

UPDATES ON RECENT VIETNAM TAX REGULATIONS IN 10/2023

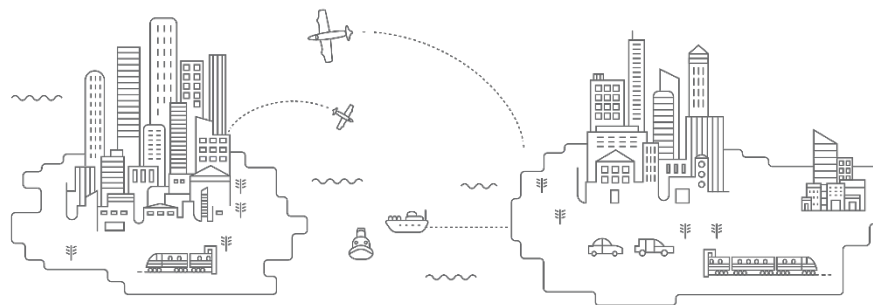
Tax Spotlights – 11/2023



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<p>1. The Government's Resolution 182/NQ-CP on VAT reduction proposal and Official letter 11692/BTC-CST dated 26 October 2023</p>	<ul style="list-style-type: none"> • The Ministry of Finance's Proposal to reduce the VAT rate for the first half of 2024 has been approved by the Government, following Resolution 182/NQ-CP on 03 November 2023 of the Government. For the next steps, the Proposal will be submitted to the National Assembly for review and approval before implementation. • Previously, the Ministry of Finance also announced the draft Proposal and Draft Resolution of the National Assembly on VAT reduction attached to Official letter 11692/BTC-CST. Accordingly: <ul style="list-style-type: none"> ○ Proposal to reduce the VAT rate by 2%, applicable to groups of goods and services currently applying the tax rate of 10% (to 8%), except for some groups of goods and services ○ Reduction period: from 1 January 2024 to 30 June 2024
<p>2. Official letter 11829/CTDON-TTHT dated 9 October 2023 of Dong Nai Provincial Tax Department on handling e-invoices that have been made with errors</p>	<ul style="list-style-type: none"> • In case where a company has rectified an invoice error through replacement or adjustment, and subsequently discovers that the invoice still contains errors, the company will handle subsequent corrections using the same method applied during the initial error resolution, as stipulated in point c, Clause 1, Article 7 of Circular No. 78/2021/TT-BTC. Accordingly, if the company has issued a new replacement e-invoice, it is not allowed to cancel the invoice. If errors persist, the company should continue replacing the invoice until it is accurate • The timing of invoice issuance for the sale of goods follows the guidelines in Clause 1, Article 9 of Decree No. 123/2020/ND-CP. If a company issues an invoice in May 2023 for the goods already sold in April 2023, it is considered an improper timing of invoice issuance, and the company may face administrative fines as stipulated in Decree No. 125/2020/ND-CP • In case the company's customer requests invoice cancellation because they failed to record these invoices in May 2023, it does not align with the regulations for handling invoices with errors stipulated in Article 19 of Decree No. 123/2020/ND-CP
<p>3. Official letter 74367/CTHN-TTHT dated 18 October 2023 of Hanoi Tax Department guiding the issuance of invoices to return imported goods</p>	<p>Regarding the issuance of invoices to return imported goods, the Hanoi Tax Department responds according to the following principles:</p> <p>In case the company declares VAT using the deduction method, imports materials abroad but does not meet the quality and returns them as agreed, when returning the goods, the company must carry out export procedures with the Customs office and issue a VAT invoice for the returned goods according to the provisions of Article 8 of Decree No. 123/2020/ND-CP.</p>

