

ACCOUNTING, TAX CONSULTING, AUDITING, HUMAN RESOURCE CONSULTING, LEGAL CONSULTING...

# NEW LEGAL LETTERS JUNE 2018

## TOP HEADLINES



**DONG DU  
INTERNATIONAL  
CONSULTING GROUP**



## HOT NEWS IN JUNE 2018

- [Official Letter No. 2187 / TCT-CS dated 04/06/2018 on corporate income tax policy.](#)
- [Official Letter No. 2195 / TCT-CS dated 04/6/2018 on value added tax policy](#)
- [Official Letter No. 2196 / TCT-CS dated 04/6/2018 on recognition of tax incentives in the investment registration certificate](#)
- [Official Letter No. 2198 / TCT-CS dated 04/06/2016 on determination of the proportion of natural resources and minerals when exporting.](#)
- [Official Letter No. 2206 / TCT-CS dated 04/06/2018 on VAT on transformation of enterprises](#)
- [Official Letter No. 2211 / TCT-DNL dated 05/06/2018 implementing electronic invoices](#)
- [Official Letter No. 2250 / TCT-TNCN dated 06/6/2018 on tax policy for group property leasing activity.](#)
- [Official Letter No. 2575 / TCT-CS dated 28/06/2018 on the contractor tax policy](#)
- [Decree 81/2018 / ND-CP regulates in detail the Commercial Law on trade promotion activities.](#)
- [Decree No. 82/2018 / ND-CP regulates the management of industrial zones and economic zones, which stipulates policies for industrial zones and economic zones.](#)

## NEW LEGAL DETAILS

### • TAXE FIELD

- [Official Letter No. 2187 / TCT-CS dated 04/06/2018 on corporate income tax policy.](#)

According to Decision No. 1466 / QĐ-TTg dated 10/10/2008, Decision No. 693 / QĐ-TTg dated 06/05/2013 and Decision No. 1470 / QĐ-TTg dated 22/7/2017 issued by Vietnamese Prime Minister, the Hanoi Family Clinic does not meet the criteria of the clinic (clinics: preferential treatment for special socio-economic areas and areas). Thus, the Company is not entitled to a 10% CIT rate since the expiration of the operating period stated in the initial investment

license.

- [Official Letter No. 2195 / TCT-CS dated 04/6/2018 on value added tax policy](#)

In case equipment, tools, tools, catching and preserving materials that Van Hai Seafood Joint Stock Company lends to borrowers is guided in Clause 2, Article 1 of Circular No. 26/2015 / TT - BTC dated February 27, 2015 of the Ministry of Finance, shall not be subject to VAT. The added value invoice stated in the VAT invoice is the payment price (the price of the goods of the same or similar kind at the time of arising of this activity), the VAT rate line, the VAT amount not inscribed and deleted. The company shall not deduct the input VAT of the above mentioned equipment, tools and instruments.

The equipment, tools, tools and materials that Van Hai Seafood Joint Stock Company lends to borrowers is not guided in Clause 2, Article 1 of Circular No. 26/2015 / TT-BTC dated February 27, 2015 of the Ministry of Finance shall be subject to VAT. The VAT invoices shall be declared and paid according to regulations and the VAT calculation prices shall be the prices of goods of the same or similar nature at the time of arising of such activities. The company shall be entitled to deduct input VAT on the above-said equipment, tools and instruments if they satisfy the conditions on invoices and non-cash payment vouchers according to regulations.

- [Official Letter No. 2196 / TCT-CS dated 04/6/2018 on recognition of tax incentives in the investment registration certificate](#)

In case of Jenq Yih Co., Ltd was established to carry out the project "Factory of Jenq Yih Vietnam Co., Ltd" registered on the investment certificate (granted on 13/8/2007), the progress of the project is : 10 months, official production: in June 2008 but by November 2017 the project has not been implemented, not in operation, according to the law, the case after 12 months that the investor does not implement or is unable to carry out the project according to the progress of implementation of the investment project, the investment registration body shall have the competence to decide to terminate the operation of this

investment project and to liquidate the investment project in accordance with the law on investment. Investors who continue to register for new projects must comply with the requirements of Clause 3, Article 30 of Decree No. 118/2015 / ND-CP.

- [Official Letter No. 2250 / TCT-TNCN dated 06/6/2018 on tax policy for group property leasing activity.](#)

In cases where foreign laborers being individuals residing in Vietnam earn incomes from salaries or wages paid by organizations and / or individuals from foreign countries, they shall make tax declaration directly with tax offices at the end of the year. Foreigners who are individuals residing in Vietnam are responsible for finalizing their taxes.

