

Deloitte.

Newsletter Tax & Customs

September 2023





Recognition at the International Tax Review (ITR) Asia Pacific Tax Awards 2023

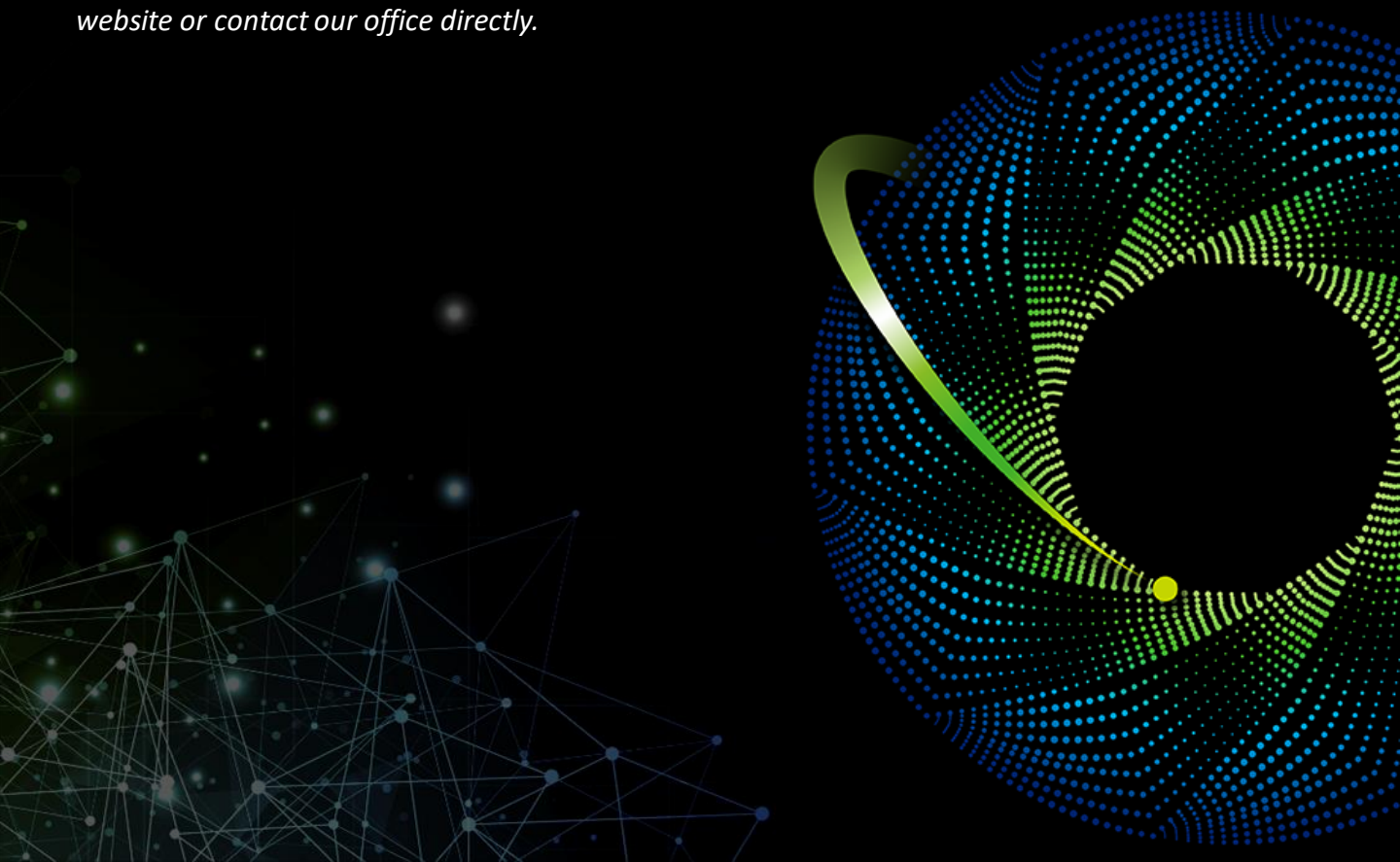
We are thrilled to announce that Deloitte Vietnam has been awarded the prestigious awards of "Vietnam Tax Firm of the Year" and "Vietnam Transfer Pricing Firm of the Year" at the ITR Asia Pacific Tax Awards 2023 which took place in London on 27 September 2023. This is the third year in a row we have been crowned "Vietnam Tax Firm of the Year". The awards are testament to the hard work of our team and their unwavering commitment to excellence.

At Deloitte, we always strive to provide our clients with the highest level of service quality and expertise. The award is a recognition of our dedication to delivering exceptional results and assisting our clients to navigate the increasingly complex tax environment with greater confidence.

We would like to extend our heartfelt gratitude to our clients for the trust and support for our service that has driven us to this remarkable achievement. We are honored and humbled to have been chosen as your trusted tax partner, and we remain committed to exceeding your expectations in the years to come.

We are excited about the future as we continue to raise the bar for excellence in taxation.

For more information about how we can assist you with your tax needs, please visit our website or contact our office directly.



Highlights in this issue:

Corporate Income Tax

- Determination of the tax period entitled to CIT incentives
- Software manufacturing companies not entitled to CIT incentives without a software product manufacturing investment certificate
- CIT incentives for high-tech application projects

Personal Income Tax

- PIT declaration and payment for dependent branches located in other provinces
- PIT declaration and payment for inheriting securities

Foreign Contractor Withholding Tax

- Foreign Contractor Withholding Tax levied on the freight charges paid directly to the foreign shipping lines
- Tax obligations of foreign contractors for doing business activities in the field of e-commerce and online booking in Vietnam

Indirect Tax

- VAT policy regarding of goods sold to Export Processing Enterprises
- Suppliers to issue adjustment or replacement invoices for goods returned by buyers due to improper quality
- Free goods and services given to customers for trial purposes

Trade & Customs

- Decision of the replacement and abolition of administrative procedures in customs sector under the management of the Ministry of Finance
- Conditions for inspection and supervision on external warehouses of export processing enterprises
- Application of VAT on imported metals and prefabricated metal products
- VAT levied on imported goods for specialized electronic equipment
- VAT on chemical products and basic chemicals
- Timeline for the registration of on-spot import clearance
- Proofs of origin under the EVFTA
- Customs dossiers when Export Processing Enterprises sell goods into domestic market

Contact

Website: deloitte.com/vn

Email: deloittevietnam@deloitte.com

For reference only, not for distribution or sale



Corporate Income Tax

Guidance ruling

Determination of the tax period entitled to CIT incentives

According to the current CIT regulations, the tax exemption and reduction period for expansion investment projects is determined from the year in which the expansion investment project is completed and put into operation, and income is generated. The option to enjoy incentives where the first tax period is less than 12 months applies only to new investment projects.

(Official letter No. 3277/TCT-CS dated 02 August 2023 issued by the General Department of Taxation)

Software manufacturing companies not entitled to CIT incentives without a software product manufacturing investment certificate

Software manufacturing companies that do not maintain an investment certificate for a software product manufacturing project are not eligible to apply for CIT incentives for new investment projects.

(Official Letter No. 52180/CTHN-TTHT dated 19 July 2023 issued by the Hanoi Tax Department)

CIT incentives for high-tech application projects

A company that is currently benefiting from CIT incentives or has fully benefited from CIT incentives is subsequently granted a high technology application project certificate, then the CIT incentives for the high-tech projects will be determined by deducting the period which the company has been or is enjoying the initial CIT incentives scheme (in terms of both tax rates and exemption or deduction periods, if any).

(Official Letter No. 2879/TCT-CS dated 12 July 2023 issued by the General Department of Taxation)



Contact

Website: deloitte.com/vn

Email: deloittevietnam@deloitte.com

For reference only, not for distribution or sale



Indirect Tax

Guidance ruling

VAT policy regarding of goods sold to Export Processing Enterprises

Goods that are sold to Export Processing Enterprises (“EPEs”) qualify for 0% VAT rate treatment if they qualify the regulated conditions.

(Official Letter No. 3435/TCT-CS dated 09 August 2023 issued by the General Tax Department)

Suppliers to issue adjustment or replacement invoices for goods returned by buyers due to improper quality

When a buyer returns goods to a supplier due to the improper quality, the supplier must issue a goods return invoice to adjust or replace the original invoice.

The supplier must clearly state on the goods return invoice that the goods were returned in according with the provisions of clause 1, Article 4 and point b, clause 2, Article 19, Decree No. 123/2020/ND-CP.

(Official Letter No. 19553/CTBDU-TTHT dated 15 August 2023 issued by the Binh Duong Tax Department)

Free goods and services given to customers for trial purposes

If a supplier provides free goods and/or services to customers for trial purposes in accordance with commercial law applicable to promotion programs, they must issue a VAT invoice. The supplier’s invoice must clearly state the name and quantity of goods and the purpose of their use, such as promotional or sampling schemes. The taxable price for VAT purposes is determined as zero.

If the provision of free goods and/ or services for trail purposes is not in accordance with the commercial law, the supplier must issue an invoice and declare VAT in the same way as for a regular normal sale.

If the supplier exports sample goods abroad that meet the criteria for goods and services exports, such items can qualify for a 0% VAT rate.

(Official Letter No. 20792/CTBDU-TTHT dated 29 August 2023 issued by the Binh Duong Tax Department)



Contact

Website: deloitte.com/vn

Email: deloittevietnam@deloitte.com

For reference only, not for distribution or sale



Personal Income Tax

Guidance ruling

PIT declaration and payment for dependent branches located in other provinces

If the company headquarters pays the salaries and wages of employees working at its branches, the company headquarters is responsible for:

- Withholding PIT from salaries and wages as regulated;
- Submitting tax declaration dossiers (Form 05/KK-TNCN) and the spreadsheet of PIT allocation to other provinces (Form 05-1/PBT-KK-TNCN) to the supervisory tax authority of the company headquarters; and
- Paying PIT to the state budget of each province where the employees work.

(Official Letter No. 59245/CTHN-TTHT dated 15 August 2023 issued by Hanoi Tax Department)

PIT declaration and payment for inheriting securities

If a non-resident taxpayer earns income from inheriting securities, they must declare and pay tax directly to the tax authorities.

If a taxpayer chooses to utilize the services of a tax agent, they should provide sufficient information of the agent, including their tax code and the contract number with the agent.

(Official Letter No. 61194/CTHN-TTHT dated 21 August 2023 issued by Hanoi Tax Department)



Contact

Website: deloitte.com/vn

Email: deloittevietnam@deloitte.com

For reference only, not for distribution or sale



Foreign Contractor Withholding Tax

Guidance ruling

Foreign Contractor Withholding Tax levied on the freight charges paid directly to the foreign shipping lines

If a company in Vietnam **directly pays** freight to a foreign shipping line that is neither tax registered nor declaring tax in Vietnam, then the company is obliged to declare, withhold and pay taxes on behalf of the foreign shipping line.

A shipping agent is **not the party who directly makes the payment of freight charges** to the foreign shipping line. Therefore, the shipping agent is not subject to withhold, declare and pay FCWT liabilities on behalf of foreign shipping lines.

(Official Letter No. 6393/CTQNA-TTHT dated 31 August 2023 issued by Quang Nam Tax Department)

Tax obligations of foreign contractors for doing business activities in the field of e-commerce and online booking in Vietnam

If an accommodation facility in Vietnam directly receives payments from guests booking the accommodation, and then remits commission fees to foreign contractors (“FCs”), then the accommodation facility is responsible for declaring, withholding and paying taxes on behalf of FCs.

If the guests booking accommodation directly pay to FCs, and then the FCs remit the rental fee to accommodation facilities after retaining commission fees, then the accommodation facilities are still responsible for declaring and paying taxes on behalf of the FCs, even if there is no agreement between the accommodation facilities and the FCs.

