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Newsletter

Tax & Customs

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**Transfer Pricing
Firm of the Year**

**Tax Firm
of the Year**



Tax Administration

Guidance ruling

Strengthen tax administration for goods purchased using Form 01/TNDN

The General Department of Taxation requests that during tax inspection and audit, provincial tax authorities should strengthen the verification of goods and services purchase using Form 01/TNDN (without invoice) as allowed to determine deductible expenses when calculating corporate income tax in accordance with regulations.

(Official Letter No. 1336/TCT-TTKT dated 02 April 2024 issued by the General Department of Taxation)

Ho Chi Minh City Tax Department promotes the propaganda of sanctions for e-invoice violations and guides taxpayers with tools to check up e-invoice

To assist taxpayers in mitigate penalties for e-invoice violations, the Ho Chi Minh City Tax Department issued Notice No. 5691/TB-CTTPHCM, which recommends taxpayers to regularly access the e-invoice system on the tax authority's electronic information portal (hoandoandientu.gdt.gov.vn) and the "TCT E-Invoice" application at App Store (for iOS) and CH Play (for Android) to look up and validate invoices and promptly detect errors and illegal invoices.

(Notice No. 5691/TB-CTTPHCM dated 02 April 2024 issued by the Ho Chi Minh City Tax Department)



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Corporate Income Tax

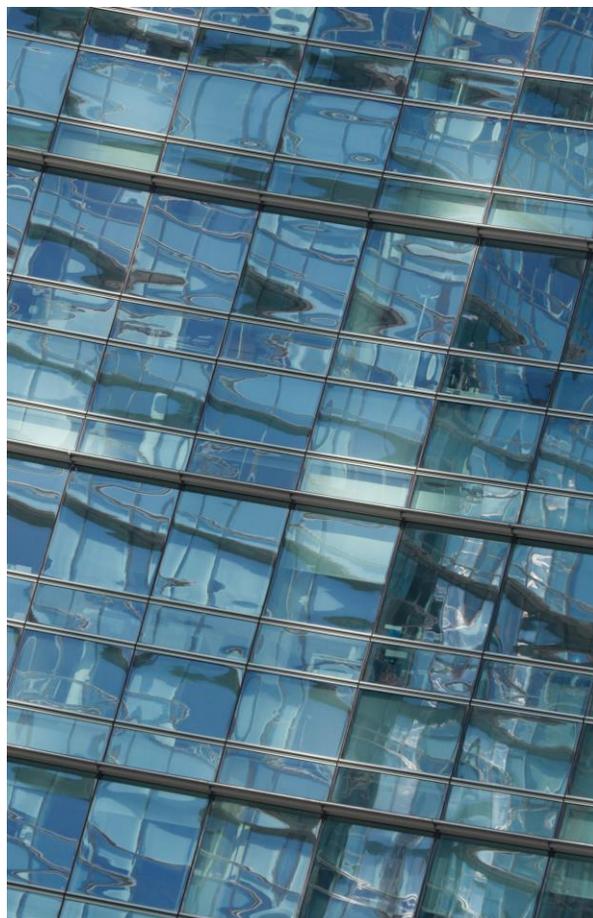
Guidance ruling

Transferring loss in case of independent branch switching to dependent branch

According to Decree No. 218/2013/ND-CP, “Enterprises established or having investment projects from the conversion of type of enterprise, conversion of owner, separation, splitting, merger or consolidation are responsible for paying the corporate income tax (including penalty if any) while inheriting the incentives of corporate income tax (including enterprises’ losses not yet carried forward) or investment projects prior to separation, splitting, merger or consolidation if they continue to meet the conditions for incentives of corporate income tax and conditions for transfer of loss as prescribed by law”, the General Department of Taxation provides guidance for loss carry-forward when converting from independent accounting branch to dependent accounting branch as below:

- Prevailing CIT regulations only regulate loss carry forward of enterprises when converting to different enterprise types, change of ownership, dividing, separating, and merging;
- There is no regulation on carrying forward the loss of independent accounting branch after being converted to dependent accounting branch.

