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Tax Administration



GUIDANCE RULINGS

Tax declaration and payment on behalf of individual in e-commerce activities

1. *Tax declarations and payments:* An organization shall declare and pay tax on behalf of individual e-commerce merchants monthly or quarterly as prescribed under tax administration laws in the following cases:

- Vietnamese organizations that are partners of overseas digital platform providers (which do not have a permanent presence in Vietnam) pay individuals revenue for digital information content products and services based on agreements with overseas digital platform providers;
- Any organization is an owner of an e-commerce platform, declares and pays tax on behalf of individual e-commerce merchants in line with the tax authority's roadmap.

2. *Tax declaration dossiers (Article 16, Circular No. 40/2021/TT-BTC):*

- Tax declaration for businessmen (Form No. 01/CNKD);
- Detailed list of businessmen (Form No. 01-1/BK-CNKD);
- Copy of the Business Cooperation Contract (for the first declaration of the contract).

(The Official Letter No. 11240/CTBDU-TTHT dated 07 July 2021 issued by Binh Duong Tax Department)



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Personal Income Tax



GUIDANCE RULINGS

Personal Income Tax declaration for organizations, individuals who are not incurring taxable income

Organizations and individuals paying taxable income to the employees shall be required to declare relevant Personal Income Tax ("PIT") returns on monthly/quarterly basis.

If there is no taxable income paid by the organizations and individuals to the employees, no monthly/quarterly PIT declaration is required for such organizations and individuals.

(The Official Letter No. 2393/TCT-DNNCN dated 01 July 2021 issued by the General Department of Taxation)

NEW REGULATIONS

Policies to support employees and employers facing difficulties due to Covid-19 pandemic

Following Resolution No. 68/NQ-CP dated 01 July 2021 and the Decision No. 23/QĐ-TTg dated 07 July 2021 issued by the Government:

1. Reducing the contribution rate to occupational, accidents and diseases insurances to 0% for 12 months (from 01 July 2021 to 30 June 2022);

The money collected by the Company from the reduction of the contribution for such occupational, accidents and diseases insurances will be used for the prevention of the Covid-19 pandemic for employees.

2. Temporary suspension of contributions to the retirement and survivorship fund for employees affected by the COVID-19 pandemic, resulting in a 15% or greater reduction in the workforce from April 2021;

3. Allowance to support for employers for job retention training programs of its employees;

4. One-off allowance for the employees whose labor contracts are temporarily suspended, or on unpaid leave due to COVID-19 pandemic;

5. One-off allowance for employees who are under furlough period due to COVID-19 pandemic;

6. One-off allowance for employees who terminate their employment contracts due to Covid-19 pandemic;

**For point 4, 5, 6 above, pregnant female employees and female employees raising child less than 06 years old will be entitled to additional allowance by the State budget apart from the aforesaid above.*

7. Allowance support for children being COVID 19 patients;

8. Meal allowance for Covid-19 patients;

9. One-off financial support toward tourism and art serving public sectors;

10. One-off allowance for household businesses;

11. Loan policy to pay furlough wages, wages for production recovery at the interest rate of 0% for employers;

12. Allowance for employees without employment contract (freelancers) and some other specific cases.

(The Resolution No. 68/NQ-CP dated 01 July 2021 and the Decision No. 23/QĐ-TTg dated 07 July 2021 issued by the Government)



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Corporate Income Tax



GUIDANCE RULINGS

The fixed business trip allowance in accordance with the company's policy

According to the Official Letter, when a company pays out a fixed amount of allowance to its employee on business trip in alignment with the company's financial policy or internal policy, such expense would be deductible for Corporate Income Tax ("CIT") purpose.

(The Official Letter No. 17322/CTHN-TTHT dated 20 May 2021 issued by the Hanoi Tax Department)

Cash support received for a long-term contract

If a company receives a cash support for a long-term contract and such support is not for the purpose of repair, warranty, advertisement, or promotion, then the company shall declare and pay for CIT. The accessible income for CIT calculation is determined on one-time basis and not to be allocated over periods, time for determining revenue for CIT calculation is the time that the company receives such support.

(The Official Letter No. 933/TCT-DNL dated 01 April 2021 issued by the General Department of Taxation)

Taxable income eligible for CIT incentives from dependent production facilities not selling and generating revenue, located outside province of their headquarters

Enterprise shall separately record revenues, expenses and taxable income arising from incentive activities of dependent accounting unit;

Failure to separately record taxable income that enjoy CIT incentives, such taxable income is determined by multiplying total taxable income with ratio of revenue or deductible expenses of incentive activities over total revenue or deductible expenses in the tax year.

