

1. PERSONAL INCOME TAX

❖ PIT policy for foreigners

OL No. 8204/CTHN-TTHT dated 28 February 2023 guides on PIT policy for foreigners as follows:

- In case the Company has foreign employees who do not meet the conditions specified in Clause 1, Article 1 of Circular No. 111/2013/TT-BTC, the foreigner is then determined as a non-resident individual in Vietnam according to regulations in Clause 2, Article 2, Circular No. 111/2013/TT-BTC of the MOF. For non-resident individuals, personal income from wages and salaries is income generated in Vietnam, regardless of where the income is paid and received.
- In case a non-resident individual earns income from wages or salaries arising in Vietnam but is paid from abroad, he/she must declare tax directly to the tax authority as prescribed in Item a.2, Point a Clause 3, Article 19 of Circular No. 80/2021/TT-BTC. The basis for calculating PIT for non-resident individuals shall comply with the provisions of Article 18 of Circular No. 111/2013/TT-BTC by the MOF and the period for PIT declaration should comply with the guidance in Article 8 of Decree No. 126/2020/ND-CP of the Government.

❖ PIT policy on bonus for collaborators

OL No. 4985/CTHN-TTHT dated 13 February 2023 regulates PIT policy on bonuses for collaborators as follows:

- In case the enterprise pays the remuneration, the bonus which is determined as the income from the salary or wages to the collaborators (resident individuals without signed labor contracts or a labor contract with a term of less than three (03) months) with a total income of 2,000,000 VND/time or more, the 10% tax rate must be deducted on the income before paying according to the guidance at Point i, Clause 1, Article 25 of Circular No. 111/2013/TT-BTC dated 15 August 2013 of the MOF.
- In case enterprises give cash as gifts to collaborators, the income from cash is not included in the PIT taxable incomes specified in Clause 10, Article 2 of Circular No. 111/2013/TT-BTC, individuals should not pay PIT on income from gifts.

2. VALUE ADDED TAX

❖ Guidance on VAT policy according to Decree No. 15/2022/ND-CP

OL No. 8202/CTHN-TTHT dated 28 February 2023 guiding on the VAT policy under Decree No. 15/2022/ND-CP as follows:

- In case the enterprise paying VAT by the deductible method incurs the return of goods as prescribed by law, the enterprise should also issue an invoice according to the provisions in Article 4 of Decree No. 123/2020/NĐ-CP dated 19 October 2020 of the Government when returning the purchased goods to the seller. The VAT rate on the return invoice should be the same as the tax rate of the goods stated on the purchase invoice.
- In case an enterprise offers a commercial discount based on quantity and sales, the discount amount shall be adjusted on the invoice of the last purchase or the following period. In case the discount amount is made at the end of the program, an adjusted invoice shall be issued according to the provisions in Article 19 of Decree No. 123/2020/NĐ-CP dated 19 October 2020 by the Government.
- In case an enterprise receives a support fee to provide support services for displaying products, this payment should be declared and paid VAT according to the provisions in Article 15 of Circular No. 219/2013/TT-BTC. The time of issuing invoices and determining VAT is when the services are complete whether payment has been collected or not.

3. CORPORATE INCOME TAX

❖ Estimated CIT remittance of 4 quarters must ensure not less than 80% of the final settlement

OL No. 9579/CTHN-TTHT dated 07 March 2023 issued by the Tax Department of Hanoi guidance specifically as follows:

- The declaration and payment of CIT should comply with Clause 6, Article 8 of Decree No. 126/2020/ND-CP (amended and supplemented in Clause 3, Article 1 of Decree No. 91/2022/ND-CP). The deadline for tax payment should comply with the provisions of Article 55 of the Law on Tax Administration. The Company must determine by itself the amount

of estimated CIT remit quarterly and be entitled to deduct the temporary tax remittance from CIT payable of the annual tax finalization. The total remittance amount of estimated CIT for four quarters should not be less than 80% of the CIT payable to the annual finalization.

❖ Expenses are deducted for income and expenses for employees

OL No. 7973/CT-TTHT dated 27 February 2023 stipulates on whether incomes and expenses for employees are included in deductible expenses as follows:

- In case the Company generates revenues and expenditures on behalf of employees' relatives which are not related to the Company's production and business activities, they are not included in deductible expenses when determining the CIT taxable income of the Company.
- In case it is related to production and business activities, the expenses must satisfy the conditions specified in Article 6 of Circular No. 78/2014/TT-BTC dated 18 June 2014 of the MOF (as amended and supplemented at Clause 2, Article 6 of Circular No. 119/2014/TT-BTC and Article 1 of Circular No. 151/2014/TT-BTC) stipulating deductible and non-deductible expenses when determining taxable income.

