



January 2025 Newsletter

KMC CONSULTING COMPANY LIMITED

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1 PIT on foreign income

OL No. 227/CTTVI-TTHT dated 21 January 2025 issued by the Tra Vinh Provincial Tax Department guides PIT on foreign income:

In cases, individuals, who are residents and earn income from salaries or wages abroad or non-residents and earn income from salaries or wages generated in Vietnam and paid from abroad, are required to directly declare taxes with the tax authorities following Section a.2, Point a, Clause 3, Article 19 of Circular No. 80/2021/TT-BTC. The classification of resident and non-resident individuals follows the provisions of Article 1 of Circular No. 111/2013/TT-BTC.

1 PIT on foreign income

The calculation of PIT for non-resident individuals is governed by Article 18 of Circular No. 111/2013/TT-BTC issued by the Ministry of Finance. For resident individuals, the applicable provisions are found in Article 7 of the same Circular. The PIT declaration period is regulated by Clause 2 and Article 8 of Government Decree No. 126/2020/ND-CP. Furthermore, the determination of taxable income for both resident and non-resident individuals adheres to Article 2 of Circular No. 119/2014/TT-BTC.

The tax declaration dossier for individuals who earn income from salary or wage and directly declare tax to the tax authorities must comply with Section 9.2, Item 9, Appendix I of the List of Tax Declaration Dossiers (attached to Government Decree No. 126/2020/ND-CP).

2 PIT policy for one-time pension benefits paid from voluntary pension funds abroad

OL No. 32578/CTBDU-TTHT dated 26 December 2024 issued by the Binh Duong Provincial Tax Department regarding PIT policy for one-time pension benefits paid from voluntary pension funds abroad:

The Company has foreign employees assist in work in Vietnam as internal transfers, if the individual participates in the Voluntary Pension Fund according to the regulations of the country where that individual is a citizen, the pension payment from the Voluntary Pension Fund that the individual receives is income exempt from PIT regardless of the form of payment

3 Taxation Policy on Gifts for Employees

OL No. 5257/CTLAN-TTHT dated 21 November 2024 issued by the General Tax Department of Long An Province regarding tax policies applicable to gifts for employees:

Under the provisions of Circular No. 111/2013/TT-BTC dated 15 August 2013 issued by the Ministry of Finance:

- The gifts do not constitute as wages or salary compensation and do not fall under the provisions specified in Clause 10, Article 2 of Circular No. 111/2013/TT-BTC dated 15 August 2013 issued by the Ministry of Finance, will not be subject to PIT on gift receipts.
- In cases the Company provides benefits, whether monetary or non-monetary, that are classified as wages or salary compensation for employees as stipulated in Clause 2, Article 2 of Circular No. 111/2013/TT-BTC, these benefits will be considered part of the taxable income from wages and salaries.

4 PIT Policy on business trip allowance

OL No. 32592/CTBDU-TTHT dated 26 December 2024 issued by the Tax Department of Binh Duong Province regarding the policy on personal income tax (PIT) for business trip allowances:

In case, a Company incurs expenses for airfare, hotel accommodation, allowance or other costs related to the employee on a business trip following the internal regulations of the entity and defined as business trip allowance under legal regulations specified in Clause 2, Article 2 of Circular No. 111/2013/TT-BTC. These expenses are not included in the PIT taxable income of the employees. However, where the Company provides a business trip allowance exceeding the fixed rates stipulated by the regulations, the excess amount should be included in the PIT taxable income.

4 PIT Policy on business trip allowance

Fixed allowance excluded from taxable Income:

- For civil servants, employees, and individuals working in administrative and non-business agencies: The fixed allowance is determined following the guidelines issued by the Ministry of Finance.
- For employees in business organizations and representative offices: The fixed allowance must align with the taxable income regulations under the Corporate Income Tax Law.
- For employees in international organizations or foreign representative offices: The fixed allowance follows the regulations established by the respective international organization or representative office.

4 PIT Polucy on business trip allowance

Expenses Excluded in Taxable Income:

- Transportation provided for groups of employees is not taxable. (if the transportation fee for an individual will be considered taxable income)
- Skill training and professional development expenses to enhance qualifications and skills relevant to work or follow activities plans of the employer

Other Non-Taxable Benefits:

- Expenses incurred on public holidays or special occasions.
- Expenses for tax consulting or filing services for individuals or groups.
- Expenses for domestic servants (e.g., drivers, cooks, etc.) under a labour contract.

5 CIT incentives for projects of manufacturing supporting industrial products

OL No. 581/CTBDU-TTHT dated 14 January 2025 issued by the Binh Duong Provincial Tax Department regarding CIT policy as:

Case of an investment project has completed the investment phase and has commenced operations. During operations, the Company supplements machinery and equipment to serve its production and business activities, the income generated from the additional machinery and equipment shall be determined as follows: If the machinery and equipment are added after the investment project has commenced, the supplementation is not considered regular investment activities as prescribed or does not meet the conditions of expansion investment, the income generated from the additional machinery and equipment shall not be eligible for CIT incentives.

Where a certain income is eligible for preferential CIT rates and tax exemption or reduction under multiple conditions within the same tax period, the Company may apply the most beneficial CIT incentive.

6 CIT Policy for farm leasing activities

OL No. 96/TCT-CS dated 8 January 2025 issued by the GDT stipulates CIT policies for farm leasing activities of enterprises as:

Income generated by enterprises in cultivation, animal husbandry, aquaculture, or the processing of agricultural and aquatic products within difficult socio-economic conditions areas is eligible for CIT exemption. Income from new investment projects implemented in these areas is eligible for a 10% CIT rate for 15 years, 4 years of tax exemption, and a 50% tax reduction for the following 9 years.

In case an enterprise fails to comply with the project objective (e.g., husbandry project) as stated in the granted IRC or Investment Policy Decision, the enterprise will not be entitled to CIT incentives for income derived from farm leasing activities.

7 CIT Policy for Enterprises Engaging in Related-Party Transactions

OL No. 33190/TCBDU-TTHT dated 30 December 2024 issued by the Tax Department of Binh Duong Province stipulates on CIT policy for related party transactions as:

When a company engages in related-party transactions, the total loan interest expenses after offsetting deposit and lending interest incurred during the period are considered deductible when determined as CIT taxable income if they do not exceed 30% of the total net profit from business activities plus loan interest expenses (post-offsetting deposit and lending interest incurred) and depreciation expenses incurred during the period.

8 VAT refund

OL No. 591/CTBDU-TTHT dated 14 January 2025 issued by the Binh Duong Tax Department regarding VAT refund as:

When the Company meets the conditions outlined in Article 2 of Circular No. 25/2018/TT-BTC dated 16 March 2018 issued by the MOF, the Company is eligible for a VAT refund under the regulations.

The procedures for obtaining a VAT refund are delineated in Article 28 of Circular No. 80/2021/TT-BTC dated 29 September 2021 of the MOF.

9 Tax Policies for Real Estate Transfer Activities

OL No. 575/CTBDU-TTHT dated 14 January 2025 issued by the Binh Duong Tax Department regarding Tax Policies for Real Estate Transfer Activities:

When the Company anticipates engaging in real estate transfer activities, the activities are subject to a 10% VAT rate as stipulated in Article 11 of Circular No. 219/2013/TT-BTC if conducted in compliance with the relevant legal regulations.

The basis for calculating VAT on real estate transfer activities is specified in Clause 1, Article 1 of Decree No. 49/2022/ND-CP, dated 29 July 2022 issued by the Government.

10 CIT incentives and VAT refunds for investment projects

OL No. 5264/CTLAN-TTHT dated 21 November 2024 issued by the Long An Provincial Tax Department guidance regarding CIT incentives and VAT refunds for investment projects as:

When a Company has a new investment project, if the Company accumulates input VAT from goods and services incurred during this phase amounting to VND 300 million or more investment phase and meets the conditions specified in Clause 3, Article 1 of Decree No. 49/2022/ND-CP dated 29 July 2022 issued by the Government, the Company is eligible for a VAT refund on the investment project. The Company is required to prepare separate VAT declarations for each investment project following Point d, Clause 2, Article 7 of Decree No. 126/2020/ND-CP dated 19 October 2020 issued by the Government. The declarations should follow Form 02/Value-Added Tax outlined in Appendix II attached to Circular No. 80/2021/TT-BTC dated 29 September 2021 issued by the Minister of Finance.

11 VAT policies for temporarily imported and re-exported goods

OL No. 5544/CTLAN-TTHT dated 6 December 2024 issued by the Long An Provincial Tax Department stipulates VAT policies for temporarily imported and re-exported goods as:

When a Company has arisen goods categorized as temporarily imported and re-exported, the goods are not subject to VAT as stipulated in Clause 20, Article 4 of Circular No. 219/2013/TT-BTC dated 31 December 2013 issued by the Ministry of Finance. The Company creates the VAT invoices as outlined in Article 4 and Article 10 of Decree No. 123/2020/ND-CP issued by the Government on 19 October 2020. Input VAT of invoices related to temporarily imported and re-exported goods is not deductible as stipulated in Article 14 of Circular No. 219/2013/TT-BTC and not refundable for VAT on exported goods and services under the provisions of Article 2 of Circular No. 25/2018/TT-BTC dated 16 March 2018 issued by the MOF. Relevant expenses to temporarily imported and re-exported goods are deductible when determining CIT taxable income when satisfying the conditions specified in Article 4 of Circular No. 96/2015/TT-BTC dated 22 June 2015 issued by the MOF.

11 VAT policies for temporarily imported and re-exported goods

Article 29 of the 2005 Commercial Law on Temporary Import, Re-Export, Temporary Export, and Re-Import of Goods is detailed as:

- Temporary import and re-export of goods is the movement of goods from a foreign country or special zones within Vietnam territory designated as separate customs zones under the law into Vietnam and conducted import procedures in Vietnam then completed export procedures to re-export the same goods out of Vietnam.
- Temporary export and re-import of goods is the movement of goods to a foreign country or into special zones within Vietnam territory designated as separate customs zones under the law and has conducted export procedures out of Vietnam and subsequently completed import procedures to re-import the same goods back into Vietnam

12 The determination of VAT Rates for Export Service

OL No. 253/CTHN-TTHT dated 3 January 2025 issued by the Hanoi Tax Department guidance on the determination of VAT rates for Export Services as:

The VAT rate of 0% applies to exported goods, services; construction and installation activities abroad and in non-tariff zones; international transportation; and goods and services not subject to VAT when exporting, except for services provided in Vietnam to foreign organizations or individuals as below:

- Sports competitions, cultural performances, entertainment, conferences, hotels, training, advertising, tourism.
- Online payment services.
- Services related to the Sale, Distribution, and Consumption of Products and Goods in Vietnam.

12 The determination of VAT Rates for Export Service

Based on the regulations and guidelines mentioned above, revenues shared from cooperative contracts between the Company and foreign companies and advertising partners are subject to a 10% VAT rate as specified in Article 11 of Circular No. 219/2013/TT-BTC dated 31 December 2013 issued by the Ministry of Finance

OL No. 267/TCT-CS dated 17 January 2025 issued by the General Department of Taxation guidance on VAT policy as below:

A company has a new investment project (divided into multiple investment segments) and is currently in the investment phase. During this phase, if the arising input VAT of purchasing goods and services after offsetting against the VAT payable from ongoing production and business activities (if any) accumulates from 300 million VND and more but has not fully deducted, the Company is eligible for a VAT refund.

14 VAT policy

OL No. 245/CTBDU-TTHT dated 08 January 2025 issued by the Binh Duong Tax Department regarding VAT policy as follow.

When the Company launches a program to offer free goods to customers and employees and the promotional program adheres to relevant Commercial Law regulations regarding trade promotion activities, the Company should issue a VAT invoice. The invoice must specify the name and quantity of the goods along with a note stating that the goods are given free of charge and the tax price for the gifted goods is assigned as nil

When a customer has received goods and wishes to return whole or part of the items, the Company is still required to issue a goods return to adjust or replace the previously issued invoice, regardless of whether a sales invoice has already been issued. The Company and the buyer must reach a mutual agreement specifying the return of goods, accompanied by an adjusted or replacement invoice. The process for handling erroneous invoices should be implemented following the provisions in Article 19 of Decree No. 123/2020/NĐ-CP by the Government and Point c, Clause 1, Article 7 of Circular No. 78/2021/TT-BTC issued by the Ministry of Finance

OL No. 99/TCT-CS dated 08 January 2025 issued by the General Department of Taxation regarding VAT.

Where the Tax Department has refunded VAT for exported goods and services without non-cash payment documentation, the Tax Department shall recollect the refunded VAT amount that lacks non-cash payment documentation following provisions of the Law on VAT and the Law on Tax Administration.

16 Capital transfer associated with real estate

OL No. 590/CTBDU-TTHT dated 14 January 2025 issued by the Binh Duong Tax Department concerning capital transfer associated with real estate:

When the transferor and the transferee in a capital transfer transaction are foreign organizations not operated under the Law on Investment and the Law on Enterprises of Vietnam, the Company is responsible for declaring and paying CIT on behalf of the foreign organization arising from the capital transfer activity. The Company should implement the determination of income from capital transfer by the guidelines provided in Article 14 of Circular No. 78/2014/TT-BTC dated 18 June 2014 issued by the Ministry of Finance (as amended and supplemented by Circular No. 96/2015/TT-BTC dated 22 June 2015 of the MOF). The Company shall declare by Form No. 06/TNDN (applicable to capital transfer transactions involving real estate, as issued with Circular No. 80/2021/TT-BTC dated 29 September 2021 of the MOF) and comply with the provisions of the Law on Tax Administration and Decree No.126/2020/ND-CP.