(The Official Letter No. 10779/CTBDU-TTHT dated 25 June 2021 issued by Binh Duong Tax Department)



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Value Added Tax



GUIDANCE RULINGS

Value Added Tax policies for dependent production facilities not selling and generating revenue, located outside province of their headquarters

1. *Use of invoices, vouchers for raw materials and finished products with the headquarters:* depending on business operation and accounting records, the enterprise opts to use one of the following types of invoices, vouchers:

- Value Added Tax (“VAT”) invoices;
- Goods delivery cum internal circulations notes associated with the internal orders.

2. *VAT declaration:* production facilities not maintaining accounting record separately shall declare VAT at the headquarters and pay VAT to the tax authority where it is located with the relevant rates as below:

- 2% for goods subject to VAT rate of 10%; or,
- 1% for goods subject to VAT rate of 5%.

In case taxpayer does not incur any tax at the headquarters, then the taxpayer does not have to pay tax at the province where the production facilities located.

(The Official Letter No. 10779/CTBDU-TTHT dated 25 June 2021 issued by Binh Duong Tax Department)

VAT declaration for investment project not located at the same province as the headquarters

VAT declaration dossiers of investment project not located at the same province as the headquarter must be filed separately to the tax authority where the project is located;

In addition, in case new investment project is in the pre-operation investment period and have not applied for neither business nor tax registration, the headquarter is responsible to declare and credit input VAT as regulated. After new project is established and business registration is completed, the headquarter summarizes and transfers input VAT of investment project to newly established entity.

(The Official Letter No. 11220/CTBDU-TTHT dated 06 July 2021 issued by Binh Duong Tax Department)



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Foreign Contractor Withholding Tax



GUIDANCE RULINGS

Foreign Contractor Withholding Tax levied on goods accompanied with services delivered at border gate

In case a foreign contractor provides goods which are delivered at the Vietnamese border gate accompanied with installation service performed in Vietnam (in which the value of goods and the value of installation services are separated under contract with foreign contractor), income of foreign contractor would be subject to Vietnamese Foreign Contractor Withholding Tax ("FCWT"), specifically:

- For the value of machinery and equipment: CIT rate of 1% and VAT paid in the importation stage;
- For installation services: CIT of 2% and VAT of 5%.

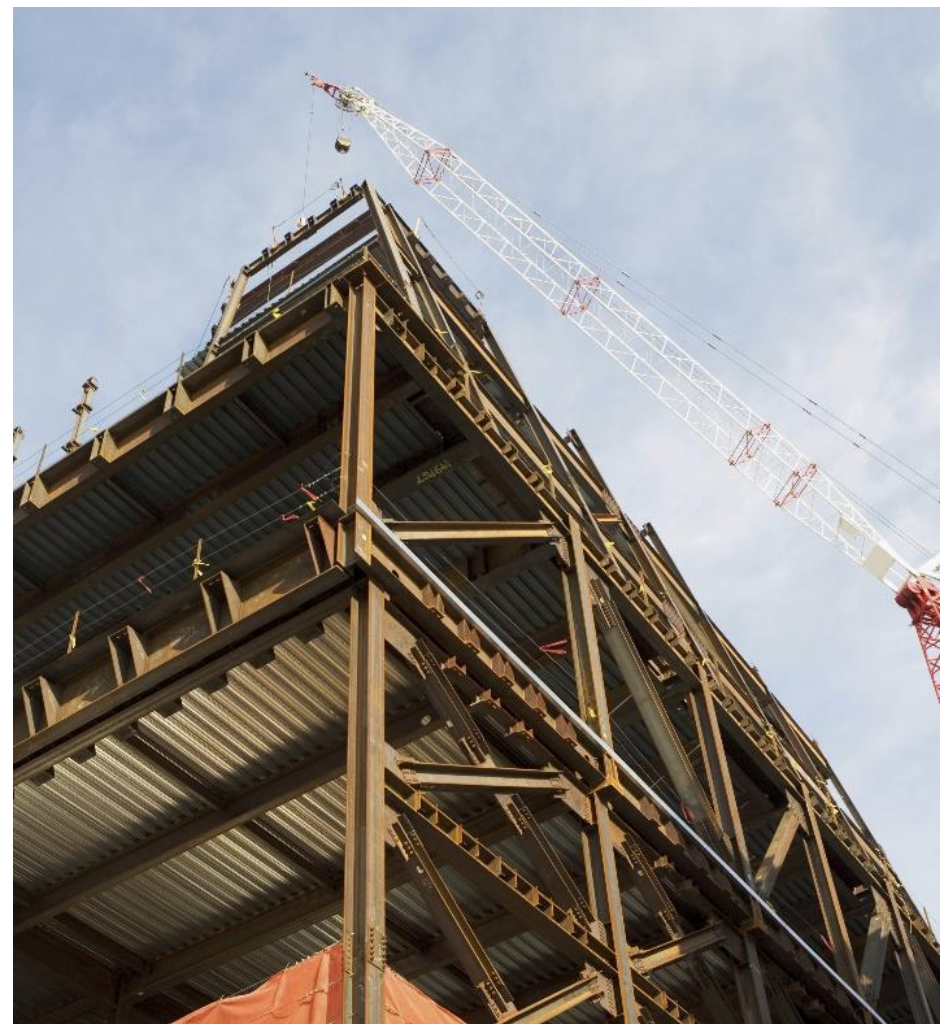
In case a foreign contractor provides goods which are delivered at overseas border gate, which buyer bears all responsibilities, costs and risks related to the receipt and transportation of goods from overseas border gates to Vietnam (accompanied with warranty obligations of seller), income of foreign contractor would not be subject to Vietnamese FCWT.