4. OTHER TAXES

❖ IMPORT AND EXPORT TAX

Cases of import tax exemption

OL No. 795/TCHQ-TXNK dated 24 February 2023 guidance on import tax of goods temporarily exported then re-import for warranty repair or replacement as follows:

In case the Company temporarily exports products for warranty, repair or replacement, but the supplier determines that the quality is poor and cannot be repaired. The supplier then sends new products for warranty purposes, without payment, goods have not been considered as temporarily exported for re-import because the re-imported commodities are not the exported ones.

5. E-INVOICE

❖ Guidance on VAT rates related to invoices

OL No. 9301/CTHN-TTHT dated 06 March 2023 guiding on VAT rates as follows:

- In case the Company completes the service provision or issues a service invoice after 31

December 2022, this invoice is not eligible for VAT reduction according to Decree No. 15/2022/ND-CP.

- In case the Company has issued an invoice from 01 February 2022 to 31 December 2022 with the VAT rate of 8% as prescribed in Clause 2, Article 1 of Decree No. 15/2022/ND-CP, the Company handles the invoice with errors by the provisions in Article 19 of Decree No. 123/2020/ND-CP when mistakes were detected.
- In case the Company applies VAT by a deductible method, the taxpayer should issue a VAT invoice according to the provisions in Article 4 of Decree No. 123/2020/ND-CP when returning goods according to the regulations of law. The VAT rate of the returned goods should correspond to the tax rate on the purchase VAT invoice.

6. LABOR

❖ Draft amendment of Law on Social Insurance

Currently, the MOLISA is collecting comments on a new draft to amend the Law on Social Insurance ("SI") in a fundamental and comprehensive manner. The following notable changes in the new draft Law on Social Insurance are:

- To contribute SI for the full 15 years to receive a pension:

According to the current Law on SI, in order to receive monthly pension benefits, employees should contribute SI for full 20 years or more together with age conditions.

According to the draft Articles 71 and 105, employees only need to **contribute SI for 15 years or more** and they will have the opportunity to receive a pension when they reach the limit age.

However, the draft also clearly states that employees who participated in compulsory SI and have received lump-sum SI benefits after the effective date of the new Law must contribute SI for the full 20 years for the next time to be entitled to the pension except for retirement due to working capacity decline.

- Only 50% of the SI premium can be withdrawn in advance:

This is one of two options that the MOLISA is proposing in case of the need to withdraw **one-time SI after leaving work** but does not belong to the special case as reaching retirement age, moving abroad to settle down, dangerous disease levels, etc.

Specifically, the Ministry proposes:

Option 01: Employees are entitled to a one-time withdrawal of SI after 12 months not eligible to participate in compulsory SI, do not pay voluntary SI contributions, and have paid SI contributions for less than 20 years.

Option 02: Employees who withdraw SI once after 12 months are not eligible to participate in compulsory SI, do not participate in voluntary SI, and have paid SI contributions for less than 20 years but only 50% of the total can be withdrawn. The remaining time is reserved to enjoy the SI benefits when reaching full age.

- Adding subjects who are Vietnamese citizens paying compulsory SI such as employees who sign labor contracts with a month term or more but work part-time, with a salary equal to or higher than 2 million VND; household business; etc
- Adjusting the ceiling salary for SI contributions from 20 times the base salary (equivalent to 29.8 million VND/month) to **36 million VND/month**. However, the Government will still make adjustments based on the consumer price index and economic growth.

- Employees suffering from long-term illnesses are no longer entitled to 75% of the salary on which SI premiums are based for a maximum of 180 days. However, the employee's sick leave period is determined according to the time of SI contributions and working conditions regardless of what disease the person has.
- All abortions are entitled to the maternity regime, even when the pregnancy is terminated under the direction of a competent medical examination and treatment facility.
- Narrowing the range of relatives eligible for death allowance.
- Set a specific level to enjoy convalescence allowance after sickness and maternity; a one-time allowance upon childbirth; a funeral allowance; monthly death benefit, etc. instead of based on salary as presently.

If the Draft Law on SI is approved by the National Assembly, the above amendments will take **effect from 01 January 2025**.

Abbreviations

CIT	MOLISA
Corporate Income Tax	Ministry of Labor, War Invalids and Social
PIT	Affairs
Personal Income Tax	MOF
VAT	Ministry of Finance
Value Added Tax	GDT
OL	General Department of Taxation
Official Letter	SI
	Social Insurance

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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.