

LEGAL UPDATES (March 15th, 2021)

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

- Ministry of Finance published and collected feedback on the draft of Circular providing guidelines for implementation of a number of Articles of Law on Tax Management and Decree No. 126/2020/ND-CP dated October 19th, 2020 of the Government providing detailed regulations of Law on Tax Management.
- New regulation on the collection of customs fees.
- The Government agrees to greenlight mobile money for two years.

1. Ministry of Finance published and collected feedback on the draft of Circular providing guidelines for implementation of a number of Articles of Law on Tax Management and Decree No. 126/2020/ND-CP dated October 19th, 2020 of the Government providing detailed regulations of Law on Tax Management

Ministry of Finance is collecting feedback on the draft of Circular providing guidelines for implementation of a number of Articles of Law on Tax Management and Decree No. 126/2020/ND-CP dated October 19th, 2020 of the Government providing detailed regulations of Law on Tax Management (hereinafter referred to as “**Draft**”).

The outstanding content of the Draft is regulations on tax management of e-commerce activities, digital business of foreign suppliers not having a fixing business establishment in Vietnam. Accordingly, four groups have obligations of tax registration, tax declaration, and tax payment on an e-commerce business and a digital platform business includes:

- (i). Foreign suppliers not having a fixing business establishment in Vietnam have e-commerce business activities or digital platform business with Vietnamese organizations and Vietnamese individuals;
- (ii). Organizations, individuals in Vietnam purchase goods, service from overseas suppliers;
- (iii). Organizations, tax agents operating under Vietnamese law which is authorized by foreign suppliers to implement tax registration, tax declaration and tax payment in Vietnam;
- (iv). Commercial banks, organization provide intermediary payment services and organizations, individuals having rights and obligations related to e-commerce activities, digital platform business of overseas suppliers.

The Draft also provides guidance on tax registration, tax declaration, directly calculating tax of foreign suppliers, and regulating a principle of determining arising turnover in Vietnam to use as the ground for tax declaration and tax calculation.

The Draft is expected to be a useful tool for the Government to manage tax of cross – border business via e-commerce channels and digital platforms.

2. New regulation on the collection of customs fees

On February 16th, 2021, the Vietnamese Ministry of Finance published the Circular No. 14/2021/TT-BTC regulating details on the collection, remittance, management and use customs fees, fees on transit goods, vehicles in transit (hereinafter referred to as “**the Circular No. 14/2021/TT-BTC**”) with some new points compared to the Circular No. 274/2016/TT-BTC.

The Circular No. 14/2021/TT-BTC extended subjects who must pay customs fees, specifically:

- (i) Organizations, individuals applying for issuance of temporary admission carnet (ATA Carnet) for temporarily exported for reimportation in accordance with the Decree No. 64/2020/NĐ-CP dated June 10th, 2020 providing guidance on the implementation of temporary admission under Istanbul convention. Customs fees for issuance of ATA Carnet is VND 1,000,000,000 per carnet; fees for re-issuance of ATA Carnet is VND 500,000 per carnet.
- (ii) Intellectual property right holder who have been protected or legal authorized persons apply to customs agency for inspection, supervision, suspension of customs procedures for exported, imported goods suspected of infringing intellectual property rights in accordance with the law on intellectual property and the law on customs. In this case, the applicant must pay customs fee is VND 200,000 per request.

The Circular No. 14/2021/TT-BTC will take effect from April 5th, 2021 and replace the Circular No. 274/2016/TT-BTC.

3. The Government agrees to green-light mobile money for two years

The Prime Minister promulgated Decision 316/ QĐ-TTg on March 9th, 2021 approving the green light to the use of the telecommunications account for payment of goods and services having small value.

Promulgation of this Decision for the purpose of pushing no-cash payment, increasing the approaching and the use of financial services, especially in rural, mountainous, remote, border areas and island of Vietnam.

The Decision prescribes clearly scope, subject, execution time, the use limitation and regulations on prohibited acts. Particularly:

- (i) **Execution time:** 02 years from the time on which the first piloting enterprise is approved to deploy the Mobile Money service;

- (ii) **The Subject of piloting:** Enterprises have licenses to provide intermediary e-wallet payment services; licenses for establishment of public terrestrial mobile telecommunications network using radio frequency bands or subsidiaries permitted to use the parent companies' infrastructure, network and telecommunications data by the parent companies that are licensed for establishing public terrestrial mobile telecommunications network using radio frequency bands;
- (iii). **Customers:** Individual customers registering and using the Mobile Money service must provide their identification cards (Id)/citizen identification cards (CID)/passports that match the information used to register their mobile subscriber numbers, and are identified and authenticated by pilot enterprises according to the Government's regulations on mobile subscriber registration; and such mobile subscriber numbers must have the period of activating and using continuously for at least 03 consecutive months up to the time of registering to open and use the Mobile Money service. It must be noticed that each customer is allowed to open one Mobile Money account at each piloting enterprise;
- (iv). **Limitation for the use of Mobile Money service:** a maximum transaction limit is 10 million VNĐ per month for each Mobile Money account for total transactions, including withdrawals, transfers, and payments.

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

Best regards.

Contributor(s):**Mr. LE TIEN DAT****Senior Partner****M** (+84) 939 107 387 | **E** dat.le@apolatlegal.com**Ms. BUI BICH PHUONG****Associate****M** (+84) 933 632 693 | **E** phuong.bui@apolatlegal.com**Ms. LE TRINH ANH THU****Paralegal****M** (+84) 962 941 160 | **E** thu.letrinh@apolatlegal.com

Disclaimer: All materials have been prepared for general information purposes only. The information is not intended as, and should not be taken as, legal advice. Do not act or refrain from acting based upon information provided herein without first consulting our lawyers about your particular factual and legal circumstances. Apolat Legal can accept no responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication. On any specific matter, reference should be made to the appropriate adviser.

ABOUT US,

Apolat Legal is a professional law firm with its offices in Ho Chi Minh city and Ha Noi city. The firm's lawyer team specializes in almost all legal practice areas in Vietnam including Enterprise and Investment; Labor and Employment; Intellectual Property; Dispute Resolution; Real Estate and Construction; Information and Communication; Natural Resources and Environment; Transport; Industry and Trade; Education and Training; Finance and Banking; Agriculture; Legal Document Translation; Legal Training.

Our reputation and the quality of its services are reflected by our clients. We are serving nearly 1,000 clients both local and multi-national companies.

We are also honored to receive numerous recognitions and/or articles posted by world-leading and local organizations and publications including: The Law Association for Asia and the Pacific (LawAsia, 1966), The Legal500, IP Link, IP Coster, Lexology, Global Trade Review (GTR), The Saigon Times, etc.

Contacts:**HO CHI MINH CITY (Head office)**

5th Floor, IMM Building
99-101 Nguyen Dinh Chieu, District 3
Ho Chi Minh City, Vietnam

THE BRANCH IN HA NOI CITY

Room A8, 29th Floor, East Tower, Lotte Center
54 Lieu Giai, Cong Vi Ward, Ba Dinh District
Hanoi City, Vietnam

Tel: +84-28-3899 8683

Email: info@apolatlegal.com

Website: www.apolatlegal.com

SINGAPORE (Affiliated office)

#26-10, SBF Center,
160 Robinson Road
Singapore 068914

Tel: +84-93-2014 986

Email: info@apolatlegal.com

Website: www.apolatlegal.com

Scan QR code: