



Highlight in this issue:

1. Tax Administration

- Enhancing the tax collection management for e-commerce and digital platform-based business activities
- Implementation plan for applying e-invoices with the tax authority's identification code generated from the Point of Sale ("POS")

2. Corporate Income Tax

- Income from trading activities is not eligible for Corporate Income Tax incentives
- Income from completing a product after outsourced processing is entitled to Corporate Income Tax incentives

3. Indirect Tax

- Value Added Tax rate for brokerage services performed in Export Processing Zone
- Invoice issuance for a temporarily suspended business that has not yet completed the tax code closure procedure
- Invoice issuance and declaration for the case of transferring assets from an independent branch to the parent company

4. Personal Income Tax

- Registration using Personal Income Tax withholding vouchers self-printed from the computer

5. Foreign Contractor Withholding Tax

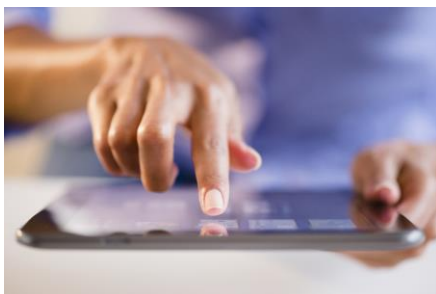
- Declaration of Foreign Contractor Withholding Tax for tax-registered foreign vendors
- Foreign Contractor Withholding Tax on income from equipment procurement, construction, and installation

6. Trade & Customs

- Not considering conditions for customs supervision when granting the license to establish an Export Processing Enterprise
- Customs' supervision of EPEs through camera system
- Finished goods received from EPE after processing are subject to import duty and 10% VAT
- Sale, liquidation of EPE's goods into the domestic market
- Import duty and VAT treatment on goods imported from bonded warehouse into domestic market for export manufacturing
- Printing of Certificate of Origin on ordinary A4 paper
- Imposition of temporary anti-dumping duties on tables and chairs imported from the People's Republic of China



Tax Administration



GUIDANCE RULING

Enhancing the tax collection management for e-commerce and digital platform-based business activities

On 01 October 2022, the Prime Minister issued Dispatch No. 889/CD-TTg to enhance the performance of tax collection management for e-commerce and digital platforms business activities. In which it stated:

- The State Bank of Vietnam is primarily responsible for, and coordinate with commercial banks and credit institutions to, withhold and make tax payment on behalf of overseas organizations and individuals earning Vietnam sourced income from e-commerce business activities in accordance with the Law on Tax Administration.
- The Ministry of Justice to urgently give comments on the draft Decree amending and supplementing several articles of Decree No. 126/2020/ND-CP.

Note: Please also refer to our Tax Alert on Dispatch No. 889/CD-TTg issued on 19 October 2022.

(Dispatch No. 889/CD-TTg dated 01 October 2022 issued by the Prime Minister)

INFORMATION DOCUMENT

Implementation plan for applying e-invoices with the tax authority's identification code generated from the Point of Sale ("POS")

On 28 September 2022, the General Department of Taxation issued Notification No. 464/TB-TCT on the plan to apply e-invoices with the tax authority's identification code generated from POS as follows:

- From 12 September 2022 to 16 October 2022: Analyze, design and program the e-invoice application.
- From 01 October 2022 to 16 October 2022: Establish the technical infrastructure and install applications.
- From 17 October 2022 to 23 October 2022: Test the e-invoice application within internal tax departments.

- From 24 October 2022 to 6 November 2022: Test the integrated e-invoice management system of the tax authority and system of organizations for receiving, transmitting and storing the e-invoice data.
- From 07 November 2022 to 20 November 2022: Complete the e-invoice management system qualifying occurrence requirements after the trial.
- Tentatively from 21 November 2022 onwards: Launch the e-invoice administration system.

(Notification No. 464/TB-TCT dated 28 September 2022 issued by the General Department of Taxation)



Contact

Website: deloitte.com/vn

Email: deloittevietnam@deloitte.com

For reference only, not for distribution or sale



Corporate Income Tax



GUIDANCE RULING

Income from trading activities is not eligible for Corporate Income Tax incentives

If an enterprise has trading activities not associated with an investment project currently enjoying Corporate Income Tax ("CIT") incentives and does not increase capital or expand investment activities to increase assets, then the income from trading activities would not be eligible for applying CIT incentives.

(Official Letter No. 2910/TCT-CS dated 09 August 2022 issued by the General Department of Taxation)

Income from completing a product after outsourced processing is entitled to Corporate Income Tax incentives

If during the processing of a product requested by clients, the company engages, a company located in other industrial park to receive materials, perform certain processes, conduct quality checks, and then deliver the processed materials back to the company, for them to complete the product, then such activity is regarded as commercial processing.

Expenses arising from outsourcing and goods inspection are expenses serving production activities of the company. Therefore, all the income generated from the company's processing and inspection activity is entitled to CIT incentives under incentivized location. The company should self-determine the tax incentives conditions, preferential tax rates and tax exemption, reduction periods to declare to the tax authority as regulated.

(Official Letter No. 6089/CTBGI-TTHT dated 12 October 2022 issued by Bac Giang Tax Department)



Contact

Website: deloitte.com/vn

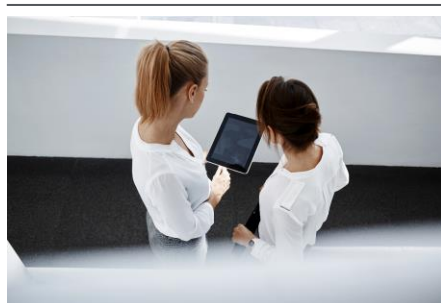
Email: deloittevietnam@deloitte.com

For reference only, not for distribution or sale





Indirect Tax



GUIDANCE RULING

Value Added Tax rate for brokerage services performed in Export Processing Zone

If a company provides brokerage services to customers located in an Exporting Processing Zone in Vietnam, and the services are performed and consumed within the exporting processing zone (i.e., export services), and supported by sufficient contracts and bank payment vouchers for export services as regulated; then the company can issue VAT invoices at 0% VAT.

If the company provides brokerage services to domestic companies and foreign companies, and the services are performed and consumed in Vietnam, then the company should issue VAT invoices at 10% VAT%.

(Official Letter No. 46742/CTHN-TTHT dated 23 September 2022 issued by Hanoi Tax Department)

Invoice issuance for a temporarily suspended business that has not yet completed the tax code closure procedure

If a company's contractor has temporarily ceased business, not yet completed the tax code closure procedure, but needs to issuing invoices to its customers for performing contracts that were signed before the date the tax authority was notified of the business suspension, then the contractor should issue e-invoice with the tax authority's identification code upon occurrence.

The contractor needs to submit the request to issue the e-invoice with tax authority's identification code, according to the form No. 06/DN-PSDT in Annex IA attached to Decree No. 123/2020/ND-CP.

(Official Letter No. 46904/CTHN-TTHT dated 26 September 2022 issued by Hanoi Tax Department)

Invoice issuance and declaration for the case of transferring assets from an independent branch to the parent company

If a company's independent branch transfers assets, tools and instruments to the company, the branch must issue VAT invoice, declare and pay VAT in accordance with regulations.

(Official Letter No. 3238/CTBNI-TTHT dated 04 October 2022 issued by Bac Ninh Tax Department)

