

NEWSLETTER ICL

Tax & Legal updates

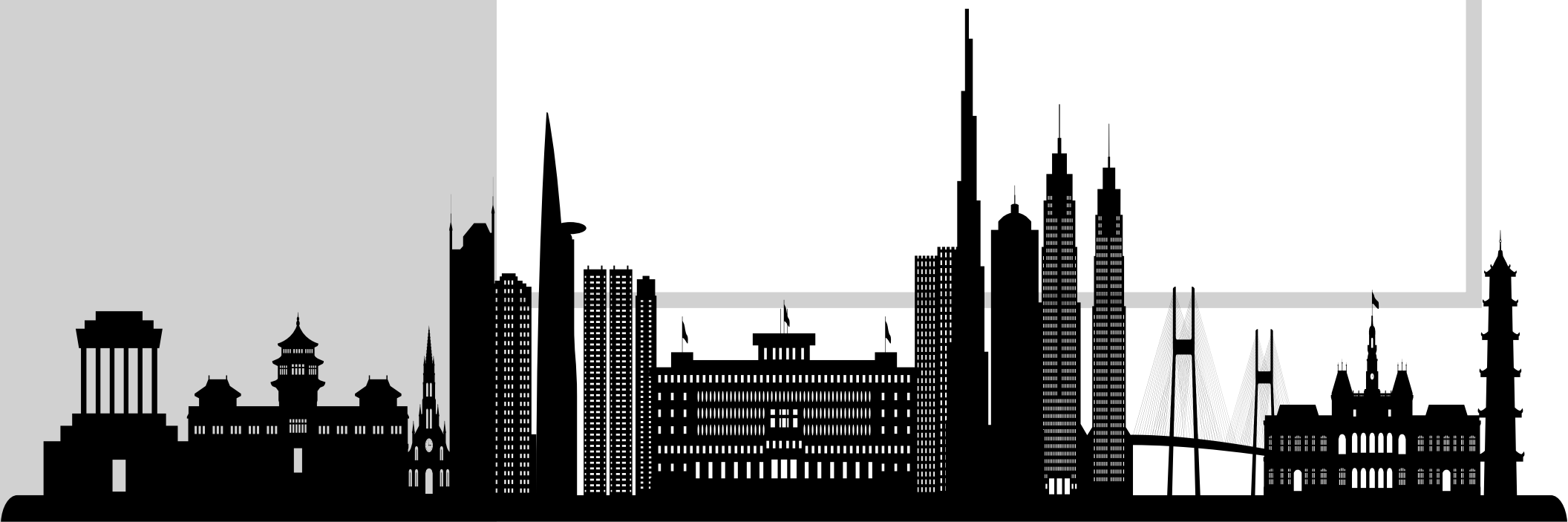
September - 2024

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**Official dispatch 3876/TCT-DNNCN
2024 PIT declaration for income from
capital transfer**

