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Newsletter
Tax & Customs

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**Transfer Pricing
Firm of the Year**

**Tax Firm
of the Year**



Corporate Income Tax

Guidance ruling

CIT incentives for expansion investment projects

If the Company acquires an investment project and carries out expansion investment activities after the ownership of the project ownership is transferred, it may be eligible for CIT incentives on the additional income from expansion investment activities, provided it meets the qualifying conditions.

For expansion investment projects involving the manufacturing of goods subject to Special Consumption Tax (“SCT”) that were granted an investment registration certificate after 01 July 2015 (i.e., the effective date of the Investment Law), any income generated from the manufacturing activity of goods subject to SCT from such expansion investment projects is not eligible for CIT incentives.

(Official Letter No. 5115/TCT-CS dated 15 November 2023 issued by the General Department of Taxation)

Import duty paid is deductible when calculating taxable income for CIT purposes

The amount of import duties paid, as determined by an assessment decision of the Customs authorities, is considered deductible expense for CIT calculation purposes, provided that it meets the prescribed conditions.

(Official Letter No. 23684/CTBDU-TTHT dated 10 October 2023 issued by the Binh Duong Tax Department)

Companies contributing capital through an investment project can inherit the CIT incentives rights and obligations of that project

If a company contributes capital through an investment project of which:

- The investment policy, scale, field, location eligible for CIT incentives are not changed;
- The CIT incentives applicable to the project are not affected; and
- The regulated conditions are met

The Company is entitled to inherit the rights and obligations for the implementation of investment projects related to CIT incentives.

(Official Letter No. 12405/CTDON-TTHT dated 27 October 2023 issued by the Dong Nai Tax Department)

Interest expenses due to late payment are deductible when calculating taxable income for CIT purposes

If interest expenses arise due to late payment, where specified in the terms of the goods sales and purchase contract, can be treated as deductible expenses for CIT calculation purposes.

(Official Letter No. 32079/CTBDU-TTHT dated 05 December 2023 issued by the Binh Duong Tax Department)



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Indirect Tax

Guidance ruling

Electronic invoices for returned goods

If an organization or individual purchases goods, receives an invoice from the seller, and later discovers the goods do not comply with specifications or quality, and consequently needs to return them partially or fully, then:

- The seller shall issue an invoice to reduce the amount of the original invoice or completely replace it.
- The seller and buyer must have an agreement clearly stating the goods are being returned.

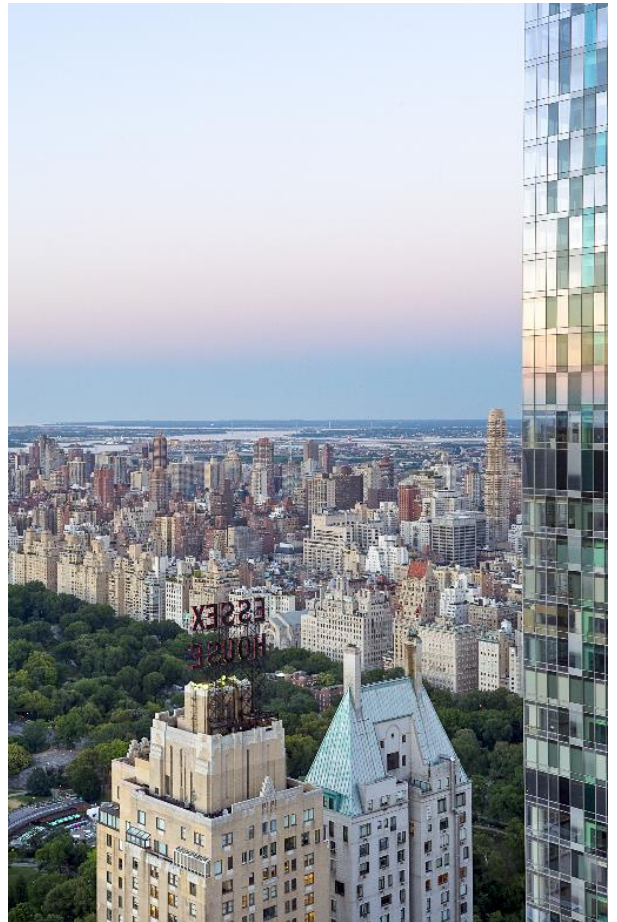
If the Company issues an adjustment or replacement invoice, the Company must file a supplementary tax declaration in the same period as when the original invoice was issued, as regulated.

