

1. VALUE ADDED TAX

❖ VAT declaration for non-commercial goods

OL No. 97742/CT-TTHT dated on 11 October 2020 issued by the Tax Department of Ha Noi City guidance on VAT for non-commercial goods as follows:

In case, the Company imports goods under non-commercial type for producing, operating taxable goods and services of the Company, the input VAT paid at the import stage is eligible to deduct according to Article 14 of Circular No.219/2013/TT-BTC (supplemented by Circular No. 119/2014/TT-BTC dated 25 August 2014 and amended, supplemented by the Circular No. 26/2015/TT-BTC dated 27 February 2015 of the Ministry of Finance).

❖ The VAT rate for services provided to clients of foreign customers

OL No. 95844/CT-TTHT dated 02 November 2020 by the Tax Department of Ha Noi City guidance on services provided to clients of foreign partners as follows:

In case, the Company signs a contract with a foreign organization to provide service of installing, repairing, and maintaining machinery and equipment their clients which are domestic enterprise or an export processing enterprise, the rate of VAT is determined according to the following principles:

- In case, services are directly provided to organizations and individuals in the non-tariff zone and consumed in the non-tariff area, they are determined to be exported services and subject to a VAT rate of 0% when meeting the conditions specified in Clause 2, Article 9 of Circular No. 219/2013/TT-BTC and do not fall into the cases specified in Clause 2, Article 1 of Circular No. 130/2016/TT-BTC. The non-tariff zone is determined according to Clause 20, Article 4 of Circular 219/2014/TT-BTC.
- In case the services are directly provided to organizations and individuals in Vietnam and consumed in Vietnam, they are subject to a tax rate of 10% specified in Article 11 of Circular 219/2013/TT-BTC.

2. PERSONAL INCOME TAX

❖ PIT on income from capital investment

OL No. 95846/CT-TTHT dated 02 November 2020 by Tax Department of Ha Noi City guidance on PIT of income from capital investment.

When Vietnamese earn income from capital investment abroad, they are not subject to pay PIT in Vietnam if they are non-resident under the provisions of the PIT Law. Otherwise, the individuals are resident are subject to calculate and pay PIT for income from the capital investment as prescribed in Clause 3, Article 2 of Circular No. 119/2013/TT-BTC.

The determination of resident situation is specified in Clause 1, Article 1 of Circular 111/2013/TT-BTC, Article 2 of Circular No. 119/2014/TT-BTC of the Ministry of Finance.

Pursuant to Article 10, Circular No.111/2013/TT-BTC issued by the Ministry of Finance, the tax rate for income from capital investment is 5% on whole taxable income.

❖ PIT from transfer of contributed capital

OL No. 96163/CT-TTHT dated 03 November 2020 by the Tax Department of Ha Noi City guidance on PIT from capital transfer.

In case, members of the Company (being resident individuals) transfer their contributed capital in the Company, the transferor should declare PIT under the guidance in Clause 4, Article 16 of Circular No. 156/2013/TT-BTC (regardless of earning income or not).

In case, the Company prepares the dossiers to adjust the list of contributors without having documents proving the completion of tax obligation for capital transferring, the Company should pay tax on the individual's behalf.

PIT from capital transferring is conducted by form 04/CNV-TNCN enclosed herewith Circular No. 92/2015/TT-BTC.

The tax rate for income from transfer of contributed capital is 20% on whole taxable income.

3. CORPORATE INCOME TAX

❖ Corporate income tax declaration

OL No. 95835/CT-TTHT dated 02 November 2020 issued by Tax Department of Ha Noi City guidance on CIT declaration as follows:

In case, the Company has an independent branch, the branch should declare CIT to its direct management tax authority.

In case, the Company has a dependent branch, the branch is not required to submit CIT declarations. The Company should consolidate tax accounting information of the branch to the headquarter when preparing CIT declaration and submit to the tax management authorities of headquarter.

In case, the branch converts from independent to dependent accounting so the Company could declare CIT at the headquarter, the independent branch has decided to change into a dependent one should prepare tax registration in order to be issued a new TIN as prescribed in Articles 6, 7 and 8 of Circular No. 95/2016/TT-BTC. When there is a conversion decision, the independent branch should conduct procedures for TIN deactivation with the direct management tax authority as prescribed in Article 16, Article 17 of Circular No. 95/2016/TT-BTC before the conversion.

