



SEPTEMBER 2021

# LAW BULLETIN

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V U T H I T H U H A

MANAGING PARTNER - ATS LAW FIRM



## — WELCOME —

### WORDS FROM MANAGING PARTNER

We are committed to providing an effective, reliable and responsive service to each of our clients.

Our approach is client-focused, solution-oriented and innovative. We have a dedicated and experienced team providing a comprehensive range of services to meet the needs of our clients.

We strive to do whatever it takes in order to resolve the legal issues that face clients, allowing them to minimize administrative overheads and focus on their core business activities.



# ASSOCIATION – TRUST – SUCCESS

At ATS Law Firm, our deeds reflect our creed – to provide the very best professional legal services, and to gain and maintain our clients' trust and satisfaction

To become a top-level legal services provider on domestic and international matters, we have formed associations with many local, national and international organizations to exchange knowledge, experience and skills.

We pride ourselves on our ability to build client trust and support them in navigating applicable laws. We have a very high rate of success in accomplishing our clients' objectives, consistently exceeding expectations.



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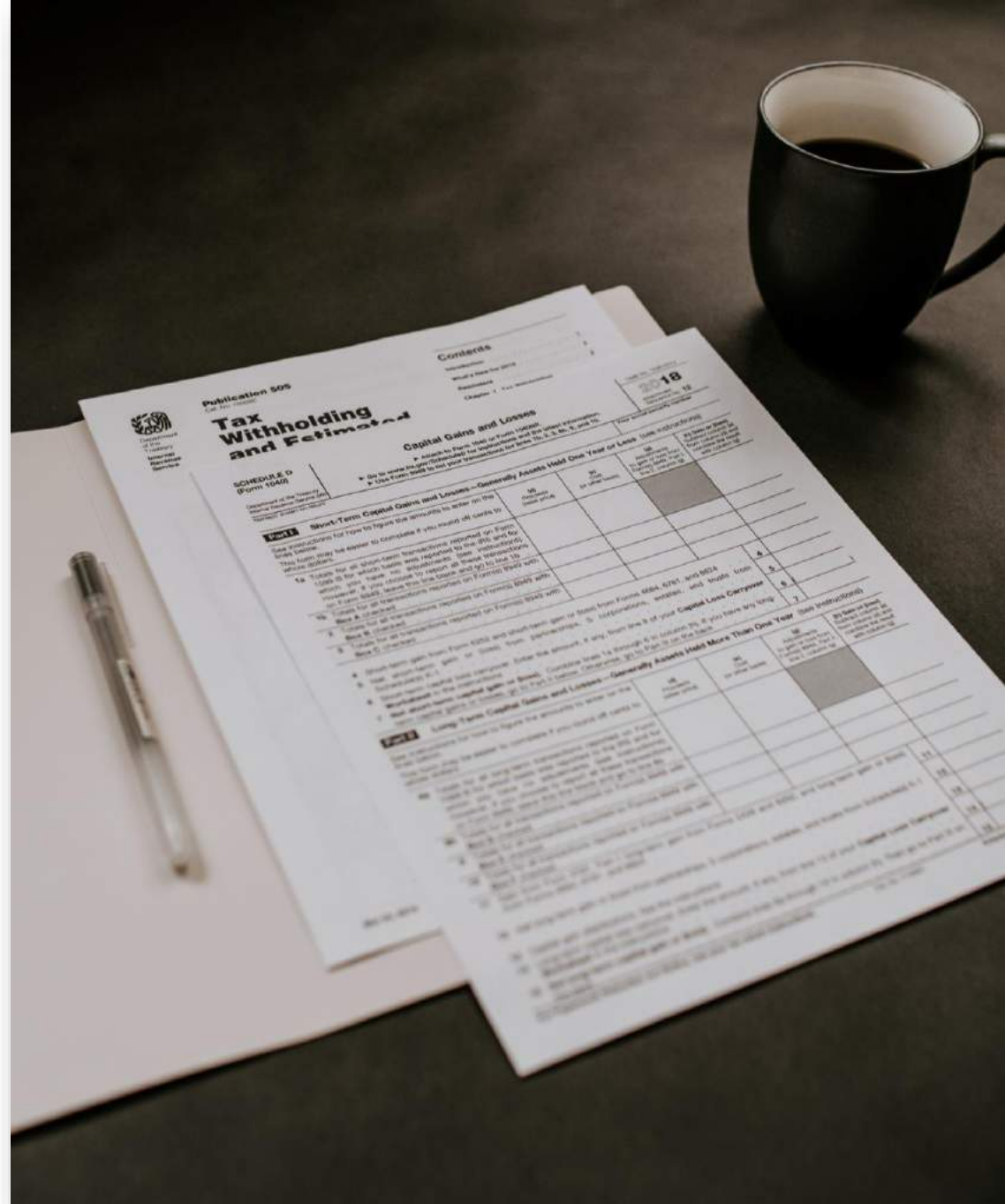
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# TAX – FEE – CHARGE

## MEASURES TO PREVENT FRAUDULENT IMPORT/EXPORT VAT REFUNDS

On September 21, the General Department of Customs issues the Official Dispatch No. 4539/TCHQ-TXNK regarding management of VAT refunds.

