



# August 2024 Newsletter

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**KMC CONSULTING COMPANY LIMITED**

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## **1 Tax policy for services of TikTok Pte. Ltd**

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*OL No. 3115/TCT-CS dated 19 July 2024 issued by GDT guides on tax policy for services of TikTok Pte. Ltd:*

One of the conditions for deducting VAT is having an input VAT invoice for purchased services, or a VAT payment document at the import stage, or a VAT payment document on behalf of the foreign party.

The invoice of the foreign supplier (TikTok Pte. Ltd) is not a VAT invoice for declaring VAT under the deduction method according to the law on invoices and documents; therefore, it does not meet the conditions for deducting input VAT according to the regulations.

## **2 VAT on compensation by offsetting debt**

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*OL No. 2661/CTBDI-TTHT dated 24 July 2024 issued by the Tax Department of Binh Dinh advised on compensation by offsetting payables as detailed:*

The offsetting debt is determined as the compensation in cash:

- The supplier (paying the compensation) should not issue an invoice but only issue a payment document;
- The company (receiving the compensation) issues a receipt document according to regulations.

The invoice issued by the supplier for recording the compensation mentioned above does not conform to regulations and, therefore, cannot be utilized to claim input VAT deduction.

## **3 VAT on the activity of selling intellectual property rights abroad**

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*OL No. 2204/TCT-CS date 24 May 2024 issued by GDT regarding VAT on selling intellectual property rights abroad:*

In case, a Company exports software products or services by law, the activities are under the category of 0% VAT rate when meeting the conditions specified in Article 9 of Circular No. 219/2013/TT-BTC.

Otherwise, the Company engages in the transfer of intellectual property rights abroad, that case does NOT fall under the category eligible for the 0% VAT rate as stipulated in Clause 2, Article 1 of Circular No. 130/2016/TT-BTC.

## **4 Tax policy for business cooperation contracts**

*OL No. 45796/CTHN-TTHT dated 12 August 2024 issued by Ha Noi Tax Department guidances on tax policy for business cooperation contracts:*

In case the Company enters into a business cooperation contract with an individual, the Company is responsible for declaring VAT on all revenue generated from business cooperation activities per regulations, irrespective of the method used to divide the business cooperation results. Furthermore, the Company is responsible for fulfilling the declaration and payment of personal income tax on behalf of the individual involved in the business cooperation following Point c, Clause 5, Article 7 of Decree No. 126/2020/ND-CP of the Government.

Tax declaration dossiers on behalf of individuals are to be prepared by the instructions in Clause 1, Article 16 of Circular No. 40/2021/TT-BTC dated 1 June 2021 of the MOF.

For individual revenue over 100 million VND/year, the personal income tax rate is implemented under the provisions in Point 2, Appendix I issued with Circular No. 40/2021/TT-BTC.



## **5 Recording deductible expenses when purchasing an apartment as housing for foreigners**

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*OL No. 44615/CTHN-TTHT dated 05 August 2024, issued by Ha Noi Tax Department regarding tax policies on employee's housing:*

When the Company purchases an apartment that is not a qualified case of input VAT deduction as stipulated in Article 14 of Circular No. 219/2013/TT-BTC dated 31 December 2013 issued by the MOF, the Company is not eligible to deduct input VAT.

## **6 Recording deductible expenses when purchasing an apartment as housing for foreigners**

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*OL No. 44615/CTHN-TTHT dated 05 August 2024, issued by Ha Noi Tax Department regarding tax policies on employee's housing:*

In case an individual resides at the workplace, the personal taxable income is determined based on the rent or depreciation, electricity, water, and other services calculated by the area ratio of the individual's occupied and total of the workplace.

## **7 Policy on PIT for granting stocks to employees**

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*OL No. 44496/CTHN-TTHT date 02 August 2024 issued by Ha Noi Tax Department specially as:*

When a company grants shares to employees:

- The income from stock grants is considered taxable PIT from wages and salaries and is applied PIT rate follows the Partially Progressive Tariff.
- Employees who received stock grants are not required to deduct PIT on wages and salaries when receiving the stock.
- When employees transfer the granted stock, they should declare and pay PIT on the income from the stock transfer as income from wages and salaries

## **8 Tax policy for services of TikTok Pte. Ltd**

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*OL No. 3115/TCT-CS dated 19 July 2024 issued by GDT stipulates tax policy for services of TikTok Pte. Ltd:*

In case the Company in Vietnam receives invoices and documents with the name, address and tax file number of the Company from a foreign supplier (TikTok Pte. Ltd) for services related to the business activities and meets the payment conditions, this is considered as deductible expenses when determining CIT taxable income (including amounts has identified as VAT paid to the foreign supplier and stated on the invoices and documents issued by them to the Vietnamese Company).