❖ Expenses of goods damaged by fire

OL No. 96967/CT-TTHT dated 06 November 2020 by the Tax Department of Ha Noi City guidance on the cost of goods damaged by fire as follows:

In case, the Company has insured goods damaged by fire, the expenses related to the value of damaged goods after minus compensation of insurers or other organizations or individuals according to the provisions of the law are deductible expenses when determining taxable income in the tax period if satisfied the conditions about dossiers and invoices as prescribed in Article 4 of Circular No. 96/2015/TT-BTC.

In case, goods and service damaged by the fire had not been compensated, the input VAT of them are eligible to deduct when satisfying the conditions of VAT deduction as prescribed in Clause 1, Article 4 of Circular No. 219/2013/TT-BTC and Clause 10, Article of Circular No. 26/2015/TT-BTC.

❖ Decree 126/2020/ND-CP dated 19 October 2020, takes effect on 05 December 2020,

detailing several articles of Law on Tax Administration

Based on Clause 6, Article 8, total CIT paid in the first three quarters of the tax year must not be less than 75% of the finalized CIT payable. In case, the paid tax in three quarters is less than 75%, the fine of late tax payment will be applied for the retrospective amount from the deadline of tax remittance in the 3rd quarter to payment date to the State Budget.

Article 21 stipulated the cases of exit suspension when tax obligations are not fulfilled, including:

- Individuals or legal representatives of taxpayers are enterprises under force to execute the administrative decisions on tax managements and have not fulfilled their tax obligations.
- Vietnamese who leave to settle abroad have not yet fulfilled their tax obligation.
- Vietnamese living abroad have not fulfilled their tax obligation before leaving the country.
- Foreigners have not fulfilled their tax obligation before exiting from Vietnam.

4. LAW ON ENTERPRISES

❖ New points in the Law on Enterprises 2020

On 17 June 2020, The National Assembly has granted the Law on Enterprises No. 59/2020/QH14 to replace the Law on Enterprises 2014. Thereby, Law on Enterprises 2020 has some new highlight points as follows:

- The enterprises are no longer send the seal design to the Business Registration authority before using it. The enterprises are free to choose the form, content, and method of using the seal. Notably, the enterprises can use the seals under the form of e-signatures in accordance with the Law on E-transactions;
- Abolishing the provision of Report on changing the enterprise manager;
- Abolishing the regulations that limited liability companies with more than 11 members should establish the Control Board, the companies free to decide to establish the Control Board or not;
- Increasing the protection of the minority shareholders in the joint-stock companies by regulated on the rights of the shareholder or group of shareholders hold(s) at least 05% (instead of 10% as the Law on Enterprises

- 2014) of the total ordinary shares or a lower ratio according to the Company Charter;
- Specifically regulating on the rights and obligations of the Legal representative in case the enterprise has more than one legal representative that: For the limited liability companies, joint-stock companies which have more than one legal representative, if the rights and obligations distribution for each legal representative has not been specified in the Company Charter, all of the legal representatives are representatives with full authorities to the third party and have jointly responsible for the damages to the enterprises in accordance with the Civil Code and other related legal regulations;

- Specifying that the owner is the Company president in a one-member limited liability company owned by the individual, this is not been regulated in the Law on Enterprises 2014;
- Abolishing regulations that payments of selling, purchasing, transferring shares/stakes, and receiving dividends of foreign investors must be made through their capital accounts opened at banks in Vietnam; instead, the payment shall be carried out “through an account in accordance with the Law on foreign exchange”.

Law on Enterprises 2020 takes effect on **01 January 2021**.

Abbreviations	
OL Official Letter	CIT Corporate Income Tax
GDT General Department of Taxation	PIT Personal Income Tax
TIN Tax Identification Number	VAT Value Added Tax

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This newsletter aims to update and summarize general regulations associated with tax, accounting, investment and labor in Vietnam. You should refer to expertise before making decision.