



March 2025

Newsletter

KMC CONSULTING COMPANY LIMITED

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1 (PIT) finalization for migrant workers

OL No.1430/CTDAN-TTHT dated 24 February 2025 issued by the Tax Department of Da Nang City guidance on PIT finalization for dispatched workers

- Suppose an employee who signs a labor contract for 3 months or more and is transferred from the subsidiary to the parent company is still working at the time of tax finalization implemented by the parent company. In that case, the employee can authorize the parent company for PIT finalization according to the provisions of Item d.2, Point d, Clause 6, Article 8 of Decree No.126/2020/ND-CP.
- The parent company is responsible for finalizing tax as authorized by the employee for both the income paid by the subsidiary and collect the PIT withhold receipts issued by the subsidiary to the employee from 01 January 2024 to 30 November 2024 according to the guidance in Item d.1, Point d, Clause 6, Article 8 of Decree No.126/2020/ND-CP.

2 Determining Taxable Income for Collaborator Service Contracts and Allowances

OL No. 833/CTBDI-TTHT dated 6 March 2025 of Binh Dinh Provincial Tax Department guides on determining taxable income for Collaborator Service contracts and allowances

For PIT Withholding on Collaborator Service Contracts:

In cases where the Company signs a service contract for collaborators and pays remuneration of VND 2,000,000 or more per time:

For the collaborator service contracts lasting 3 months or more, the Company shall withhold PIT according to the Partial Progressive Tariff stipulated in Point b.1, Clause 1, Article 25 of Circular No. 111.

For collaborator service contracts lasting less than 3 months, the Company shall withhold PIT at a rate of 10% on each payment of VND 2,000,000 or more, or based on the recipient's commitment. In cases where the recipient submits a commitment, the income-paying organization will not withhold tax (the individual making the commitment is responsible for its accuracy and will be subject to penalties for tax evasion as stipulated in the Law on Tax Administration) according to Point i, Clause 1, Article 25 of Circular No. 111.

2 Determining Taxable Income for Collaborator Service Contracts and Allowances

- For PIT on Allowances:

Allowances for Office Supplies, Business Trips, and Telephone: If the Company pays allowances for office supplies, business trips for employees who go on business trips, and telephone allowances under the Company's financial management regulations, and in compliance with Point đ.4, Clause 2, Article 2 of Circular No. 111/2014/TT-BTC and Article 4 of Circular No. 96/2015/TT-BTC, these allowances should not be included in the employee's taxable income.

Allowances for uniforms: If the Company provides uniform allowances to employees, amounts exceeding VND 5,000,000 per person per year must be included in the employee's taxable income.

3 Deductible expenses for salary payments for unused annual leaves

OL No. 1431/CTDAN-TTHT dated 24 February 2025 issued by the Da Nang Tax Department regarding deductible expenses for payments of unused annual leaves

In cases where an employee resigns or is terminated but has not yet taken or entirely used their annual leaves, the employee is entitled to be paid for the unused leave under Clause 3 Article 113 of the Labor Code No. 45/2019/QH14.

For employees who do not fall under the above scenario, if the Company has an agreement with the employee to work overtime on a public holiday or day off with compensation, the Company is obligated to pay the employee overtime wages according to Point c, Clause 1, Article 98 of the Labor Code No. 45/2019/QH14.

Under the Labor Code and relevant implementing regulations, overtime pay for employees is considered a deductible expense if it meets the conditions stipulated in Clause 1, Article 6 and does not fall under the exceptions outlined in Point 2.5, Clause 2, Article 6 of Circular No. 78/2014/TT-BTC.

4 Input VAT deduction and refund inclusive in deductible expenses when determining taxable income for corporate income tax (CIT)

OL No. 994/TCT-CS dated 28 February 2025 issued by the General Department of Taxation regarding input VAT deduction and refund inclusive in deductible expenses when determining CIT taxable income

In cases where the Company holds VAT invoices for the purchase of gasoline and oil from a fuel business that has not obtained the necessary business license from the Ministry of Industry and Trade, those transactions are regarded as instances of tax and invoice risk. The Tax Department is requested to base on the actual situation of the enterprise and coordinate with the relevant authorities to verify the fuel business activities of the enterprise, as well as whether the actual purchase and sale of fuel were carried out in compliance with the legal regulations. This will form the basis for determining the legality of the invoices and whether the expenses are deductible when calculating CIT taxable income and input VAT deduction according to the regulations.