(The Official Letter No. 15175/CTHN-TTHT dated 11 May 2021 issued by Hanoi Tax Department)

Foreign Contractor Withholding Tax levied on goods transferred under Incoterms which seller bears risks relating to the goods

In case a foreign contractor transfers goods under Incoterms, in which seller bears risks relating to goods until the goods is delivered into the territory of Vietnam, this foreign contractor would be subject to FCWT.

(The Official Letter No. 5615/CTDON-TTHT dated 10 June 2021 issued by Dong Nai Tax Department)



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Trade and Customs



GUIDANCE RULINGS

The Customs authority to take enforcement action against is businesses that owe tax up to 90 days

The General Department of Customs requested the Provincial Customs authorities to conduct a review of all businesses having overdue tax debts up to 90 days in order to immediately apply measures of expediting, compelling and coercing the tax debts collection.

Accordingly, for the measure of "stop doing customs procedures", the Customs authority will send the official notifications to enterprises and publish the information on the Customs website, at least 05 days in advance.

The decision to enforce tax debt will be only terminated from the date enterprises fully pay the tax debt, or enterprises are allowed to pay tax debt in installments/ extended/ exempted from paying tax. Customs authority will simultaneously send a Tax Debt Notice to enterprises (if tax debts are more than 30 days late) and publish the tax debts on the Customs website for businesses to actively look up, declare and pay.

(The Official Letter No. 2893/TCHQ-TXNK dated 14 June 2021 issued by the General Department of Customs)

Cases when import packaging with pre-printed information of foreign-origin are permitted

The General Department of Customs noted that, the prohibition on the import of pre-printed packaging of foreign origin only applies to the import for trading and consumption purpose, not directly for serving the production activities of enterprises.

Customs authority still allows the import of pre-printed packaging of foreign-origin in the following cases:

- Packaging pre-printed with information of foreign-origin (such as bottles, jars, tubes...) is imported together with finished/ semi-finished products whose origin are consistent with the origin stated on the imported packaging, for the purpose of separating, packing and then export or consume in the domestic market;
- Packaging pre-printed with information of foreign-origin and trademarks is imported to replace the damaged packaging imported previously, provided that the replacement of the imported packaging must be identical to the damaged packaging.

(The Official Letter No. 3108/TCHQ-GSQL dated 21 June 2021 issued by the General Department of Customs, providing further detailed guidance to the Official Letter No. 974/TCHQ-GSQL dated 02 March 2021)

Enterprises voluntarily making additional declaration of HS code after assessment will be exempt from the late payment interest

Pursuant to Article 46, Circular No. 38/2015/TT-BTC, for imported goods subject to assessment to ensure the accurate determination of HS code, enterprises can temporarily pay tax based on the self-declared HS code. After having the assessment results, if the HS code is different from the initial self-declared HS code, enterprises must make additional declaration according to the correct HS code and pay the difference (if any).

Of note, if enterprises voluntarily make additional declaration of HS code after having the assessment results, enterprises will be exempt from the late payment interest. Otherwise, enterprises will be imposed tax by the Customs authority and subject to the additional late payment interest and fines (if any).

(The Official Letter No. 3189/TCHQ-TXNK dated 24 June 2021 issued by the General Department of Customs)



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Trade and Customs



GUIDANCE RULINGS (cont.)

Re-exported goods having been repurposed for domestic consumption are not eligible for the import duty refund

Pursuant to clause 2, Article 19, Law on Import and Export duties No. 107/2016/QH13, re-exported goods will satisfy the conditions for import duty refund, if that goods "have not been used, undergone working or processing".