According to this document, Tax Departments of provinces and cities are requested to implement several measures to strengthen activities of management and control of tax declaration, combat against fraudulent acts aimed at misappropriating VAT refunds.

For instance, using customs practices or approaches towards imports and exports:

(i) List and manage export businesses submitting VAT refund claims according to risk management criteria. Closely check and oversee exports after required export procedures are completed.

(ii) Strengthen documentary or physical inspections during the process of completing import procedures with the intention of lawfully detecting and

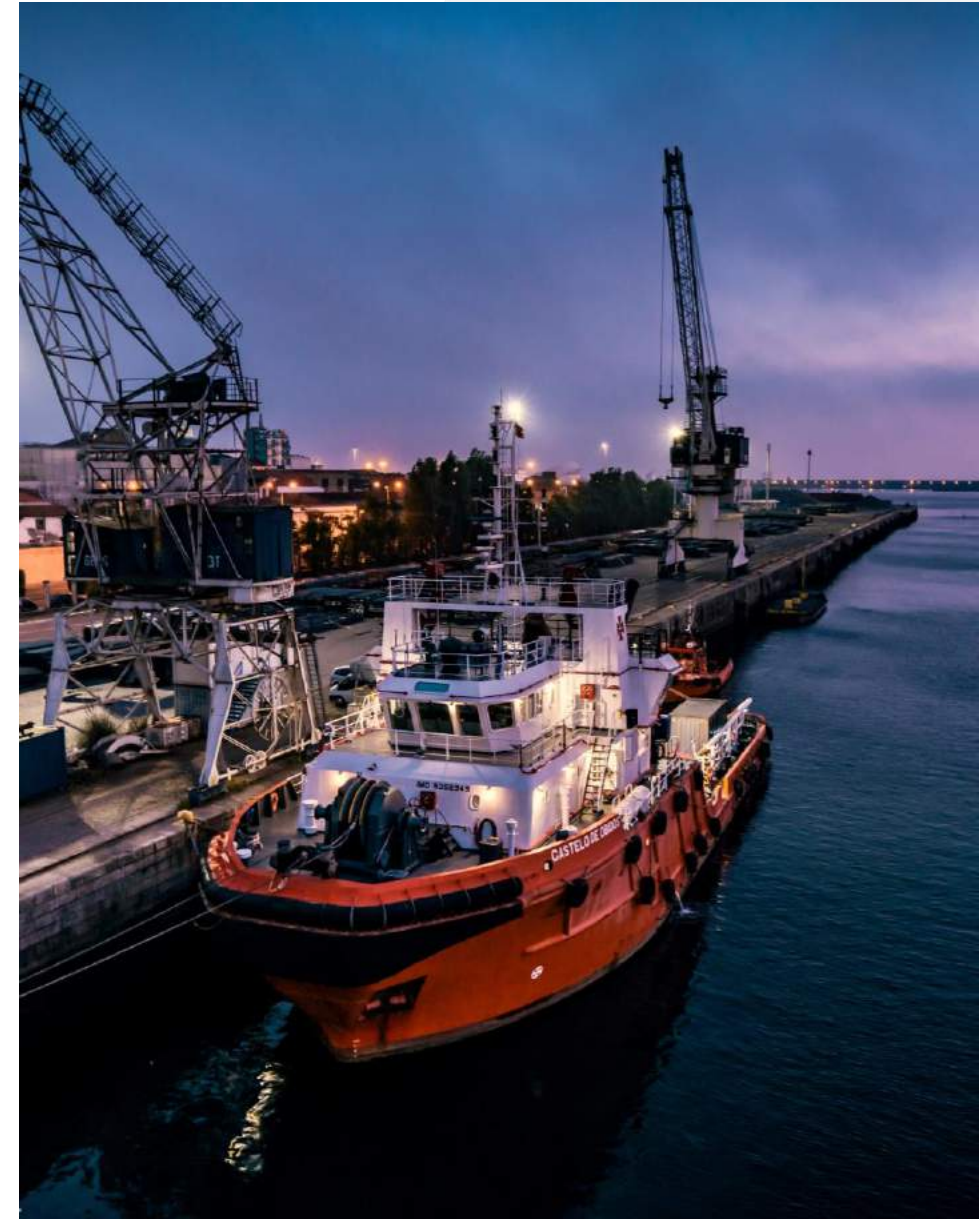
imposing sanctions against any of the following suspicious activities:

Falsely declaring or over-declaring export quantities; providing incorrect names and types of goods, abnormally over-declaring customs values of several exports of high value in export declarations; or Using invalid documentation for completion of export procedures.

