

# Legal News 11/20

## 1 DECREE

### 123/2020

On October 19, 2020, the Government issued Decree 123/2020/ND-CP on regulations the management and use of records for completion of procedures related to tax, fees and charges, duties, powers and other regulations

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## 2 DECREE

### 126/2020

On October 19, 2020, the Government issued Decree 126/2020/ND-CP, details a number of articles of the Law on Tax Administration 2019, applicable to the administration of taxes and other State budget revenues

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## 3 DECREE

### 125/2020

On October 19, 2020, the Government issued Decree 125/2020/ND-CP, Decree on sanctioning of administrative violations related to taxes and invoices

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## 4 NEWLY ISSUED LEGAL DOCUMENTS

Synthesis of documents, decrees, circulars from the Government and ministries was prominently issued in the month.



### INTRODUCTIONS

BARRSO LAW FIRM kindly update to clients for an several new legal documents which recently promulgated with the purpose of help customers promptly understand the new laws.

Thank you to customers for trusting and using Barrso Law Firm's services in the past and coming time. For more details and specific advice, please contact us by email, phone, or directly at our office..



## 1. DECREE No.123/2020/ND-CP dated on 19/10/20

Regulation on management and use of invoice when selling the goods, providing the services and tax, fee, cost procedures and relevant regulations.

Herein, some issues to be considered in Decree No. 123/2020:

### 1. Scopes and applicable subjects:

#### Scope of adjustment:

=> Regulation on management and use of invoice when selling the goods, providing the services and tax, fee, cost procedures and relevant regulations. Responsibility, right and duty of competent authorities, organization, individual on management, invoice, documents use.

#### Applicable subjects:

=> Organization, individual sell the goods, provide the services: enterprise is established and operating under the law of Vietnam; branch, representative office of foreign enterprises which is operated in Vietnam.

### 2. Rules for issuance, management and use of invoices and documents.

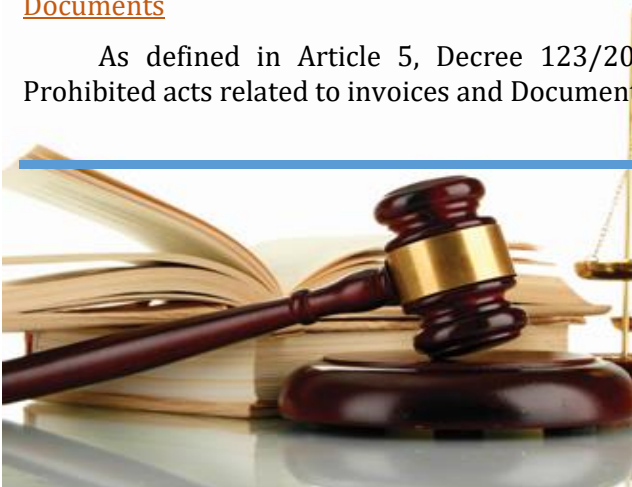
=> Article 4 prescribes on principle of Rules for issuance, management and use of invoices and documents.

#### 3. time for issuance of invoices, documents.

=> Time for issuance of invoices, documents are specified in Article 9 and Article 31.

### 4. Prohibited acts related to invoices and Documents

As defined in Article 5, Decree 123/2020 is Prohibited acts related to invoices and Documents.



### 5. types of Invoice and documents as defined in Article 8, Article 30.

Article 8 and Article 30 specified about invoice and record valid and under regulations.

### 6. Conversion of e-invoices/e- documents to paper invoices/documents.

E-invoices/e-documents may be converted to paper invoices/documents when required by business and finance major arising or required by competent authorities. Contents must correspond to those of the original.

### 7. Subjects are free of charge for e-invoice services with a tax authority's code.

=> Small- and medium-sized enterprises, cooperatives, household and individual businesses that operate in disadvantaged areas or extremely disadvantaged areas.

### 8. Required time to use e-invoices

=> From July 1, 2022, but is recommended to use before July 1, 2022

### 9. Suspension of use of e-invoices:

Cases in which enterprises, economic organizations, other organizations, business households, or individuals stop using e-invoices are specified in Article 16.

### 10. Effect.

This Decree comes into force from July 01, 2022. Authorities, organizations and individuals that meet IT infrastructure requirements are encouraged to apply regulations on e-invoices and electronic records herein before July 01, 2022



## 2. DECREE 126/2020/NĐ-CP dated on 19/10/20 Regulation specific on some of articles of law on Tax Administration

Herein, some issues to be considered in Decree:

### 1. Scope and applicable subjects.

- ✓ Adjusted scope: Apply for management of taxes, duties and other fee is belonging state finance. Except the content regulated on tax management with respect to enterprises which arise related transactions; administrative punishment sector...
- ✓ Applicable Subjects: Taxpayers, competent authorities and its authorized, organization, individual related.