Where the enterprise has imported goods in the form of temporarily imported for re-export, then registered of the declaration of repurposing for domestic consumption, fully paid duties and tax, but after that, such goods are re-exported to overseas, the Customs authority assesses that there is no sufficient ground to determine the re-exported goods is the temporarily imported goods originally, and therefore, it does not meet the conditions of "have not been used, undergone working or processing" in Vietnam. Consequently, that goods will not be considered for the import duty refund.

(The Official Letter No. 3191/TCHQ-TXNK dated 24 June 2021 issued by the General Department of Customs)

Guidance on the application of customs import/ export code for goods originated from import

B13 - In case enterprises directly import goods from overseas into Vietnam, and subsequently export these products to a third country for trading purpose.

B11 - In case enterprises purchase the goods originated from import from domestic suppliers to export to foreign countries for trading purpose.

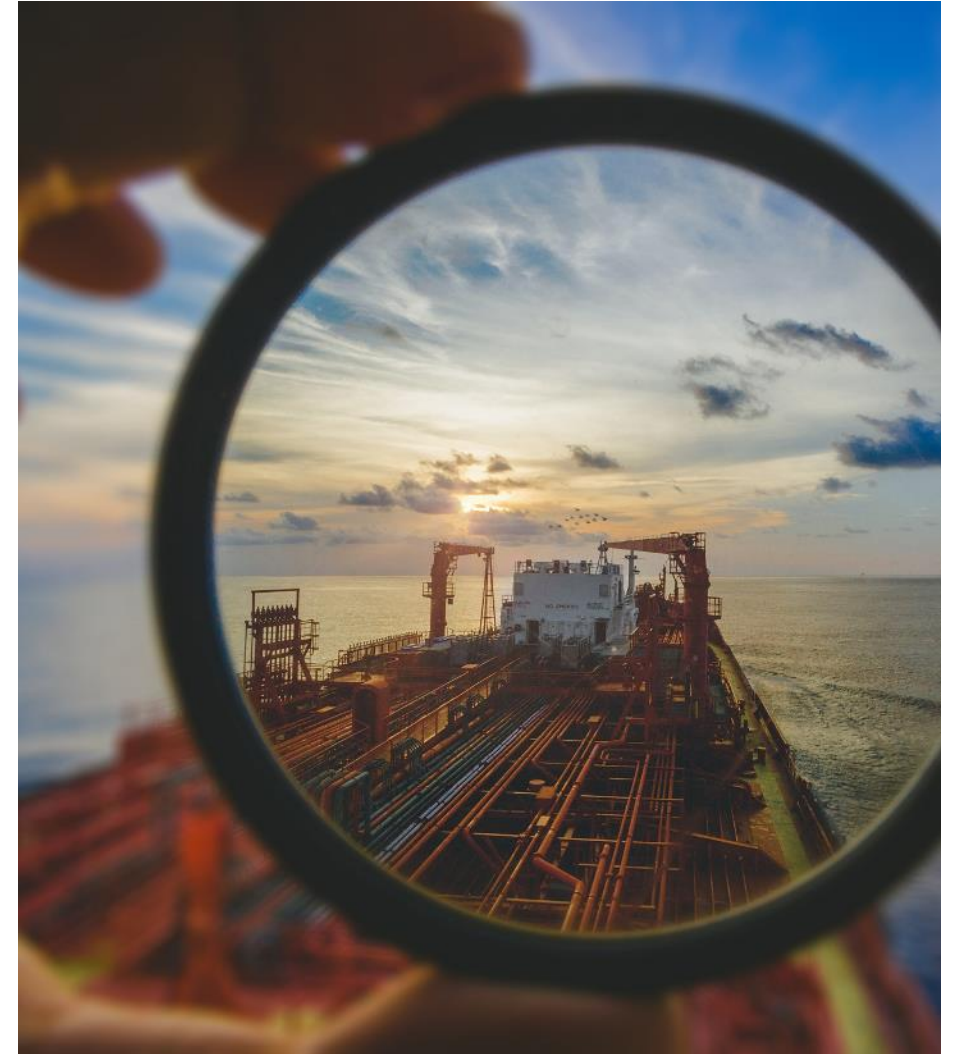
A41 - In case FDI enterprises import goods for trading purpose under the certificate of registration of import rights.

(The Official Letter No. 1648/HQTPHCM-GSQL dated 25 June 2021 issued by the Customs Department of Ho Chi Minh City)

Registration of EORI number under UKVFTA

Exporters from the UK will have to register for a new EORI (Economic Operators Registration and Identification) number instead of using the previous REX system.

(The Official Letter No. 1249/GSQL-GQ4 dated 28 June 2021 issued by the General Department of Customs)



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