



NEWSLETTER VIETVALUES-HCMB

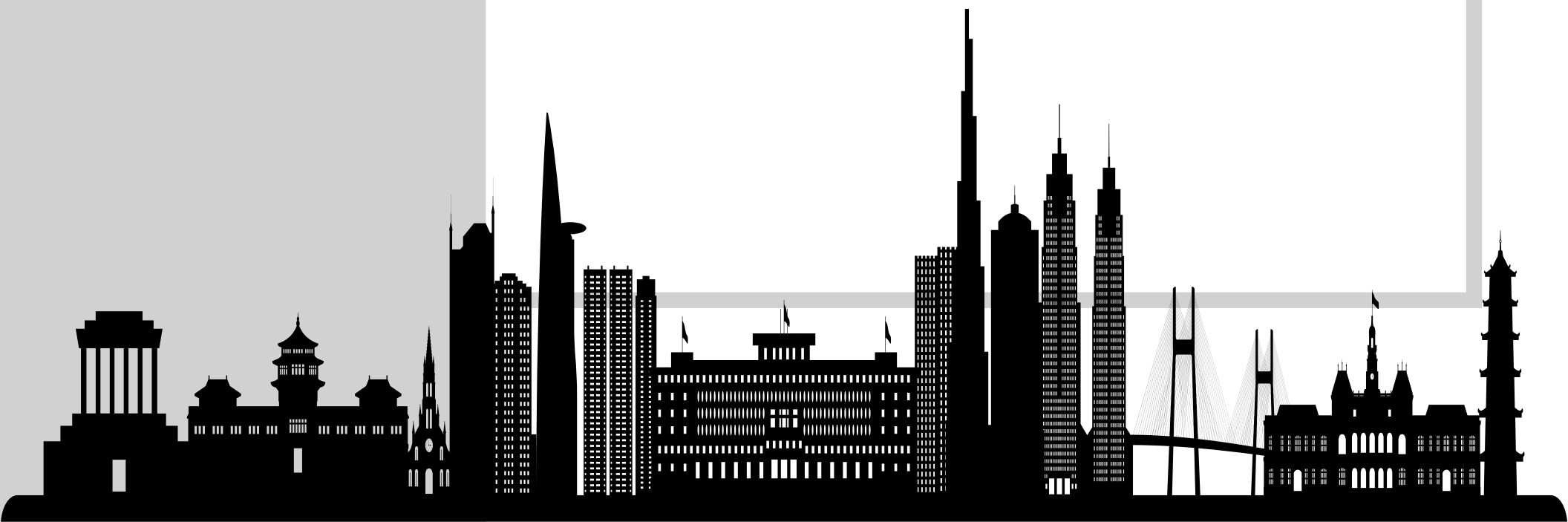
Tax & Legal updates

June - 2024

Accelerate to breakthrough

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Sanctions for violations in the field of invoices

Pursuant to Articles 5, 7, 16, 17, 22, 24, 28, 30, and 31 of Decree No. 125/2020/ND-CP dated October 19, 2020 of the Government; Article 1 of Decree No. 102/2021/ND-CP dated November 16, 2021 of the Government stipulating the principles of sanctioning administrative violations related to invoices, aggravating circumstances, mitigating circumstances, and sanctioning specific violations as follows:

1. Principles of sanctioning administrative violations related to invoices (Article 5 of Decree No. 125/2020/ND-CP)

- Organizations and individuals committing multiple administrative violations shall be sanctioned for each violation.
- For the same administrative violation of tax and invoices, the fine for an organization is twice the fine for an individual, except for the fine for the acts specified in Articles 16, 17 and 18 of Decree No. 125/2020/ND-CP.

2. Principles for applying fines (Article 7 of Decree No. 125/2020/ND-CP)

The fines specified in Articles 10, 11, 12, 13, 14, 15, Clauses 1 and 2 of Article 19 and Chapter III of Decree No. 125/2020/ND-CP are fines applicable to organizations.

For taxpayers who are households and business households, the fines are the same as for individuals.



