



TAXATION LIABILITIES FOR ENTERPRISE SUSPENSION AT A GLANCE

The below Legal Summary prepared by BLG contains a brief discussion with tailored practical information for investment and business activities in Vietnam.

This article concentrates on taxation liabilities of an enterprise when suspending its business.

When an enterprise suspends its business operation, it not only has to carry out the suspension procedures with the Business Registration Office but also has to fulfill taxation liabilities during such suspension. In this article, we would like to give a glance on these matters.

1. Understanding a temporary suspension of business

Suspension of business is the right of an enterprise to cease its business activities in a certain time.

According to Clause 1 Article 66 Decree No. 01/2021/ND-CP on enterprise registration, when temporarily suspending business activities, enterprises are obliged to notify in writing about the time and duration of business suspension to Business Registration Office where the enterprises are headquartered at least 3 days before the date of suspension. After the expiry of the noticed temporary suspension of business, if the enterprise continues to suspend business, it has to conduct the notification process again. The total duration of continuous business suspension is not limited.

2. Taxation liabilities during business suspension

2.1 Pending obligations: According to Clause 3 Article 206 Law on Enterprises 2020, during the time of temporary suspension of business, enterprises still have to comply:

- *To fully pay the outstanding taxes;*
- *To keep paying debts;*
- *To keep executing contracts with customers and employers, unless otherwise agreed among the enterprise, its creditors, customers, and employees.*

2.2 Tax declaration: According to Point a Clause 2 Article 4 of Decree 126/2020/ND-CP guiding the Law on Tax Administration, enterprises is not required to submit tax declaration dossiers, unless the suspension begins in the middle of a monthly/quarterly/annual tax period, in which case the tax declaration obligation for the said duration has to be fulfilled.

For example: An enterprise suspends its business from 25 January 2021 to 25 January 2022, it still has to submit its tax report for the first quarter of 2021, its financial statement for 2021 and the annual tax finalization report 2021.

At the end of the suspension period, the enterprise shall make a full tax declaration according to regulations.

2.3 License tax: According to Clause 4 Article 1 of Circular No. 65/2020/TT-BTC, when suspending its business operation, an enterprise is exempt from paying license charges when it meets the following conditions:

- *A written request for business suspension sent to the tax authority before January 30.*
- *Have not paid the license charges of the year applying for suspension.*
- *Suspension for full calendar year or fiscal year.*

In case of suspension of production and business without meeting the above conditions, the enterprise must pay the license charges for the whole year.

2.4 Invoice issuance: During the period of business suspension, the enterprise can not perform new operations from the time of the notice of business suspension, which means no invoices are issued. However, for the operations performed before the notice of suspension and customers need invoices to pay costs, the enterprises can issue invoices for these operations but must get consent from tax authorities.

According to Point c Clause 2 Article 4 of Decree 126/2020/ND-CP, taxpayer must not use invoices and are not required to submit invoice use reports. In case the taxpayer is permitted by the tax authority to use invoices in accordance with invoice laws, the taxpayer shall submit the tax declaration dossier and invoice use reports as per regulations.

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