(iii) Intensify the inspection of customs values of imports for use in investment projects that are granted import duty exemption and any suspicious act involving over-declaration of customs values with the aim of misappropriating input VAT refunds with domestic tax authorities.

This Official Dispatch takes effect on September 21, 2021.

➤ [Official Dispatch No. 4539/TCHQ-TXNK](#)





## AN EMPLOYEE AFFECTED BY COVID-19 SHALL BE SUPPORTED UP TO VND 3.3 MILLION FROM THE UNEMPLOYMENT INSURANCE FUND



On September 24, 2021, the Government issues the Resolution No. 116/NQ-CP on support policy for employees and employers affected by the COVID-19 pandemic from the Unemployment Insurance Fund.

Accordingly, employees affected by the COVID-19 pandemic shall receive support in cash from the Unemployment Insurance Fund's surplus balance, in which, the supporting amount shall be based on the unemployment insurance premium payment period during which the employee has not yet received any unemployment allowance.

Employees eligible for this support are

those who are paying unemployment insurance premiums as of September 30, 2021 (excluding some subjects) and those who have stopped paying unemployment insurance premiums due to the termination of labor contracts or working contracts in the period from January 01, 2020, to the end of September 30, 2021, with the unemployment insurance premium payment period reserved in accordance with the law on employment, excluding persons who are enjoying to monthly pensions.

This Resolution takes effect on the signing date.

➤ [Resolution No. 116/NQ-CP](#)

## INCOME TO BE EXEMPTED FROM COMPULSORY SOCIAL INSURANCE CONTRIBUTIONS



This is the highlight of the Circular No. 06/2021/TT-BLDTBXH dated July 7, 2021, amending and supplementing the Circular No. 59/2015/TT-BLDTBXH providing instructions on implementation of regulations on compulsory social insurance.

According to this document, monthly pay subject to the requirement of payment of social insurance contributions will not include the following fringe benefits:

Bonuses prescribed in Article 104 of the Labor Code; Rewards for innovation; Mid-shift meal allowance; Fuel costs and mileage allowance; Phone allowance; Travel allowance; Accommodation allowance; Babysitting benefit; Childcare benefit; Death benefit inherited from employee's relative; Marriage allowance paid to employee's relative; Employee's birthday benefit; Benefits granted to

employees in difficult situation due to any accident at work or occupational disease; and Other allowances and benefits classified into individual payment items covered by employment contracts as prescribed in Article 3, 5, c, c2 in the Circular No. 10/2020/TT-BLDTBXH dated November 12, 2020.

This Circular is entering into force as of September 1, 2021.

➤ [Circular No. 06/2021/TT-BLDTBXH](#)



# ENTERPRISE

## MEASURES TO SUBSIDIZE ENTERPRISES IN THE CONTEXT OF COVID-19

On September 9, 2021, the Government issues the Resolution No. 105/NQ-CP regarding support for enterprises, cooperatives and business households in the COVID-19 context.

