

## LEGAL UPDATES (November 16<sup>th</sup>, 2020)

In these legal updates, we would like to send clients the legal updates on the highlight following issue in early November:

1. The Government tightens transactions between affiliated enterprises through the issuance of Decree No. 132/2020/ND-CP dated November 5<sup>th</sup>, 2020, providing regulations on tax administration for enterprises with related-party transaction.
2. The new Decision of Ministry of Transport of Vietnam encouraging logistics services in the maritime sector.
3. The new Decree requiring class-I private hospitals must organize clinical pharmacy activities.

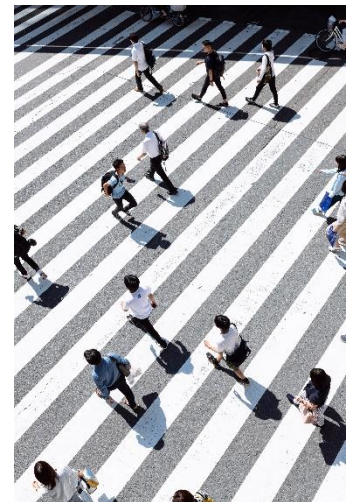
### 1. The Government tightens transactions between affiliated enterprises

On November 05<sup>th</sup>, 2020, the Government issued Decree No. 132/2020/ND-CP regulations on tax administration for enterprises with related-party transaction replacing Decree No. 20/2017/ND-CP. The Decree clarifies the principles of analysis, comparison, and selection of independent comparables and methods of determining the price of the related-party transaction.

Related-party transactions are transactions of buying, selling, exchanging, renting, leasing, borrowing, lending, transferring, transferring goods or providing services; borrowing, lending, financial services, financial guarantees, and other financial instruments; buying, selling, exchanging, renting, leasing, borrowing, lending, transferring, transferring tangible and intangible assets and agreeing to buy, sell, and use resources such as assets, capital, labor cost-sharing activities and sharing costs between related parties, except for business transactions for goods and services subject to the State's price adjustment scope, which comply with the law on prices.

In addition, the Decree adds the following objects that are considered related parties:

- Two enterprises are run or controlled by personnel, finance, and business operations by individuals in one of the relationships: spouses; biological parents, adoptive parents, stepfather, stepmother, mother-in-law, parents-in-law; natural children, adopted children, stepchildren of husband or wife, daughter-in-law, son-in-law; siblings, siblings of the same parent, sibling of the same parent, sibling, sister-in-law, brother-in-law, sister-in-law of the same parent, same mother of the different father; paternal grandparents, maternal grandparents; grandchildren, grandchildren; aunt, uncle, uncle, uncle, and nephew;
- Enterprises have transactions to transfer or receive the capital transfer, contribute at least 25% of the equity of the enterprise in the tax period; borrowing, lending at least 10% of equity



capital of the owner at the time of the transaction in the tax period with the operator or controller of an enterprise or with an individual in a relationship as prescribed above.

Related transaction costs that are incompatible with the nature of the independent transaction or do not contribute to revenue or income for taxpayers' production and business activities shall not be included in deductible expenses unless determine the income subject to corporate income tax in the period.

Thus, transactions of related parties, typically parent companies and subsidiaries, should consider current transactions and be more careful in future transactions to avoid the case of not deducting expenses and increase the annual enterprise tax of the enterprise.

Decree No. 132/2020/ND-CP dated November 05<sup>th</sup>, 2020 takes effect from December 20<sup>th</sup>, 2020 and apply from the enterprise income tax period in 2020.

## **2. The Decision of Ministry of Transport of Vietnam encouraging logistics services in the maritime sector**

Decision 2094/QD-BGTVT of the Ministry of Transport has just been issued requiring the development of logistics services in the maritime sector of Vietnam as follows:

- Supporting businesses to invest in inland ports according to the approved planning, and increase the quality of logistics services;
- Coordinating with relevant ministries and localities in completing mechanisms and policies on land serving the development of logistics services and proposing priority to allocate sufficient land funds for post-port logistics service areas;
- Coordinating with relevant agencies in completing legal provisions on the organization and operation of logistics services; financial mechanisms and policies to meet the needs of developing logistics services; and
- Deploying the EDI system - An electronic processing system for administrative procedures such as: Procedures for port-related permits (notification of ships arrival / departure, notification of the use of mooring equipment ...) and system Electronic transaction system at seaports.



The Decision takes effect from November 6<sup>th</sup>, 2020.

## **3. The new Decree requiring class-I private hospitals must organize clinical pharmacy activities**

This is the requirements of newly issued Decree 131/2020/ND-CP regulating the organization and operation of clinical pharmacy at medical examination and treatment establishments.

Accordingly, from January 1<sup>st</sup>, 2021, the following medical examination and treatment establishments must organize clinical pharmacy activities:

- Private medical examination and treatment establishments are ranked equivalent to those of class I hospitals
- Hospitals, Institutes with hospital beds (hereinafter referred to as hospitals), including general and specialized hospitals of class I or higher affiliated to the Ministry of Health, provincial/municipal Department of Health or under the Ministry of National Defense, the Ministry of Public Security and other ministries and branches are assigned by the Ministry of Health to act as the technical end-line;

Decree 131/2020/ND-CP takes effect from January 1, 2021.

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

Best regards.

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