

1. CORPORATE INCOME TAX

- ❖ **The CIT incentive by Decree No. 218/2013/ND-CP applies to investment projects established prior to 2014 but have not yet commenced operations or generated revenue.**

OL No. 116/TCT-CS dated 10 January 2024 issued by the General Department of Taxation guidance on CIT policy with the following content:

A Company that was established and granted an Investment Certificate ("IC") in 2007 but has not yet commenced operation or generated revenue and subsequently received an amendment of IC after 01 January 2014 is eligible to enjoy CIT incentive under Articles 15 and 16 of Decree No. 218/2013/ND-CP. The incentive application period is determined from the time the project generates revenue.

In addition, the General Department of Taxation has affirmed that CIT incentive should not be applied for income derived from warehouse rental and the trading of steel and raw materials due to the nature of the commercial activity is not associated with the investment activities of the project.

- ❖ **The Import duty and Environmental protection tax arrears are considered deductible expense when determined CIT.**

OL No. 5824/TCT-CS date 20 December 2023 issued by GDT stipulates deductible expenses when determining CIT with the following content:

The import duty and EPT arrears collected under the customs authority's decision (not subject to penalties for fraud or tax evasion) are considered deductible expenses when determining CIT taxable income.

- ❖ **The branches that declared and remitted CIT independently and were lent without interest or with interest below market rate are subject to tax imposition**

OL No. 3782/TCT-CS dated 25 August 2023 issued by the GDT regulates tax policy as follows:

For enterprises that are not operated under the Law on Credit Institutions and engage in irregular lending activities to other organizations

(including lending to independent branches declare CIT separately from the head) with no interest or interest lower market rate for the same term and scale, enterprises will be subject to tax imposition as stipulated by tax administrative regulations.

2. PERSONAL INCOME TAX

- ❖ **PIT calculation in Vietnam when expatriates contribute to compulsory insurance overseas.**

OL No. 6002/TCT-DNNCN dated 29 December 2023 issued by the GDT guidance on PIT policy for compulsory insurance payments abroad as follows:

Foreign employees are assigned to work in Vietnam by an overseas company by internal transfer. In case, foreign employees receive salaries paid by the Vietnamese and foreign company (including compulsory insurance contributions overseas) that are fully reimbursed by the Vietnamese company, the compulsory insurance contributions overseas will not be eligible to be deducted when calculating PIT in Vietnam.

3. VALUE ADDED TAX

OL No. 5435/TCT-CS dated 4 December 2023 issued by the GDT stipulated the VAT policy as follows:

When dealing with a range of goods and services that are subject to various VAT rates, the Company should declare VAT per the relevant tax rate that applies to each type of good or service. In case, the tax rate is undetermined, the Company should calculate and pay tax at the highest rate for the goods and services produced and traded by the Company. Furthermore, for construction and installation activities that involve acceptance and handover of works, items produced during the VAT reduction period (irrespective of whether payment has been collected or not) will still be eligible for VAT reduction under regulations.

4. FOREIGN CONTRACTOR TAX

❖ FCT and VAT refund for expansion investment projects.

OL No. 505/CTLAN-TTHT dated 31 January 2024 issued by the Tax Department of Long An province guides on FCT and VAT refund of expansion investment projects as below:

In case the Company is identified as subject to declare FCT on behalf when importing goods with services performed in Vietnam under the delivery conditions DPU - Incoterm 2020, the basis for calculating FCT should be according to regulations specified in Article 6, Article 7, Article 12 and Article 13 of Circular No. 103/2014/TT-BTC dated 6 August 2014 of the Ministry of Finance.

In case the Company incurs VAT on goods, machinery, and equipment imported for serving an investment expansion project, the Company does not meet the conditions for VAT refund for new investment projects as stipulated in Article 3 of Decree No. 49/2022/NĐ-CP dated 29 July 2022 granted by the Government. However, the VAT for import is eligible for refunding VAT if complying with the provisions in Article 14 of Circular No. 219/2013/TT-BTC dated 31 December 2013 and Clause 10 of Circular No. 26/2015/TT-BTC dated 27 February 2015 issued by the Ministry of Finance.

5. INVOICE

❖ Replacement e-invoice should be issued when liquidating or terminating the implementation of a real estate transfer contract.

OL No. 25/CTVPH-TTHT dated 4 January 2024 issued by the Tax Department of Vinh Phuc Province guides on VAT invoicing issuance as follows:

In case the Company has issued a sale invoice for an apartment according to the provisions of Article 16, Circular No. 39/2014/TT-BTC, but subsequently the Company and the buyer agree to terminate the execution of the contract. The following procedures should be followed:

- Prepare an agreement clearly outlining the reason for termination.
- Notify the tax authority by Form No. 04/SS-HDĐT issued in conjunction with Decree No.123/2020/ND-CP.
- Generate a new e-invoice to replace the previously issued invoice and digitally sign.

Abbreviations

MOF	EPT	Environmental Protection Tax	CIT
Ministry of Finance		Corporate Income Tax	
MOC		PIT	
Ministry of Construction		Personal Income Tax	
MPI		VAT	
Ministry of Planning and Investment		Value Add Tax	
GDT		SI	
General Department of Taxation		Social insurance	
MOLISA		HI	
Ministry of Labour, War invalids and Social Affairs		Health 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