Punished behavior

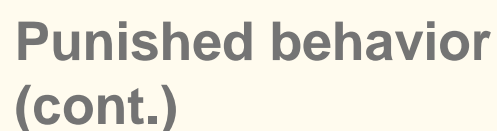
- Incorrect declaration leading to underpayment of tax or overpayment of tax exempted, reduced or refunded (Article 16 of Decree No. 125/2020/ND-CP)

- Tax evasion in the field of invoices (Article 17 of Decree No. 125/2020/ND-CP)



Penalty

- ❑ A fine of 20% of the under-declared tax amount or the tax amount exempted, reduced or refunded is higher than the prescribed amount for one of the following acts:
 - + Using illegal invoices and documents to account for the value of purchased goods and services, reducing the amount of tax payable or increasing the amount of tax refunded, exempted or reduced, but when the Tax Authority inspects and checks, the buyer proves that the violation of using illegal invoices and documents belongs to the seller and the buyer has fully accounted for them according to regulations
- ❑ A fine of one time the amount of tax evaded shall be imposed on a taxpayer with one or more mitigating circumstances who commits one of the following violations:
 - + Failure to issue an invoice when selling goods or services, except in cases where the taxpayer has declared tax on the value of goods or services sold or provided in the corresponding tax period; issuing an invoice for the sale of goods or services with incorrect quantity or value of goods or services to declare lower tax than the actual amount and is discovered after the deadline for submitting tax declaration dossiers;
 - + Using illegal invoices; illegally using invoices to declare tax to reduce the amount of tax payable or increase the amount of tax refunded, the amount of tax exempted or reduced;



- Giving and selling invoices (Clause 2, Article 22, Decree No. 125/2020/ND-CP amended and supplemented in Article 1, Decree No. 102/2021/ND-CP)



- ☐ Fines from VND 20,000,000 to VND 50,000,000 for acts of giving or selling invoices, except for acts specified in Clause 1, Article 22.



**Punished behavior
(cont.)**

- Violations of regulations on invoicing when selling goods and services (Article 24 of Decree No. 125/2020/ND-CP)



Penalty (cont.)

- ❑ A warning shall be imposed for one of the following acts:
 - + Issuing an invoice at the wrong time but does not lead to a delay in tax payment and there are mitigating circumstances;
 - + Issuing the wrong type of invoice as prescribed and has been delivered to the buyer or declared for rent, the seller and the buyer discover the wrong type of invoice and reissue the correct type of invoice as prescribed before the competent authority announces the decision to inspect and examine at the taxpayer's headquarters and does not affect the determination of tax obligations.
- A fine of from VND 500,000 to VND 1,500,000 shall be imposed for one of the following acts:
 - + Not issuing a consolidated invoice as prescribed by law on invoices for the sale of goods and provision of services;
 - + Not issuing invoices for goods and services used for promotion, advertising, and samples; Goods and services used for giving, presenting, exchanging, or paying in lieu of wages to employees, except for goods circulated internally or consumed internally to continue the production process.



Penalty (cont.)

A fine of VND 3,000,000 to VND 5,000,000 shall be imposed for issuing invoices at the wrong time but not resulting in a delay in tax payment, except for the case specified in Point a, Clause 1, Article 24.

- A fine of VND 4,000,000 to VND 8,000,000 shall be imposed for one of the following acts:

+ Issuing invoices at the wrong time as prescribed by law on invoices for the sale of goods and provision of services, except for the case specified in Point a, Clause 1, Clause 3, Article 24;

+ Issuing invoices not in order from small to large numbers as prescribed, except for the case of a warning under Point b, Clause 1, Article 24;

+ Issuing invoices with the date on the invoice written before the date of purchase of the invoice from the tax authority;

+ Making the wrong type of invoice according to the provisions of law on invoices for the sale of goods and provision of services and having delivered them to the buyer or having declared taxes, except for the case of a warning penalty according to Point c, Clause 1, Article 24;

+ Making electronic invoices without the approval notice of the tax authority or before the date the tax authority accepts the use of electronic invoices with or without codes of the tax authority;

+ Making invoices for the sale of goods and services during the period of temporary suspension of business operations, except for the case of making invoices for customers to perform contracts signed before the date of notice of temporary suspension of business operations;

+ Making electronic invoices from cash registers without connection or electronic data transfer to the tax authority.