(Official Letter No. 5934/CTBRV-TTHT dated 07 September 2023 issued by Ba Ria – Vung Tau Tax Department)



Contact

Website: deloitte.com/vn

Email: deloittevietnam@deloitte.com

For reference only, not for distribution or sale



Trade & Customs

New regulation

Decision of the replacement and abolition of administrative procedures in customs sector under the management of the Ministry of Finance

On 10 August 2023, the Ministry of Finance issued Decision No. 1722/QD-BTC to:

- Replace 02 administrative procedures on the origin of goods as prescribed in Circular No. 33/2023/TT-BTC dated 31 May 2023, including:
 - ✓ Pre-review and pre-determination of the origin of exported and imported goods; and
 - ✓ Write-down of Certificates of Origin when covered goods are imported over multiple shipments.
- Abolition 04 administrative procedures pursuant to Circular No. 33/2023/TT-BTC dated 31 May 2023 and Circular No. 79/2022/TT-BTC dated 30 December 2022 including:
 - ✓ Procedures for inspection and determination of origin of exported goods;
 - ✓ Procedures for inspection and determination of origin of imported goods;
 - ✓ Procedures for importing used cars and motorbikes under the movable property scheme for Overseas Vietnamese who have completed permanent residence registration procedures in Vietnam; and
 - ✓ Procedures for declaration and duty payment on cars, and motorbikes when transferred by overseas Vietnamese who are allowed to repatriate.

- Abolish the content of the above administrative procedures which were announced in Decision No. 671/QD-BTC dated 24 April 2020, and Decision No. 2770/QD-TCHQ dated 25 December 2015.

The decision takes effect from 10 August 2023.

(Decision No. 1722/QD-BTC dated 10 August 2023 issued by the Ministry of Finance)

Contact

Website: deloitte.com/vn

Email: deloittevietnam@deloitte.com

For reference only, not for distribution or sale



Trade & Customs

Guidance ruling

Conditions for inspection and supervision on external warehouses of export processing enterprises

On 02 August 2023, the General Department of Customs issued Official Letter No. 4040/TCHQ-GSQL on the conditions for inspection and supervision of external warehouses of EPEs. In summary:

- If EPEs do not have enough space to store goods, used in export processing activities, within the export processing zone, they are allowed to rent space outside industrial and economic zones, on conditions that the rented space has:
 - ✓ A hard fence surround, to separate the space from outside areas; and
 - ✓ Continuous surveillance cameras at the entrance and exit doors and the Customs authorities have the rights to review the images as necessary.
- Warehouses rented to EPEs are not required to have separate walls between the EPEs' goods stored in the warehouses provided that:
 - ✓ There is a hard fence surround that separates the warehouse from outside areas;
 - ✓ Goods stored in the warehouses belong only to EPEs. If there are goods from non-EPE, a separation fence is required;
 - ✓ EPEs' goods stored in the warehouses must be segregated from other goods, monitored 24 hours a day by surveillance cameras and comply with customs inspection and supervision requirements; and
 - ✓ There is a mechanism to manage each EPEs' goods when they are brought in, taken and stored in the warehouses, and the warehouse keeper will provide requested information to, and coordinate with, Customs Authorities to conduct inspections.

(Official Letter No. 4040/TCHQ-GSQL dated 02 August 2023 issued by the General Department of Customs)



Contact

Website: deloitte.com/vn

Email: deloittevietnam@deloitte.com

For reference only, not for distribution or sale



Trade & Customs

Guidance ruling

Application of VAT on imported metals and prefabricated metal products

On 16 August 2023, the General Department of Customs issued the Official Letter No. 4259/TCHQ-TXNK regarding the application of VAT on imported metal and prefabricated metal products according to Decree No. 44/2023/ND-CP dated 30 June 2023 (“Decree 44”).

Accordingly, in cases where imported goods are determined to be metal and prefabricated metal products, they are not eligible for VAT reduction as prescribed in Clause 1, Article 1 of Decree 44.

(Official Letter No. 4259/TCHQ-TXNK dated 16 August 2023 issued by the General Department of Customs)

VAT on chemical products and basic chemicals

On 16 August 2023, the General Department of Customs issued Official letter No. 4260/TCHQ-TXNK on the application of VAT on imported chemical products and basic chemicals according to Decree No. 44. In brief:

- Imported chemical products are not eligible to VAT reduction as prescribed by Decree 44; however,
- If the imported goods are basic chemicals, then they are entitled to enjoy VAT reduction according to the Decree 44.