### 2. Tax management on taxpayers in period of activity pause, business.

- ✓ Need to attend for 02 matters on tax submission (1) operation pause and business, (2) return operation, business...regulated at Article 4.

### 3. Free submission of tax document from taxpayer in cases:

- ✓ Taxpayers are not required to submit tax returns dossiers in the cases specified in Clause 3, Article 7.

### 4. Conditions for declaring value added tax and personal income tax on a quarterly basis

- ✓ Criteria of value-added tax, personal income tax every quarter specified in Article 9. *Note: Taxpayers have the responsibility to self-determine that they are eligible for quarterly tax declaration to make tax declaration according to regulations.*

### 5. Paying personal income tax from the receipt of real estate inheritance according to the tax authority's tax calculation notice

- ✓ Includes 08 specific cases in Clause 1, Article 13 that provide for tax authorities to calculate and notify payable tax amounts according to tax declaration documents of taxpayers

### 6. Case of suspension from exit due to incomplete tax payment obligations

- ✓ Clause 1, Article 21 specifies cases of suspension from exit if tax obligations are not fulfilled. In which, notably: Individuals, individuals who are the legal representatives of the taxpayers who are enterprises in the case of being coerced to execute administrative decisions on tax administration have not fulfilled tax obligations.

### 7. Clearance of tax debt for cases affected by natural disasters or epidemics

- ✓ According to Article 24 of Decree 126, taxpayers suffer material losses due to a wide range of natural disasters, catastrophes, or epidemics as announced by competent authorities. is allowed to write off tax debts, late payment interest, and fines

### 8. Disclosure of taxpayer information

- ✓ When taxpayers violate the provisions of Clause 1, Article 29, information will be publicized.

### 9. Effect

- ✓ This Decree comes into force from December 05, 2020.

3. **DECREE 125/2020/NĐ-CP dated on 19/10/20**  
**Regulation on administrative violation punishment on tax, invoice.**

Herein, some issues to be considered in Decree:

1. **Scope and applicable subjects.**

- ✓ Adjusted scope: Regulation on administrative violation deed, form of punishment, level of punishment, resolve the problem, the authority of punishment and settlement of minutes of punishment, procedures.  
Except: violation on goods of import, export managed by Customs, the violation managed by DPI.

2. **Applicable Subjects:**

- ✓ Taxpayers, competent authorities and its authorized, organization, individual related.

3. **Fine level for the act of administrative violation in terms of taxes and invoices**

Areas of violation	Fines	
	Organization	Personal
Tax	Up to 200 million dong	Up to 100 million dong
Invoice	Up to 100 million dong	Up to 50 million dong

4. **Mitigating circumstances and aggravating circumstances in terms taxes and invoice**

- ✓ Aggravating circumstances are specified in Article 6 of the Decree.
- ✓ Principle of determining the fine level when there is an aggravating or extenuating circumstance, it is calculated to increase or decrease 10% of the average fine level of the fine bracket.

5. **Statute of limitations for sanctioning administrative violations in terms of tax and invoices.**

- ✓ The statute of limitations for sanctioning administrative violations on invoices is 01 year. The time for calculating for the statute of limitations for sanctioning administrative violations on invoices is specified in Clauses 1 and 8 of Decree 125.
- ✓ Clause 2, Article 8 provides the statute of limitations for sanctioning tax-related acts.

6. **Time limit considered unpunished and time limit for retrospective tax collection**

In terms of the deadline considered unpunished	In terms of tax arrears collection time limit
In within 06 months of completing observance of the warning decision or 01 year from the date the observance of the other administrative sanctioning decision is completed or its statute of limitations expires without recidivism.	When the statute of limitations for sanctioning tax-related administrative violations is over, the taxpayer will not be sanctioned but still have to pay the full amount of tax arrears <i>(any understated, evaded tax amount, any tax amount that is exempted, reduced, or refunded higher than regulated, a late payment interest of any tax)</i> into the state budget for a period of ten <b>(10)</b> years backwards, from the date of detecting the violation

7. **Cases outside of the sanction on administrative violations in terms of tax and invoices**

- ✓ Pursuant to Article 9 of Decree 125, the cases outside of the sanction on administrative violations in terms of tax, invoices

8. **Cases of failure to issue a decision on administrative penalties in terms of taxes or invoices**

- ✓ Article 38.1 of Decree 125, no decision on sanctioning administrative violations in terms of taxes and invoices.



