**LEGAL UPDATES**

**VOL 10, JULY 2021**

**Dear Valued Clients and Partners,**

**ADK Vietnam Lawyers Law Firm** would like to introduce to you the Legal Updates, Vol 10 July 2021 with new legal provisions, which have notable contents as follows:

* 1. **Non-punishment for late submission of tax returns during the social distancing period due to the Covid-19 pandemic.**

Facing the complicated situation of the Covid-19 epidemic, on July 19, 2021, the Ho Chi Minh City Tax Department (“**Ho Chi Minh City Tax Department**”) issued Official Letter No. 6770/CTTPHCM-KK guiding the submission of tax returns during the implementation of Directive 16/CT-TTg.

Accordingly, Ho Chi Minh City Tax Department announced, in the case of taxpayer is an organization or individual whose headquarters or address (permanent and temporary residence) is located in the quarantined area, the isolated area, the individual subject to isolation according to a decision or notice of a competent state agency due to the Covid-19 epidemic, if there is an obligation to submit a tax return but during the period of isolation (including the period of social isolation according to the documents of the Prime Minister, the Government Office, isolation by region, area under the decision of local government agencies, isolation according to the notification decision of the agency competent authorities or state) cannot submit tax returns in accordance with the law leading to late submission of tax declaration dossiers, then they will not be administratively sanctioned according to the provisions of Article 11.4 of the Law on Handling of Administrative Violations.

* 1. **Adding a written approval of the results of inspection and acceptance of completed works to the application for recognition of the date of commercial operation of the wind power plant.**

On July 21, 2021, Vietnam Electricity Group issued Official Letter No. 4281/EPTC-KDMD+CNTT on the addition of a written approval of the results of acceptance test and completion of the work to put into use in the public dossier to get Commercial Operation Date of Wind Power Plant.

Specifically, the Electricity Power Trading Company (“**EVNEPTC**”) proposes to add a written approval of the Ministry of Industry and Trade or the provincial Departments of Industry and Trade on the results of inspection and acceptance of completed work (“**Approval Letter**”) to the application for recognition of the dated of commercial operation. EVNEPTC also clearly stated that Approval Letter is one of the conditions for recognition of the commercial operation date of a part or the whole of the wind power plant.

* 1. **Conditions for some medical instruments and equipment to apply the 5% Value Added Tax rate**

In accordance with the provisions of Decree 03/2020/ND-CP, on June 11, 2021, the Ministry of Finance issued Circular 43/2021/TT-BTC amending and supplementing Circular 219/2013/ TT-BTC guides the Law on Value Added Tax (“VAT”) (amended in Circular 26/2015/TT-BTC) on regulations on types of medical equipment subject to tax rates VAT 5% . Circular 43/2021/TT-BTC officially takes effect from August 1, 2021.

Instead of the general provisions in Article 1.8 of Circular 26/2015/TT-BTC for other specialized medical instruments and equipment as certified by the Ministry of Health; or chemical materials for testing and sterilization for medical use as certified by the Ministry of Health. In Article 11 of Circular 43/2021/TT-BTC, conditions for applying 5% VAT on medical instruments and equipment include:

* Medical equipment and instruments, including medical machines and instruments: all kinds of scanners, projectors and scanners used for medical examination and treatment; specialized equipment and instruments for surgery, wound treatment, ambulance cars; instruments for measuring blood pressure, cardiac activities, pulse, blood transfusion instrument; syringes; contraception equipment; **medical equipment with *import permit*, or *circulation registration certificate* or *Receipt of application for publication of standards in accordance with the health legislation or the List of medical equipment subject to the specialized management of the Ministry of Health*, which have been identified with commodity code identified according to the List of imported and exported goods of Vietnam issued together with Circular No. 14/2018/TT-BYT.**
* Medical cotton, bandages, medical gauze and medical tampons; medical prevention and treatment drugs, pharmaceutical starting materials, except functional food; vaccine; medical biologicals, distilled water for diluting injectable medicines, intravenous fluids; hat, clothes, facemasks, surgical gloves, gloves, leg cover, shoe cover, towels, specialized medical gloves, breast implants and dermal fillers (excluding cosmetics); **chemicals materials for testing and sterilization for medical use.**
  1. **Add the subjects responsible for declaring and paying tax on behalf of individuals.**

On June 1, 2021, the Ministry of Finance issued Circular No. 40/2021/TT-BTC guiding the value-added tax, personal income tax and tax administration of households businesses and individuals businesses. Circular No. 40/2021/TT-BTC officially takes effect from August 1, 2021.

Accordingly, in addition to guiding cases where organizations are responsible for declaring and submitting taxes on behalf of individuals, including the case of rental property, Circular No.40/2021/TT-BTC also adds additional subjects are responsible for declaring and submitting tax on behalf of the new individual in Article 8, including:

1. The organization leases property from the individual under a lease contract which prescribes that the lessee is the taxpayer;
2. Organization does business with the individuals;
3. The organization pays bonuses, sales compensation, promotions, commercial discounts, payment discounts, cash or non-cash support, compensations for breach of contract, other compensations for contracted households;
4. The organization in Vietnam is a partner of an overseas digital platform provider (without permanent establishment in Vietnam) pays income to individuals for digital information products and/or services under agreement with the overseas digital platform provider;
5. The organization is the owner of an e-commerce platform declares and pay tax on behalf of the individual according to the schedule of the tax authority. During the time when it is not possible to declare tax on behalf of an individual, this organization is responsible for providing information related to the individual's business activities through on their platforms as requested by tax authorities, such as: full name; ID/passport number; taxpayer identification number (TIN); address; email address; phone number; goods and services provided; revenue; the seller’s bank account; other relevant information;
6. The organizations and individuals declare tax on behalf of individuals; submit taxes on behalf of individuals as authorized by Civil law.

We hope you found this brief legal update informative.

Best Regards.

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