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# Tax & Customs Newsletter

July 2023



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- Interest on deferred sales payment is not considered an interest income earned from deposit or lending activities

### Indirect Tax

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- VAT on damaged goods to be compensated

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- No requirement to prove parents' income when registering dependents

### Immigration

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- Amendments to the procedures for confirming imported goods are eligible to tax incentives
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- Guidance on determining the timing of export turnover declaration
- Guidance on export customs declarations that do not qualify for additional declaration after customs clearance
- Import duty of materials will not be refunded if export manufacturing enterprises outsource part of processing to other companies

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## Corporate Income Tax Resolution

### The National Assembly passed Resolution No. 98/2023/QH15 piloting some specific mechanisms and policies for CIT incentive schemes in Ho Chi Minh City

On 24 June 2023, the National Assembly passed Resolution No. 98/2023/QH15 piloting some specific mechanisms and policies for CIT incentive schemes in Ho Chi Minh City (“HCMC”) with a number of main contents as follows:

#### 1. Strategic investors are entitled to enjoy the following incentive schemes in accordance with Article 7:

- Deductible expenses related to research and development (R&D) are equal to 150% of actual costs for the purpose of CIT calculation;
- The priority regime on customs and taxes procedures for imported and exported goods implemented in HCMC, if the conditions as regulated are met.

#### 2. The innovative and entrepreneurial activities in priority sectors in HCMC are entitled to enjoy the following incentive schemes:

- CIT exemption for 5 years from the time of the generation of the CIT-liable taxable income of the income derived from such activities;

- PIT exemption and CIT exemption for individuals and organizations, whose income is earned from transfer capital, transfer the right of capital contribution to innovative startups located in HCMC;
- Experts, scientists, individual with special talents, creative individual working in innovative startups, science and technology organizations, innovation centers and intermediary organizations that support innovative enterprises in HCMC are exempted from PIT for a period of 5 years for salary and wage source income.

*(Resolution No. 98/2023/QH15 dated 24 June 2023 issued by the National Assembly)*



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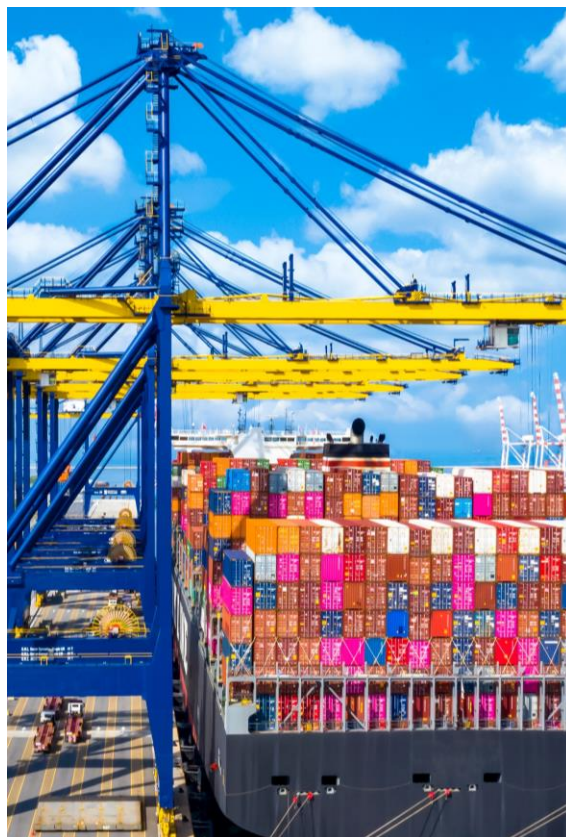
## Corporate Income Tax

### Guidance ruling

#### Interest on deferred sales payment is not considered an interest income earned from deposit or lending activities

If an enterprise engages in related party transactions and earns income from interest charged on the deferred payment of the customer, such interest shall not be considered as an interest income from deposit or lending activities as specified in clause 3, Article 16 of Decree No. 132/2020/ND-CP.

*(Official Letter No. 42369/CTHN-TTHT dated 19 June 2023 issued by the General Department of Taxation)*



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## Indirect Tax

### New regulation

#### Updated Decree to extend the deadline for Special Consumption Tax payment on domestically manufactured or assembled automobiles

On 21 June 2023, the Government issued Decree No. 36/2023/ND-CP which extends the payment deadline for the Special Consumption Tax (“SCT”) on domestically manufactured or assembled automobiles. This extension applies to the tax period of June, July, August and September 2023.

The new deadline for SCT payment will be 20 November 2023.