- [Official Letter No. 2206 / TCT-CS dated 04/06/2018 on VAT on transformation of enterprises](#)

In cases where Tan Dai Duong Company transforms from two-member limited liability companies to joint-stock companies in accordance with the provisions on transformation of enterprises under the Enterprise Law No. 68/2014 / QH13 If the receiving party inherits all the tax obligations of the enterprise prior to the conversion (the tax code of the enterprise remains unchanged), if the input VAT is not fully deducted from the conversion, the receiving party shall be entitled to transfer to deduct the following period, or be refunded tax as prescribed.

Before the conversion of Tan Yen Duong International Trade Co., Ltd, the amount of VAT which has not been fully deducted falls into the case of non-repayment in accordance with Law No. 106/2016 / QH13, Decree No. 100/2016 / ND - CP and Circular 130/2016 / TT-BTC, after the conversion, the conversion company (inheriting all tax obligations of the enterprise before conversion) shall continue to declare and deduct complete.

- [Official Letter No. 2198 / TCT-CS dated 04/06/2016 on determination of the](#)

### proportion of natural resources and minerals when exporting.

In case of Jenq Yih Co., Ltd was established to carry out the project "Factory of Jenq Yih Vietnam Co., Ltd" registered on the investment certificate (granted on 13/8/2007), the progress of the project is : 10 months, official production: in June 2008 but by November 2017 the project has not been implemented, not in operation, according to the law, the case after 12 months that the investor does not implement or is unable to carry out the project according to the progress of implementation of the investment project, the investment registration body shall have the competence to decide to terminate the operation of this investment project and to liquidate the investment project in accordance with the law on investment. Investors who continue to register for new projects must comply with the requirements of Clause 3, Article 30 of Decree No. 118/2015 / ND-CP.

- **Official Letter No. 2211 / TCT-DNL dated 05/06/2018 implementing electronic invoices**

Electronic contract is essentially a collection of electronic data messages about the sale of goods or services, which are created, created, sent, received, stored and managed electronically. Depending on the quantity of goods and products on the invoice. However, when converting the investment certificate to paper invoice, the investment certificate can be printed on many pages.

Therefore, in order to match the characteristics of e-invoices, in case of electronic invoices converted into paper, if the quantity of goods or services sold out more than the number of lines of an invoice page, SCTV performs the same. In case of use of self-printed invoices, the making and printing of invoices shall be made directly from the software and the quantity of goods and / or services sold shall be more than the number of pages printed on invoices, specifically:

SCTV is invoiced more than one page if the top of the invoice display: same invoice number as the first page (by automatic computer system); same name, address, tax code of the buyer,

the seller as the first page; same form and invoice sign as first page; enclose a note in Vietnamese without the accent in the previous page - page X / Y "(where X is the page number and Y is the page number of the invoice).

- [Official Letter No. 2575 / TCT-CS dated 28/06/2018 on the contractor tax policy](#)

To avoid the foreign contractors declaring, paying the VAT and CIT inconsistencies for different contractor contracts, in Clause 5, Article 20 of the Circular No. 156/2013 / TT-BTC mentioned above, Foreign contractors must continue to pay tax according to the registered tax payment method, in which case they may choose to register the new method of tax payment (in principle, if they have not yet terminated the contract of the former contractor, when signing the house contract new contractors, foreign contractors will have to continue to pay taxes on the new contract under the method registered for the old contract to ensure uniformity)

- **ENTERPRISES**

- [Decree 81/2018 / ND-CP regulates in detail the Commercial Law on trade promotion activities. This Decree takes effect on July 15,](#)

This Decree prescribes the limits on sale promotion and discount of goods and services as follows: In the case of organizing sale promotion programs (hour, day, week, month, promotion season, discount), the sale promotion, discount 100% of goods and services. The promotion limit, 100% discount also applies to promotional activities within the framework of the program and trade promotion activities decided by the Prime Minister.

Apart from the above-said cases, the sale promotion limit must not exceed 50% of the price of the promoted goods or service units before the sale promotion time. According to this Decree, the maximum discount rate applied when discounting goods for goods and services when implementing the price stabilization policy of the State; fresh food; Goods and services in case of dissolution, bankruptcy, change of location, production and business lines.

The above new regulation is considered a big step forward in comparison with current regulations and previous draft. Specifically, the previous draft proposed: "Traders can discount up to 70% in the promotion under the program focus (promotion month, promotion season, promotion week, promotion day ...), which are organized or promoted by the State under trade promotion programs promulgated by the Prime Minister or provincial-level People's Committees. For other promotions, the maximum limit is 50%. "

According to businesses, the maximum limit of 50% is unreasonable and unrealistic but has existed for more than 10 years. This is a "needle ring" that forces businesses not to sell to recover capital in times of economic downturn, consumer purchasing power is low, inventory is high, cash flow is suspended. Meanwhile, management agencies are difficult to implement. In fact, many industries such as information technology or fashion ..., products and models constantly change. But if the company wants to sell its inventories at a cheaper rate of 50% to discharge the goods are not by the "rules do not allow."

