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LEGAL UPDATE

(Sub: Deferral of taxes and land rental fee payments)

I. GENERAL INFORMATION

On 8th April 2020, the Government has released Decree No. 41/2020/ND-CP on deferral of taxes and land rental fee payments ("**Decree 41**") in order to support the affected subjects (corporate entities, business households and individuals) by the Covid-19 pandemic. With the purpose of providing an update on the provisions of Decree 41 and notifying some notable legal issues to the relevant entities, we would like to release this Legal Update on the deferral of taxes and land rental fee payments as stipulated in this legislation.

Tax eligible entities under Decree 41 shall include:[1]

(i) **Enterprises, organizations, business households and individuals** which have production activities in the industry of agriculture, forestry and aquaculture; food production and processing; textiles; garments; manufacture of leather and related products; wood processing and manufacture of products from wood, bamboo, rattan (except furniture); manufacture of products from straw and plaiting materials; manufacture of paper products; manufacture of rubber and plastic products; manufacture of products from other non-metallic minerals; metal production; mechanical working; metal treating and coating; manufacture of electronics, computers and optical products; manufacture of automobiles and other motor vehicles; furniture production; construction; transport and warehousing; accommodation and catering services; education and training; healthcare and social assistance; real estate activities; labor service and employment activities; travel agencies, tourism services and auxiliary tourism services; composing, art and entertainment; libraries, archives, museum operation and other cultural activities; sports and recreation; cinemas; manufacture of products belonged to the list of prioritized ancillary industries; manufacturing of key mechanical products;

(Hereinafter referred to as "**Supported Business Lines**")

(ii) **Small enterprises and microenterprises:** which shall be determined in accordance with the Law No. 04/2017/QH14 on Assistances for Medium and Small Enterprises and the Government's Decree No. 39/2018/ND-CP elaborating the Law on Assistances for Medium and Small Enterprises; and

(iii) **Credit institutions and foreign bank branches (FBB)**: who provide assistance for enterprises, organizations and individuals affected by the Covid-19 pandemic *(under the list of credit institutions and FBBs published by the State Bank of Vietnam).*

[1] Article 2 Decree 41

Aiming at the supported entities as enterprises in general, we hereby use the term "**Businesses**" as a general noun to refer to all supported entities as listed in sections (i), (ii) and (iii) above.

II. SUPPORTS UNDER DECREE 41

Eligible Businesses under Decree 41 shall be entitled to enjoy the below supports, in particular:[2]

1. Financial obligations support

Businesses shall be extended the payment deadline for the following financial obligations:

(i) Value added tax - VAT *(except VAT paid upon importation of goods)*;

(ii) Corporate income tax - CIT; and

(iii) Land rents *(for land leased by the State with annual rental payment)*.[3]

2. Conditions and Scope of deadline extension

Supported Business Lines are those which have been in operation and generate revenue from in 2019 or 2020.[4]

Note: As long as one of the Supported Business Lines generates revenue in 2019 or 2020, Businesses shall be extended the deadline for all value added tax, corporate income tax payable respectively.[5]

3. Deferred deadlines

(i) **VAT**: Applicable to the VAT amount for the first half of 2020 - tax period March, April, May, June 2020 *(if submitted monthly)* and 1st quarter, 2nd quarter of 2020 *(if submitted quarterly)*.[6]

No.	Tax period	Deadline extension for tax payment
I. IF SUBMITTED MONTHLY		
1.	March 2020	No later than September 20, 2020
2.	April 2020	No later than October 20, 2020
3.	May 2020	No later than November 20, 2020
4.	June 2020	No later than December 20, 2020
II. IF SUBMITTED QUARTERLY		
5.	1st quarter of 2020	No later than September 30, 2020
6.	2nd quarter of 2020	No later than December 30, 2020

[2] Article 3.5 Decree 41
[3] Article 1, Article 3 Decree 41
[4] Article 2 Decree 41
[5] Article 3.5 Decree 41
[6] Article 3.1 Decree 41

Note: Businesses still subject to the obligation of making and submitting VAT declarations on a monthly or quarterly basis according to current law provisions; However, Businesses do not have to pay the VAT incurred on the declared VAT return but are allowed to be extended by the above deadline.

(ii) **CIT**:[7]

- The CIT amount shall be deferred, including:
  (a) The CIT amount declared in the 2019's annual statement; and
  (b) The CIT amount declared in the 1st and 2nd quarters of 2020.
- Deadline extension: 05 (five) months, from the end of the deadline for CIT payment in accordance with regulations of Law on Tax Administration.

Note: In case an enterprise or organization has already paid the CIT declared in the 2019's annual statement, it may offset the paid CIT against other unpaid taxes. In this case, the taxpayer shall complete form No. C1-11/NS enclosed with Circular No. 84/2016/TT-BTC), enclose it with the tax payment documents or relevant documents and submit them to the tax authority.

(iii) **Land rents**:[8]

- Type of land rents to be extended: land rents for the first period of 2020 if Businesses are directly leasing land from the State with annual rental payment.
- Deadline extension: 05 (five) months commencing from May 31, 2020, i.e. until November 1, 2020.

4. Deferral procedures[9]

Eligible Businesses for tax deferral shall submit an application for tax and land rent deferral (electronically or another method) using the form enclosed under Decree 41 to their direct supervisory tax authority.

Note:

- *The application shall include all payments of tax and land rent deferred and be submitted together with the monthly or quarterly tax declaration; and*
- *In case the application for tax and land rent deferral is not submitted together with the monthly or quarterly tax declaration, it shall be submitted* ***no later than July 30, 2020***.

We hope to share practical and timely useful information to Businesses and relevant entities via this Update. Should you need any further assistance related to the application of Decree 41, please feel free to contact BPA for detailed advice.

[7] Article 3.2 Decree 41
[8] Article 3.4 Decree 41
[9] Article 4.1 Decree 41

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