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<p>4. Official letter 76785/CTHN-TTHT dated 27 October 2023 of Hanoi Tax Department on tax policy for transferred assets when separating a company</p>	<p>In case the company splits into 03 joint stock companies in accordance with the provisions of law on business separation:</p> <ul style="list-style-type: none"> • For VAT declaration and payment: In case of transferring assets between dependent accounting member units in a business establishment; transferred assets when separating an enterprise, the business establishment with transferred assets must have an asset transfer command, enclosed with a set of asset origin documents and no invoices required • In case assets are transferred between independent accounting units or between member units with full legal status within the same organization or individual, then the organization or individual: <ul style="list-style-type: none"> ○ If the fixed assets are in use, depreciation has been deducted when transferred according to the value recorded in the accounting books between the business establishment and member units 100% owned by a business establishment to serve production and business activities of goods and services subject to VAT, there is no need to make invoices, declare and pay VAT ○ If transferred to an establishment that produces and sells goods and services not subject to VAT, they must prepare a VAT invoice, declare and pay VAT according to regulations
<p>5. Official letter 14695/CTHDU-TTHT dated 17 October 2023 of Hai Duong Provincial Tax Department guiding goods return invoices</p>	<p>Using the e-invoice as per Decree No. 123/2020/ND-CP, the company sells goods and issues sales invoices to the buyer, if the goods are defective or under requirement, and they are returned fully or partially by the buyer, then as part of the agreement between the seller and buyer, the company issues a return invoice to adjust or replace the issued invoice when goods are returned.</p> <p>Based on the adjustment invoice or replacement invoice of the issued invoice, the company makes a supplementary declaration reflecting the reduced revenue and output VAT in the tax period in which the sale occurs (the period in which the original invoice arose).</p>
<p>6. Official letter 14936/CTHDU-TTHT dated 25 October 2023 of Hai Duong Provincial Tax Department on Corporate Income Tax incentives</p>	<p>Income from deposit interest, loan interest, or exchange rate differences that are not related to production and business activities eligible for tax incentives, do not qualify for the CIT incentives specified in Article 15 and Article 16 of Decree No. 218/2013/ND-CP dated 26 December 2013 issued by the Government (<i>regulations on preferential CIT rates and CIT exemption and reduction</i>).</p> <p>For company income from investment projects in the field of trading and services arising outside tax incentive geographic areas, this income is not eligible for CIT incentives according to preferential investment locations.</p>

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<p>7. Official letter 15117/CTHDU-TTHT dated 31 October 2023 of Hai Duong Provincial Tax Department on tax policy</p>	<p>In case the company receives a capital contribution in foreign currency and then sells foreign currency to get VND, the exchange rate difference is included by the Company in financial revenue according to the provisions of Point c, Clause 1, Article 80 of Circular No. 200/2014/TT-BTC.</p> <p>In case the company has a new investment project in the industrial park and is entitled to tax incentives as prescribed in Clause 6, Article 1 of Decree No. 91/2014/ND-CP. If the company incurs exchange rate difference gains from selling foreign currencies, this income is not included in the income to determine the tax exemption or tax reduction period according to the provisions of Clause 2, Article 12 of Circular No. 96/2015/TT- BTC.</p>
<p>8. Official letter 4666/TCT-CS dated 23 October 2023 of the General Department of Taxation on determining FX rate for contractor tax payment</p>	<p>For the purpose of recording accounting books, and preparing and presenting financial statements, businesses need to determine whether or not the contract value includes tax in the case of paying tax on behalf of a foreign contractor to determine the accounting exchange rate:</p> <ul style="list-style-type: none"> • In case the contract specifies that foreign contractor tax is a receivable debt of an enterprise in Vietnam, the actual transaction rate is the buying rate of the commercial bank where the enterprise appoints the customer to pay at the transaction time • In case the contract specifies that foreign contractor tax is included in the value of assets or purchasing expenses from foreign contractors are not paid immediately, the actual transaction rate is the selling rate provided by the commercial bank where the enterprise intends to transact at the time of transaction • In case the contract specifies that foreign contractor tax is included in the asset value or purchasing expenses from foreign contractors are not paid immediately in foreign currency, the actual transaction rate is the buying rate of the commercial bank where businesses make payments



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