

DRAFT CIRCULAR GUIDING IMPLEMENTATION OF DECREE NO. 119/2018/ND-CP

After Decree No. 119/2018/ND-CP guiding Electronic Invoices (“E-Invoices”), Ministry of Finance released a Draft Circular (hereinafter as “Draft Circular”) guiding the Decree. In this Spotlight, we would like to underline the noticeable differences among the Circular No. 32/2011/TT-BTC, the Decree No. 119/2018/ND-CP and the Draft Circular.



E-invoices contents

Circular No. 32/2011/TT-BTC

Decree No. 119/2018/ND-CP

Draft Circular

Contents of e-Invoice are including:

- Invoice name, symbol, form, serial number;
- Name, address, tax code of the seller;
- Name, address, tax code of the buyer;
- Name, measurement unit, quantity, unit price, total sum of goods or services. For Value Added Tax ("VAT") invoices: Tax rate, VAT amount and total are additionally required;
- Electronic signature of the seller;
- Date of creating and sending the e-Invoice.

Additional contents comparing with Circular No. 32/2012/TT-BTC as follows:

- Electronic signature of the buyer (if any);
- Verification code of authority for e-Invoice with verification code;
- Fees and charges of the State's Treasury and other related contents (if any).

Additional contents in detail related to invoice symbol , code and format of e-Invoicing time as follows:

- E-invoices form includes: 01 or 02 characters for distinguishing type of e-Invoices. For example: Form 01 (VAT e-Invoices), Form 02 (Sales e-Invoices), Form 03 (sales e-Invoices used for organizations in non-tariff areas) ..., Form 10 (electronic receipts), Form 11 (Other e-Invoices and e-vouchers);
- E-Invoices code includes 5 characters in which:
 - ✓ The first 02 characters: "CM" or "KM"
 - CM: e-Invoices with verification code of tax authority;
 - KM: e-Invoices without verification code of tax authority.

For e-Invoices of cash registers, there are 03 characters of "MTT" added to after the 02 first characters.

- ✓ The next 02 characters: Indicating the year of creation of e-Invoices;
- ✓ The last character: Distinguishing e-Invoices issued by tax authorities from and those used by organizations, business households and individuals as follows:

- L: The code of e-Invoices with verification code of tax authority;
- X: The code of e-Invoices used by organizations, business households and individuals; or
- D: The code of special e-Invoices;
- Date of issuance e-invoice: Applied format DD/MM/YYYY.
- Example: E-invoice Form 01 with the code: CM19L.
- Description: The e-Invoice is VAT invoice with verification code of tax authority and created in 2019.

Organizations with high tax risks

Circular No. 32/2011/TT-BTC	Decree No. 119/2018/ND-CP	Draft Circular
Not mentioned	<ul style="list-style-type: none"> Enterprises, organizations with high tax risks shall be required to use e-Invoices with verification code of tax authority. <u>No definition</u> on the term of “organizations with high tax risks” given in the Decree 	<p>Providing definition on the term of “organizations with high tax risks”, as follows:</p> <ul style="list-style-type: none"> Enterprises using illegal invoices or illegally using invoices for tax evasion or tax fraud and were subject to administrative sanctions for tax evasion or tax fraud; Enterprises listed as enterprises having high tax risks according to Decision which is issued by Director of Tax Department on the 15th day of every month.

E-invoicing time

Circular No. 32/2011/TT-BTC	Decree No. 119/2018/ND-CP	Draft Circular
Not mentioned	<p>Irrespective of payment or not for goods and services provided, the timing of e-Invoicing are guided as follow:</p> <ul style="list-style-type: none"> For goods: The timing for E-invoicing is the time of transfer of the ownership or the right to use goods to the buyer; For services: The timing for E-Invoicing is the time of completion of service provision or the time of e-Invoice issuance; In case of multiple delivery of goods or transfer of goods on an item by item basis, or provision of service on the stage by stage basis, an invoice must be made out for each of volume, value of goods and services supplied accordingly. 	<p>Additional guidance on timing of e-Invoicing for certain specific cases:</p> <ul style="list-style-type: none"> For e-Invoices without verification code of tax authority: the e-Invoicing time is determined by the time when the seller signs digitally/ electronically or electronic signature in the e-Invoices; For services of electricity/ water supply, telecommunication and television: e-Invoicing time shall be no later than seven (07) days after the recording date of electricity and water consumption index or the end date of the agreed period for providing services. The agreed period is based on the agreement between service provider and buyer; For enterprises doing business in real estate, infrastructure construction, construction of house for sale or transfer (not yet transfer of ownership and use rights) that collect money according to the project or the payment schedule shown in the contracts, the e-Invoicing time is the date of collecting money.

