

1. CORPORATE INCOME TAX

❖ Interest expense due to late payment is deductible when determining the taxable income of CIT

OL No. 32079/CTBDU-TTHT dated 05 December 2023 issued by the Tax Department of Binh Duong guides as:

Interest expense due to late payment accordantly to the provisions in the purchase and sale of goods contract is calculated into deductible expense when determining taxable income CIT.

❖ Allocation of CIT for enterprises with factories located different from the Head Office

OL No. 65973/CTHN-TTHT dated 12 September 2023 issued by the Hanoi Tax Department guidance as:

The Company has a production factory settled in a different province from the Head Office and performs centralized accounting at the Head Office should submit the tax declaration to the tax authority directly managing the Head Office.

Accordingly, the Company belongs to the case of allocating CIT as follows:

- Perform CIT declaration and finalization for all production and business activities by Form No. 03/TNDN, submit the appendix table of the CIT payable allocation to all localities generated income from the production activities by Form No. 03-8/TNDN and Form No. 03-8B/TNDN as attached issued to Circular No. 80/2021/TT-BTC for the direct management tax authority;
- Pay tax according to payable amount by each province benefiting from the income allocated to the locality where the factories settled.

2. VALUE ADDED TAX

❖ Reduction of VAT from 01 January 2024 until 30 June 2024

Decree No. 94/2023/NĐ-CP dated 28 December 2023 regulates the policy of reducing VAT according to Resolution No. 110/2023/QH15

Accordingly, VAT reduces for groups of goods and services currently applying the tax rate of 10%, except for groups specified in Appendices I, II and III issued together with Decree No. 94/2023/NĐ-CP.

For business establishments calculating VAT by deduction method, the applied VAT rate is 8%.

For business establishments (including households and individual businesses) calculating VAT by the percentage (%) of revenue method is eligible to reduce by 20% of the percentage to calculate VAT when issuing invoices.

❖ Instructions on a supplementary declaration of VAT invoices omitted from the inspected tax period

OL No. 4955/TCT-KK dated 06 November 2023 issued by the GDT guidance as:

In case, the Company recognizes that some VAT invoices for goods and services purchased in the period were omitted after the tax authority has issued the inspection decision but before the tax refund, the Company is eligible to declare additional tax dossiers:

- In case, the supplementary declaration increases the tax payable and decreases tax deductible or tax exempted, reduced, refunded, the Company will be fined for administrative violations under tax management.
- Conversely, in case of reducing the tax payable or increasing the deductible tax or tax exemption, reducing, refund, the Company should implement following the regulations on tax complaint settlement.

❖ Instructions on issuing replacement invoices to issued one by the old regulations

OL No. 77225/CTHN-TTHT dated 30 October 2023 issued by the Hanoi Tax Department specifically as:

In case the Company issues an e-invoice following the regulations in Decree No. 123/2020/NĐCP and sent to the buyer but the parties detect errors in the payment amount, tax rate, and tax amount stated on the invoice, the Company may choose to issue an e-invoice to adjust the issued one with errors or a new e-invoice to replace the one with mistakes according to instructions at point b Clause 2 Article 9 of Decree No. 123/2020/NĐ-CP dated 19 October 2020 of the Government.

In case the invoice issued under the provisions of Decree No.51/2010/ND-CP dated 14 May 2010, Decree No.04/2014/ND-CP dated 17 January 2014 of the Government and other guidance documents of the MOF has discovered an error,

the seller and buyer should make a written agreement clearly stating the mistakes, and the seller should notify the tax authority by Form No. 04/SS-HDDT issued together with Decree No. 123/2020/ND-CP and issue new e-invoices to replace the error invoices as prescribed in Clause 6, Article 12 of Circular No.78/2021/TT-BTC dated 17 September 2021 of the MOF.

❖ **VAT payment vouchers that have been omitted in the tax refunded period should not entitled to additionally declare**

OL No. 5847/TCT-KK dated 21 December 2023 issued by the General Department of Taxation guidance as:

In case the Company omitted to declare VAT payment vouchers of imported goods that arose in the tax refund period when submitting the VAT refund dossiers. After the inspection of the tax authority, the Company is not entitled to make additional tax declarations after tax refund decision issuance.

❖ **Declare VAT on adjusted and replaced e-invoices**

OL No. 7445/CTQNA-KK dated 4 October 2023 issued by the Tax Department of Quang Nam Province specifically as:

The Company is allowed to submit an amendment tax declaration for each tax declaration at the time the invoice is generated when discovering the input VAT invoices of previous periods are incorrect or have not yet been declared. In case the supplement VAT declaration only increases or decreases the amount of deductible VAT for the next period (item 43) in the erroneous tax period, the Company should declare the variance VAT in "Decrease adjustment" (item 37) or "Increased adjustment" (item 38) on the first declaration of the current tax period.