- A fine of from VND 10,000,000 to VND 20,000,000 shall be imposed for the act of not making invoices when selling goods and providing services to buyers according to regulations, except for the act specified in Point b, Clause 2, Article 24.



Punished behavior (cont.)

- Using illegal invoices, using invoices illegally (Article 28 of Decree No. 125/2020/ND-CP)
- Violation of regulations on electronic invoice data transfer (Article 30 of Decree No. 125/2020/ND-CP)
- Violation of regulations on providing invoice services (Article 31 of Decree No. 125/2020/ND-CP)



Penalty (cont.)

- ❑ Fines from VND 20,000,000 to VND 50,000,000 for acts of using illegal invoices, illegal use of invoices prescribed in Article 4 of Decree 125/2020/ND-CP, except for the cases prescribed in Point d, Clause 1, Article 16 and Point d, Clause 1, Article 17 of Decree 125/2020/ND-CP:

Fines from VND 2,000,000 to VND 5,000,000 for acts of transferring electronic invoice data to tax authorities after the deadline of 01 to 05 working days, from the date of expiration as prescribed.
- ❑ Fines from VND 5,000,000 to VND 8,000,000 for one of the following acts:
 - + Transferring electronic invoice data to the tax authority from 06 to 10 working days past the deadline, from the date of expiration as prescribed;
 - + Transferring a summary table of electronic invoice data that does not include the number of invoices created during the period.
- Fines from VND 10,000,000 to VND 20,000,000 for one of the following acts:
 - + Transferring electronic invoice data to the tax authority from 11 working days or more past the deadline, from the date of expiration as prescribed;
 - + Not transferring electronic invoice data to the tax authority within the prescribed time limit.
- ❑ A fine of VND 4,000,000 to VND 8,000,000 shall be imposed for one of the following acts of providing electronic invoice software that does not ensure the principles prescribed by law on invoices.

On January 4, 2024, the Government issued Decree No. 03/VBHN-BTC regulating administrative sanctions for violations of tax and invoice regulations.:

Article 1. Scope of regulation and subjects of application

Article 1. Scope of regulation

This Decree provides for administrative violations, forms of sanctions, levels of sanctions, measures to remedy consequences, sanctioning authority, authority to draw up records of administrative violations and some procedures for sanctioning administrative violations of tax and invoice.

This Decree does not apply to administrative violations of fees and charges; administrative violations of taxes on exported and imported goods collected by customs authorities and violations of regulations on tax registration procedures, violations of regulations on notification of temporary suspension of business activities, notification of resumption of business activities before the deadline with the business registration authority, cooperative registration authority of organizations and individuals that carry out tax registration together with business registration, cooperative registration, business registration.

Article 7. Forms of sanctions, remedial measures and principles for applying fines when sanctioning administrative violations of tax and invoice regulations

1. Main forms of sanctions

a) Warning

Warnings are applied to violations of tax and invoice procedures that are not serious, have mitigating circumstances and are subject to the application of warnings as prescribed in this Decree.

b) Fines

The maximum fine shall not exceed VND 100,000,000 for organizations committing administrative violations of invoices. The maximum fine shall not exceed VND 50,000,000 for individuals committing administrative violations of invoices.

The maximum fine shall not exceed VND 200,000,000 for taxpayers that are organizations committing violations of tax procedures. The maximum fine shall not exceed VND 100,000,000 for individual taxpayers who commit tax procedure violations.

A fine of 20% of the tax arrears or the tax amount exempted, reduced or refunded higher than prescribed for acts of false declaration leading to a shortage of tax payable or an increase in the tax amount exempted, reduced or refunded.

A fine of 1 to 3 times the tax arrears for tax evasion.

A fine corresponding to the amount not deducted from the state budget account for violations as prescribed in Clause 1, Article 18 of this Decree.

