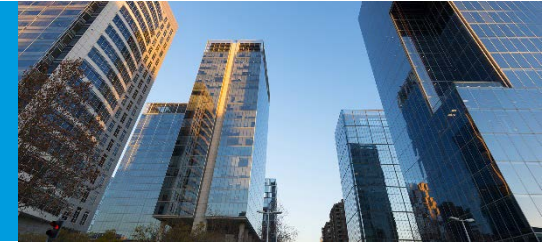


Update on recent guidance of tax treatments (CIT, VAT) & Official Letter No. 8107/TCHQ-TXNK from General Customs Department

Tax spotlights - 03/2020

Corporate Income Tax



Guidance of tax treatment on income arising from transactions of capital transfer

Tax Department of Hanoi has just issued Official Letter No.: 98064/CT-TTHT guiding Cooperate Income Tax (“CIT”) treatment on incomes arising from the capital transfer as below:

- If a foreign company transfer its capital in a Vietnamese company to a foreign third party, that Vietnamese company will be accountable for declaring and paying the CIT on the income arising from the capital transfer activity on behalf of the foreign company in accordance with prevailing regulations
- If it is the transfer of contributed capital for the company establishment, the purchasing price of the transferred capital shall be not just based on the Investment Registration Certificate (“IRC”). Specifically, this purchasing price shall be the accumulated value of the contributed capital up to the date of capital transfer on accounting books, invoices, and other documents and be certified by the contributing capital investor(s) or participants in the business cooperation contract or the audit results, provided by an independent audit firm in case of an 100% FDI company, in accordance with prevailing regulations of CIT



Corporate Income Tax



Guidance of tax treatment in case of invoices filed under the name of the leasing apartment owner

On 16 December 2019, Tax Department of Hanoi issued Official Letter No.: 93847/CT-TTHT guiding tax treatment for invoices of the management fee, electricity and water fee and other service expenses, which are filed under the name of the leasing apartment owner, particularly:

- The invoice of such management fee, which is issued to the leasing apartment owner without any mention of the company's name of the lessee, address and tax code, does not meet the requirements of the deductible VAT for the company as the lessee in accordance with prevailing regulations
- Such apartment management fee does also not meet the requirements of the deductible expense for the lessee company. For invoices of electricity and water fees, issued to the leasing apartment owner, the lessee company shall comply with Point 2.15, Article 4 of Circular 96/2015/TT-BTC

Guidance on provisions for a real estate's devaluation

On 15 January 2020, Tax Department of Hanoi issued Official Letter No.: 1971/CT-TTHT guiding the provisions for devaluing real estate. According to this Official Letter, if a company purchases a real estate (including the right of land use and property ownership) for the later re-selling but the value of these real estates decreases at the year end, this case will not be entitled to make provisions. Therefore, the company is not entitled to make provisions for the aforesaid real estate's devaluation when determining deductible expenses for the calculation of the CIT-able income.



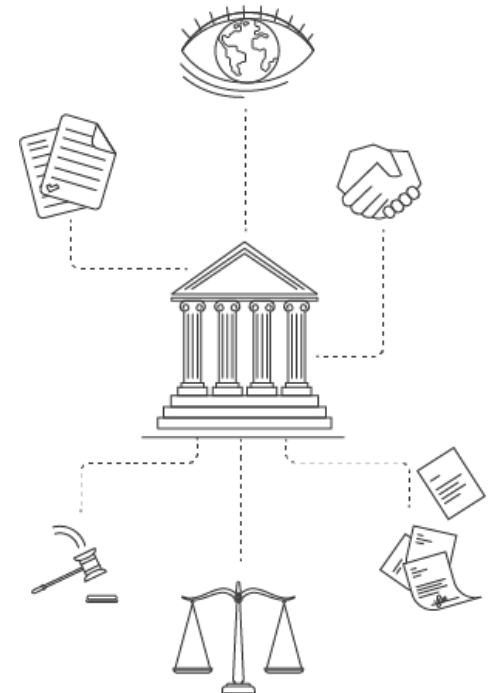
Value-Added Tax



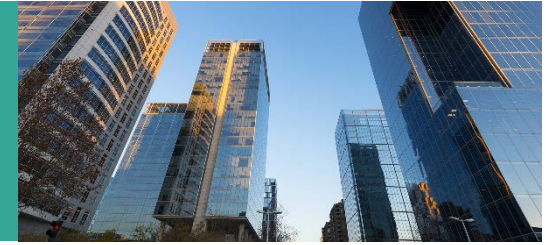
VAT return for a manufacturing business using the payment of exported goods to contribute the investment capital in its overseas import establishments.