## NEW LEGAL DOCUMENTS

No.	DOCUMENT TITLE	ISSUANCE DATE	EFFECTIVE DATE
<b>GOVERNMENT</b>			
1	Decree 130/2020/ND-CP on controlling assets and incomes of persons who hold titles and powers in agencies, organizations and entities	30/10/2020	20/12/2020
2	Decree 129/2020/NĐ-CP regulating the functions, duties and operating mechanism of Vietnam Debt Trading Single Member LLC	27/10/2020	10/12/2020
3	Decree 123/2020/ND-CP of the Government on invoices and economic documents.	19/10/2020	01/7/2020
4	Decree 124/2020/ND-CP detailing certain articles and implementation of the Law on Complaints.	19/10/2020	10/12/2020
5	Decree 125/2020/ND-CP on sanctioning of administrative violations related to taxes and invoices..	19/10/2020	05/12/2020
6	Decree 137/2020/ND-CP on management and use of firecrackers	27/11/2020	11/01/2021
7	Decree 132/2020/ND-CP on tax administration with regard to enterprises conducting associated transactions	05/11/2020	20/12/2020
8	Decree 129/2020/NĐ-CP regulating the functions, duties and operating mechanism of Vietnam Debt Trading Single Member LLC	27/10/2020	10/12/2020
9	Resolution 161/NQ-CP years 2020 về promote innovation and improve the operational efficiency of state-owned enterprises issued by the Government	29/10/2020	29/10/202
10	Decree 119/2020/NĐ-CP on penalties for administrative violations in journalistic and publishing activities	07/10/2020	01/12/2020
<b>PRIME MINISTER</b>			
1	Decision 32/2020/QĐ-TTg On Amendments To Decision 15/2020/Qđ-Ttg On Implementation Of Remediating Policies For People Facing Difficulties Due To Covid-19 Epidemic.	19/10/2020	19/10/2020
2	Decision 1729/QĐ-TTg năm 2020 on amending Decision 655/QĐ-TTg on approving Project "Investment in building trade union institutions in industrial parks and export processing zones" issued by the Prime Minister	04/11/2020	04/11/2020
3	Decision 1923/QĐ-TTg năm 2020 on The list of State secrets in the financial and budget domains is promulgated by the Prime Minister	25/11/2020	25/11/2020
<b>MINISTRY OF CULTURE, SPORTS AND TOURISM</b>			
1	Decision 3367/QĐ-BVHTTDL năm 2020 on Implementation plan of Resolution 26/NQ-CP on the master plan and 5-year plan to implement Resolution 36-NQ/TW on Vietnam's Strategy for Sustainable Marine Economic Development to 2030, with a Vision to Five 2045 is issued by the Ministry of Culture, Sports and Tourism	16/11/2020	16/11/2020
2	Circular 08/2020/TT-BVHTTDL on Economic - technical norms for the part of art in the construction of monuments and reliefs issued by the Minister of Culture, Sports and Tourism	10/11/2020	25/12/2020
<b>MINISTRY OF FINANCE</b>			
1	Circular 94/2020/TT-BTC on Amending Circular No. 307/2016/TT-	16/11/2020	01/01/2021

	BTC on the rates, collection, payment, management and use of the fee for the right to provide pay television services and the fee for the certificate of registration for channel provision foreign programs on pay television issued by the Ministry of Finance		
2	Circular 100/2020/TT-BTC on to annul legal normative documents promulgated and jointly issued by the Minister of Finance in the fields of customs; import tax and export tax; fees and charges and guidance on financial regimes and customs procedures applicable in economic zones, commercial and industrial zones within border economic zones	19/11/2020	02/01/2020
<b>MINISTRY OF PLANNING AND INVESTMENT</b>			
1	Circular 08/2020/TT-BKHĐT on guide the receipt of sponsorships, contributions, and entrustments of the Small and Medium Enterprise Development Fund issued by the Ministry of Planning and Investment	13/11/2020	15/01/2021
2	Decision 1523/QĐ-BKHĐT on announcing the administrative procedures for amending and supplementing the fields of establishment and operation of enterprises under the management of the Ministry of Planning and Investment.	19/10/2020	19/10/2020
<b>MINISTRY OF LABOR, WAR INVALIDS AND SOCIAL AFFAIRS</b>			
1	Decision No. 1326/QĐ-LĐTBXH year 2020 on announced the amended and supplemented administrative procedures under the state management functions of the Ministry of Labor, War Invalids and Social Affairs on the implementation of policies to support people facing difficulties caused by the Covid pandemic- 19	04/11/2020	04/11/2020
2	Integrated document No. 4132/VBHN-BLĐTBXH year 2020 on consolidate the Circular providing for the national vocational skill certificate, the issuance, and management of the national vocational skill certificate issued by the Ministry of Labor, War Invalids and Social Affairs.	20/10/2020	20/10/2020
3	Circular 08/2020/TT-BLĐTBXH on protecting the job of a denunciator who works under a labour contract.	15/10/2020	01/12/2020

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*\*\*\* Above are new documents and regulations to reference of clients. The contents of the newsletter do not constitute legal advice and do not reflect the opinions of our firm to any legal opinions . if the clients need to deeply advise in legal matters, please connect with Barrso's lawyers to serve. Thank you so much.*