(Official Letter No. 4260/TCHQ-TXNK dated 16 August 2023 issued by the General Department of Customs)

VAT levied on imported goods for specialized electronic equipment

On 16 August 2023, the General Department of Customs issued Official Letter No. 4262/TCHQ-TXNK regarding the application of VAT on imported specialized electronic equipment according to Decree 44. In brief:

According to Decree No. 71/2007/ND-CP dated 03 May 2007 and Circular No. 09/2013/TT-BTTTT dated 08 April 2013 addressing the definition of Specialized Electronic Equipment:

“Specialized electronic equipment means electronic equipment used in specific domains. Specialized electronic equipment includes measuring, automatic, medical and biological equipment as well as equipment in other specialized domains”.

Therefore, if the imported goods are classified as specialized electronic equipment, they will fall under the list of section IV, part B, Appendix III attached with the Decree 44 and 10% VAT will be applied.

If the company has any further concerns on the classification of imported goods as specialized electronic equipment for VAT declaration, the company should contact to the Ministry of Information and Communication for further guidance.

(Official Letter No. 4262/TCHQ-TXNK dated 16 August 2023 issued by the General Department of Customs)

Contact

Website: deloitte.com/vn

Email: deloittevietnam@deloitte.com

For reference only, not for distribution or sale

Trade & Customs Guidance ruling

Timeline for the registration of on-spot import clearance

On 18 August 2023, the General Department of Customs issued Official Letter No. 4350/TCHQ-GSQL to provide guidance on the timeline for registration of on-spot import declarations. Specifically:

- "15 days from the date of clearance of the on-spot export declaration" is the timeframe for on-spot exporters to notify the Customs authorities of the information on the completion of the on-spot import procedures for consideration of import duty exemption for the goods imported for processing and manufacturing;
- "15 working days from the date of export clearance " is the time limit for the on-spot importers to complete the customs clearance.

(Official Letter No. 4350/TCHQ-GSQL dated 18 August 2023 issued by the General Department of Customs)

Proofs of origin under the EVFTA

On 24 August 2023, the Customs Supervision and Control Department issued Official Letter No. 1354/GSQL-GQ4 which provides the guidance related to the proofs of origin under EVFTA.

According to the announcement from European Customs, Customs Authorities can, in addition to checking exporters' REX number and period of validity, also see exporters' list of goods, if the exporters agree to display that information on the European Union's website.

It is recognized that the exporter's list of goods on the European Union's website may only be for reference.

If goods are not listed on the website, but there is no suspicion on the origin of the goods and the exporters have REX numbers certifying the origin of goods this is not a reason to reject the proofs of origin.

(Official Letter No. 1354/TCHQ-QG4 dated 24 August 2023, issued by the Customs Supervision and Control Department)



Contact

Website: deloitte.com/vn

Email: deloittevietnam@deloitte.com

For reference only, not for distribution or sale

Trade & Customs Guidance ruling

Customs dossiers when Export Processing Enterprises sell goods into domestic market

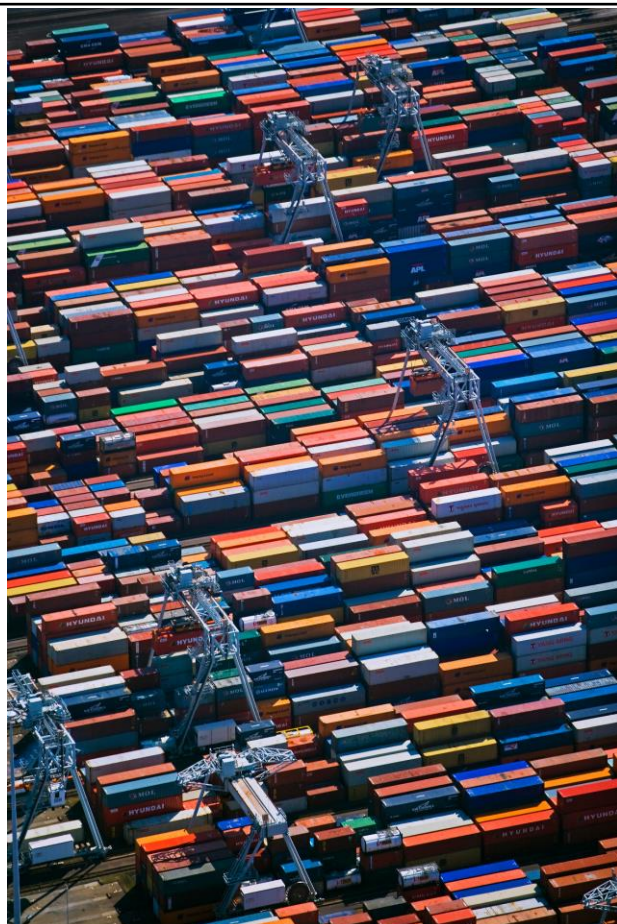
On 30 August 2023, Department of Legal Affairs issued Official letter No. 524/PCT on completion of customs dossiers when EPEs sell goods into the domestic market. Specifically:

