

1. CORPORATE INCOME TAX

❖ Instructions on defective and damaged goods during the production process

OL No. 796/TCT-CS dated 20 March 2023 issued by the General Tax Department guides as:

In cases, the goods which are defective or damaged during the production process can not be recycled and must be destroyed, the case is not under the provisions of corporate income tax law. Therefore, the value of destroyed goods cannot be deducted when calculating CIT.

❖ Instructions on determining deductible interest expenses according to the limit of 30% EBITDA for income from deferred sales interest

OL No. 42369/CTHN-TTHT dated 19 June 2023 issued by the Tax Department of Ha Noi guides as:

In case, an enterprise generates income from deferred payment interest, the income is not considered as deposit or loan interest arising during the tax period to be included in deductible net interest expense.

2. FOREIGN CONTRACTOR TAX

❖ Taxation on service of sample testing prior to importing to Vietnam

OL No. 47359/CTHN-TTHT dated 05 July 2023 issued by the Tax Department of Ha Noi guides as:

In case a foreign enterprise generates income from providing accommodations that are products attached with the copyright service of using goods in Vietnam, the foreign enterprise is subject to FCT as follows:

- In case the value of goods and copyright service can not be separated:
 - CIT: 2% of taxable revenue
 - VAT: 3% of taxable revenue.
- In case the value of goods and copyright service can be separated:
 - CIT: 10% of taxable revenue on income of copyright service

▪ VAT:

- In case the copyright service is subject to Technology Transfer/Intellectual Property Franchise under the Law of Technology Transfer/Intellectual Property, the copyright service is not subject to VAT.
- Remaining cases: 5% of taxable revenue.

3. PERSONAL INCOME TAX

❖ PIT on the contract signed with a foreign collaborator

OL No. 13697/CTBDU-TTHT dated 12 July 2023 issued by the Tax Department of Binh Duong guides as:

Accordingly, income from sales brokerage activities of foreign collaborators who do not reside in Vietnam to sell the products of the Company to customers abroad is determined as income generated outside Vietnam. The company should not deduct PIT when paying brokerage fees to foreign collaborators not reside in Vietnam.

4. VALUE ADDED TAX

❖ VAT declaration

OL No. 27085/CTHN-72028/CTHN-TTHT dated 09 October 2023 issued by the Tax Department of Ha Noi guidances as:

In case a dependent unit directly sells and uses invoices registered by itself or the taxpayer with the directly managing tax authority of the unit, fully tracks and records input and output VAT, the dependent unit declares tax and pays VAT to their directly managing tax authority in accordance with the provisions of Clause 4, Article 13, Circular No. 80/2021/TT- BTC of the Ministry of Finance.

5. INVOICE

❖ Issue invoices to return imported goods

OL No. 74367/CTHN-TTHT dated 18 October 2023 issued by the Tax Department of Ha Noi stipulates as:

In case, the Company declares VAT by deduction method, imports supplies that do not meet the quality, and returns them as agreed, the Company should fill in export procedures with the Customs and issue VAT invoices for returned exported goods when returning the goods in accordance with the provisions of Article 8, Decree No. 123/2020/ND-CP

Regarding the tax rate and conditions for applying the 0% rate, the Company should comply with the provisions of Article 9, Circular No. 219/2013/TT-BTC dated 31 December 2013.

❖ **Issue return invoices to the goods supplier**

OL No. 73896/CTHN-TTHT dated 16 October 2023 issued by the Tax Department of Ha Noi specifically as:

In case, the Company is the purchaser and purchases goods from the vendor, the vendor issues an invoice and the Company has received the goods but later discovers that they do not meet the specifications and quality and should be returned. The vendor should issue an invoice for goods return as according to the provisions of Clause 1, Article 4, Decree No. 123/2020/ND-CP dated 19 October 2020 of the Government, the vendor and the purchaser should make an agreement clearly stating the return of the goods (the purchaser should not issue an invoice for returning goods).

The VAT shown on the invoice is the VAT corresponding to each type of goods according to the provisions of Law on VAT at point b, Clause 6, Article 10, Decree No. 123/2020 /ND-CP.

Abbreviations

MOF

Ministry of Finance

MPI

Ministry of Planning and Investment

GDT

General Department of Taxation

MOLISA

Ministry of Labour, War invalids and Social Affairs

OL

Official Letter

CIT

Corporate Income Tax

PIT

Personal Income Tax

VAT

Value Add Tax

SI

Social insurance

HI

Health insurance

Contract:

KHAI MINH CONSULTING COMPANY LIMITED

Room 603, 6th Floor, Citilight Tower, No. 45 Vo Thi Sau Street
Da Kao Ward, District 1, Ho Chi Minh City, Vietnam

Tel: 84 28 3820 5731 / 2

Fax: 84 28 3820 0906

(English)

Trần Mai Tường Vy

tran.mai.tuong.vy@kmc.vn

Nguyễn Văn Mùi

nguyen.van.mui@kmc.vn

(Japanese)

Lê Quốc Duy

le.quoc.duy@kmc.vn

Nguyễn Thị Thảo Uyên

nguyen.thi.thao.uyen@kmc.vn

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