5 Deductible expenses when determining CIT

OL No. 1519/CTHDU-TTHT dated 26 February 2025 issued by the Hai Duong Tax Department regarding deductible expenses when determining CIT

In cases where a non-business individual directly sold automobiles to the Company, for the expenses to be considered deductible when determining CIT, the Company must have the following documents:

- A sale invoice listing purchased goods and services by the Form 01/TNDN attached to Circular No. 78/TT-BTC;
- Payment vouchers (it is not mandatory to have non-cash payment vouchers);
- The company must have legal documents proving ownership of the assets and must track and depreciate the assets under the regulations of the law.

6 Deductible expenses when determining CIT for business trip expenses

OL No. 3204/CTBDU-TTHT dated 11 March 2025 issued by the Binh Duong Tax Department regarding business trip expenses.

In cases where a company sends an employee on a business trip to serve its production and business activities and incurs expenses are supported by valid invoices and documents under Article 4 of Circular No. 96/2015/TT-BTC and meet the conditions specified in Clause 10, Article 1 of Circular No. 26/2015/TT-BTC, the Company is entitled to claim VAT deduction and include the expenses in the deductible expenses when determining CIT taxable income.

7 Determining CIT incentives for enterprises benefiting due to location

OL No. 995/TCT-CS dated 28 February 2025 issued by the General Department of Taxation regarding determining CIT incentives for enterprises benefiting by locations

In cases where an enterprise has an investment project eligible for CIT incentives due to meeting the location incentive conditions, the income eligible for the incentive is the income derived from the production and business activities of the investment project in the incentive zone excluding income that is ineligible for the incentive as specified by the Law on CIT.

Income that does not arise from the incentive zone or not from the production and business activities of the investment project is not eligible for CIT incentives. The enterprise should separately calculate income from production and business activities eligible and ineligible for CIT incentives to declare and pay taxes separately.

8 Guidelines on CIT for land rental expenses paid in a lump sum

OL No. 140/CT-CS 2025 dated 14 March 2025 issued by the Tax Department providing guidelines on CIT for land rental expenses paid in a lump sum

In cases where a Company incurs land rental expenses paid in a lump sum for the entire lease term and management fees for leased land that has not yet been used for the Company's production and business activities, the expenses are not deductible when determining CIT taxable income at the time the leased land has not yet been used for the Company's production and business activities.

9 Determining the deductible land price when calculating VAT for real estate transfer activities

OL No. 1434/CTDAN-TTHT dated 24 February 2025 issued by Da Nang Tax Department regarding the determination of the deductible land price when calculating VAT for real estate transfer activities

In cases where a Company acquires land use rights from individuals or households, the deductible land price for calculating VAT is based on the land price when the land use rights are transferred and explicitly excludes the value of infrastructure.

In cases where a Company acquires real estate from individuals or households, and the land price includes the value of infrastructure, the deductible land price for calculating VAT is the land price at the time of the transfer excluding the infrastructure value.

If the infrastructure value cannot be separated at the time of transfer, the deductible land price for VAT calculation will adhere to the price regulated by the respective provincial or municipal People's Committee when the transfer agreement is executed.

10 VAT Policy

OL No. 3144/CTBDU-TTHT dated 10 March 2025 issued by the Binh Duong Tax Department regarding VAT policy

- Guidelines on VAT:

The official document provides specific guidance on cases where a 0% VAT rate applies to exported goods, including goods exported domestically. It outlines the conditions required for the deduction and refund of input VAT for certain goods considered exports. The importance of complying with all procedures and documentation requirements is emphasized to benefit from tax incentives.

- Specific guidance for enterprises:

In cases where a company sells goods to foreign traders without a presence in Vietnam via a bonded warehouse, the goods are considered exports within the domestic market. The determination of whether the foreign trader has no presence in Vietnam must comply with legal regulations. The Company must meet the conditions for exporting goods and related regulations to apply the 0% VAT rate. VAT refunds for exported goods are carried out according to the current regulations.

11 VAT Policy

OL No. 117/CT-CS dated 12 March 2025 issued by the Tax Department regarding VAT policy

According to VAT regulations, input VAT incurred after the completion and commencement of an investment project will not be refunded for the project. Instead, it will be carried forward and declared in the VAT return for the next tax period using Form 01/GTGT for the period from when the investment project is completed and operational.

OL No. 267/CT-CS dated 24 March 2025 issued by the Tax Department regarding VAT policy

In cases where a Company exports raw agricultural products that have not been further processed or only undergone basic processing to foreign enterprises, with contracts and customs declarations but without payment documents via banks and other related documents, the Company does not meet the conditions to apply the 0% VAT rate, is not required to calculate VAT output but also ineligible to deduct input VAT.

13 Guidelines on Foreign Contractor Tax (“FCT”)

OL No. 2655/CTBDU-TTHT dated 26 February 2025 issued by the Binh Duong Tax Department regarding FCT policy

In cases where a Company imports machinery and equipment from France, the foreign partner (contractor) generates income in Vietnam. Therefore, the income of the foreign contractor is subject to FCT under the provisions of Circular No.103/2014/TT-BTC.

In cases where the income from asset transfer by the partner is eligible applicant of the Double Taxation Avoidance Agreement (DTAA) between Vietnam and France, the procedures for tax exemption or reduction will be carried out according to Circular No.80/2021/TT-BTC.

13 Guidelines on Foreign Contractor Tax (“FCT”)

- Documents required for tax exemption or reduction include:
 - 1) A request letter in the form of 01/HTQT
 - 2) A certificate of residence issued by the tax authority of the residence country
 - 3) Executed Contracts between organizations or individuals in Vietnam and foreign
 - 4) Power of attorney (if any)
 - 5) The residence certificate has been legalized by consular for the tax year
 - 6) Confirmation of contract performance by the parties to the contract
 - 7) A new economic contract signed by organizations or individuals in Vietnam and foreign (if any)
 - 8) Commitment to submit the legalized consular residence certificate in the quarter immediately following the end of the tax year (if the residence certificate is not available at the time of applying).

13 Guidelines on Foreign Contractor Tax (“FCT”)

- Deadline for submission:
 - 1) For the deduction, declaration method:
 - For estimated CIT: at the same time of the temporary CIT payment in the quarter.
 - For finalized CIT: together with the CIT finalization declaration.
 - 2) For the direct method:
 - For business activities and other types of income: within 15 days before the tax filing deadline.
 - Within 15 days before the expiration of the contract in Vietnam or before the end of the tax year (whichever comes first), the foreign contractor must submit the original legalized consular residence certificate (or a notarized copy) to the Vietnamese party engaging the contract or paying the income. Within 3 working days of receiving the residence certificate, the Vietnamese party must submit it to the tax authority.

13 Guidelines on Foreign Contractor Tax (“FCT”)

3) For the hybrid method:

- Within 15 days before the tax filing deadline.
- Within 15 days before the expiration of the contract in Vietnam or before the end of the tax year (whichever comes first), the foreign contractor must submit the original legalized consular residence certificate (or a notarized copy) to the tax authority.

14 Government's Regulations on Debt Thresholds and Debt Periods for Cases of Temporary Suspending Departure

Decree No. 49/2025/ND-CP dated 28 February 2025 granted by the Government regulates specific debt thresholds and debt periods for cases of temporary suspending departure

Individuals businesses or owners of household businesses, subject to enforcing administrative decisions on tax management with outstanding tax amounts of 50 million VND or more and tax debts are overdue for more than 120 days, are subject to this regulation.

Individuals who are legal representatives of enterprises, cooperatives, or cooperative unions, subject to enforcement of administrative decisions on tax management, with outstanding tax amounts of 500 million VND or more and the tax debts are overdue for more than 120 days, are subject to this regulation.

14 Government's Regulations on Debt Thresholds and Debt Periods for Cases of Temporary Suspending Departure

Individual businesses, owners of household businesses, and legal representatives of enterprises, cooperatives, or cooperative unions which no longer operate at the registered address and have tax arrears overdue according to regulations, have not fulfilled their tax obligations within 30 days from the date the tax authority notifies the measures of temporary suspending departure, will be subject to this regulation.

Vietnamese citizens immigrating abroad, Vietnamese citizens living abroad, and foreigners departing from Vietnam, have tax arrears overdue according to regulations but have not fulfilled their tax obligations, will be subject to this regulation.

15 Visa Exemption for Citizens of 12 Countries

Resolution No. 44/NQ-CP dated 5 April 2024 granted by the Government guidance on visa exemption for citizens of 12 countries

The countries include: Germany, France, Italy, Spain, the United Kingdom and Northern Ireland, Russia, Japan, South Korea, Denmark, Sweden, Norway, and Finland.

Temporary stay duration: 45 days from the date of entry.

Duration of application: From 15 March 2025 to 14 March 2028, with the possibility of extension according to Vietnamese Law.

Work of staff organization at the Tax Sub-Departments after restructuring the Organizational Structure

OL No. 93/CT-TCCB dated 10 March 2025 issued by the Tax Department regarding the work of staff organization at the Tax Sub-Departments after restructuring the organizational structure. The letter guides on arranging deputy positions, ensuring stability, success and balancing the numbers of leader

- For merged areas:
 - + Deputies of Departments at the former Tax Department in the merged areas may register for transfer to departments within the Sub-Department of Taxation at the main office following the principles outlined in the guidance.
 - + Other Deputies will be assigned by the Leader of the Sub-Department of Taxation to the Districtial Taxation Teams, the Inspection and Auditing Department, the Business Management and Supporting Department, and the One-Stop Department.

16

Work of staff organization at the Tax Sub-Departments after restructuring the Organizational Structure

- For the main office areas: The arrangement of Deputies of Departments and Deputies of Sub-Departments will continue according to the principles set out in OL No. 06/CT-TCCB, ensuring the balance of numbers of leaders across units.
- Once the Tax Department issues a decision to appoint Heads of Departments at the Tax Sub-Departments, the Leaders of the Districtial Taxation Team will also be appointed.

17 VAT Invoice for on-spot Exported Goods

OL No. 2721/CTBDU-TTHT dated 27 February 2025 issued by the Tax Department of Binh Duong Province regarding VAT invoices for on-spot exported goods

In cases where the Company sells goods under a contract with a foreign partner who is not present in Vietnam and has designated a local enterprise in Vietnam to handle the delivery and receipt, the sale is considered an on-spot export. If the goods are transported to the border gate or the location for export procedures, the Company should use an internal transfer and transport receipt per Clause 14, Article 10 of Decree No. 123/2020/ND-CP mentioned above.

Once the export procedures are completed, the Company should issue a VAT invoice for the exported goods. The specific details to be filled in the invoice are as follows:

- Name of the buyer: Write the name of the foreign buyer.
- Name of the purchasing unit: Write the name of the business receiving the goods.
- Delivery address: The delivery address in Vietnam (as per the contract).
- Tax identification number: Leave it blank.

18 Amendments and Supplements to some Provisions of Decree No. 123/2020/ND-CP dated 19 October 2020 on Invoices and Documents

Decree No. 70/2025/ND-CP granted by the Government amending and supplementing several provisions of Decree No. 123/2020/ND-CP on invoices and documents

1. Amendments and Supplements regarding Electronic Invoices (E-invoices) generated from Cash Registers

+ E-invoices generated from cash registers connected to the electronic data transmission system with the tax authority must comply with the following principles:

- The e-invoices printed from cash registers that are connected to the tax authority's data transmission system should be identifiable;
- Digital signatures are not mandatory;
- Expenses for purchasing goods or services using invoices (or duplicates of invoices or information retrieved from the General Department of Taxation's e-portal about invoices) generated from cash registers are considered valid documentation for tax purposes when determining taxable income.

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Amendments and Supplements to some Provisions of Decree No. 123/2020/ND-CP dated 19 October 2020 on Invoices and Documents

- + The e-invoices generated from cash registers must include the following details:
 - Name, address, and tax identification number of the seller;
 - Name, address, and tax identification number/personal identification number/phone number of the buyer (if requested by the buyer);
 - The tax authority's code or electronic data for the buyer to be able to access and declare the information from the electronic invoices generated from the cash registers, etc.

2. Supplementing provisions on the Obligations and Responsibilities of Organizations providing electronic invoice services

- + Obligations and responsibilities of organizations providing electronic invoice (e-invoices) to sellers and buyers:

18 Amendments and Supplements to some Provisions of Decree No. 123/2020/ND-CP dated 19 October 2020 on Invoices and Documents

- Obligations:
 - Develop comprehensive solutions for generation, transmission, reception, storage, and processing data of e-invoices and e-invoices with tax authority codes generated from cash registers and other electronic documents;
 - Ensure the timely and complete transmission and reception of e-invoices and maintaining a record transmission results among all parties engaged in the transaction.
- Responsibilities:
 - Publicly disclose the operational methods and service quality on the website of organization;
 - Ensure the confidentiality of e-invoices information.

18 Amendments and Supplements to some Provisions of Decree No. 123/2020/ND-CP dated 19 October 2020 on Invoices and Documents

+ Obligations and responsibilities of organizations connecting to receive, transmit, and record e-invoices data with the tax authority:

- Obligations:

- Issue tax authority codes when authorized by the tax authority;
- Provide e-invoices containing tax authority codes at no cost to the entities authorized by the tax authority.

- Responsibilities:

- Establish a secure, reliable and continuous data connection channel to the General Department of Taxation;
- Publicly announce the operational methods and service quality on the website of organization.

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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