## **9 Recording deductible expenses when purchasing an apartment as housing for foreigners**

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*OL No. 44615/CTHN-TTHT dated 5 August 2024, issued by the Hanoi Tax Department regarding tax policies on employee's housing:*

In case a Company has fixed assets used for business operations and directly provides housing for employees, and the equipment and furnishings installed in this facility qualify as fixed assets, the depreciation expenses of these fixed assets are eligible as deductible expenses when calculating CIT taxable income as satisfied the conditions specified in Article 4 of Circular No. 96/2015/TT-BTC.



## **10** Determining CIT deductible expenses for documentation proving as an appointment letter

*OL No. 3468/TCT-CS dated 7 August 2024 issued by the GDT guidances on determining CIT deductible expenses for documentation proving as an appointment letter:*

Regarding the internal transfers, the MOF issued OL No. 5476/BTC-CST dated 07 May 2020 to the MPI addressing the implementation of the 2019 year-end session results of the Vietnam Business Forum (VBF).

In response to Recommendation No. 21 put forth during the 2019 VBF year-end session, wherein the European Chamber of Commerce recommended the recognition of appointment letters as a valid document for substantiating deductible expenses, the MOF issued Official Letter No. 5476/BTC-CST dated May 7, 2020. The MOF emphasized as follows:

"According to the provisions of CIT law, the recommendation to amend and include appointment letters as a document for deductible salary and wage expenses is not considered appropriate."

## **11 Tax policy for services of TikTok Pte. Ltd**

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*OL No. 3115/TCT-CS dated 19 July 2024 issued by GDT directions on tax policy for services of TikTok Pte. Ltd:*

In case the foreign supplier (TikTok Pte. Ltd) has registered, declared, and paid taxes following Articles 76, 77, and 78 of Circular No. 80/2021/TT-BTC dated 29 September 2021 issued by the MOF, the foreign supplier will declare and pay taxes directly through the electronic portal of the GDT. The Company in Vietnam should not withhold and declare taxes on behalf of the foreign supplier.

## **12** How should the VAT paid on imported goods have been returned to the foreign supplier?

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*OL No. 21865/CTBDU-TTHT dated 06 August 2024 issued by the Binh Duong Provincial Tax Department regarding the VAT policy on imported goods as:*

In case the Company has remitted VAT on imported goods but subsequently returned to the foreign owner due to poor quality, the Company should contact the Customs authority to process the VAT refund according to regulations

## **13 Adjust multiple invoices for the same customer**

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*OL No. 3543/TCT-CS dated 13 August 2024 issued by the GDT regarding electronic invoices, especially as:*

In case a Company issues electronic invoices to adjust or replace multiple erroneously issued invoices for the same buyer, the Company should handle the previously issued invoices in accordance with the regulations specified in Clause 2, Article 19 of Decree No.123/2020/ND-CP.

## **14 Retail sectors SHOULD issue electronic invoices from cash registers in 2024**

*OL No. 2637/TCT-DNNCN dated 19 June 2024 issued by the GDT concerning the evaluation of progress and the necessary tasks to continue the implementation of electronic invoices generated from cash registers in 2024, especially as:*

In 2024, the Tax Department will continue to diligently review and promote the adoption of electronic invoices generated from cash registers within the specified retail sectors and industries:

- Food and beverage services, restaurants, entertainment services, shopping venues, retail pharmacies, and businesses within the nightlife economy sector.
- Trading, purchasing, and selling of gold (including jewellery and ornamental gold).
- Business sector within the golf course, cable cars, road tolls, sales of tourist tickets; passenger transportation; and cosmetic or beauty services.



## **14 Retail sectors SHOULD issue electronic invoices from cash registers in 2024**

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Specifically, for retail chains headquartered in Hanoi and Ho Chi Minh City with extensive retail operations and have not utilized electronic invoicing generated from cash registers yet, the Company is mandatory to fully implement electronic invoices generated from cash registers (as per the attached list) by the end of the third quarter of 2024.

# Abbreviations

<b>VAT</b>	Value Added Tax	<b>MOF</b>	Ministry of Finance
<b>PIT</b>	Personal Income Tax	<b>GDT</b>	General Department of Taxation
<b>CIT</b>	Corporate Income Tax	<b>MOIT</b>	Ministry of Industry and Trade
<b>BLT</b>	Business License Tax	<b>MOLISA</b>	Ministry of Labor, War Invalids and Social Affairs
<b>SCT</b>	Special Consumption Tax	<b>DPI</b>	Department of Planning and Investment
<b>IET</b>	Import and Export Tax	<b>SBV</b>	The State Bank of Vietnam
<b>FCT</b>	Foreign Contractor Tax	<b>EPE</b>	Export processing enterprises
<b>OL</b>	Official Letter	<b>EPZ</b>	Export Processing Zone
<b>INV</b>	Invoices	<b>IZ</b>	Industrial Zone



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KMC's 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.







# Connect with us.

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