The experts also said that the current ceiling price ceilings are no longer suitable for the market economy. The fact that the form of promotion has positive effects on business activities of enterprises. Especially when a new business, customers are not much to promote the customer to know instead of advertising costs more. Therefore, the prohibition of price reductions exceeding 50% hinders the entry of new entrants.

On the other hand, the ceiling for promotion also hinders the ability of enterprises to recover capital in many cases, limiting the flexibility of traders in termination of business and moving to other fields. [www.Chinhphu.vn](http://www.Chinhphu.vn)

- [Decree No. 82/2018 / ND-CP regulates the management of industrial zones and economic zones, which stipulates policies for industrial zones and economic zones.](#)

The decree states that the IZ is an investment preferential area and entitled to preferential

policies applicable to areas on the list of geographical areas with difficult socio-economic conditions under the investment law. IZs established in areas on the list of geographical areas with exceptionally difficult socio-economic conditions shall enjoy the preferential policies applicable to geographical areas on the list of geographical areas with specially difficult socio-economic conditions. Difficulties under the law on investment. EZs are geographical areas eligible for investment incentives and enjoy preferential policies applicable to geographical areas on the list of geographical areas with special difficult socio-economic conditions under the investment law.

The subjects, principles and procedures for application of investment preferences of investment projects in IZs or EZs shall comply with the provisions of law on investment. The expenses for investment in the construction, operation or rent of condominiums and social infrastructure works for workers in industrial zones or EZs are deductible reasonable expenses for calculating taxable incomes. Enterprises having investment projects in industrial zones, EZs.

The first project building at the office, the office, can be able to be work, the public configuration at the worker at the industrial zone... supported by the law of the law for the building building the fair and legal law has related. The first home, enterprise have the first project to the industrial zone and it is the following administrative provided of implementation of implementation of the start, business, landground, building, environment, labor, commercial trade in the 'one door, at the' engine, support for the users and the other problems in the project implementation.

#### **Method of mobilizing capital sources for investment in infrastructure construction of industrial zones**

According to the Decree, investment projects on infrastructure development in IZs in areas with difficult socio-economic conditions or areas with particularly difficult socio-economic conditions are supported with budget capital. Central to invest in infrastructure under the target program of investment in infrastructure of industrial zones approved by competent



authorities in each period. Provincial People's Committees shall balance local budgets to support investors in developing technical infrastructure systems inside and outside industrial zones, adopt policies to encourage investors and mobilize other lawful capital sources. Infrastructure construction of industrial zones.

**The method of mobilizing capital sources for investment in the development of technical infrastructure systems and social infrastructure**

The infrastructure and technical infrastructure, social protection and treatment of environmental pollution of the EZ is allocated from the development investment capital of the local budget and capital. Targeted support of the central budget. In particular, the conditions, principles and types of works supported by the central budget shall comply with the provisions of the target programs on infrastructure support already approved by competent authorities. Large-scale infrastructure investment projects, which play a key role in the development of EZs, shall be entitled to mobilize capital from the issue of bonds in accordance with the provisions of law.

Investment projects on construction and operation of infrastructure in functional zones in the Economic Zone are entitled to mobilize capital by giving investors the financial capacity and experience to lease part or whole of the land area. Leased to invest and subleased land in accordance with the law. Investment projects on development of technical and social infrastructures for common purposes in the economic zone are entitled to mobilize capital from land funds according to the provisions of the land legislation.

The decree also details the policies on exit, entry, travel and residence, finance and credit in economic zones, some regulations apply separately to export processing zones, export processing enterprises. , powers and obligations of enterprises operating in industrial parks, economic zones and investors for development of infrastructures in industrial parks or economic zones. Detailed regulations on planning, establishment and state management of

industrial zones and EZs ... ***Based on Vietnamese Ministry of Planning and Investment***

**DONG DU [DDC]** is an international consulting group in Ho Chi Minh city Vietnam, We are providing the professional services in accounting, supporting audit, taxation, corporate and investment and legal consulting...We have professional staffs with extensive experiences and qualifications in accounting, finance, taxation and consultancy of investment environment. With the slogan "To think and develop together with clients" **DDC** has made long-term commitments to provide professional and updated services; as well as to keep client's confidential information.



*If the readers have any questions or requests, please contact with us via*

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