(Official Letter No. 1442/TCT-CS dated 09 April 2024 issued by the General Department of Taxation)



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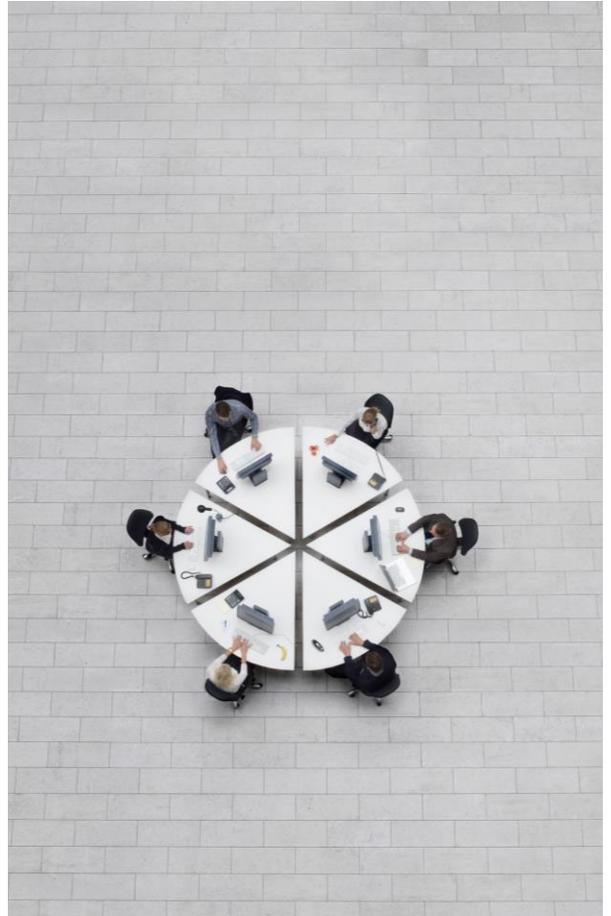
Indirect Tax

Guidance ruling

Carry forward creditable VAT after the branch terminates operation

When the branch terminates its operations and invalidates its tax code but still has input VAT that has not been fully creditable at the time of operation termination, while all the regulatory conditions for input VAT creditability are met, the branch is allowed to transfer the input VAT amount balance to the head office for further credit.

(Official Letter No. 1569/TCT-KK dated 15 April 2024 issued by the General Department of Taxation)



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Personal Income Tax

Guidance ruling

Guidance on deduction of insurance contribution when performing PIT finalization

When an individual earns income from salaries or wages under a labor contract with the terms of 3 months or more and he/she is working for the company at the time the company preparing PIT finalization (even if the individual did not work for the full 12 months of the year), the individual may authorize the company to perform PIT finalization on his/her behalf.

If the individual participating in voluntary insurance or retirement funds, meeting the requirements, the contributions can be deducted from taxable income when calculating PIT. The supporting documents for these deductions include copies of payment receipts from the insurance organization or confirmation from the company regarding the deducted and paid insurance amounts (if the company submits on behalf of the individual).

(Official Letter No. 16888/CTHN-TTHT dated 02 April 2024 issued by Hanoi Department of Taxation)

Departure of legal representatives of enterprises subject to tax enforcement

If there are sufficient evidences to determine that an individual is no longer the legal representative of an enterprise which is undergoing enforced execution of administrative decisions regarding tax management, and has no obligations regarding the tax debt of the related business, that individual is not subject to temporary suspension of exiting as stipulated in Clause 7, Article 124 of Tax Administration Law No. 38/2019/QH14, and Clause 5, Article 36 of Immigration and Emigration Law for Vietnamese Citizens No. 49/2019/QH14.

If an individual is the legal representative of a taxpayer, and the taxpayer is subject to enforced execution of administrative decisions regarding tax management and has not fulfilled their tax obligations, that individual may be subject to temporary suspension of exiting. The head of the direct tax management authority shall base on the actual situation and tax management activities to determine whether to impose temporary suspension of exiting.

(Official Letter No. 1457/TCT-QLN dated 10 April 2024 issued by the General Department of Taxation)



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Foreign Contractor Withholding Tax

