The list of frozen foods for temporary import, re-export and merchanting trade (Appendix III).

4. The list of temporary imports subject to excise taxes (Appendix IV).

5. The list of used goods prohibited or suspended from export or import (Appendix V).

Under this Circular, the temporary import of goods prescribed Appendixes III, IV and V shall not be authorized to a third party or carried out on behalf of a third party.

Should you have any query, please do not hesitate to contact with our company – **S&S Auditing and Consulting Co., Ltd**

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