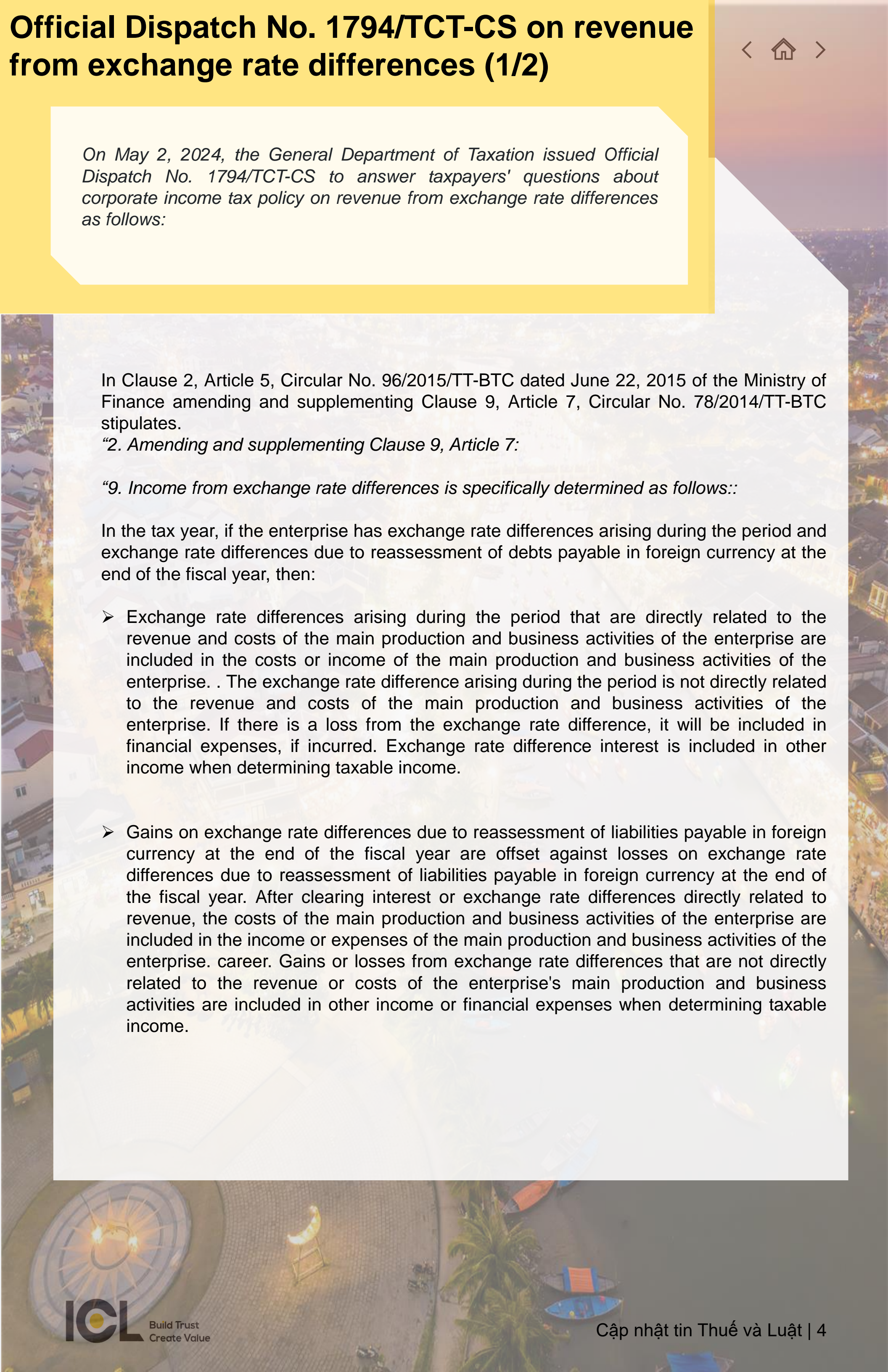
The General Department of Taxation received official dispatch No. 3291/CTQNG-HKDCN dated July 11, 2024 and official dispatch No. 3233/CTQNG-HKDCN dated July 9, 2024 from the Tax Department of Quang Ngai province reflecting problems with personal income tax declaration. multiplied by income from capital transfer. On this issue, the General Department of Taxation has the following opinion:

Pursuant to the provisions of Clause 3, Article 44 of the Law on Tax Administration No. 38/2019/QH14.

Pursuant to the provisions of Point h, Clause 5, Article 7; Point g Clause 4 Article 8 of Decree No. 126/2020/ND-CP dated October 19, 2020 of the Government.

Pursuant to the provisions of Clause 3, Article 31 of Decree No. 65/2013/ND-CP dated June 27, 2013 of the Government.

- Based on the above regulations, in principle, the case where the taxpayer is an issuing organization that declares and pays personal income tax on behalf of an individual transferring capital contribution shall comply with the provisions of Clause 3, Article 31 of the Decree. No. 65/2013/ND-CP dated June 27, 2013 and Point h, Clause 5, Article 7, Point g, Clause 4, Article 8, Decree No. 126/2020/ND-CP dated October 19, 2020 of the Government.
- Regarding the deadline for declaring personal income tax when an enterprise declares and pays personal income tax on behalf of each time it arises in case the enterprise carries out procedures to change the list of capital contributors without supporting documents. Individual proof of capital transfer has fulfilled tax obligations according to the provisions of Clause 3, Article 44 of the Law on Tax Administration No. 38/2019/QH14.



