

# NEWSLETTER ICL

## Tax & Legal updates

Accelerate to breakthrough

June - 2024





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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	Penalty
Incorrect declaration leading to underpayment of tax or overpayment of tax exempted, reduced or refunded (Article 16 of Decree No. 125/2020/ND-CP)	<p>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:</p> <p>+ 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</p>
Tax evasion in the field of invoices (Article 17 of Decree No. 125/2020/ND-CP)	<p>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:</p> <p>+ 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;</p> <p>+ Using illegal invoices; illegally using invoices to declare tax to reduce the amount of tax payable or increase the amount of tax refunded, exempted or reduced;</p> <p>+ Using illegal documents; illegally using documents; using documents or materials that do not correctly reflect the nature of the transaction or the actual transaction value to incorrectly determine the amount of tax payable, exempted or reduced tax, or refunded tax; Establishing procedures and records for the destruction of materials and goods that are not in accordance with reality, reducing the amount of tax payable or increasing the amount of tax to be refunded, exempted or reduced;</p> <p>- A fine of 1.5 times the amount of tax evaded shall be imposed on a taxpayer who commits one of the acts specified in Clause 1, Article 17 without any aggravating or mitigating circumstances.</p> <p>- A fine of 2 times the amount of tax evaded shall be imposed on a taxpayer who commits one of the acts specified in Clause 1, Article 17 with one aggravating circumstance.</p> <p>- A fine of 2.5 times the amount of tax evaded shall be imposed on a taxpayer who commits one of the acts specified in Clause 1, Article 17 with two aggravating circumstances.</p> <p>- A fine of 3 times the amount of tax evaded shall be imposed on a taxpayer who commits one of the acts specified in Clause 1, Article 17 with three or more aggravating circumstances.</p>



Punished behavior	Penalty
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.
Violations of regulations on invoicing when selling goods and services (Article 24 of Decree No. 125/2020/ND-CP)	<p>A warning shall be imposed for one of the following acts:</p> <ul style="list-style-type: none"><li>+ Issuing an invoice at the wrong time but does not lead to a delay in tax payment and there are mitigating circumstances;</li><li>+ 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.</li></ul> <p>- A fine of from VND 500,000 to VND 1,500,000 shall be imposed for one of the following acts:</p> <ul style="list-style-type: none"><li>+ Not issuing a consolidated invoice as prescribed by law on invoices for the sale of goods and provision of services;</li><li>+ Not issuing invoices for goods and services used for promotion, advertising, and samples; Goods and services used for giving, donating, exchanging, paying in lieu of wages to employees, except for goods circulated internally, consumed internally to continue the production process.</li></ul> <p>A fine of VND 3,000,000 to VND 5,000,000 shall be imposed for the act of issuing invoices at the wrong time but not leading to a delay in tax obligations, except for the case specified in Point a, Clause 1, Article 24.</p> <p>- A fine of VND 4,000,000 to VND 8,000,000 shall be imposed for one of the following acts:</p> <ul style="list-style-type: none"><li>+ Issuing invoices at the wrong time according to the provisions of law on invoices for the sale of goods and provision of services, except for the cases specified in Point a, Clause 1, Clause 3, Article 24;</li></ul>

Punished behavior	Penalty
Violations of regulations on invoicing when selling goods and services (Article 24 of Decree No. 125/2020/ND-CP)	<div><div>+ Issuing invoices not in order from small to large numbers as prescribed, except for cases of warnings under Point b, Clause 1, Article 24;</div><div>+ Issuing invoices with the date on the invoice before the date of purchase of the invoice from the tax authority;</div><div>+ Issuing the wrong type of invoice as prescribed by law on invoices for the sale of goods and provision of services and having been delivered to the buyer or having declared taxes, except for cases of warnings under Point c, Clause 1, Article 24;</div><div>+ Issuing 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 from the tax authority;</div><div>+ Issuing invoices for the sale of goods and services during the period of temporary suspension of business operations, except for cases of issuing invoices to customers to perform contracts signed before the date of notice of temporary suspension of business operations;</div><div>+ Issuing electronic invoices from cash registers without connection, transferring electronic data to the tax authority.</div><div>- A fine of VND 10,000,000 to VND 20,000,000 shall be imposed for failure to issue invoices when selling goods or providing services to buyers as prescribed, except for the acts specified in Point b, Clause 2, Article 24.</div></div>
Using illegal invoices, using invoices illegally (Article 28 of Decree No. 125/2020/ND-CP)	Fines from VND 20,000,000 to VND 50,000,000 for acts of using illegal invoices or illegally using invoices as 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:

Punished behavior	Penalty
Violation of regulations on electronic invoice data transfer (Article 30 of Decree No. 125/2020/ND-CP)	<p>A fine of VND 2,000,000 to VND 5,000,000 shall be imposed for the act of transferring electronic invoice data to the tax authority from 01 to 05 working days past the deadline, from the date of expiry as prescribed.</p> <p>- A fine of VND 5,000,000 to VND 8,000,000 shall be imposed for one of the following acts:</p> <p>+ Transferring electronic invoice data to the tax authority from 06 to 10 working days past the deadline, from the date of expiry as prescribed;</p> <p>+ Transferring an incomplete summary table of electronic invoice data for the number of invoices issued during the period.</p> <p>- A fine of VND 10,000,000 to VND 20,000,000 shall be imposed for one of the following acts:</p> <p>+ Submitting electronic invoice data to the tax authority 11 working days or more after the deadline as prescribed;</p> <p>+ Not submitting electronic invoice data to the tax authority within the prescribed time limit.</p>
Violation of regulations on providing invoice services (Article 31 of Decree No. 125/2020/ND-CP)	<p>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.</p>



On 04<sup>th</sup> January 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 the prescribed amount shall be imposed for acts of false declaration leading to a shortage of tax payable or an increase in the tax amount exempted, reduced or refunded. Tax & Legal updates | 8



# 2. Decree 03/VBHN-BTC (2/4)

On 04<sup>th</sup> January 2024, the Government issued **Decree No. 03/VBHN-BTC** regulating administrative sanctions for violations of tax and invoice regulations:

Fine from 1 to 3 times the amount of tax evaded for tax evasion.

Fine corresponding to the amount not deducted into 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.

3. Remedial measures

a) Forced to pay the full amount of tax arrears, the amount of tax exempted, reduced, refunded higher than prescribed, the amount of tax evaded, late payment of tax to the state budget.

b) Forced to adjust the amount of loss, the amount of input value added tax deductible for transfer to the next period.

c) Forced to submit a dossier to change the content of tax registration; re-declare and submit additional documents in the tax dossier; submit tax declaration dossier, appendix attached to the tax declaration dossier; provide information.

d) Forced to carry out invoice issuance procedures.

e) Forced to issue invoices according to regulations.

e) Forced cancellation or destruction of invoices and printed products.

g) Forced creation and sending of notifications and reports on invoices.

h) Forced transfer of electronic invoice data.

i) Forced return of illegal profits obtained from administrative violations.

# 2. Decree 03/VBHN-BTC (3/4)

On 04<sup>th</sup> January 2024, the Government issued **Decree No. 03/VBHN-BTC** regulating administrative sanctions for violations of tax and invoice regulations:

## 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 04<sup>th</sup> January 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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[reanda-icla.com](http://reanda-icla.com)



028 224 587 87



[info@reanda-icla.com](mailto:info@reanda-icla.com)



No. 06 - 07 Phan Ton street,  
Da Kao Ward, District 1, HCM City



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