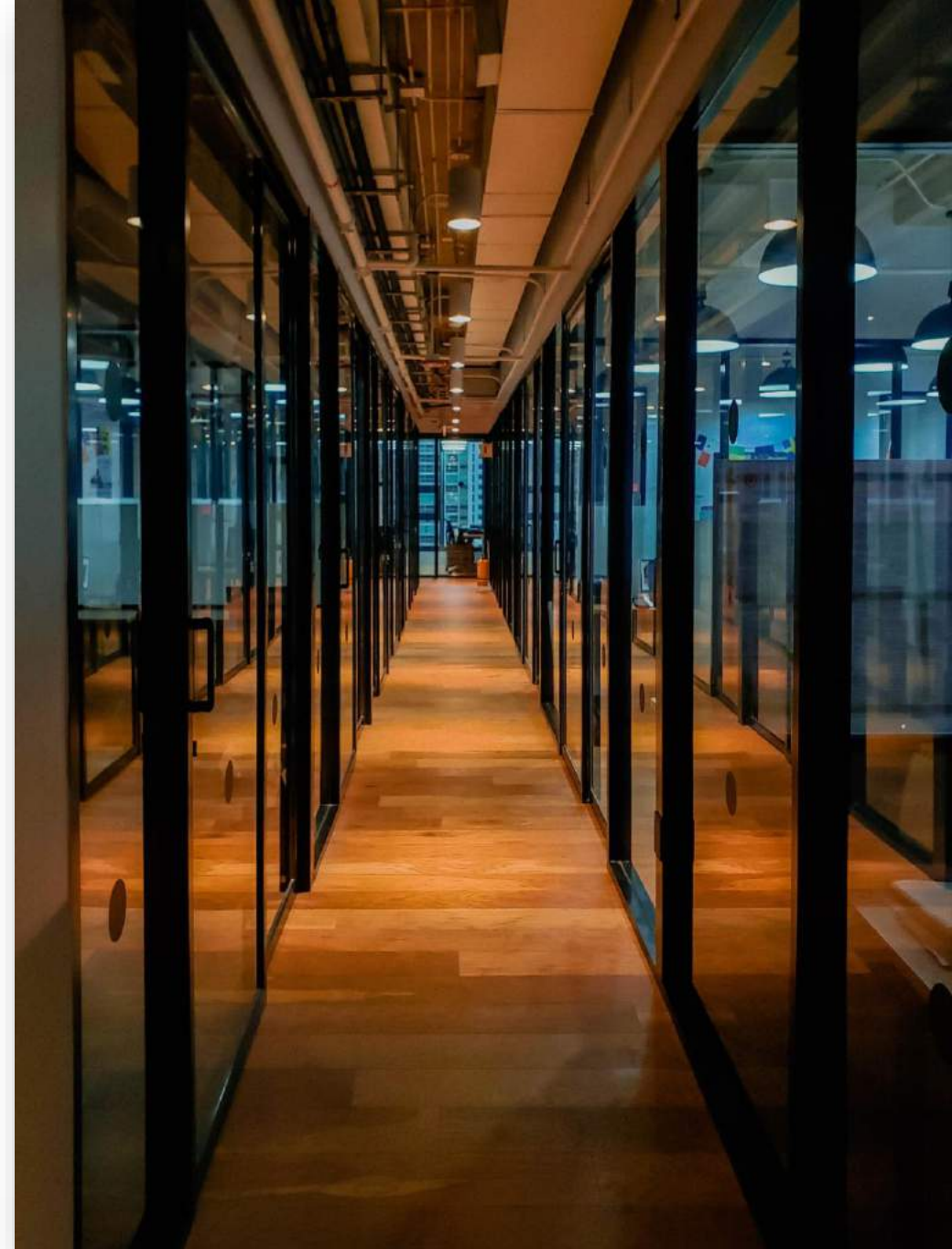
According to this Resolution, in order to provide enterprises, cooperatives and business households with subsidies, financial and cash flow relief, the Government mandates the Ministry of Labor, War Invalids and Social Affairs to solicit competent authorities and the National Assembly to ratify the policy on reducing SI contribution rates or using the SI fund's residual balance as short-term financial support with a view to duly

supporting employees, enterprises, cooperatives, business households and other employers.

Additionally, the Government is assigning the Ministry of Finance to speed up implementation of policies regarding relief or rebate on taxes, fees, charges and land levies; and apply tax incentive policies to imports used as material assistance in COVID-19 prevention and control activities after these policies are ratified by the Government.

This Resolution is in use as of September 9, 2021.

➤ [Resolution No. 105/NQ-CP](#)



# FINANCE – BANKING

## RESCHEDULING DEBT FOR CLIENTS UNTIL JUNE 30, 2022

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The Circular No. 14/2021/TT-NHNN amending and supplementing a number of articles of the Circular No. 01/2020/TT-NHNN dated March 13, 2020 of the State Bank Governor of Vietnam on credit institutions and foreign bank branches carrying out debt rescheduling, giving exemption from or reduction of loan interests and charges, and maintaining classified loan groups in order to help their clients affected by the Covid-19 pandemic is issued on September 07, 2021 by the State Bank of Vietnam.

Accordingly, credit institutions and foreign bank branches shall reschedule debit of balance of loan principal and/or interest of the debt that fully meet the following conditions: Arising before August 01, 2021, from lending and financial leasing activities; Giving rise to obligations to repay loan principals and/or interests from

January 23, 2020 to June 30, 2022; etc.

Besides, the following conditions must also be satisfied: Clients are unable to make due payment of their loan principals and/or interests under contracts or agreements due to loss of their revenues or incomes as a consequence of the Covid-19 pandemic, as evaluated by credit institutions or foreign bank branches; Clients request for debt rescheduling and such clients are evaluated by credit institutions or foreign bank branches of capability to pay off loan principals and/or interests according to the rescheduled period, etc.

