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Tax Administration



OTHERS

Promulgation of the Decision on approval of the Strategy on Tax System Reform until 2030

On 23 April 2022, the Prime Minister issued Decision No. 508/QĐ-TTg on approval of the Strategy on Tax System Reform until 2030. The main contents of the Strategy include objectives, tasks, and solutions to implement the strategy on (i) tax policy reform; and (ii) tax administration reform. In particular, for tax policy reform solutions, the Strategy sets out reform orientations for a number of main taxes as follows:

- Value Added Tax: Expand the tax base by reducing the group of non-taxable goods and services and the group of goods and services subject to the 5% tax rate; move towards applying only one tax rate; study the roadmap for an increase in tax rate.
- Special Consumption Tax: Study and supplement taxable objects; develop a roadmap for an increase in taxes on tobacco, beer, and alcohol products; research and apply a combination of proportional tax rate and absolute tax rate to a number of goods and services.

- Import and Export duty: Reduce the number of tax rates to simplify the import tariff, reducing to 25 tax rates by 2025 and to 20 by 2030; study and amend regulations on on-the-spot exports and on-the-spot imports.

- Corporate Income Tax: Amend or abolish tax incentives of tax exemption and reduction that are no longer suitable; minimize the integration of social policies with tax exemption and reduction policies; shift the focus of foreign investment attraction policy from quantity to quality, encourage investment in key industries and sectors and areas preferred for investment.

- Personal Income Tax: Supplement taxable objects, adjust the amount and tax rates in accordance with the taxable income, in accordance with the nature of each type of income, create conditions for simplicity in tax finalization.

(Decision No. 508/QĐ-TTg dated 23 April 2022 of the Prime Minister)



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Corporate Income Tax



GUIDANCE RULING

CIT incentives for relocated investment projects

When a company relocate investment project, currently entitled to incentives thanks to its location in industrial park, to another industrial park, if tax incentive conditions under regulations are still satisfied, the company shall continue to enjoy tax incentives for the remaining period or tax incentives for expansion project if meeting the conditions.

(Official Letter No. 1471/CTBNI-TTHT dated 09 May 2022 issued by Bac Ninh Tax Department)

If a company has an investment project in a non-incentivized area and plans to relocate such investment project to an incentivized area, the income therefrom the relocation shall not be eligible to CIT incentive.

(Official Letter No. 1288/CTBNI-TTHT dated 22 April 2022 issued by Bac Ninh Tax Department)

Expense of planting trees

When the company contract with vendor for planting trees around the factory premises, within the area approved by the competent authority, and this activity is subject to VAT, related to the company's production and business activities, supported by sufficient legitimate invoices and documents, then corresponding input VAT shall be creditable, and the expense shall be deductible for CIT purpose.

(Official Letter No. 3284/CTH DU-TTHT dated 18 April 2022 issued by Hai Duong Tax Department)

Depreciation of unused fixed assets due to no orders

In case of production stoppage due to no purchase orders, which is not due to either seasonal production for an inactive period of less than 9 months, nor repair / relocation / periodic maintenance for a period of less than 12 months, then:

- The company still has to depreciate fixed assets during the production stoppage;
- However, the depreciation expense in such period is not considered deductible expenses as it does not serve business operation.

(Official Letter No. 1475/CTBNI-TTHT dated 09 May 2022 issued by Bac Ninh Tax Department)



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Corporate Income Tax



GUIDANCE RULING (cont.)

Determination of incentives for other income

When a company has an investment project on a waste power plan which is eligible for CIT incentives for the case of energy production from waste and the investment project is in the process of investment and construction (the operation has not yet started), donation in cash received to invest, purchase machinery, equipment and technology shall be treated as non-incentivized other income.

It is noted that other income eligible to CIT incentive are those arising after the completion of investment stage (the operation has started) and directly related to incentivized production and business, such as incomes from the liquidation of waste materials and scraps of products in the incentivized fields, exchange rate differences directly related to revenue and expenses of these fields, demand deposit interests and other directly related incomes as guided in Clause 4, Article 18, Circular No. 78/2014/TT-BTC.

(Official Letter No. 1354/CTBNI-TTHT dated 26 April 2022 issued by Bac Ninh Tax Department)

Purchasing an apartment as a representative office

If the company purchase an apartment to serve as a representative office, it is necessary to determine whether the apartment is built with mixed purposes i.e. for both residential and commercial purpose or for residential purpose only.

- If the company use the apartment for the proper purpose and is granted business license by competent authority for the representative office at the apartment's address while the records and documents are properly retained, the input VAT could be declared as creditable VAT and depreciation expense could be deductible for CIT.

- In case the company misuse the apartment, then input VAT and depreciate charge of the apartment would not be accepted for tax purpose.

(Official Letter No. 7201/CTBDU-TTHT dated 06 May 2022 issued by Binh Duong Tax Department)



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Indirect Tax and Foreign Contractor Withholding Tax



GUIDANCE RULING

Invoice issuance time for real estate transfer

In real estate business, infrastructure and houses construction for sale or transfer, the time for e-invoice issuance is complied with point d, Clause 4, Article. 9, Decree No. 123/2020/ND-CP. Specifically:

- If the ownership or use rights have been transferred to the buyer, e-invoice is issued upon the transfer of ownership or use rights.
- If the ownership or use rights have not been transferred but fee are paid according to the project progress, the time for issuing e-invoices is the date of fee collection or according to the payment terms in the contract.

(Official Letter No. 17157/CTHN-TTHT dated 20 April 2022 issued by Hanoi Tax Department)

The foreign contractor withholding tax applicable to export-processing enterprises operating in the non-tariff sub-zone

When an export-processing enterprise (an enterprise in a non-tariff sub-zone) signs a contract with a foreign service provider, the income of such foreign service provider shall be subject to FCWT.

Before making payment to a foreign organization, the company is responsible for withholding CIT (and nil VAT thanks to EPE status) to remit to the State Budget on behalf of the foreign service provider.

(Official Letter No.: 7146/CTBDU-TTHT dated 05 May 2022, issued by Binh Duong Tax Department)

Reimbursement of salary of expatriate assigned to work in Vietnam

If a foreign company assigns expatriates to the Vietnamese company to work and both parties agree that

- The Vietnamese company directly signs labor contracts with expatriates;
- All salaries, allowances and other supports for them, which will be paid to the expatriates' personal accounts abroad by the foreign company and then refunded by the Vietnamese company without other payments; and
- In addition, the assigned expatriates are only under the direction, supervision and control of the Vietnamese company during the working period.

Then the reimbursement that foreign company received shall not be subject to the FCWT according to Circular No. 103/2014/TT-BTC.

If foreign company receives other income from the assignment besides the reimbursement of income paid to expatriates on behalf of the Vietnamese company, the Vietnamese company shall be responsible for FCWT declaration on the total payment made to the foreign company.

(Official Letter No. 1503/CTBNI-TTHT dated 12 May 2022 issued by Bac Ninh Tax Department)



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Labor and Social insurance



GUIDANCE RULING

Instruction on confirming housing allowance list for employees in accordance with Decision No. 08/2022/QĐ-TTg

1. Within 02 working days from the date of receipt of Form No. 02, Form No. 03 (attached with Decision No. 08/2022/QĐ-TTg) of the organization, the collection manager shall compare the Form No. 02, Form No. 03 with the list of employees participating in social insurance recorded by Social Insurance Department.

Note: Form No. 02 is confirmed monthly or compound 02 or 03 months.

2. For the employees having 02 or more labor contracts, Form No. 02 and Form No. 03 must be certified at the first participating organization of compulsory social insurance. Each employee is only supported once in 01 month and not more than 03 months.

3. Not confirming the participation in compulsory social insurance in case the employee is taking unpaid leave, sick leave, maternity leave, or suspending the labor contract.

4. The time to receive dossiers is no later than 15 August 2022.

5. During the time when electronic filing and public service procedure is not available: Form No. 02, Form No. 03 is received via postal service or directly at the social insurance agency.

(Official Letter No. 2219/BHXH-QLT and 2220/BHXH-QLT dated 29 April 2022 issued by Ho Chi Minh City Social Insurance Department and Decision No. 1426/QĐ-UBND dated 27 April 2022 issued by Hanoi People's Committee)

Instruction on the implementation of the policy of housing rent support for employees according to Decision No. 08/2022/QĐ-TTg

The package of rent support in Decision No. 08/2022/QĐ-TTg has 02 levels of 1,000,000 VND/month and 500,000 VND/month, in which:

- The level of 1,000,000 VND/month is applied to the employees who sign and perform the labor contracts in the period from 01 April 2022 to 30 June 2022.
- The level of 500,000 VND/month is applied to the employees who sign and perform the labor contracts in the period before 01 April 2022.

The foreigners who have valid work permit and meet the prescribed conditions are also entitled to rent support.

(Instruction No. 16741/SLDTBXH-VLATLD dated 10 May 2022 issued by the Department of Labor, Invalids and Social Affairs of Ho Chi Minh City and Decision No. 1535/QĐ-UBND dated 10 May 2022 issued by Hanoi People's Committee)



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Personal Income Tax and Immigration



NEW REGULATION

Suspension of the SARS-CoV-2 testing requirement before entering Vietnam

As the Covid-19 epidemic in the world and in Vietnam is in remission, the Prime Minister decided to temporarily remove the requirement of SARS-CoV-2 test before entering Vietnam from 00:00 of 15 May 2022.

Previously, after 15 March 2022, the visitors entering Vietnam were also exempted from the concentrated isolation (Official Letter No. 1265/BYT-DP dated 15 March 2022 of the Ministry of Health). However, at this time, the Ministry of Health still requires visitors to present the negative results for RT-PCR/RT-LAMP test within 72 hours or rapid antigen test within 24 hours.

Since 27 April 2022, the Ministry of Health has also removed the requirement for medical declaration for entry guests (Official Letter No. 2118/BYT-DP dated 26 April 2022).

(Telegraph No. 416/CD-TTg dated 13 May 2022 issued by the Prime Minister and Official Letter No. 2118/BYT-DP dated 26 April 2022 issued by the Ministry of Health)

GUIDANCE RULING

Guidance on dependents registration for others

If dependent is a niece/nephew, having parent in the working age, and is not considered as helpless individual, to whom the taxpayer has direct nurturing responsibility, such dependent may not be qualified for deduction upon calculating PIT according to Clause 1, Article 9, Circular No. 111/2013/TT-BTC.

If the employee registers dependents for grandparents who are helpless individuals and directly nurtured by such employee, while conditions at point dd, Clause 1, Article 9, Circular No. 111/2013/TT-BTC are met, such dependents are qualified to be dependents for family deduction when calculating PIT.

(Official Letter No. 18175/CTHN-TTHT dated 26 April 2022 issued by Hanoi Tax Department)

Determining the PIT exempted portion of overtime

In case the company pays the employees overtime on public holidays in accordance with the provisions of the Labor Code, the income portion from the salary/wage paid for night work and overtime work which is higher than the salary or wages paid for day work as prescribed by the Labor Code shall be PIT exempt.

(Official Letter No. 21884/CTHN-TTHT dated 13 May 2022 issued by Hanoi Tax Department)



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Trade & Customs



NEW REGULATION

Strategies for import and export until 2030

On 19 April 2021, the Government issued Decision No. 493/QĐ-TTg approving the Strategies for import and export until 2030 with notable contents as follows:

- Strategic direction: Develop import and export strategies that are aligned with the development of economic - technical, science – technology infrastructure, as well as industry and regional development plans;

- Objectives: to facilitate import and export as well as maintain the balance of trade; ensure a sustainable trade surplus; balance the product and market structure; and increase the proportion of exports and imports to strategic trade regions;

- Orientation for import and export: sustainable development, promoting the in-depth restructuring of exports, stimulating industrialization and modernization, developing strategies for commodity groups with a specific roadmap, separating the development period of 2021-2025 and 2026-2030; adjusting the growth rate of imports, increasing the import proportion of modern machinery and equipment, advanced production lines; diversifying markets, effectively exploiting potential markets, etc.

- Solutions to implement the strategies: appropriately applying the diversified and detailed solutions to each objective, each market and in a specific period.

(Decision No. 493/QĐ-TTg dated 19 April 2022 issued by Prime Minister)

Continuance of anti-dumping duty application on painted alloy steel products

The Ministry of Industry and Trade has decided to maintain the application of anti-dumping duty on some flat-rolled and painted alloy steel products imported from Korea and China according to Decision No. 1283/QĐ-BCT.

(Decision No. 843/QĐ-BCT dated 05 May 2022 issued by the Ministry of Industry and Trade)

GUIDANCE RULING

No duty refund for goods sent out for outsourced processing to export processing enterprises (“EPEs”)

When a non-EPE outsources the imported materials or semi-finished products manufactured from imported materials to EPEs for processing, the resulting finished goods, when returned to the enterprise are subject to import duty.

Current regulation has yet to provide any refund policy for the above import duty paid when the finished products are re-imported into the domestic market, and ultimately exported overseas.

(Official Letter No. 1346/TCHQ-TXNK dated 19 April 2022 issued by the General Department of Customs)



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Trade & Customs



GUIDANCE RULING (cont.)

Detailed guidance on customs declaration modes under the Decision No. 1357/QĐ-TCHQ

The General Department of Customs issued further guidance on applying customs declaration modes according to the Decision No. 1357/QĐ-TCHQ. Notable contents include:

- Mode B11 shall be applied for cases that scrap and waste left from production process of EPEs are sold (exported) to the domestic entities under sales contract, and goods exported after being processed;
- Mode E62 shall be applied if exported products manufactured from imported materials are designated to be delivered within Vietnam territory (in-land export);
- Mode A12 shall be applied for goods imported for the domestic manufacturing of FDI companies.

- For goods with using purposes switched between mode A11 and A12 (for example, change from manufacturing to trading or vice versa) while the special goods management policies remain unaffected, declaration for change of using purpose is not required.

- Samples and non-commercially imported goods used for researching purposes, if only used within EPEs, shall apply mode E13. Mode H11 shall apply for other cases.

(Official Letter No. 1478/TCHQ-GSQL dated 26 April 2022 issued by the General Department of Customs)

HS codes under AHTN 2017 are only used on C/O form D up to 28 February 2023

According to the announcement of the General Department of Customs, ATIGA members have agreed to accept C/O form D, including hardcopy, electronic C/O and self-certification of origin, using HS codes under AHTN 2017 up to 28 February 2023. After this date, only C/O using HS codes under AHTN 2022 shall be accepted.

Other guidance from the General Department of Customs for C/O form D issued since 01 May 2022 include:

- The criterion **"Issued Retroactively"** in box no. 13 shall be marked if the C/O form D issued **"after the export date"** instead of **"after 03 days of export date"**;

- Remove the phrase **"Preferential Treatment Given under ASEAN Industrial Cooperation Scheme"** and the instruction on AICO at lines 1 and 2 at the back of the C/O;

- Change **"Original CO (form D)"** to **"Original Proof(s) of Origin"**;

- Change **"Signature of Authorised Signatory of the Importing Country"** to **"Signature of Authorised Signatory of the Customs Authority of the Importing Country"**;

- C/O form D includes one original and two copies and remove the **"Carbon copy"** regulation to allow C/O to be printed on A4 paper.

(Official Letter No. 1449/TCHQ-GSQL dated 04 May 2022 and the Official Letter No. 1568/TCHQ-GSQL dated 25 April 2022 issued by the General Department of Customs)

Clarification on duty treatments for export manufacturing and processing goods

The General Department of Customs responded to several questions of the Dong Nai Customs Department, including:

- There is no regulation on duty refund where enterprises partially outsource raw materials imported for manufacturing and trading (with import duty paid) to domestic enterprises for processing, then receive the semi-finished products and continue manufacturing for export to overseas or non-tariff zones.

- For goods purchased from foreign entities and designated to receive from EPEs or bonded warehouses (in-land import), which are previously produced by a domestic enterprise from duty-free imported goods under the manufacturing/processing for exports scheme per Articles 10 and 12, Decree No. 134/2016/ND-CP, mode (A11) - import for trading, or mode (A12) - import for manufacturing shall be declared. At the same time, import duties, VAT and other relevant taxes (if any) must be properly declared and paid.

(Official Letter No. 1459/TCHQ-TXNK dated 25 April 2022 issued by the General Department of Customs)



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