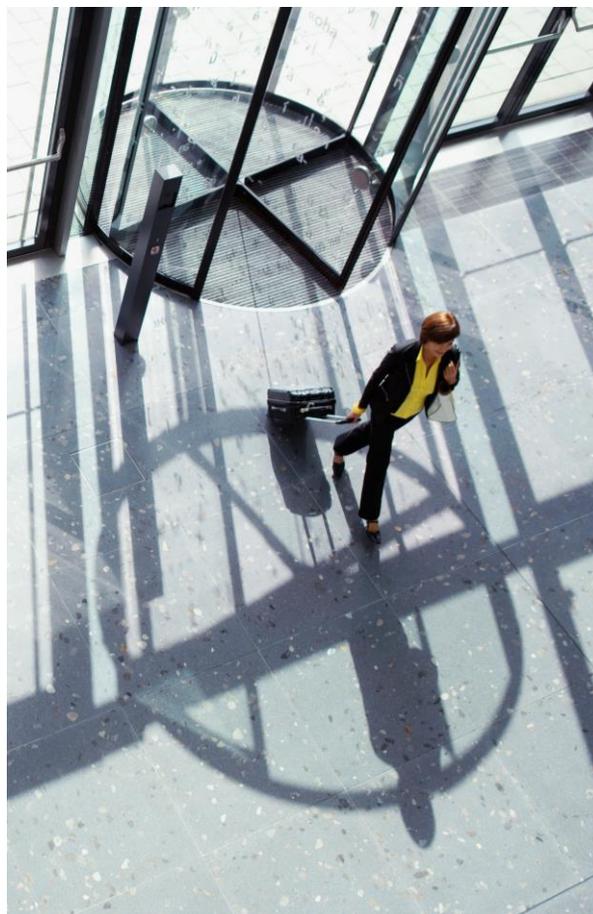
Guidance ruling

Declare and pay withholding tax for copyright service

When a foreign contractor generates income from providing copyright service related to project in Vietnam based on a contract, agreement, or commitment between the foreign contractor with a Vietnamese company, income of the foreign contractor is subject to withholding tax according to regulations and tax rates according in Article 13 of Circular No. 103/2014/TT-BTC.

If the foreign contractor does not constitute a permanent in Vietnam according to the provisions of Article 4 of the Double Tax Avoidance Agreement (“DTAA”) and regulations in Article 22, Article 23 of Circular No. 205/2013/TT-BTC, the foreign contractor shall be exempted from tax under the DTAA. Regarding tax exemption and tax reduction application procedures under the DTAA, the Company should follow Article 62 of Circular No. 80/2021/TT-BTC dated 29 September 2021 of the Ministry of Finance for implementation.

(Official Letter No. 2037/CTBGI-TTHT dated 28 March 2024 issued by Bac Giang Tax Department)



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Trade & Customs Guidance ruling

Amendment and supplementation on the implementation of the Rules of Origin regarding the ASEAN – Korea Free Trade Area (“AKFTA”)

On 27 March 2024, the Ministry of Industry and Trade issued Circular No. 04/2024/TT-BCT to amend and supplement certain provisions regarding the implementation of the Rules of Origin in the AKFTA, specifically:

- The direct calculation formula of the regional value content (“RVC”) for origin determination and Certificate of Origin (“C/O”) form AK issuance has been supplemented for not wholly obtained goods;
- Exporters or manufacturers shall be given flexibility in applying either direct or indirect RVC calculation formula. The chosen formula has to be consistently applied throughout the fiscal year of such exporter or manufacturer;
- C/O shall comply with requirements of hard-copy version using handwritten signatures and seals or electronic version under A4 format in English;
- The Agreement name has been changed to “Trade in Goods Agreement under the ASEAN-Korea Comprehensive Economic Cooperation Agreement”.

(Circular No. 04/2024/TT-BCT dated 27 March 2024 issued by the Ministry of Industry and Trade)

VAT reduction for basic chemicals and chemical product

Goods identified as “**basic chemicals**” are not excluded from VAT reduction and not in the list of goods ineligible for VAT reduction in Decree No. 94/2023/NĐ-CP. Accordingly, goods identified as basic chemicals are eligible for VAT reduction with the applicable tax rate of 8%.

Goods identified as chemical products are not eligible for VAT reduction, and the applicable tax rate is 10%.

The Ministry of Industry and Trade is responsible for the state management of chemical activities and addressing issues in determining whether goods are basic chemicals or chemical products for VAT declaration.

(Official Letter No. 1382/TCHQ-TXNK dated 02 April 2024 issued by the General Department of Customs)



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Trade & Customs

Guidance ruling

VAT reduction for specialized electronic equipment

Goods identified as specialized electronic equipment are not eligible for VAT reduction and are subject to 10% VAT according to Section IV, Part B, Appendix III of Decree No. 94/2023/NĐ-CP issued by the Government.

Determination of imported goods as specialized electronic equipment for VAT declaration **shall be guided by the Ministry of Information and Communication.**

(Official Letter No. 1542/TCHQ-TXNK dated 11 April 2024 issued by the General Department of Customs)

Customs procedure for inland import and export for transaction involving multiple parties

For cases that goods are traded between entity A in Vietnam with entity B being a foreign organization or individual, and then B sells goods to entity C, another overseas entity and the goods are designated by C (which has presence in Vietnam) to be delivered to entity D in Vietnam, such transaction shall not be considered as in-land import and export activities as stipulated in Article 1, Clause 35 of Decree No. 08/2015/ND-CP, as C already has presence in Vietnam.

(Official Letter No. 631/HQBN-NV dated 12 April 2024 issued by the Bac Ninh Department of Customs)



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