On 08 January 2020, General Tax Department issued Official Letter No.: 112/TCT-KK guiding the following:

- If the company has its overseas investment projects in accordance with Offshore Investment Certificate issued by Ministry of Planning and Investment and the company uses the payment of its exported goods to contribute the investment capital in its overseas subsidiary company, the conditions and procedures for the documentation of the deduction and refund on the input tax of exported goods and services will have to comply with prevailing regulations of VAT
- Besides, the company should be noted that the aforesaid capital contribution must also comply with the regulations of foreign exchange management for offshore investments under guidance documents of the State Bank of Vietnam

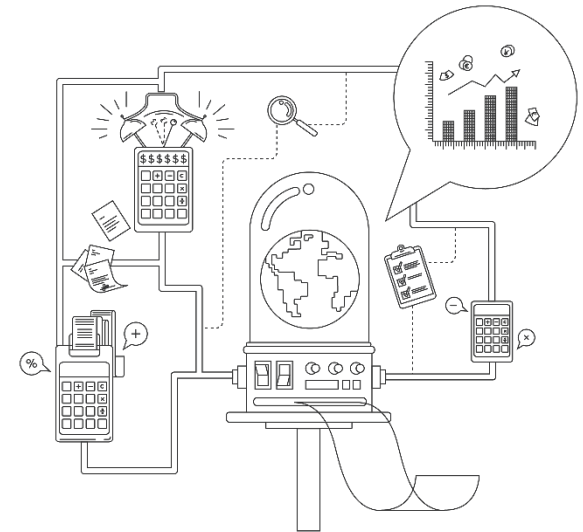


Import-Export Duty



On 30 December 2019, General Customs Department issued Official Letter No. 8107/TCHQ-TXNK guiding import duties on goods imported under borrowing agreements as follows:

- Goods, temporarily imported for the use of the manufacture for re-export under a borrowing agreement, are not subjected to tax exemption in accordance with Clause 9.a, Article 16 of the Law on Export and Import Duties No. 107/2016/QH13. Therefore, the company has to carry out and declare the customs valuation in order to calculate the import duty, when importing, and declaring customs valuation in order to calculate the duty refund, when re-exporting.
- Customs valuation of goods in a temporary import is the actual value of goods at the first importing checkpoint. Upon the re-export, that import duty shall be refunded in accordance with the remaining value of such goods based on the duration they are used, stored in Vietnam.



CONTACT US

Ho Chi Minh City

5th Floor, Sai Gon 3 Building
140 Nguyen Van Thu Street
Da Kao Ward, District 1
Ho Chi Minh City, Vietnam

Le Khanh Lam

Partner

Head of Tax & Consulting Services

T: +84 28 3827 5026

E: lam.le@rsm.com.vn

Le Xuan Mao

Director

Tax & Consulting Services

T: +84 28 3827 5026

E: mao.le@rsm.com.vn

Hanoi

25th Floor, Tower A, Discovery Complex
302 Cau Giay Street
Dich Vong Ward, Cau Giay District
Hanoi, Vietnam

Nguyen Thanh Lam

Partner

Head of Hanoi Office

T: +84 24 3795 5353

E: lam.nguyen@rsm.com.vn

www.rsm.global/vietnam

This newsletter is only intended for information about the new laws enacted, not for advice or applying to specific cases. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. RSM Vietnam as well as members in RSM network shall not be responsible for any loss whatsoever sustained by any person who relies on this communication. Please refer to your advisors for specific advice.

RSM Vietnam is a member of the RSM network and trades as RSM. RSM is the trading name used by the members of the RSM network. Each member of the RSM network is an independent accounting and consulting firm, each of which practices in its own right. The RSM network is not itself a separate legal entity of any description in any jurisdiction. The RSM network is administered by RSM International Limited, a company registered in England and Wales (company number 4040598) whose registered office is at 50 Cannon Street, London EC4N 6JJ. The brand and trademark RSM and other intellectual property rights used by members of the network are owned by RSM International Association, an association governed by article 60 et seq of the Civil Code of Switzerland whose seat is in Zug.

© RSM International Association, 2020. All rights reserved.



facebook.com/RSMVietnam



linkedin.com/company/rsm-vietnam