17 The foreign suppliers have yet to register, declare, and pay taxes

OL No. 6369/TCT-DNL dated 31 December 2024 issued by the GDT regarding the notification of foreign suppliers have yet to register, declare, and pay taxes as:

The GDT inquires the headquarters of banks and other payment service providers to notify the list of foreign suppliers for their branches. This measure ensures that bank branches fulfil tax declaration, deduction, and payment obligations on behalf of foreign suppliers when processing transactions following applicable regulations.

18 Offsetting of Liabilities

OL No. 32593/CTBDU-TTHT dated 26 December 2024 issued by the Binh Duong Tax Department concerning the offsetting of Liabilities as:

Where the Company has receivables and concurrently incurs payables from foreign customers, when the Company and these foreign customers specify an offset payment method in the contract or its appendix and maintain records of data reconciliation and confirmation of offsetting, the offsetting transactions are considered non-cash payments. This payment method provides the basis for the Company to account for deductible expenses when calculating CIT taxable income, as outlined in Article 4 of Circular No. 96/2015/TT-BTC, and to declare and deduct input VAT following Clause 10, Article 1 of Circular No. 26/2015/TT-BTC.

Conditions for Deductible Expenses When Determining CIT (Article 4, Circular No.96/2015/TT-BTC):

- **Actual Incurred Expenses:** Expenses must directly relate to the production and operational activities of the enterprise.

18 Offsetting of Liabilities

- **Legitimate Invoices and Documents:** Expenses must be substantiated by valid invoices and necessary documents as prescribed.
- **Non-Cash Payments:** For expenses amounting to 20 million VND or more, payment should be processed via bank transfer or other non-cash methods accompanied by proper documentation.

Conditions for Input VAT Deduction (Clause 10, Article 1, Circular No. 26/2015/TT-BTC):

- **Offset of Liabilities between Purchased and Sold goods/services:** Mandates a reconciliation record and confirmation of offset payment, and the contract should specify the payment method.
- **Offset of Liabilities via a Third Party:** Mandates three-party agreement and loan/borrowing contract or bank transfer documentation.
- **Payment Authorization via a Third Party:** Payment must be stipulated in the contract and supported by bank transfer documentation.

19 The administrative penalties for violations of tax and invoices

OL No. 216/TCT-PC dated 15 January 2025 issued by the GDT stipulates the administrative penalties for violations of taxes and invoices:

1. Penalty Amount: The Law on Administrative Violations stipulates the forfeitures for each type of violation as prescribed by the Government but not exceed the maximum set for each area of state management as outlined in Article 24 of the Law on Administrative Violations 2012 (amended and supplemented in 2020). Violations of tax and invoices have a specific sanction framework prescribed in Decree No. 125/2020/ND-CP dated 19 October 2020 (amended and supplemented by Decree No. 102/2021/ND-CP dated 16 November 2021). In cases of multiple violations, a single penalty decision will be issued for all. The penalty amount is the sum of each violation and is not limited by the maximum amounts specified in Point c and d, Clause 1, Article 24 of the Law on Administrative Violations 2012 (amended and supplemented in 2020)..

19 The administrative penalties for violations of tax and invoices

2. Aggravating Circumstance of "Large-Scale Administrative Violation": The aggravating circumstance will be applied when the violation of invoices involves 10 or more invoices. Nevertheless, the circumstance will not be applied when there are multiple violations of invoices in a single penalty decision unless the violation involves 10 or more invoices.

3. Aggravating Circumstance of "Repeated Administrative Violations": If an individual or organization commits administrative violations multiple times without having been penalized, they will be subject to heavier penalties as prescribed in point b, Clause 1, Article 10 of the Law on Administrative Violations, 2012 (amended and supplemented in 2020) from the second violation onward.

OL No. 32591/CTBDU-TTHT dated 26 December 2024 issued by the Binh Duong Provincial Tax Department regarding invoicing for lending machinery:

The Company is obliged to issue an invoice when engaging in machinery lending activities. Upon the return of the machinery, the Company must issue a return invoice following Clause 1, Article 4 of Decree No. 123/2020/ND-CP. The content of the invoice must comply with the provisions of Article 10 of the same decree. Additionally, in cases where the depreciation expense of fixed assets during the lending period is not used for production or business activities, the depreciation expenses cannot be classified as a deductible expense when determining CIT taxable income as stipulated in Article 4 of Circular No.96/2015/TT-BTC.

Abbreviations

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



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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.





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