Taxpayers who meet the eligibility criteria for the extension shall submit the application form, together with the corresponding SCT returns for the entire extension period to the tax department directly responsible for managing their taxes. The deadline for submission is 20 November 2023.

*(Decree No. 36/2023/ND-CP date 21/06/2023 issued by the Government)*

## Guidance ruling

#### VAT on damaged goods to be compensated

In an event that a company has damaged goods which are subject to VAT, and receives compensation from the insurance agency:

- If the compensated amounts **exclude** the input VAT amount on damaged goods, the company is entitled to declare the input VAT paid on those goods, as creditable for VAT purposes provided that the conditions as regulated are met.

The company will issue receipt vouchers in accordance with the regulations.

- If the compensated amounts **include** the input VAT of the damaged goods and assets, the company is entitled to declare of such input VAT as creditable for VAT purposes provided that the conditions as regulated are met.

However, the company has to issue VAT invoices (clearly stating values compensated, which are exclusive of VAT, and of compensated VAT, amounts), declare, and make payments of output VAT equivalent to the compensated VAT amounts.

*(Official Letter No. 1736/CTLAN-TTHT dated 23 May 2023 issued by the Long An Tax Department)*



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## Labor & Social insurance

### Guidance ruling

#### Updating the payment description according to the structure prescribed by the Social Insurance agency

The Vietnam Social Security has issued an official document to guide the adjustment of payment description when making payment for compulsory social insurance, as follows:

- If the company makes payment via mobile banking application: enter and select payment information.
- If the company makes a payment order to transfer money through other channels: in the payment order, the following structure should be specified, including the + sign:

+BHXH+103+00+Unit code+Social agency code+dong BHXH+

(In which “+BHXH+103+00+” is default, the company fills in its SHUI code and the code of its managing social insurance agency)

*(Official Letter No. 1995/BHXH-TCKT dated 30/05/2023 issued by Vietnam Social Security)*

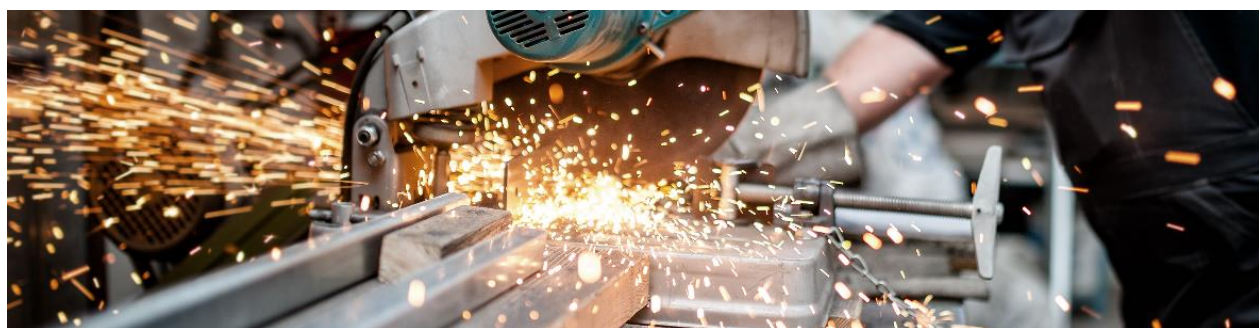
*(Notice No. 3293/TB-BHXH dated 10/07/2023 issued by Ho Chi Minh City Social Insurance)*

#### Guidance on the settlement of social insurance benefits for persons working for a company that still owes social insurance contribution

For employees working for a company that still owes social insurance contributions, including a company that is in bankruptcy proceedings; has already received a bankruptcy decision from the court; no longer operates at the registered address and has no legal representative, the social insurance agency will provisionally confirm and pay the sickness, maternity, convalescence, retirement and survivorship benefits... according to the actual social insurance contributions.

When the social insurance debt is settled, the difference between the provisional amount and the final amount of the benefit will be paid to the employee.

*(Official Letter No. 1880/BHXH-CSXH dated 21/06/2023 of Vietnam Social Security)*



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## Personal Income Tax

### Guidance ruling

#### **PIT is not required to be allocated from headquarters to branches which is located in another province and files PIT directly**

If a branch of the company, which handles direct tax declarations at the tax department overseeing the branch, pays wages or salaries and withholds PIT for employees working in a province outside the branch's business locations, that branch will be exempt from allocating PIT to the related provinces. Instead, the branch will centrally declare and remit PIT at its managing tax department without allocation to the respective provinces.

*(Official Letter No. 45194/CTHN-TTHT dated 30/06/2023 issued by Hanoi Tax Department)*

#### **No requirement to prove parents' income when registering dependents**

According to the regulations, the dossiers proving that the employees' parents are eligible dependents do not require any document proving the parents' income. Employees take full responsibility for the truthfulness of the information in accordance with the regulations.

*(Official Letter No. 46974/CTHN-TTHT dated 04/07/2023 issued by Hanoi Tax Department)*



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## Immigration

### Draft regulation

The government has recently approved a new regulation regarding the duration of stay for e-Visa and visa exemption for foreigners entering Vietnam.

The changes are as follows:

- Vietnam e-Visa, available for citizens of 80 specific countries, will now be granted with multiple entries and a duration of stay up to 90 days, compared to the previous 30 days limit.
- Visa exemption for citizens of the United Kingdom of Great Britain and Northern Ireland, France, Germany, Italy, Spain, Sweden, Finland, Denmark, Norway, Korea, Japan, Russia, and Belarus will now allow for a longer duration of stay, extending up to 45 days from the previous 15 days limit.

These new changes are expected to take effect from 15 August 2023 until further notice from the government.



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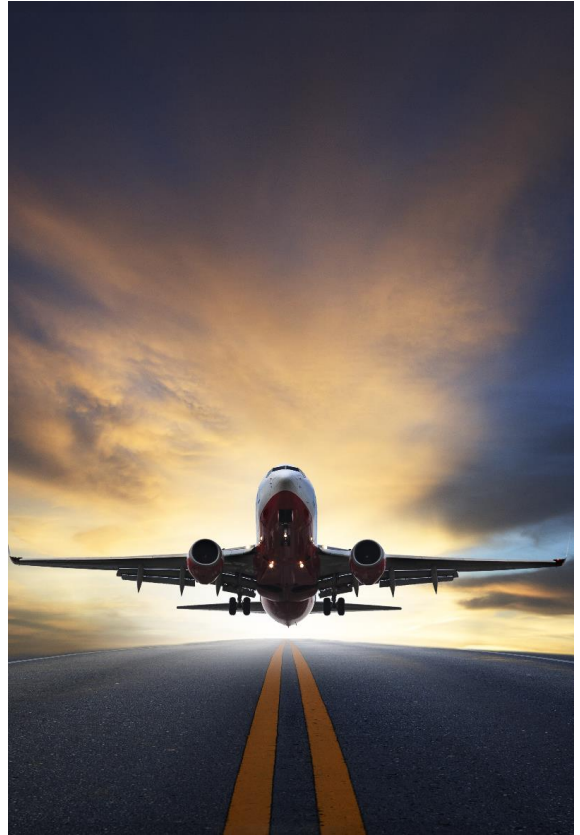
## Foreign Contractor Withholding Tax

### Guidance ruling

#### FCWT on the income from the assignment of employees to work in Vietnam

If a foreign company conducts business in Vietnam or earns income from the assignment of employees to work in Vietnam in accordance with the contract or agreement between the foreign contractor and the Vietnamese company, the foreign company is subject to FCWT.

*(Official Letter No. 49216 dated 10/07/2023 issued by Hanoi Tax Department)*



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## Trade & Customs

### New regulation

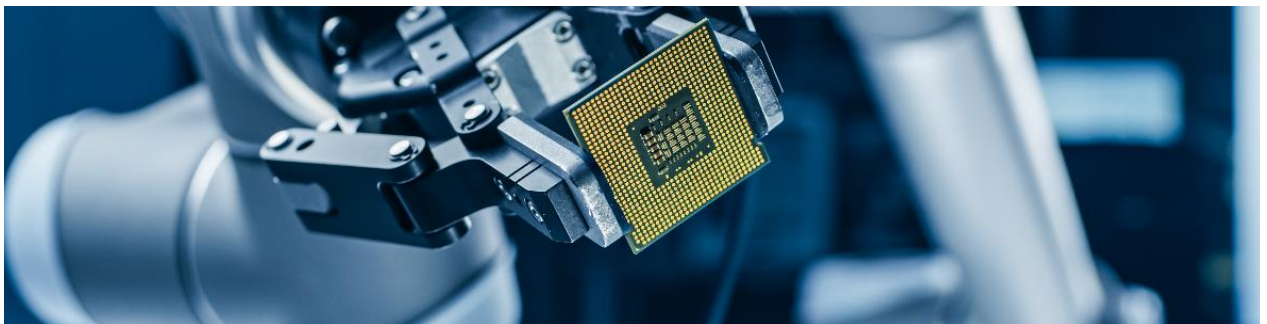
#### Amendments to the procedures for confirming imported goods are eligible to tax incentives

The procedures amended by this Decision include:

- Confirmation of goods imported for the construction, repair and maintenance of locomotives and rolling stock under HS heading 98.18;
- Confirmation of the type of enterprise manufacturing key mechanical products according to provisions of Decree No. 26/2023/ND-CP;
- Confirmation of supplies and equipment imported to serve the projects manufacturing equipment used for the production of light unburnt building materials, and the production of cement-aggregate bricks, with a capacity of 10 million standard bricks/year and above under HS heading 98.22;
- Confirmation of vehicles satisfying the conformity standards for vehicles designed to carry money under HS heading 98.23;
- Confirmation of the list of imported goods being raw materials, supplies, components and auxiliary parts for production and assembly of information technology products under HS heading 98.34;
- Assessment for duty refund applied to special-use cars manufactured and assembled from chassis vehicles;
- Registration to participate in the Tax Incentive Program for manufacturing and assembling of cars;
- Application of duty rate at 0% for HS heading 98.49;
- Registration to participate in the Tax Incentive Program for Automotive Supporting Industry;
- Application of duty rate at 0% under the Tax Incentive Program for Automotive Supporting Industry.

The Decision takes effect from 15 July 2023.

*(Decision No. 1338/QĐ- BTC dated 23 June 2023 issued by the Ministry of Finance)*



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## Trade & Customs

### New regulation

#### From 1 July to 31 December 2023, 36 types of fees and charges will be reduced to support people and enterprises

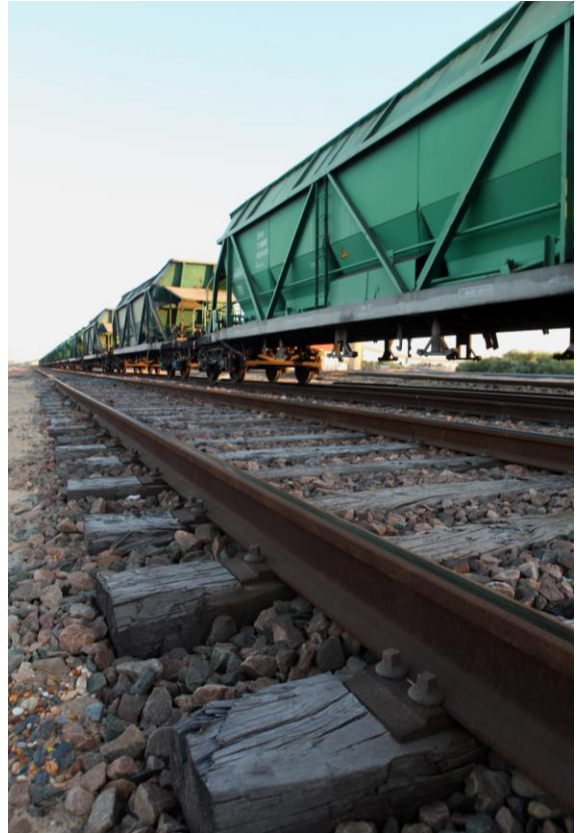
On 29 June 2023, the Ministry of Finance issued Circular No. 44/2023/TT-BTC announcing that 36 types of fees and charges will be subject to be reduced by 10% to 50% from 1 July 2023 to the end of 31 December 2023. Including:

- Reducing 50% of the fee for licensing the import of non-business publications; and the registration fee for import of publications for business purposes.
- Reducing 50% of the fee for issuance of certificates of quarantine for animals and terrestrial animal products; aquatic products imported, in transit, temporarily imported for re-export (including bonded warehouses), or transferred between border gates.

The fee collection authorities are responsible for calculating, offsetting the fees reduction, for organizations and individuals, in the next fee payment period

This Circular takes effect from 1 July 2023 to 31 December 2023.

