

RECENT GUIDANCE ON TAX POLICIES FROM TAX AUTHORITIES

(1) Terminating Circular 134/2014/TT-BTC on extending the deadline for Value-added Tax (“VAT”) payment and refund; (2) Guidance on tax policies in case a seller changes its company name and stamp; (3) Guidance on Foreign Contractor Tax (“FCT”) for importing software product; (4) Representative Offices of foreign organizations in Vietnam are not allowed to receive payments on behalf of parent company.



TERMINATING CIRCULAR 134/2014/TT-BTC ON EXTENDING THE DEADLINE FOR VAT PAYMENT AND REFUND

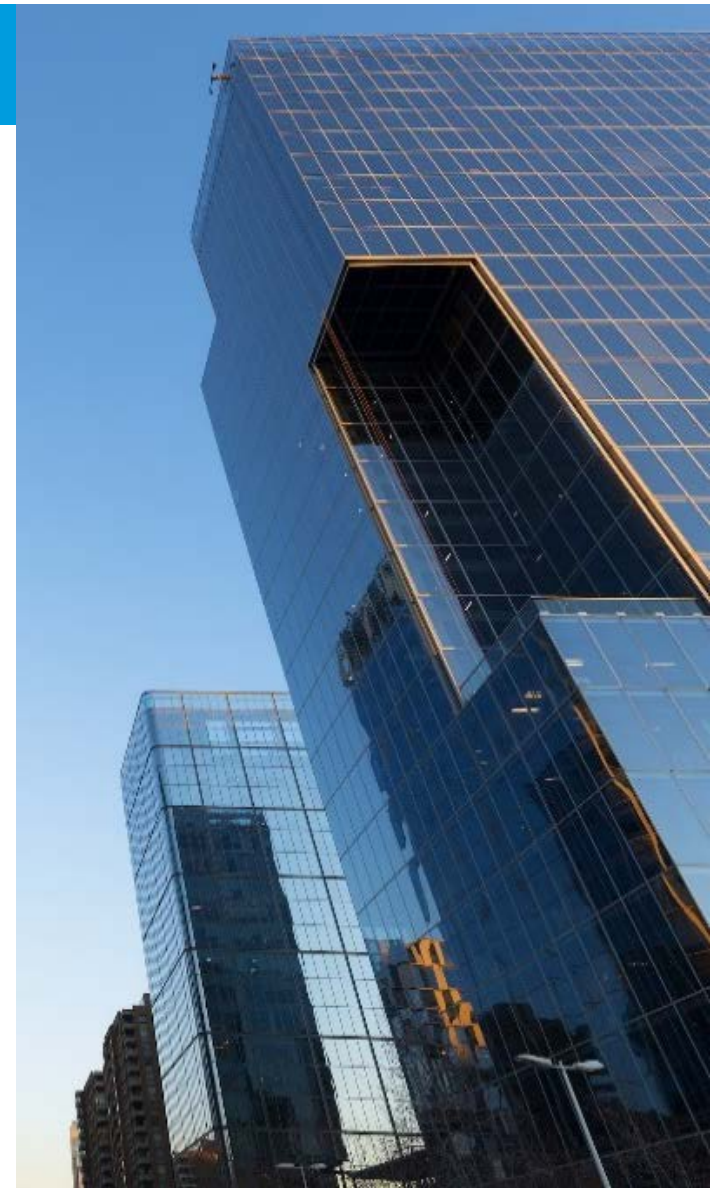
The Ministry of Finance issued Circular 18/2019/TT-BTC ("Circular 18") to terminate Circular 134/2014/TT-BTC ("Circular 134") guiding the procedures on extending the deadline for VAT payment and refund related to machinery and equipment imported to create fixed assets of investment projects in accordance with Resolution 63/NQ-CP dated 25 August 2014.

Earlier, on 13 December 2018, the Government issued Resolution 150/NQ-CP to remove the deferral of VAT payment and refund instructed in Resolution 63/NQ-CP. Therefore, in order to execute this content, the Ministry of Finance issued the Circular 18 effective from 20 May 2019 to terminate Circular 134.

The Circular 18 contains specific guidance as follows:

- For Enterprises already submitted the dossiers for deferral of VAT payment to the customs authorities before 20 May 2019: The customs authorities will proceed the extension in accordance with Circular 134
- For Enterprises already submitted VAT refund dossiers to the Tax authorities before 20 May 2019: Tax authorities will proceed the VAT refund procedures in accordance with Circular 134

Therefore, Enterprises imported or will import machinery and equipment for investment projects that meet conditions in Circular 134, should quickly submit dossiers for deferral of VAT payment or for refund before 20 May 2019 to enjoy incentives under this Circular.



GUIDANCE ON TAX POLICIES IN CASE THE SELLER CHANGES ITS COMPANY NAME AND STAMP



Hanoi Tax Department issued Official Letter 11335/TCT-CS dated 25 March 2019 providing guidance for VAT and Corporate Income Tax (“CIT”) policies in when the seller changes its company name and stamp after issuing VAT invoices to the buyer, specifically as follows:

- For VAT, the buyer will be allowed to declare and claim input VAT in case the buyer fully complies with regulations on invoices and vouchers as follows:
 - Having legitimate VAT invoices for purchased goods and services
 - Having evidence for non-cash payments for the purchases from 20 million Vietnamese Dong (“VND”) or more
- For CIT, the buyer will be allowed to record the expenditure as the deductible expenses if the buyer meets these below conditions:
 - Expenses are related to business activities of enterprise
 - Having legitimate VAT invoices for purchased goods and services
 - Having evidence for non-cash payments for invoice valued from VND 20 million (VAT-inclusive prices) or more

In addition, the buyer has responsibility to keep the seller's notices regarding the changing of business registration information, and presenting it to the authorities upon requested.

GUIDANCE ON FOREIGN CONTRACTOR TAX FOR IMPORTING SOFTWARE PRODUCT

On 25 March 2019, Hanoi Tax Department issued Official Letter 11232/CT-TTHT providing guidance on FCT implications for importing software product as follows:

In case the Vietnamese Enterprise signs a contract with the Japanese Enterprise (without a permanent establishment in Vietnam) to purchase the game software copyright with USB as median device to contain software and a transaction is conducted in Vietnam, income from the transfer of software copyright and USB shall be subjected to FCT.

Accordingly, the Vietnamese Enterprise has obligations to withhold, declare and pay the FCT amount on behalf of the Japanese Enterprise on the deemed rate (%) of taxable revenue in the following table:

FCT	Software copyright transfer	USB transfer
VAT	Not subject to VAT	2%
CIT	10%	1%

REPRESENTATIVE OFFICES OF FOREIGN ENTERPRISES IN VIETNAM ARE NOT ALLOWED TO RECEIVE PAYMENTS ON BEHALF OF PARENT COMPANY

On 13 March 2019, the State Bank of Vietnam ("SBV") issued Official Letter 1521/NHNN-QLNH regulating payment activities in foreign trade contracts.

According to this Official Letter, Representative Offices (hereinafter referred to as "ROs") of foreign enterprises in Vietnam are not allowed to use bank account of ROs to receive payments in foreign currencies from Vietnamese Enterprises for business activities in Vietnam under parent company's designation due to the following reasons:

- ROs are not allowed to conduct business activities in Vietnam. Therefore, the ROs do not generate legitimate income in order to receive payments in their bank account
- According to the SBV's regulations, payment transactions between residents and non-residents in the territory of Vietnam are not allowed to be made in foreign currencies, except for certain cases as regulated by the SBV

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