Official Dispatch No. 1794/TCT-CS on revenue from exchange rate differences (1/2)

On May 2, 2024, the General Department of Taxation issued Official Dispatch No. 1794/TCT-CS to answer taxpayers' questions about corporate income tax policy on revenue from exchange rate differences as follows:

In Clause 2, Article 5, Circular No. 96/2015/TT-BTC dated June 22, 2015 of the Ministry of Finance amending and supplementing Clause 9, Article 7, Circular No. 78/2014/TT-BTC stipulates.

“2. Amending and supplementing Clause 9, Article 7:

“9. Income from exchange rate differences is specifically determined as follows::

In the tax year, if the enterprise has exchange rate differences arising during the period and exchange rate differences due to reassessment of debts payable in foreign currency at the end of the fiscal year, then:

- Exchange rate differences arising during the period that are directly related to the revenue and costs of the main production and business activities of the enterprise are included in the costs or income of the main production and business activities of the enterprise. . The exchange rate difference arising during the period is not directly related to the revenue and costs of the main production and business activities of the enterprise. If there is a loss from the exchange rate difference, it will be included in financial expenses, if incurred. Exchange rate difference interest is included in other income when determining taxable income.
- Gains on exchange rate differences due to reassessment of liabilities payable in foreign currency at the end of the fiscal year are offset against losses on exchange rate differences due to reassessment of liabilities payable in foreign currency at the end of the fiscal year. After clearing interest or exchange rate differences directly related to revenue, the costs of the main production and business activities of the enterprise are included in the income or expenses of the main production and business activities of the enterprise. career. Gains or losses from exchange rate differences that are not directly related to the revenue or costs of the enterprise's main production and business activities are included in other income or financial expenses when determining taxable income.

Official Dispatch No. 1794/TCT-CS on revenue from exchange rate differences (2/2)



Regarding income from exchange rate differences (1/2)

- For debts receivable and loans originating in foreign currency arising during the period, the exchange rate difference included in deductible expenses or income is the difference between the exchange rate at the time the debt is recovered. or collect the loan at the rate at the time the receivable or loan was initially recorded.
- The above exchange rate differences do not include exchange rate differences due to reassessment of year-end balances: cash, deposits, money in transit, receivables originating in foreign currency.

In Clause 2, Article 10, Circular No. 96/2015/TT-BTC dated June 22, 2015 of the Ministry of Finance amending and supplementing Clause 4, Article 18 of Circular No. 78/2014/TT-BTC stipulates:

i) Enterprises with investment projects that are entitled to corporate income tax incentives because they meet the conditions for investment incentive fields will have income from investment incentive fields and income such as liquidation. scrap and waste products of products in fields eligible for investment incentives, exchange rate differences directly related to revenue and costs of the sectors receiving incentives, interest on non-term bank deposits, and other revenues Other directly related income also enjoys corporate income tax incentives:



Regarding income from exchange rate differences (2/2)

ii) Enterprises with investment projects that are entitled to corporate income tax incentives due to meeting preferential conditions in terms of location (including industrial parks, economic zones, high-tech zones), then the income is entitled to Corporate income tax incentives are all income arising from production and business activities in the preferential area, except for the income mentioned in Points a, b, c, Clause 1 of this Article.

Pursuant to the above regulations, exchange rate differences arising in the period that are directly related to the revenue and costs of the main production and business activities of the enterprise are included in the costs or income of production activities. main business of the enterprise. In case an enterprise has an investment project that is entitled to corporate income tax incentives because it meets the conditions for investment incentive fields, the income from the investment incentive field and income such as exchange rate differences Directly related to revenue and costs of preferential fields also enjoy corporate income tax incentives.