*(Circular No. 44/2023/TT-BTC dated 29 June 2023 issued by the Ministry of Finance)*



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## Trade & Customs

### Guidance ruling

#### Guidance on the implementation of Decree No. 26/2023/ND-CP and Decision No. 15/2023/QD-TTg dated 31 May 2023, on the new tariff schedule

The Official Letter highlights the new changes in the Preferential Import-Export Tariff (MFN Tariff) and the non-Preferential Import-Export Tariff issued in Decree No. 26/2023/ND-CP and Decision No. 15/2023/QD-TTg, effective from 15 July 2023, including:

- For the Preferential Export Tariff:** consistently applying the preferential rate at 5% for fertilizer products (except for some HS codes entitled to 0% rate); reducing the preferential export tariff on charcoal from 10% to 5%; increasing the preferential export tariff on unprocessed zinc and tin from 5% to 10%;
- For the Preferential Import Tariff:** reducing the preferential import rate on Ethanol from 15% to 10%; applying a preferential rate of 50% to all tobacco products under HS heading 24.04; reducing the preferential import tariff rate of some products under HS heading 2710.12 from 20% to 10%; reducing preferential import rate of HS code 2710.19.90 and 2710.20.00 from 5% to 0%; reducing the preferential import rate on new rubber tires from 25% to 20%;
- For the non-Preferential Import Tariff:** reducing to 0% rate for the following HS codes: 2710.19.90, 2710.20.00, 2713.0.00, 2901.22.00;
- In addition, a new change worth noting in Decree No. 26/2023/ND-CP is the change in the conditions for applying the Tax Incentive Program for automobile components, especially removing the conditions of the minimum knock-down level of imported automobile parts.

*(Official Letter No. 3173/TCHQ-TXNK dated 21 June 2023 issued by the General Department of Customs)*

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## Trade & Customs

### Guidance ruling

#### Guidance on customs declaration for imported goods entitled to VAT reduction by 2% from 1 July 2023

- Imported goods are entitled to VAT reduction by 2%, including goods currently subject to VAT rate at 10%, except for a number of goods which are not eligible for VAT reduction specified in clause 1, Article 1 and in the list provided in Appendix I, II, III of Decree No. 44/2023/ND-CP;
- Regarding HS code declaration: the HS codes provided in column (10) of Appendix I, column (10) Part A and column (4) Part B of Appendix III (List of goods **not** eligible for VAT reduction) are only for **searching** purposes. The determination of HS code for the imported goods must comply with the provisions on goods classification in the Customs Law and official documents guiding the implementation of the Customs Law. Particularly for rows with a symbol (\*) in column (10) of Appendix I, column (10) Part A and column (4) Part B of Appendix III, the HS code shall be declared according to the actual imported goods;
- For imported goods eligible for VAT reduction, enterprises must choose the correct code **VB205** to declare the tax rate of 8% on the VNACCS/VCIS system, and only declare the tax rate at 8% for customs declarations registered from 00:00 on 1 July 2023.

*(Official Letter No. 3431/TCHQ-TXNK dated 30 June 2023 issued by the General Department of Customs)*

#### Guidance on determining the timing of export turnover declaration

Only after exported goods have completed the export customs clearance procedures and determined as having been exported, they will be considered as having completed the export procedures in accordant with prevailing regulations, and eligible to use the export customs declaration returned from Customs for other purposes.

*(Official Letter No. 3446/TCHQ-GSQL dated 03 July 2023 issued by the General Department of Customs)*

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## Trade & Customs

### Guidance ruling

#### Guidance on export customs declarations that do not qualify for additional declaration after customs clearance

On 21 June 2023, the General Department of Customs issued Official Letter No. 3188/TCHQ-GSQL to respond to the General Department of Taxation on the case that the export customs declaration has been completed customs clearance procedures, and there was no error during the course of customs procedures, the export declaration are not eligible to have supplementary declaration according to prevailing customs regulations.

Where there is change of overseas buyer after completion of the export customs declaration and clearance, and the goods have been actually exported (due to being cheated), the customs declarant is responsible for maintaining the documents and records related to the change of information declared on the customs declaration, and present them to the Customs authority or relevant authority upon request for inspection.

*(Official Letter No. 3188/TCHQ-GSQL dated 21 June 2023 issued by the General Department of Customs)*

#### Import duty of materials will not be refunded if export manufacturing enterprises outsource part of processing to other companies

According to the General Department of Customs, if an enterprise has imported raw materials for production and paid import duty, does not complete all stages of production but delivers a part or all of these materials to another enterprise for outsourced processing of one or several stages then receives the processed products back for further/ subsequent manufacturing and exports of the finished products then the enterprise does not satisfy the regulations for duty refund. Therefore, the imported duty-paid materials outsourced for processing are not entitled to import duty refund.

For materials which were outsourced to Export Processing Enterprise for processing when imported back into the domestic market for further manufacturing and export will be subject to import duty and therefore not entitled to import duty refund.

*(Official Letter No. 3249/TCHQ-TXNK dated 26 June 2023 issued by the General Department of Customs)*



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