3. PERSONAL INCOME TAX

❖ **PIT on welfare from the trade union fund**

OL No. 3010/CTHNA-TTHT dated 16 October 2023 issued by Tax Department of Ha Nam Province guidance as:

Payments (for Mid-Autumn Festival, International Women's Day, etc.) to employees that are withdrawn from the trade union fund and served the specified tasks stipulated in Article 27 of Laws on Trade Union dated 20 June 2012 are not subject to PIT on salary and wages. Payments not meet the conditions

mentioned above are subject to PIT on salary income.

❖ **PIT of expatriates**

OL No. 24509/CTBDU-TTHT dated 19 October 2023 issued by Binh Duong Tax Department guides as:

Expatriates present in Vietnam for less than 183 days in a year and defined as non-residents in Vietnam are subject to a tax rate of 20% and should not finalize PIT when leaving Vietnam.

In case a change in residency status leads to a difference amount between tax paid and actual payable, the Company should prepare the amendment of monthly/quarterly PIT declarations as prescribed under Article 7, Decree No. 126/2020/ND-CP dated 19 October 2020 issued by the Government.

Individuals should prepare tax refund applications under instructions in Article 42 of Circular No. 80/2020/TT-BTC of the Ministry of Finance if they want to refund the overpaid tax amount.

4. FOREIGN CONTRACTOR TAX

❖ **Failure to submit FCT declaration can lead to administrative penalties or criminal prosecution**

OL No. 2865/TCT-PC dated 11 July 2023 issued by the General Department of Taxation regulated as:

The case of the taxpayer not submitting the FCT declaration is determined as an act of tax evasion as prescribed in Point a, Clause 1, Article 17 of Decree No.125/2020/ND-CP does not consider the case of lifting to the false declaration act. That means taxpayers should be considered sanctioned for administrative violations of tax evasion or be prosecuted for criminal execution according to regulations.

❖ **Instructions for determining exchange rates for calculating tax of contractor contracts**

OL No. 4666/TCT-PC dated 23 October 2023 issued by the General Department of Taxation guidances as:

According to the provisions at Point 1.3, Clause 1, Article 69, Circular No. 200/2014/TT-BTC (amended by Clause 3, Article 1, Circular No. 53/2016/TT-BTC), for purposes of bookkeeping, preparing and presenting financial statements, the Company in case of paying FCT on behalf of foreign contractors should determine whether the contract value includes tax or not to apply the appropriate exchange rate, specifically as:

- In cases, the FCT is receivable of enterprise in Vietnam under the contractor contracts, the actual transaction rate is the buying rate of the commercial bank where the enterprise appoints the clients to pay at the time of transaction;
- In cases, under the contract, the FCT is included in the value of assets or expenses purchased from foreign contractors that have not yet been paid, the actual transaction rate is the selling rate of the commercial bank where the Company plans to remit at the time of transaction;
- In cases where the FCT is included in the value of asset or expenses purchased from foreign contractors under the contract are paid immediately in foreign currency, the actual transaction rate is the buying rate of the commercial bank where the business remitted payments.

Taxpayers prepare adjustment declarations following the provisions of Article 47 of Circular No. 80/2021/TT-BTC dated 29 September 2021 of the Ministry of Finance.

5. INVOICE

❖ Instructions on granting invoices for businesses being enforced by tax debts

OL No. 91/TCT-QLN dated 09 January 2024 issued by the General Department of Taxation stipulated as:

In case, a business that is enforced tax debts by stopping using invoices provides goods and services to many different customers, when requesting for granting the e-invoices with the code of the tax authority each time arises, the business is allowed to ask for using multiple e-invoices at once and should pay the full amount of tax payable by the regulations or pay 18% of the revenue on the invoice used under the regulations at point d, Clause 4, Article 34 of Decree No. 126/2020/ND-CP dated 19 October 2020 of the Government.

6. LABOR

❖ Foreign exchange rate in the first 6 months of 2024 when calculating social insurance premiums

OL No. 02/BHXH-TST dated 02 January 2024 issued by the Social Insurance Department of Ho Chi Minh City guides as:

The exchange rate for VND converting implemented from 1 January 2024 for the first 6 months of 2024 for labor's wages and salaries in the foreign currency stated in the labor contract is **23,848 VND/USD**. The exchange rate is applied to convert salaries in foreign currency to VND when calculating the level of SI contribution according to Decree No.115/2015/ND-CP.

Abbreviations

MOF	CIT
Ministry of Finance	Corporate Income Tax
OL	PIT
Official Letter	Personal Income Tax
MOLISA	VAT
Ministry of Labour, War Invalids and Social Affairs	Value Added Tax
DOLISA	FCT
Department of Labour, War Invalids and Social Affairs	Foreign Contractor Tax
GDT	EPE
General Department of Taxation	Export processing Enterprise

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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.