Decree No. 66/2024/ND-CP of the Government < >

On management of import of refurbished goods (1/1)

On June 17, 2024, the Government issued Decree 66/2024/ND-CP managing the import of refurbished goods according to the Decree on management of import of refurbished goods under the Vietnam Free Trade Agreement. South - European Union and Free Trade Agreement between Vietnam - United Kingdom of Great Britain and Northern Ireland and takes effect from the date of promulgation

Pursuant to Article 11 of Decree 66/2024/ND-CP, the commitment to provide a warranty and maintenance regime for refurbished goods requires at least:

- Clearly and fully commit to providing refurbished goods with the same warranty and maintenance regime as the warranty and maintenance regime for that same type of goods when not in use.
- Attach relevant documents to prove the commitment mentioned in Clause (i) of this Section including:
 - i. *List of warranty and maintenance facilities for refurbished goods in Vietnam, accompanied by a written approval of the warranty and maintenance obligations for refurbished goods of each warranty and maintenance facility (if applicable to the goods themselves when not in use).*
 - ii. *Warranty and maintenance papers, warranty and maintenance cards of that same type of goods when not in use.*

Note: Proving documents must be translated into Vietnamese if using a language other than Vietnamese, authenticated by the requesting business.



Decree 107/2024/ND-CP dated August 20, 2024 abolishing a number of legal documents of the Government (1/2)



Regarding the abolition of a number of legal documents of the Government (1/4)

- ❑ Pursuant to the Law on Government Organization dated June 19, 2015; Law amending and supplementing a number of articles of the Law on Government Organization and the Law on Local Government Organization dated November 22, 2019;
- ❑ Pursuant to the Law on Promulgation of Legal Documents dated June 22, 2015; Law amending and supplementing a number of articles of the Law on Promulgation of Legal Documents dated June 18, 2020;

At the request of the Minister of Justice;
The Government issued a Decree abolishing a number of legal documents of the Government.

Article 1. Abolition of all legal documents

- Decree No. 78-CP dated June 18, 1997 of the Government regulating military insignia, rank insignia, uniforms, flags, control badges, work plates, flags, and identification cards of the Border Guard room.
- Decree No. 103/2002/ND-CP dated December 17, 2002 of the Government regulating compensation and benefits for individuals, families, agencies and organizations participating in drug prevention and combat suffered damage to life, health, and property.



Regarding the abolition of a number of legal documents of the Government (2/4)

- Decree No. 04/2003/ND-CP dated January 16, 2003 of the Government stipulating rewards for individuals, families, agencies and organizations with achievements in drug prevention and combat.
- Decree No. 18/2005/ND-CP dated February 24, 2005 of the Government regulating the establishment, organization and operation of mutual insurance organizations.
- Decree No. 120/2007/ND-CP dated July 23, 2007 of the Government guiding the implementation of a number of articles of the Youth Law.
- Decree No. 30/2009/ND-CP dated March 30, 2009 of the Government on amending and supplementing a number of articles of Decree No. 105/2004/ND-CP dated March 30, 2004 of the Government on independent audit.
- Decree No. 01/2011/ND-CP dated January 5, 2011 of the Government on issuance of Government bonds, Government-guaranteed bonds and local government bonds.

Decree 107/2024/ND-CP dated August 20, 2024 abolishing a number of legal documents of the Government (2/2)



Regarding the abolition of a number of legal documents of the Government (3/4)

- Decree No. 16/2011/ND-CP dated February 22, 2011 of the Government on amending and supplementing Decree No. 105/2004/ND-CP dated March 30, 2004 of the Government on independent audit.
- Decree No. 78/2017/ND-CP dated July 3, 2017 of the Government amending and supplementing a number of articles of Decree No. 120/2007/ND-CP dated July 23, 2007 of the Government guiding guiding the implementation of a number of articles of the Youth Law.



Regarding the abolition of a number of legal documents of the Government (4/4)

- Decree No. 161/2018/ND-CP dated November 29, 2018 of the Government amending and supplementing a number of regulations on recruitment of civil servants and public employees, promotion of civil servant ranks, promotion of civil servant ranks and implementation of regulations Contracts for some types of work in state administrative agencies and public service units.

Article 2. Implementation provisions

- This Decree takes effect from August 20, 2024.
- Ministers, Heads of ministerial-level agencies, Heads of Government agencies, Chairmen of People's Committees of provinces and centrally-run cities and relevant agencies and units are responsible for implementing implement this Decree.

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