(Official Letter No. 31450/CTBDU-TTHT dated 30 November 2023 issued by the Binh Duong Tax Department)

Invoices issuance when receiving sponsorship

When a Company receives sponsorship from organizations or individuals in exchange for services like repair, warranty, promotion, or advertising, then the Company is required to issue an invoice to the sponsor.

(Official Letter No. 84347/CTHN-TTHT dated 30 November 2023 issued by the Hanoi Tax Department)



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Personal Income Tax

Guidance ruling

PIT on the severance allowance paid to foreign employees

If the Company pays severance allowance to foreign employees after they leave Vietnam for their home country, the following apply:

- Severance allowance paid in accordance with the Labor Code is not subject to PIT for employment income.
- Severance allowance paid in excess of the Labor Code is subjected to PIT. The Company is responsible for withholding PIT from such amount at a flat tax rate of 20% applicable to non-resident taxpayers before making payments to those foreign employees.

(Official Letter No. 5046/CTBNI-TTHT dated 31 October 2023 issued by Bac Ninh Province Tax Department)

PIT on the commission

Commission fee based on sales volume for domestic sellers who are individuals participating on the e-commerce trading platform:

- If a business individual receives commission income of less than VND100 million in a calendar year, the individual is responsible for declaring and submitting tax declaration returns on time but are not required to pay VAT or PIT.
- If a business individual receives commission income of VND100 million or more in a calendar year, they are responsible for declaring, submitting tax declaration returns and remitting the VAT and PIT according to regulations.
- If a non-business individual receives commission income, it will be considered as employment income. The company is responsible for withholding PIT at a rate of 10% for income of VND2 million or more per payment period, before paying individuals, according to regulations;
- If the Company pays commission to an employee with a labor contract of 03 (three) months or more, the entire commission will be added to their employment income to fulfill the PIT obligation. The Company is responsible for withholding PIT in accordance with regulations.

(Official Letter No. 4346/CLAN-TTHT dated 03 November 2023 issued by Long An Province Tax Department)

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Foreign Contractor Withholding Tax

Guidance ruling

FCWT on processed goods sales in bonded warehouse

Foreign enterprises without a permanent establishment in Vietnam are subject to FCWT on income from selling processed goods within a Vietnamese bonded warehouse. This applies even if the goods were originally imported or domestically sourced and processed by another company.

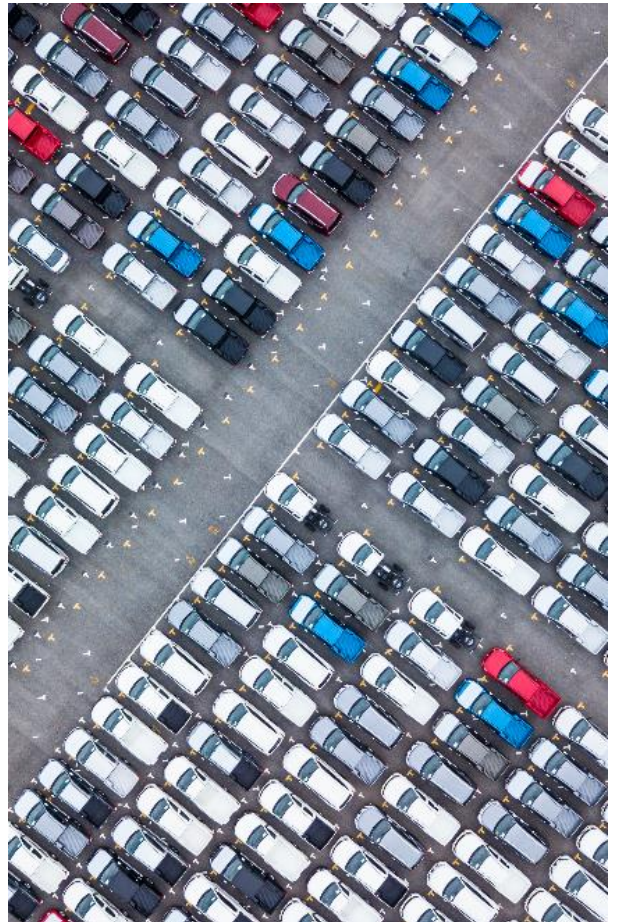
The delivery of goods from the bonded warehouse is not considered an ancillary activity exempt from FCWT like international transportation, transit, border-gate transfer or storage, or for processing by other enterprises.