2. Additional penalty: suspension of invoice printing activities for a period of time.

On January 4, 2024, the Government issued Decree No. 03/VBHN-BTC regulating administrative sanctions for violations of tax and invoice regulations.:

3. Remedial measures

- a) Compelling the full payment of tax arrears, tax amounts exempted, reduced, refunded higher than prescribed, tax evasion, late payment of tax to the state budget.
- b) Compelling the adjustment of losses, input value added tax amounts deducted and transferred to the next period.
- c) Compelling the submission of tax registration change dossiers; re-declaration and submission of additional documents in tax dossiers; submission of tax declaration dossiers, appendices attached to tax declaration dossiers; provision of information.
- d) Compelling the implementation of invoice issuance procedures.
- dd) Compelling the issuance of invoices according to regulations.
- e) Compelling the destruction and destruction of invoices and printed products.
- g) Compelling the preparation and sending of notifications and reports on invoices.
- h) Compelling the transfer of electronic invoice data.
- i) Compelling the return of illegal profits obtained from committing administrative violations.

4. Principles for applying fines

- a) The fines prescribed in Articles 10, 11, 12, 13, 14, 15, Clauses 1 and 2, Article 19 and Chapter III of this Decree are fines applied to organizations.

For taxpayers who are households and business households, the fines shall be applied as for individuals.

- b) When determining the fine for a taxpayer who violates both aggravating and mitigating circumstances, the aggravating circumstances shall be deducted according to the principle that one mitigating circumstance shall be deducted from one aggravating circumstance.
- c) Mitigating or aggravating circumstances that have been used to determine the fine bracket shall not be used when determining the specific fine amount according to Point d of this Clause.
- d) When imposing a fine, the specific fine for a violation of tax procedures, invoices and acts in Article 19 of this Decree shall be the average level of the fine bracket prescribed for that act. If there are mitigating circumstances, each circumstance shall reduce the average fine by 10% of the fine bracket, but the fine for that act shall not be reduced below the minimum level of the fine bracket; if there are aggravating circumstances, each aggravating circumstance shall increase the average fine by 10% of the fine bracket, but the fine for that act shall not exceed the maximum level of the fine bracket.

On January 4, 2024, the Government issued Decree No. 03/VBHN-BTC regulating administrative sanctions for violations of tax and invoice regulations:

Article 9. Cases where administrative violations of tax and invoice are not sanctioned

1. Administrative violations of tax and invoice are not sanctioned in cases where administrative violations are not sanctioned according to the provisions of the law on handling administrative violations.

Taxpayers who are late in performing tax and invoice procedures electronically due to technical problems of the information technology system are notified on the Electronic Information Portal of the tax authority and are considered to be committing violations due to force majeure events as prescribed in Clause 4, Article 11 of the Law on Handling Administrative Violations.

2. No administrative penalty for tax violations, no late payment fee for taxpayers who commit tax administrative violations due to compliance with guidance documents and handling decisions of tax authorities and competent state agencies related to the determination of tax obligations of taxpayers (including guidance documents and handling decisions issued before the effective date of this Decree), except in cases where tax inspections and examinations at the taxpayer's headquarters have not yet detected errors by the taxpayer in declaring and determining the amount of tax payable or the amount of tax exempted, reduced or refunded, but then the taxpayer's administrative tax violation is discovered. 3. No administrative penalties for tax violations shall be imposed in cases of incorrect declaration, taxpayers who have supplemented their tax declaration dossiers and voluntarily paid the full amount of tax payable before the time the tax authority announces the decision to conduct a tax audit or inspection at the taxpayer's headquarters or before the time the tax authority discovers that the tax audit or inspection has not been conducted at the taxpayer's headquarters or before other competent authorities discover it.

4. No penalties shall be imposed for violations of tax procedures for individuals who directly settle personal income tax and are late in submitting personal income tax settlement dossiers that result in a tax refund; business households and business individuals who have been taxed according to the provisions of Article 51 of the Law on Tax Administration.

5. No penalties shall be imposed for violations of the deadline for submitting tax declaration dossiers during the time the taxpayer is granted an extension to submit such tax declaration dossiers.

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