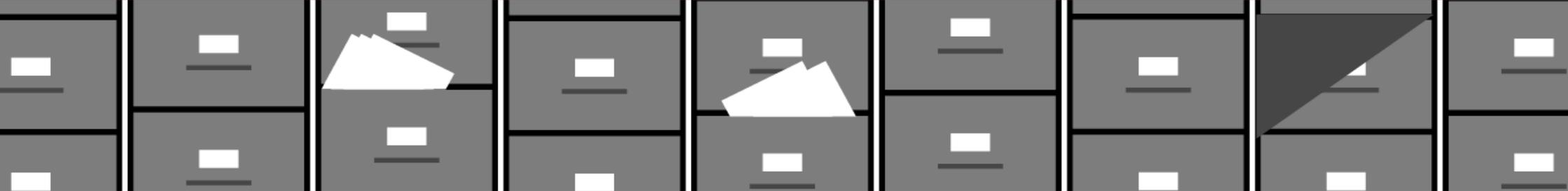


# New penalties for breaches of tax and invoicing regulations



## At a glance...

9 November 2020

On 19 October, the Government released Decree 125/2020/ND-CP setting out new rules on penalties for breaches of tax and invoicing regulations, which will come into force on 5 December 2020. The decree consolidates guidance from various decrees and circulars on tax and invoicing penalties, while taking into account changes in the new law on tax administration.

# Some key changes

- Banks will be subject to a penalty equal to any amount of tax, debts, penalty and interest that they fail to extract from a taxpayer's account and remit to the State Budget per a request from the tax authorities (previously, this was only imposed where there was an official enforcement decision issued by the tax authorities). Presumably this change aims to align with the new requirement under the law on tax administration 2019 and its guiding decree for banks to withhold and pay tax on behalf of e-commerce overseas suppliers, who sell goods & services to Vietnamese individuals without registering to pay taxes in Vietnam.
- Taxpayers will not be subject to admin penalties and late payment interest if they declared and paid taxes in accordance with guiding documents and decisions issued by competent authorities at the time. This is in-line with the law on tax administration. Such guiding documents and decisions are now defined in this decree. This is a positive development as previously the ability to rely on such documents was less clear.
- Introduction of new acts which are subject to sanction (e.g. failure to notify or violation of the deadline to notify the suspension of business or resumption of business ahead of schedule, etc.) and new remedial methods (e.g. compulsory provision of information related to the determination of tax obligations, compulsory destruction of invoices in breach of invoicing regulations, compulsory return of illegal amount earned from the administrative violation, etc.).
- According to the current regulations, submission of tax returns more than 90 days late will be subject to an admin penalty from VND 2 mil to VND 5 mil instead of the penalty of 1 to 3 times the tax liability, if all the tax has been paid before the tax authorities issue minutes on administrative breach for the late filing. This decree increases the admin penalty range in this respect (i.e. VND 15 mil- VND 25 mil), and also requests late payment interest to be paid (in addition to the tax amount) in order to not apply the penalty of 1 to 3 times.
- Administrative violations which involve a tax amount of at least VND 100 mil or value of goods/services of at least VND 500 mil, or where the number of invoices is at least 10, are considered large-scale violations, which may result in a higher level of penalty being imposed.
- Increases of penalties for violations of tax regulations (e.g. late submission of tax returns, tax registration, etc.), and specific penalties for violations of e-invoicing rules.
- Introduction of electronic minutes of administrative violations in case of late electronic submission of tax registration dossiers, tax returns and tax finalisation returns. Such minutes do not require signatures of the taxpayers. More detailed guidance is expected to be provided in a guiding circular.
- In case of late implementation of tax and invoicing procedures via electronic methods due to technical errors of the tax authorities' IT system, taxpayers are not subject to penalties.

## Some transitional rules:

- Breaches arising before the effective date of this decree are subject to the regulations effective during such period.
- Breaches arising before but detected/ considered after the effective date of this decree shall be governed by this decree if this is more favourable to the taxpayer.
- Breaches penalised before the effective date of this decree which are under appeal or litigation will be governed by the regulations effective at the time such breaches arose.



# Contact us

This publication has been prepared for general guidance on matters of interest only, and does not constitute professional advice. For further information or if you require our official advice or assistance, please reach out to us.

## Ha Noi office:



**Nguyen Huong Giang**

Partner

+84 24 3946 2246 Ext. 1502

[n.huong.giang@pwc.com](mailto:n.huong.giang@pwc.com)

## Ho Chi Minh City office:



**Richard Irwin**

Partner

+84 (28) 3823 0796

[r.j.irwin@pwc.com](mailto:r.j.irwin@pwc.com)



**Pham Hoai An Thy**

Director

+84 28 3823 0796 Ext: 3032

[pham.hoai.an.thy@pwc.com](mailto:pham.hoai.an.thy@pwc.com)

[www.pwc.com/vn](http://www.pwc.com/vn)



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