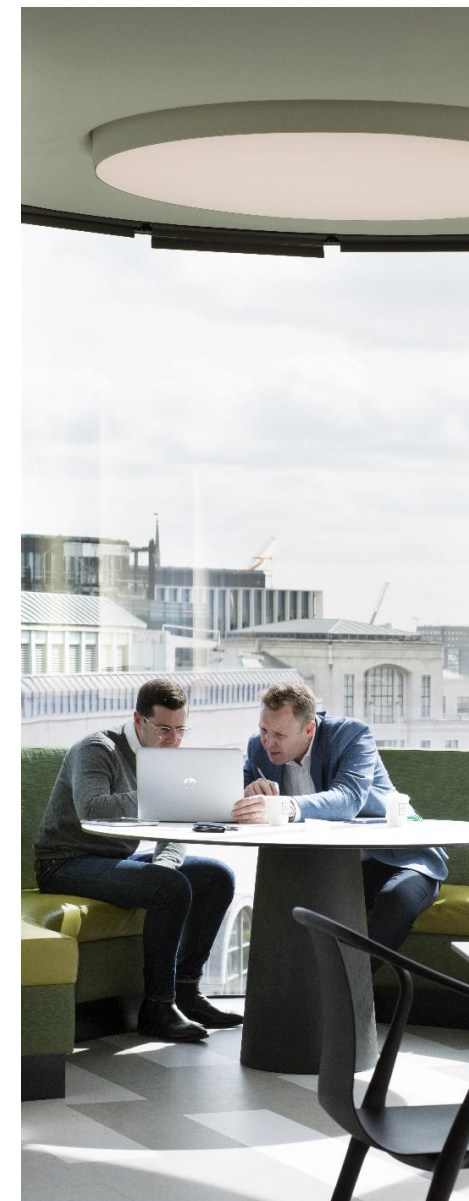


Contact

Website: deloitte.com/vn

Email: deloittevietnam@deloitte.com

For reference only, not for distribution or sale





Personal Income Tax



GUIDANCE RULING

Registration using Personal Income Tax withholding vouchers self-printed from the computer

During the time when electronic Personal Income Tax ("PIT") withholding documents have not yet been deployed, organizations (including tax authorities) can use PIT withholding vouchers in the form of self-issuance.

From 01 July 2022, tax authorities ceased to sell PIT withholding vouchers printed by tax authorities; for those purchased PIT withholding vouchers which are still available, they can continue to be used.

(Official Letter No. 45085/CTHN-TTHT dated 13 September 2022 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

Declaration of Foreign Contractor Withholding Tax for tax-registered foreign vendors

If the foreign vendors have made tax registration, tax declaration and direct tax payment in Vietnam in accordance with provisions of Article 76, Article 77, Article 78, Article 79, Circular No. 80/2021/TT-BTC, then organizations using services of these foreign vendors are not required to declare, withhold and pay tax on behalf of the foreign vendors.

(Official Letter No. 44297/CTHN-TTHT dated 09 September 2022 issued by Hanoi Tax Department)

Foreign Contractor Withholding Tax on income from equipment procurement, construction, and installation

If a foreign sub-contractors signed contracts for equipment procurement, construction, and installation service and provide such services to foreign contractors in Vietnam, then incomes derived by the foreign sub-contractor in Vietnam is subject to foreign contractor withholding tax.

If the foreign sub-contractor meets requirements on direct tax registration and declaration with the tax authority as regulated, then the foreign contractor is not required to declare and pay tax on behalf of the foreign sub-contractor. If the requirements are not met, then the foreign contractor is responsible for declaring and paying tax on behalf of the foreign sub-contractor on the total income received by the foreign sub-contractor.

(Official Letter No. 3330/CTBNI-TTHT dated 05 October 2022 issued by Bac Ninh Tax Department)



Contact

Website: deloitte.com/vn

Email: deloittevietnam@deloitte.com

For reference only, not for distribution or sale





Trade & Customs



GUIDANCE RULING

Not considering conditions for customs supervision when granting the license to establish an Export Processing Enterprise

Prior to issuance of the Investment Registration Certificate, the investment registration authority will not consult customs authority to verify whether an Export Processing Enterprise (“EPE”), and its branch (if any), comply with the customs supervision requirements, as set out under Decree No. 35/2022/ND-CP dated on 28 March 2022 issued by the Government.

Customs authority will inspect and confirm the possibility of satisfying the customs supervision requirements before the EPE officially commences operation. The inspection, confirmation, completion for customs supervision requirements and tax policies applied to EPE are performed in accordance with Decree No. 18/2021/ND-CP dated on 11 March 2021 issued by the Government.

If the EPE, or its branch (if any), fails to meet the customs supervision requirements, the customs authority managing such EPE will request investment registration authority to issue the adjusted license.

(Official Letter No. 3804/TCHQ-GSQL dated on 14 September 2022 issued by General Department of Customs)

Customs’ supervision of EPEs through camera system

The General Department of Customs has guided on customs’ supervision of EPEs through camera system, as stipulated in Decision No. 247/QĐ-TCHQ dated 02 March 2022.

Accordingly, local customs authorities will:

- Monitor camera images to identify any signs of suspicious activities; and
- Perform checks, and verify activities against the camera images, when signs of suspicious activities are identified.

Based on their risk assessment metrics, local customs authorities will conduct supervision of EPEs on a monthly rotation.

The local customs authorities are responsible for implementing a plan to supervise the operations of EPEs through the camera system, including supervision of EPEs’ outsourced warehouses.