Credit institutions and foreign bank branches shall refuse to reschedule debts in violation of law.

This Circular takes effect on September 07, 2021.

► [Circular No. 14/2021/TT-NHNN](#)



# FINANCE – BANKING

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## A SECURITIES INVESTMENT AND MANAGEMENT COMPANY MAY OPEN 02 GENERAL TRADING ACCOUNTS TO MANAGE THE INVESTMENT PORTFOLIOS



The Circular No. 58/2021/TT-BTC providing guidance on a number of articles of the Decree No. 158/2020/ND-CP dated December 31, 2020 of the Government on derivatives and the derivatives market is promulgated by the Ministry of Finance on July 12, 2021.

Specifically, an investor must sign a contract to open a derivatives trading account with a trading member. A securities investment fund management company may open multiple derivatives trading accounts at each trading member as follows: The company may open 02 general trading accounts on its name to manage the investment portfolios for entrusting investors, of which 01 is for derivatives trading for domestic entrusting investors, another for derivatives trading for foreign entrusting investors.

Also, the securities investment fund management company may open 01

derivatives trading account for each investment fund or securities investment company managed by the securities investment fund management company on the name of such investment fund or securities investment company at each trading member.

Besides, a clearing member shall open margin deposit accounts for investors in the name of such clearing member and is responsible for managing margin deposits of the investors separately. The clearing member opens for each investor 01 margin securities account to manage positions, margin obligations, collateral value, and transferable assets as well as to fulfill settlement obligations for the position on such investor's trading account.

This Circular takes effect on August 27, 2021.

► [Circular No. 58/2021/TT-BTC](#)

## THE MINISTRY OF CONSTRUCTION PROMULGATES NEW CERTIFICATION FORM FOR SOCIAL HOUSE PURCHASE



The Circular No. 09/2021/TT-BXD guiding the implementation of a number of provisions of the Government's Decree No. 100/2015/ND-CP dated October 20, 2015, on social housing development and management and the Government's Decree No. 49/2017/ND-CP dated April 01, 2021, amending and supplementing a number of articles of the Government's Decree No. 100/2015/ND-CP dated October 20, 2015, on social housing development and management is issued by the Ministry of Construction on August 16, 2021.

Accordingly, bid-winning investor is the one with the highest total score of criteria on a scale of 100. To be specific: Criterion on the financial capacity to perform the project: From 20 to 30 points; Criterion on architectural and planning solutions: From 15 to 25 points; Criterion on investment in technical and social infrastructure construction: From 10 to 20 points; Criterion on experience in performing the housing investment project: From 5 to 15 points; Criterion on the schedule to perform the project and put it into use: From 5 to 10 points.

After 15 working days from the date of receiving the list of expected purchasers, lessees, and lessees-purchasers of social houses, the provincial-level Department of Construction of the locality where the project is located shall be responsible for inspecting and updating the list subjects eligible for purchase, rent and rent-purchase of social houses on its portal and the Ministry of Construction's portal.

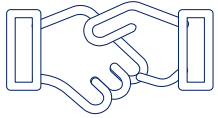
This Circular takes effect on October 01, 2021.

➤ [Circular No. 09/2021/TT-BXD](#)



# OUR EXPERTISE

We are always at your service



## Mergers & Acquisitions

We provide an end-to-end service to our clients, in cross-border as well as domestic M&A transactions, and are committed to providing pragmatic advice



## Taxation

Our practice covers all types of taxes (commercial/sales, individual and VAT, among others) and we advise on matters ranging from compliance issues to the tax implications of particular transactions



## Investment

We provide legal services to investors and foreign-invested enterprise. We always well understand the requirements of investors, financial institutions and stakeholders in large-scale investment projects in Vietnam.



## Litigation

We always discuss thoroughly with customers and review the provided documents to propose optimal solutions which is best protect the rights and legitimate interests of customers in each specific case.



## Banking & Project Finance

We have the expertise necessary to properly handle the risks in financial and banking activities and provide services such as: identifying potential risks, loan contracts, mortgage contracts, establish internal procedures of the banks



## Labour

Our diverse service range from consulting employee recruitment, employee benefits, performance evaluation, contract signing and termination, personal income tax, and human resource management to, resolving labor dispute



## Civil Matters

We strive to assist our clients in resolving legal issues in the area of civil, land, marriage and family



## Contracts & Agreements

We provide service on consulting and reviewing contracts and agreements, to support clients to negotiate with their partners, to protect their legal rights and interests to settle contractual dispute



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