

### 1. CORPORATE INCOME TAX

#### ❖ CIT on salary expenses paid for unused annual leaves

OL No. 39064/CTHN-TTHT dated 09 August 2022 issued by the Hanoi Tax Department stipulated on CIT for salary expenses paid to unused annual leaves as follows:

- In case the Company pays the salary for the employee's unused annual leaves following the provisions of the Labor Code and its guiding regulations, the company shall be allowed to include the above expenses into the deductible expenses when determining CIT taxable income, if meeting the conditions as prescribed.
- Pursuant to Article 113, Labor Code No. 45/2019/QH14 dated 20 November 2019 guidance on annual leave, an employee who works for the full 12 months for one employer can be paid the remaining annual leaves in case of job loss or employment termination if they have not yet enjoyed the annual leave days.

### 2. PERSONAL INCOME TAX

#### ❖ PIT for the expatriate who is assigned to work in Viet Nam

OL No. 35195/CTHN-TTHT dated 19 July 2022 issued by Hanoi Tax Department on PIT declaration for foreigners as follows:

In case a foreign individual is assigned to work in Vietnam, the tax rate to be used for withholding PIT should be based on the taxpayer's working duration in Vietnam specified in the labor contract or the assignment letter. Accordingly, the company temporarily withholds PIT by the partially progressive tax rates for individuals working in Vietnam for 183 days or more in the tax year or wholly tax rate for individuals working in Vietnam for less than 183 days in the tax year in accordance with the guidance of point b.3, clause 1, Article 25,

Circular No. 111/2013/TT-BTC dated 15 August 2013 of the MOF.

If the foreign individual satisfies the conditions of being resident in Vietnam within the calendar year as prescribed in Article 1, Circular No. 111/2013/TT-BTC, the first finalization tax year of this individual is the calendar year calculated from 01 January to 31 December of that tax year as regulated in clause 11, Article 3 and point b, clause 2, Article 44 of the Law on Tax Administration No. 38/2019/QH14.

### 3. VALUE ADDED TAX

#### ❖ VAT Declaration for transferring right of using land activities

OL No. 43725/CTHN-TTHT dated 06 September 2022 guidance on VAT policy as follows:

In case the Company receives the transferred land use right from organizations and individuals, the taxable price would be the transferring price minus (-) the deductible land value for VAT calculation purposes. The deductible land value should be determined in accordance with clause 3, Article 4, Decree No. 209/2013/ND-CP, point a.4, clause 10, Article 7, Circular No. 219/2013/TT-BTC.

In particular, it would be the land price at the time of the land use right being transferred, including the value of infrastructure (if any); business establishments are not allowed to declare and declare the input VAT of the infrastructure included in the deductible land use right value which not subject to VAT.

In case, the land transferring price is not included the value of the infrastructure, a business establishment is enabled to deduct and declare the input VAT of infrastructure not included in the land use right value which not subject to VAT.

From 12 September 2022, in case the company receives the transferred land use right from organizations and individuals, the deductible land value for VAT declaration purposes should

be determined in accordance with clause 1, Article 1 of Decree No. 49/2022/ND-CP amending clause 3, Article 4 of Decree No. 209/2013/ND-CP as mentioned above.

Pursuant to the particular office guidance letter, the land price at the time of being transferred excluding the value of infrastructure, and business establishments are allowed to declare and deduct input VAT of the infrastructure (if any). If the land price is unable to be determined at the time of transferring, the deductible land price for VAT calculation will be determined by the People's Committee of the provinces or municipalities at the time of signing the transfer contract.

#### 4. FOREIGN CONTRACTOR TAX

##### ❖ FCT levied on income from providing the right to use digital utilities on available technological platforms

OL No. 42786/CTHN-TTHT dated 30 August 2022 regulated on declaring FCT of income from providing the right to use digital utilities on available technological platforms as follows:

In case a foreign contractor generates income in Vietnam based on a contract, agreement, or commitment with a Vietnamese company, the income would be subject to FCT as prescribed in Circular No. 103/2014/TT-BTC.

If a foreign contractor without a permanent establishment in Vietnam does not register, declare and pay taxes in Vietnam as prescribed in Article 76, Article 77, Article 78, Article 79 of Circular No. 80/2021/TT-BTC, the company in Vietnam is obliged to declare, withhold and pay taxes on behalf of the foreign contractor as prescribed in Circular No. 103/2014/TTBTC. As follows:

- For CIT: Income received by the foreign contractor from providing the right to use digital utilities on available technological platforms shall be regarded as royalty income as prescribed in clause 3, Article 7, Circular No. 103/2014/TT-BTC dated 06 August 2014 of the MOF, the ratio (%) of CIT on taxable revenue is 10%.
- For VAT: If the income received by the foreign contractor from providing the right to use digital utilities on available technological platforms is neither the software service as prescribed in Decree No. 71/2007/ND-CP

dated 03 May 2007 of the Government nor the technology transfer as prescribed in the Law on Technology Transfer, it shall be subject to VAT with the VAT rate of 5% as services.

#### 5. INVOICES

##### ❖ Plan to deploy electronic invoices with tax authority codes initialized from the cash register.

Notice No. 464/TB-TCT dated 28 September 2022 announced deployment for using electronic invoices with tax authority codes initialized from the cash register by specific planning time as follows:

- Analysing, designing and programming of electronic invoices application software: From 12/09/2022 to 16/10/2022.
- Instituting technical infrastructure, and installing applications: From 01/10/2022 to 16/10/2022.
- Application testing within internal the Tax Authority: From 17/10/2022 to 23/10/2022.
- Integration testing between the electronic invoices management system of the tax authority and the system of organizations receiving, transmitting and storing electronic invoices data: From 24/10/2022 to 06/11/2022.
- Complete the electronic invoice management system to satisfy the requirements arising after testing: From 07/11/2022 to 20/11/2022.
- Deploying an electronic invoice management system to meet the receipt and processing of electronic invoice data with tax authority codes initialized from the cash register. Intended time from 21/11/2022.

## Abbreviations

MOF	CIT
Ministry of Finance	Corporate Income Tax
GDT	PIT
General Department of Taxation	Personal Income Tax
MOLISA	VAT
Ministry of Labour, War invalids and Social Affairs	Value Add Tax
OL	FCT
Official Letter	Foreign Contractor Tax

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*This newsletter aims to update and summarize the general provisions related to Taxation, Accounting, Investment and Labor in Vietnam. You should seek professional advice before making a decision.*