(Official Letter No. 3877/TCHQ-GSQL dated 20 September 2022 issued by General Department of Customs)

Finished goods received from EPE after processing are subject to import duty and 10% VAT

For domestic enterprises:

When a domestic enterprise receives finished goods from an EPE after processing, the domestic enterprise must declare and pay the import duty and 10% VAT.

For EPEs providing processing services:

If the EPEs’ outsourcing activity for domestic enterprises are considered as trading, or activities relating to trading, in Vietnam, the EPEs must separately account, declare and pay VAT at 10% on this processing activity.

(Official Letter No. 3805/TCHQ-TXNK dated 14 September 2022 issued by 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

Sale, liquidation of EPE's goods into the domestic market

If an EPE sells or liquidates assets into the domestic market, EPE is not required to conduct customs procedures if the goods:

- Were purchased domestically and therefore exempted from customs declaration; or
- Imported from overseas but have fulfilled the duty obligation and goods management policy at the time of importation.

Sale, liquidation of goods imported and enjoyed tax incentives and management policies under the EPE scheme

Where imported goods are entitled to tax incentives, management policies according to the EPE scheme, then the EPEs must conduct liquidation procedures and is allowed to choose:

- Submit a customs declaration to change the goods purpose; or
- Submit an on-spot import-export declaration when liquidating the goods to the domestic buyer.

Sale, liquidation of assets under bidding package of office interior construction

The EPEs must declare and pay the import duty and VAT based on the contractor's technical design dossier and other relevant documents. However, for consumables used during the construction process, such as paints, glues, tapes, etc., there is no requirement to declare and pay import duty and VAT.

(Official Letter No. 4067/TCHQ-TXNK dated 29 September 2022 issued by General Department of Customs)

Import duty and VAT treatment on goods imported from bonded warehouse into domestic market for export manufacturing

The General Department of Customs has guided that the import duty and VAT treatment for goods moving between bonded warehouse and the domestic market, are as follows:

- The sales and exchange of goods between bonded warehouses and domestic market are considered as export and import;
- Goods imported from bonded warehouses into domestic market for export manufacturing are:
 - ✓ Exempted from import duty; and
 - ✓ Not subject to VAT.

(Official Letter No. 4199/TCHQ-TXNK and the Official Letter No. 4200/TCHQ-TXNK dated 06 October 2022 issued by General Department of Customs)



Contact

Website: deloitte.com/vn

Email: deloittevietnam@deloitte.com

For reference only, not for distribution or sale





Trade & Customs



NEW REGULATIONS

Printing of Certificate of Origin on ordinary A4 paper

From 15 October 2022, certificates of origin ("C/O") form templates can be downloaded from the Electronic C/O system of Ministry of Industry and Trade (<https://ecosys.gov.vn>) and printed on white paper, in A4 size as per the ISO standards.

The C/O form templates available online are forms D, AANZ, AK, AI, AJ, E, AHK, RCEP, CPTPP, VK, VJ, VC, VN-CU and S.

C/O form templates that were previously purchased from the Ministry of Industry and Trade can still be used until the end of 15 April 2023.

(Notification No. 257/TB-BCT dated 10 October 2022 issued by Ministry of Industry and Trade)

Imposition of temporary anti-dumping duties on tables and chairs imported from the People's Republic of China

Following an investigation into alleged dumping of certain tables and chairs originating from China, the Ministry of Industry and Trade has decided to impose temporary anti-dumping duties ("ADD").

The ADD rate applicable is 35.20% and 21.40%, for tables and chairs respectively.

The ADD takes effect from 15 October 2022 and is applicable for a period of 120 days (except for cases of extension, change or cancellation).

(Decision No. 1991/QĐ-BCT dated 30 September 2022 issued by Ministry of Industry and Trade)



Contact

Website: deloitte.com/vn

Email: deloittevietnam@deloitte.com

For reference only, not for distribution or sale





Contact us



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



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



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

www.deloitte.com/vn

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

deloittevietnam@deloitte.com

Deloitte.



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 are separate and independent legal entities, provide services from more than 100 cities across the region, including Auckland, Bangkok, Beijing, Hanoi, Hong Kong, Jakarta, Kuala Lumpur, Manila, Melbourne, 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 Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms or their related entities (collectively, the “Deloitte organization”) 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. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

© 2022 Deloitte Vietnam Tax Advisory Company Limited