(Official Letter No. 23679/CTBDU-TTHT dated 10 October 2023 issued by the Binh Duong Tax Department)

FCWT levied on income from bidding services in Korea

If a Company hires a legal consulting service provider in Korea to prepare bidding documents and legal procedures in Korea, the income from the above legal consulting services provided and consumed outside Vietnam are not subject to FCWT.

(Official Letter No. 4436/CTLAN-TTHT dated 10 November 2023 issued by the Long An Tax Department)



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Trade & Customs

Guidance ruling

Determination of customs values for imported goods subject to change of usage purpose

According to the General Department of Customs (“GDC”), the customs values for imported goods being subject to change of usage purpose (compared to the purpose previously declared for the goods and on which duty exemption was granted), are the values declared at the time of importation.

If the Customs authority has grounds to determine that the declared values are not reasonable, the customs value shall be determined in accordance with the customs valuation methods specified in Circular No. 39/2015/TT-BTC (amended and supplemented in Circular No. 60/2019/TT-BTC), and appropriate to the actual imported goods.

Applying an average unit price of imported raw materials (from the date of the company’s establishment to date) for calculation of duties when change of usage purpose occurs, is not in accordance with the applicable regulations.

(Official Letter No. 5186/TCHQ-TXNK dated 06 October 2023, issued by the General Department of Customs)

Conditions of duty exemption for goods imported for export manufacturing

According to GDC, in cases where companies:

- do not own or have the right to use the production facility for manufacturing the exported goods; machinery, and equipment at the production facility in the territory of Vietnam, or
- deliver all imported goods to other organizations/ individuals in Vietnam territory to outsource all manufacturing stages, and then receive the finished goods for export,

the conditions for satisfying the duty exemption scheme for export manufacturing activities, as the regulated conditions under clause 2, Article 12 Decree No. 134/2016/ND-CP (amended and supplemented in clause 6, Article 1 Decree No. 18/2021/ND-CP) are not met.

(Official Letter No. 5980/TCHQ-TXNK dated 17 November 2023 issued by the General Department of Customs)



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Trade & Customs

Guidance ruling

Handling of overpaid VAT on goods imported and then re-exported for return to foreign supplier

According to GDC, in the cases where:

- A Company has paid VAT for imported goods but then re-exported for return to foreign supplier, and
- the export customs declaration has been registered from 01/02/2018 (effective date of Decree No. 146/2017/ND-CP),

The Customs authority will handle the overpaid import VAT.

The overpaid import VAT will be handled simultaneously with the import duty (if any).

(Official Letter No. 6068/TCHQ-TXNK dated 23 November 2023 issued by the General Department of Customs)

Two more countries, Myanmar and the Philippines, added to enjoy RCEP Tariffs

On 01 December 2023, the Government has issued Decree No. 84/2023/ND-CP guiding the official timelines to apply the Tariffs under the Regional Comprehensive Economic Partnership ("RCEP") for the period 2022–2027 for 02 ASEAN countries Myanmar and Philippines. Accordingly:

- **For Myanmar:** Officially applied RCEP Tariffs from 04 March 2022, specifically:
 - ☐ In 2022: From 04 March 2022 to 31 December 2022;
 - ☐ In 2023: From 01 January 2023 to 31 December 2023.
- **For Philippines:** Officially applied RCEP Tariffs 2023 from 02 June 2023 to 31 December 2023.

This Decree takes effect from 01 December 2023.

For the goods imported from:

- Myanmar and registered the Import Customs declarations from 04 March 2022 to dates before 01 December 2023, and
- Philippines and registered the Import Customs declarations from 02 June 2023 to dates before 01 December 2023,

Customs authority will handle the overpaid duties according to the prevailing tax administration regulations, if all regulated conditions to claim the RCEP Tariffs are met, and the companies have actually paid import duty at the higher tariff rate (compared to RCEP tariff rate).

(Decree No. 84/2023/ND-CP dated 01 December 2023 issued by the Government)

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