

Some key points of the newsletter include

Personal Income Tax

1. Foreigners having house rental income in overseas have to declare Personal Income Tax;
2. Personal Income Tax for a group of individuals;

Corporate Income Tax

1. Corporate Income Tax incentives on the additional sub-leasing business activity;
2. Corporate Income Tax and Personal Income Tax treatment on Covid-19 related expenses incurred for expatriates;

Value Added Tax

1. Official Letter No. 4868/TCT-CS dated 16 November 2020, issued by the General Department of Taxation guiding a number of Articles under the Decree No. 123/ND-CP on invoice, document;

Foreign Contractor Withholding Tax

1. Foreign Contractor Withholding Tax levied on income incurred from Project "Enhancement on training and research resources of non-infectious diseases in Vietnam";
2. Foreign Contractor Withholding Tax in terms of rights of export, import and distribution of goods in Vietnam market;
3. Foreign Contractor Withholding Tax levied on income incurred from sales of gift cards;
4. Foreign Contractor Withholding Tax levied on interests payable to parent company;
5. Foreign Contractor Withholding Tax levied on income incurred from sales of goods in the form of on-the-spot export and import;

Trade and Customs

1. Retrospective application for FTA preferential duty treatment allowed where "mounting structure of solar panels", that were granted customs duty exemption at importation, under investment incentives, but then determined not to be entitled to exemption;
2. Value Added Tax refund for raw materials imported for export manufacturing and processing;
3. Proofs of origin of goods under EVFTA

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Personal Income Tax



GUIDANCE RULINGS

Employees self-commit on their dependents' income

If tax payers register their parents as the dependents, the supporting documents have to be in accordance with guidance in Article 9, Circular No. 111/2013/TT-BTC issued by the Ministry of Finance. The tax payers have to commit and be responsible that their dependents have no income or have average monthly income not exceeding VND 01 (one) million.

(Official Letter No. 101318/CTHN-TTHT dated 23 November 2020 issued by Hanoi Tax Department regarding dependent registration application)

Foreigners having house rental income in overseas have to declare Personal Income Tax ("PIT")

With respect to the house rental income in Japan more than VND 100 million per annum, a foreign individual has to declare PIT in accordance to the guidance on PIT declaration procedure and the tax declaration application regulated in Point a, Point b, Article 8, Circular No. 92/2015/TT-BTC dated 15 Jun 2015 of the Ministry of Finance.

As the house rental is in Japan, the Vietnam PIT therefore cannot be declared at local Tax authorities where the house is located at, thus, the foreign individual would file the PIT declaration dossier on such overseas house rental income to the local Tax Department that directly manages his employment incomes (i.e. where the foreigner working or having work performance in Vietnam).

Tax return form No. 01/TTS issued together with Circular No. 92/2015/TT-BTC would be required in this case. Regarding Items No. [32], [33] in the Form No. 01/TTS, if the foreigner is eligible for tax exemption, tax reduction under the Laws on Tax Administration, the foreigner shall self-determine and declare Item No. [32] - Revenue income on which tax relief is based on and Item No. [33] - The PIT reduction amount. If the foreigner is not eligible for tax exemption, tax reduction according to the Laws on Tax Administration, he is not required to declare such items.

With respect to the claiming of foreign tax paid, the Tax authority guides the foreign individual to follow the guidance at Section 3, Official Letter No. 16468/CT-TTHT issued by Hanoi Tax Department dated 30 May 2020.

(Official Letter No. 101326/CTHN-TTHT dated 23 November 2020 issued by Hanoi Tax Department on house rental income in Japan)

PIT for a group of individuals

A company signs a contract with a non-business individual, who is the group leader representing for a group of individuals to perform the work, and the company already withheld 10% PIT at each time making payment. If the company is not be able to determine the specific income of each individual in the group, at the stage filing PIT finalization form 05/QTT-TNCN, the company would declare the total income paid to the group leader and declare the PIT withheld amount in the sheet 05-02/BK-QTT-TNCN.

At the year-end, each individual has to combine all the employment income received in the tax year to file the PIT finalization directly to the Tax authorities if they are the subjects who have to conduct the PIT finalization in accordance with the regulations.

(Official Letter No. 99064/CT-TTHT dated 13 November 2020 issued by Hanoi Tax Department)



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Corporation Income Tax



GUIDANCE RULINGS

Corporate Income Tax (“CIT”) incentives on the additional sub-leasing business activity

According to the Official Letter, if an entity supplements their business activity by sub-leasing a spare office, factory, or warehouse, which is not associated with a capital increase or a project expansion, then income generated from such additional business activity would not be subject to CIT incentive.

(Official Letter No. 4703/TCT-CS dated 04 November 2020 issued by the General Department of Taxation)

CIT and PIT treatment on Covid-19 related expenses incurred for expatriates

The quarantine expenses (accommodation and living costs) at hotels for expatriates are considered CIT deductible expense if their labor contracts mention that the companies bear their housing expenses and, provided there are sufficient invoices and payment vouchers to support the expenses.

Covid-19 testing fees are considered employees’ benefits and could be CIT deductible if satisfying the conditions at Item 2.30, Article 6, Circular No. 78/2014/TT-BTC (amended by Article 4, Circular No. 96/2015/TT-BTC).

The quarantine expenses paid by the companies, for the expatriates, are considered benefits to the expatriates and thus, should be subject to PIT.

(Official Letter No. 5032/TCT-CS dated 26 November 2020 issued by the General Department of Taxation)



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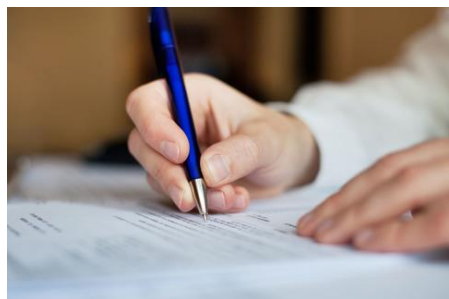
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GUIDANCE RULINGS

Official Letter No. 4868/TCT-CS dated 16 November 2020, issued by the General Department of Taxation guiding a number of articles under the Decree No. 123/ND-CP on invoice, document

Official Letter No. 4868/TCT-CS was issued to support the local Tax authorities to promote certain points under the Decree No. 123/ND-CP.

Please refer Deloitte's Tax Alert on Decree No. 123/ND-CP at the [link](#).



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Foreign Contractor Withholding Tax



GUIDANCE RULINGS

Foreign Contractor Withholding Tax (“FCWT”) levied on income incurred from Project “Enhancement on training and research resources of non-infectious diseases in Vietnam”

When a foreign contractor has earned income in Vietnam sourced from contract, agreement or commitment with a Vietnamese party to implement part of Project “Enhancement on training and research resources of non-infectious diseases in Vietnam”, such income would be subject to Vietnam FCWT.

If the foreign contractor fails one of conditions to directly file taxes in Vietnam in accordance with Article 8, Circular No. 103/2014/TT-BTC, the Vietnamese party would be responsible to withhold taxes prior to making payment to the foreign contractor and declare, pay Value Added Tax (“VAT”), CIT on behalf of the foreign contractor.

(Official Letter No. 104474/CT-TTHT dated 04 December 2020 issued by Hanoi Tax Department)

FCWT in terms of rights of export, import and distribution of goods in Vietnam market

When a Vietnamese company enters into a purchase contract with an overseas company (who does not have a permanent establishment in Vietnam), and the overseas company executes rights of export, import and distribution of goods in Vietnam, purchase goods to export and sell goods to the Vietnamese company in compliance with Law on Commerce, then the overseas company would be subject to Vietnam FCWT.

The Vietnamese company is responsible to withhold and pay FCWT on behalf of the Vietnamese company in accordance with Point n, Clause 4, Article 8, Decree No. 126/2020/ND-CP.

(Official Letter No. 28085/CT-TTHT dated 09 December 2020 issued by Binh Duong Tax Department)

FCWT levied on interests payable to parent company

If a Vietnamese company receives loans from parent company incorporated in another country (foreign contractor), then any interest paid would be subject to Vietnam FCWT. The Vietnamese company is responsible for withholding and paying FCWT on behalf of the parent company in accordance with Circular No. 103/2014/TT-BTC.

If the interest is forgiven by the parent company, the Vietnamese company must recognize the forgiven interest as other income for CIT purpose.

(Official Letter No. 27648/CT-TTHT dated 04 December 2020 issued by Binh Duong Tax Department)



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Foreign Contractor Withholding Tax



GUIDANCE RULINGS (cont.)

FCWT levied on income incurred from sales of gift cards

When an overseas vendor (foreign contractor) receives income from sales of gift cards inside Vietnam's territory, such income would be subject to Vietnam FCWT.

The Vietnamese company would be responsible for withholding and pay FCWT prior to making payment to the foreign contractor.

(Official Letter No. 77551/CT-TTHT dated 21 August 2020 issued by Hanoi Tax Department)

FCWT levied on income incurred from sales of goods in the form of on-the-spot export and import

If a foreign contractor supplies goods in the form of on-the-spot export and import in Vietnam and earns income inside Vietnam's territory, thus, such income would be subject to FCWT obligations, and taxed at CIT rate of 1%. The Vietnamese party who receives the goods in Vietnam is responsible for declaring, withholding and paying CIT on behalf of the foreign contractor.

When the foreign contractor provides services associated with supply of goods, then the services are subject to Vietnam VAT. The Vietnamese party would be obliged to withhold and pay VAT on behalf of the foreign contractor.

(Official Letter No. 26877/CT-TTHT dated 30 November 2020 issued by Binh Duong Tax Department)



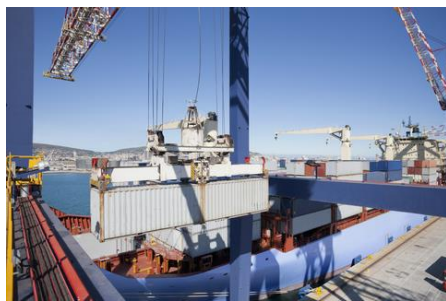
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Trade and Customs



GUIDANCE RULINGS

Not allow an authorized entity to sign a bonded warehouse lease contract

Pursuant to Point a, Clause 2, Article 85 of Decree No. 08/2015/ND-CP dated 21 January 2015 of the Government: *“The bonded warehouse lease contract shall be agreed upon by the bonded warehouse owner and the goods owner in compliance with the regulations, except where the goods owner is also the bonded warehouse owner.”*

Accordingly a company, who is not the goods' owner (even if it has written authorization), is not permitted to sign a bonded warehouse lease contract on behalf of the goods' owner.

(Official Letter No. 3235/HQHCM-GSQL dated 05 November 2020 issued by the General Department of Customs)

Retrospective application for FTA preferential duty treatment allowed where "mounting structure of solar panels", that were granted customs duty exemption at importation, under investment incentives, but then determined not to be entitled to exemption.

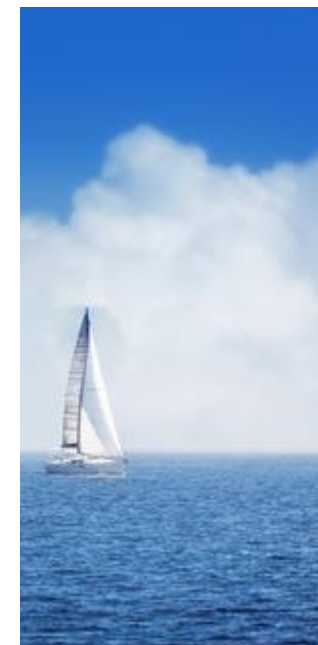
Those enterprises who claimed customs duty exemption, but were subsequently advised the goods are not entitled to investment incentives, can submit additional C/O within the valid period of the C/O, and the application of special preferential duty rate will be considered.

(Official Letter No. 7769/TCHQ-GSQL dated 09 December 2020 issued by the Ministry of Finance)

VAT refund for raw materials imported for export manufacturing and processing

Where VAT has been paid at the time of importation, on goods that are raw materials, supplies and components imported for export manufacturing or processing under an export manufacturing or export processing agreement signed with a foreign entity (not subject to VAT pursuant to Clause 20, Article 5 of the Law on VAT No. 13/2008/QH12) the paid VAT amount shall be determined as an overpaid amount and refunded by the Customs authority in compliance with regulations.

(Official Letter No. 7434/TCHQ-TXNK dated 24 November 2020 issued by the Ministry of Finance)



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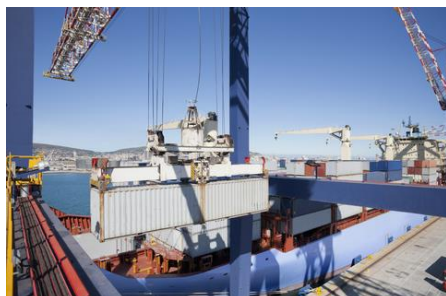
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Trade and Customs



GUIDANCE RULINGS (cont.)

Branches of the Export Processing Enterprises (“EPE”) are enabled to choose to whether conduct customs procedures or not

A branch of an EPE, which is established in an Export Processing Zone, an Industrial Zone, or an Economic Zone, and being an accounting-dependent branch of the EPE could apply the EPE scheme provided the requirements on the border between EPE and the outside area are satisfied.

Therefore, when those branches of an EPE are exchanging goods, it is allowed to choose whether to conduct customs procedures or not.

(Official Letter No. 3450/HQHCM-GSQL dated 26 November 2020 issued by the General Department of Customs)

Proofs of origin of goods under EVFTA

1. Goods originating in the EU imported from bonded warehouses into the domestic market on/after the effective date of EVFTA (August 2020), can enjoy special preferential tax rates provided the submitted proof of origin meets the requirements of Circular No. 11/2020/TT-BCT and Circular No. 38/2018/TT-BTC.

Proof of origin can include the self-certification of origin by exporters on invoices, delivery notes, or other commercial documents that have sufficient details of goods (i.e. delivery note, a proforma invoice, or a packing list).

Note: Transport documents, such as bills of lading or airwaybill, shall not be considered as other commercial documents.

2. Signature requirements on self-certified proofs of origin for goods imported from the EU into Vietnam:

- For consignment with a total value exceeds Euros 6000: Customs authorities shall accept proofs of origin without signatures if the exporters have REX numbers; but
- For consignments with a total value not exceeding 6000 Euros: There is a requirement to have the handwritten signatures of the exporters on proofs of origin.

3. Declaration of the originating country within the text of the origin declaration:

- If the proof of origin text declares EU/European Union origin and additionally declares the name of a specific EU country, it does not affect the proof of origin’s validity; but
- If the proof of origin text only declares the name of a specific EU country, local Vietnam Customs are required to reject the proof of origin in accordance with regulations and report to the General Department of Customs in order to notify the competent authorities of the EU.

(Official Letter No. 7735/TCHQ-GSQL dated 08 December 2020 issued by the Ministry of Finance)



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