Time frame of transferring e-Invoices

Circular No. 32/2011/TT-BTC	Decree No. 119/2018/ND-CP	Draft Circular
Not mentioned	No specific guidance	<p>Additional guidance on time of data transferring to tax authority and sending e-Invoice to buyer</p> <ul style="list-style-type: none"> • For e-Invoices without verification code of tax authority: Time frame of data transferring depends on kinds of goods and services as follows: <ul style="list-style-type: none"> • For imported goods, soil, stone, sand and gravel: The seller shall send e-Invoices to buyer as well as the tax authority after filling in all the compulsory contents of e-Invoices; • For providing of medical services, retail of modern medicines, banking, electricity, clean water, telecommunication, insurance, transportation, supermarket, petroleum and air transport services for individual or household: The seller shall summarize the e-Invoices data on monthly/ quarterly basis to submit altogether with the VAT returns to send to the tax authority; • For other goods: After upon issuance and filling in all contents of the e-Invoices, the seller shall digitally sign and send e-Invoices to buyer as well as to the tax authority via the Web Portal of the General Department of Taxation on the same day. • For e-Invoices with verification code of tax authority, the seller shall: <ol style="list-style-type: none"> 1) Provide the e-Invoices data to the tax authority for granting verification code; 2) After that, send e-Invoices with verification code to buyer.

E-invoice cancellation

Circular No. 32/2011/TT-BTC

- When detecting errors in e-invoice which is not yet delivered to the buyers or has not been declared for tax:
 - Voiding the error e-Invoices according to agreement term of the seller and buyer;
 - The voided e-Invoices shall be stored for retrieve when necessary;
 - The new e-Invoices must contain the phrase "this invoice replaces invoice number... form code... sent on date..."
- When detecting errors in e-invoice after goods/ services are delivered to the buyer or after the buyer / seller declared tax for the e-Invoice:
 - The seller and the buyer must make a record of errors and digitally sign there on;
 - The seller shall make an adjusted e-Invoices;
 - The seller and buyer shall make the adjustment declaration under current laws on tax administration base on adjusted e-Invoices;
 - Adjusted e-Invoices must not contain negative (-) figures.

Decree No. 119/2018/ND-CP

Guidance on handling the issued e-Invoices:

- Errors detected by the seller or buyer:
 - The seller shall report to the tax authority by using Form No. 04 (*);
 - If the errors have been detected after sending to buyer, both the buyer and the seller shall make a written agreement to clearly indicating the error;
 - The seller shall cancel the erroneous e-Invoices and make a new e-Invoices for replacement and re-send it to the buyer and tax authority.
- Errors detected by the tax authority:
 - The seller shall receive notification by Form No. 05 (*) from the tax authority.
 - Within two (02) days upon receiving the notification form the tax authority, the seller shall cancel the erroneous e-Invoices, make a new e-Invoices for replacement and re-send the new e-Invoices to the buyer and tax authority.

(*) Form No. 04 and 05 are issued and attached with Decree no. 119/2018/ND-CP

Draft Circular

Following the content of Decree No. 119/2018/ND-CP, the Draft Circular provides more specific guidance on the form of trade discount as follows:

In case the discounted amount of provided goods are adjusted on the e-Invoices of the last services or subsequent purchase, the seller shall make e-Invoices to adjust for the issued e-Invoices. The adjusted e-Invoices specifies for the adjustment to a serial number of previous e-Invoices, for total amount.

For e-Invoices with verification code of tax authority, Seller electrically signs on e-Invoices, then sending it to buyer and tax authority. For e-Invoices without verification code of tax authority, seller shall send the e-Invoices to buyer and the adjusted data to tax authority.

Base on the adjusted e-Invoices, the seller and buyer shall make adjustment declaration for revenue, purchase and tax amounts.

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