If goods are traded between domestic enterprises and EPEs, or enterprises in non-tariff zones, then the customs declarants should use VAT invoices, or sales invoices instead of commercial invoices.

However, to date, the Ministry of Finance has not issued specific guidance on the required content for invoices to be in compliance with the provisions of Decree No. 123/2020/ND-CP.

Therefore, Department of Legal Affairs requests the General Department of Customs to refer to the specific regulations regarding "the time of transfer of ownership or rights of use of goods to the buyer" in each contract signed between domestic enterprises and EPEs, or between enterprises in non-tariff zones, in order to issue the more appropriate and practical guidance with the situation and in accordance with the regulations.

(Official Letter No. 524/PCT dated 30 August 2023, issued by the Department of Legal Affairs)



Contact

Website: deloitte.com/vn

Email: deloittevietnam@deloitte.com

For reference only, not for distribution or sale



Thomas McClelland
National Tax Leader
+84 28 7101 4333
tmcclelland@deloitte.com



Bui Ngoc Tuan
Tax Partner
+84 24 7105 0021
tbui@deloitte.com



Bui Tuan Minh
Tax Partner
+84 24 7105 0022
mbui@deloitte.com



Phan Vu Hoang
Tax Partner
+84 28 7101 4345
hoangphan@deloitte.com



Dinh Mai Hanh
Tax Partner
+84 24 7105 0050
handinh@deloitte.com



Vo Hiep Van An
Tax Partner
+84 28 7101 4444
avo@deloitte.com



Vu Thu Nga
Tax Partner
+84 24 7105 0023
ngavu@deloitte.com



Tat Hong Quan
Tax Partner
+84 28 7101 4341
quantat@deloitte.com

Hanoi Office

15th Floor, Vinaconex Building,
34 Lang Ha Street, Dong Da
District, Hanoi, Vietnam
Tel: +84 24 7105 0000
Fax: +84 24 6288 5678

Ho Chi Minh City Office

18th Floor, Times Square
Building, 57-69F Dong Khoi
Street, District 1,
Ho Chi Minh City, Vietnam
Tel: +84 28 7101 4555
Fax: +84 28 3910 0750



Vu Thu Ha
Tax Partner
+84 24 710 50024
hatvu@deloitte.com



Dang Mai Kim Ngan
Tax Partner
+84 28 710 14351
ngandang@deloitte.com



Bob Fletcher
Director, Trade and Customs
+84 28 7101 4398
fletcherbob@deloitte.com

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte Asia Pacific Limited is a company limited by guarantee and a member firm of DTTL. Members of Deloitte Asia Pacific Limited and their related entities, each of which is a separate and independent legal entity, provide services from more than 100 cities across the region, including Auckland, Bangkok, Beijing, Bengaluru, Hanoi, Hong Kong, Jakarta, Kuala Lumpur, Manila, Melbourne, Mumbai, New Delhi, Osaka, Seoul, Shanghai, Singapore, Sydney, Taipei and Tokyo.

About Deloitte Vietnam

In Vietnam, services are provided by separate and independent legal entities, each of which may be referred to or known as Deloitte Vietnam.

This communication contains general information only, and none of DTTL, its global network of member firms or their related entities is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication.