

LEGAL UPDATES (September 28th, 2020)

In these legal updates, we would like to send clients the legal updates on some following issues:

- Decree No. 114/02020/ND-CP regulates on reduction of corporate income tax payable in 2020 for enterprises, cooperatives, non-business units and other organizations.
- Decree No.91/2020/ND-CP regulates on preventing spam text messages, spam emails, spam calls is going to have effect on October 01st, 2020.
- Ministry of Industry and Trade has issued Official Letter No. 7088/BCT-ĐL on guiding the implementation of roof-top solar energy development on September 22nd, 2020.

1. Decree No. 114/02020/ND-CP regulates on reduction of corporate income tax payable in 2020 for enterprises, cooperatives, non-business units and other organizations

On September 25th, 2020, Prime Minister has signed Decree No. 114/2020/ND-CP detailing the implementation of Resolution No. 116/2020/QH14 of National Assembly on reduction of corporate income tax (CIT) payable in 2020.

This Decree applies to CIT payers who are organizations engaged in production and trading of goods and services with taxable income, including enterprises established under Vietnamese laws, organizations established under the Cooperative Law; non-business units and other organizations established under Vietnamese law with income from production and business activities.

Pursuant to this Decree, enterprises with total revenue in 2020 not exceeding 200 billion VND are entitled to a 30% reduction of payable CIT amount of the tax period 2020.

Total revenues in 2020 as the basis for determining the subjects eligible for tax reduction is the total revenue in the CIT period of 2020, including all sales, processing and service charges including price subsidies, surcharges which enterprises are entitled to in accordance with current regulations.

In cases of newly established enterprises, enterprises transformations, ownership transformation, consolidation, merger, division, separation, dissolution, bankruptcy (collectively referred to as changed enterprises) in CIT calculation period in 2020 for under 12 months of operation, the total revenue in 2020 is determined by total actual revenue in the CIT period of 2020 divided (:) the number of months of enterprises producing and doing business in the CIT period in 2020 multiplied (x) 12 months.

The changes of enterprises per month, operation time will be 01 month.



In cases of estimated total revenue in the CIT period of 2020 does not exceed 200 billion VND, the enterprises shall temporarily pay 70% of the payable CIT amount of the quarter.

Ending of CIT period of 2020, in case of total revenue in 2020 of enterprises does not exceed 200 billion VND, enterprises shall declare and reduce the CIT in 2020 upon finalization of CIT in accordance with laws.

This Decree is going to have effect from the valid date of Resolution No. 116/2020/QH14 **and applies for CIT period of 2020.**

2. Decree No.91/2020/ND-CP regulates on preventing spam text messages, spam emails, and spam calls is going to have effect on October 01st, 2020



On August 14th, 2020, the Government issued Decree 91/2020 / ND-QD on the prevention of spam messages, spam emails, and spam calls.

According to this Decree, the Government stipulates that organizations and individuals using telecommunications services have the right to register on or withdraw from the List without advertising (DoNotCall) for phone numbers under their legal use rights. Advertisers, Internet and telecommunications service providers are not allowed to make advertising phone calls, send text messages for advertising registration, or send advertising text messages to any phone number on the DoNotCall list.

The principles of sending advertising text messages, emails and phone calls are prescribed as follows:

- Not to send advertising messages or make advertising calls to the numbers on the DoNotCall List or without prior consents from the users;
- For text ads and for the numbers which are not in DoNotCall list, Advertisers may only send first and only opt-in message. The Ministry of Information and Communications shall elaborate regulations on sending opt-in messages;
- In case the user refuses to receive advertisements or does not answer the first and only opt-in message, the advertiser must not send any additional opt-in message or advertising message to that number;
- To stop sending advertising messages and advertising emails and making advertising calls to the user after receiving the user’s unsubscribing request;
- Each advertiser may send up to 03 advertising messages to a phone number, up to 03 advertising emails to an email address, and make 01 advertising call to a phone number within 24 hours unless otherwise agreed by the user;
- Advertisement contents shall be conformable with advertising laws;
- Only send advertising messages or make advertising calls after a brandname is issued; not to use phone numbers to send advertising messages or advertising calls.

Decree No.91/2020/ND-CP is going to have effect on October 01st, 2020.

3. Ministry of Industry and Trade has issued Official Letter No. 7088/BCT-ĐL on guiding the implementation of roof-top solar energy development

After Decision No. 13/2020/QĐ-TTg dated April 6, 2020 of the Prime Minister on mechanism to encourage the development of solar power in Vietnam and Circular No. 18/2020/TT-BCT dated July 17th, 2020 regulations on project development and standard power purchase and sale contracts applicable to solar power projects, to ensure rooftop solar system development in accordance with the spirit of Resolution 55-NQ/On February 11th, 2020 of the Politburo on the orientation of the Vietnam National Energy Development Strategy to 2030, with a vision to 2045, the Ministry of Industry and Trade specifically guides the following issues:

1. About “Rooftop solar system”:

Rooftop solar system defined in Clause 5, Article 3 of Decision 13 must be installed on rooftops of construction works with independent functions, in which:

- (i) Construction works (including new construction, renovation, repair) are invested and built in accordance with the current law on investment, construction, environment,...;
- (ii) Roof of a construction work is that of a house, roof of a house-type structure, should be suitable to the function and use purpose of the construction.

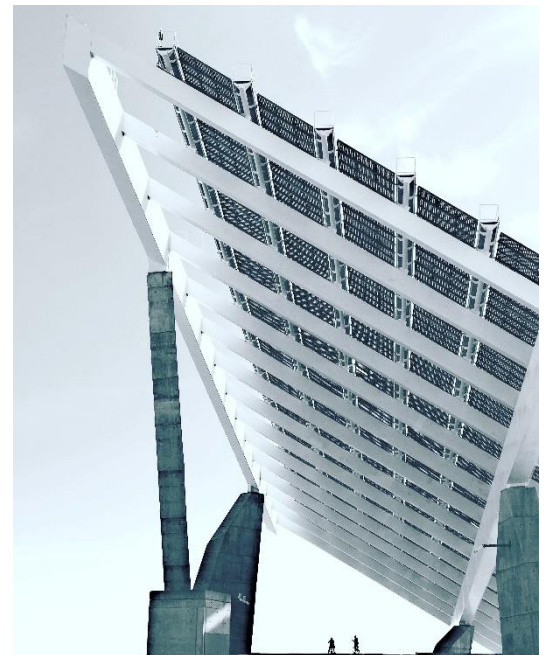
2. Guidance in some specific cases:

- (i) Rooftop solar system on rooftop of livestock, farming, forestry, salt-production, aquaculture and other agricultural and rural development works:

Owners of animal husbandry and cultivation farms are responsible for organizing production and business in accordance with land use plannings and plans in the locality. Farm construction works must have roofs suitable to their functions and types of farms.

- (ii) Many rooftop solar systems with a total capacity of more than 01 MW (each system with a capacity of not more than 01 MW) per 01 location (on the same land plot or roof of the industrial park) are directly or indirectly connected, of one or more investors; in case an investor acquires many adjacent rooftop solar systems with a total capacity of over 01 MW:

Each rooftop solar system has a separate power purchase agreement and is exempt from the electricity operation license. Acquiring organizations and individuals are entitled to inherit related interests and obligations in the



Power Purchase Agreement signed by previous investors but must carry out the procedures of transferring contract holders and could not combine purchase contracts to sell rooftop solar system into a contract.

- (iii) In case the investor takes advantage of the roof of the office, the operation office, the kitchen, the motel, the staff garage, the factory, the warehouse contains materials, in the power project campus solar power plant, hydropower plant, thermal power plant to invest in rooftop solar power and propose to install separate meters, sign power purchase agreement for rooftop solar system:

EVN is allowed to sign power sale and purchase contracts if it is suitable with the regulations on the rooftop solar system in Decision 13 and Circular 18.

- (iv) Solar power systems with a capacity not exceeding 01 MW and not installed on the roof of a construction with independent functions; solar power system of livestock and farming farms with a capacity of over 01 MW or over 1.25 MWp; in case the solar power system is connected to a voltage above 35 kV:

In these cases, the selling price for the rooftop solar system is not applied according to the provisions of Decision 13.

- (v) Preferential recommendations for installing rooftop solar with capacity higher than 01 MW; Aquaculture lagoon, farming, animal husbandry ... have the need to use photovoltaic panels as roofs:

The Ministry of Industry and Trade will study, propose and report to the Prime Minister for consideration to develop a mechanism suitable to the practical situation, applied after 2020.



3. Role of EVN:

- (i) To instruct electricity units for connecting, signing electricity sale contracts for operation applicable to rooftop solar power system in accordance with Decision 13 and Circular 18.
- (ii) To be responsible for ensuring that the rooftop solar systems are connected in accordance with the regulations, not overloading the existing low and high voltage grid system.
- (iii) To request the rooftop solar system investors to make a commitment to be responsible for the project itself in accordance with applicable standards, regulations and current law. For the rooftop solar system of a farm building, request the investor to supplement the commune or district People's Committee's confirmation of the farm construction declaration in the application/electrical connection agreement or purchase contract electricity.
- (iv) To send documents to the Ministry of Planning and Investment and the Ministry of Finance to propose problems related to business conditions, tax administration, and invoices of objects with rooftop solar systems.

We hope this short Letter of legal updates would bring you useful information.

Best regards.



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ABOUT US,

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