



Some key points of the newsletter include:

Personal Income Tax

1. Re-registration of dependents when changing workplaces;
2. Would a Vietnamese citizen physically present overseas for more than 183 days be treated as Vietnam tax non-resident?

Corporate Income Tax

1. Official Letter No. 68700/CT-TTHT dated 23 July 2020 of Hanoi Tax Department on tax policy when liquidating land lease contract;
2. Official Letter No. 78002/CT-TTHT dated 24 August 2020 of Hanoi Tax Department on tax policy for advertising activities on Facebook, Google;

Value Added Tax

1. To issue Value Added Tax invoice and declare Value Added Tax regarding goods re-sell at Vietnam port/airport without prior import declaration;

Foreign Contractor Withholding Tax

1. Foreign Contractor Withholding Tax declaration and payments for solar power plant projects;
2. Not allow to offset tax paid overseas against the Corporate Income Tax payable in Vietnam if it is not permanent establishment at this overseas country;
3. Foreign Contractor Withholding Tax treatment for delivering goods at bonded warehouse (without any associated services);

Trade & Customs

1. Customs and Value Added Tax treatment on outsourced processing activity performed by an Export Processing Enterprise;
2. The Government issues the Decree on Preferential Export and Import Tariffs of Vietnam to implement the European Union-Vietnam Free Trade Agreement in the period 2020 – 2022;

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Tax Administration



TAX PERFORMANCE

Tax performance in first 08 months in 2020 with some notable points as follows:

Result of the first 08 months:

- The total accumulated revenue of tax collection is estimated at VND 752,615 billion, equal to 60% of the 2020 plan, equal to 91.9% compared to the same period in 2019.

Tax audit/inspection status:

In the first 08 months of 2020, Tax authorities at all levels have carried out 41,248 tax audit and inspection at taxpayer's office; checked 357,323 cases through desk-tax audits. The total amount of tax treatment through the audits and inspections is VND 34,691.5 billion, equal to 121.2% compared to the same period in 2019, of which:

- Increase of tax collection: VND 12,051 billion, equal to 154.3% compared to the same period in 2019;
- Reduce loss: VND 21,665 billion, equal to 110.5% compared to the same period in 2019;
- Total tax amount paid to the State budget: VND 5,918.1 billion, equal to 117.6% compared to the same period in 2019.



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Personal Income Tax



GUIDANCE RULINGS

Re-registration of dependents when changing workplaces

If taxpayers change their workplaces, they must conduct the registration and submission of dependent registration application similar to their first-time dependent registration.

(Official Letter No. 3487/TCT-DNNCN dated 25 August 2020, issued by the General Department of Taxation guiding on 2019 Personal Income Tax ("PIT") finalization).

Is the additional health insurance benefit for employees subject to PIT?

In cases where a company buys health insurance for employees which is on voluntary and non-accumulated basis, and the insurers are allowed to sell insurance in Vietnam, then such insurance premium fee shall not be included in taxable income of employees.

(Official Letter No. 77564/CT-TTHT issued by Hanoi Tax Department on 21 August 2020 regarding PIT on health insurance)

Dividend from investment funds is subject to PIT at 5%

Where individual investors receive dividends in cash from the investments in securities fund and other investment funds, which are set up and run in accordance with the laws, such dividend is subject to PIT on capital investment income at 5%. The income payer has responsibility to withhold the PIT as guided in Clause 2, Article 21, Circular No. 92/2015/TT-BTC.

(Official No. 76732/CT-TTHT issued by Hanoi Tax Department on 19 August 2020 regarding tax policies on dividend from investment funds)

Would the company be allowed to self-design a low-income commitment form and an authorization letter for PIT finalization for its employees?

When a company intends to prepare and complete the employees' low-income commitment forms and authorization letters for PIT finalization, via its internal human resources management software, this software must ensure that the contents of such forms and letters are sufficient as guided in Form No. 02/CK-TNCN and form No. 02/UQ-QTT-TNCN enclosed with Circular No. 92/2015/TT-BTC dated 15 June 2015 issued by the Ministry of Finance. The company is also responsible for the accuracy, honesty takes legal responsibilities of the information on the forms and must have employees' signatures on relevant data and contents.

(Official Letter No. 3363/TCT-DNNCN issued by the General Department of Taxation on 17 August 2020 regarding PIT forms)

Would a Vietnamese citizen physically present overseas for more than 183 days be treated as Vietnam tax non-resident?

In 2019, the Vietnamese individual was present in Vietnam for less than 183 days; but present in Japan for more than 183 days and obtained a tax resident certificate issued by the Japanese Tax authorities, he/she is treated as a Vietnam tax non-resident. The individual is responsible for declaring PIT on Vietnam-sourced income in 2019 at a flat tax rate (20%).

(Official Letter No. 3276/TCT-DNNCN issued by the General Department of Taxation dated 11 August 2020 regarding assessment of individual's tax residency status)



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Corporation Income Tax



GUIDANCE RULINGS

Draft Decree detailing the implementation of Resolution No. 116/2020/QH14 dated 19 June 2020 of the National Assembly

Based on the draft, the total revenue in 2020, serving as a basis for deciding the subject's eligibility for tax reduction under the Resolution, is the enterprise's total revenue from selling goods and providing services in 2020.

When a newly established enterprise in 2020 does not have 12 months revenues, the total revenue in 2020 is determined by the actual revenue of 2020 divided (:) by the number of months the enterprise actually does business in the year 2020, then multiplies (x) by 12 months. When an enterprise is newly set up within a month, the month of establishment shall be counted as a full month.

If the average monthly revenue does not exceed VND 16.67 billion, the enterprise shall calculate and pay the provisional quarterly CIT after taking the 30% reduction into account.

For enterprises, whose CIT period is determined according to the fiscal year or if the tax period is greater than 12 months but less than 15 months, the CIT reduction amount under the Decree is only calculated on the income incurred in 2020.

Official Letter No. 66300/CT-TTHT dated 16 July 2020 of Hanoi Tax Department on tax policy applicable to repair and renovation costs and warehouse rental.

According to the Official Letter, when a company leases a warehouse or office to serve production and business activities, and the lease contract stipulates that the lessee is responsible for repairing the property during the lease period, the cost of repairing the leased fixed assets are allowed to be recorded as deductible expenses or gradually depreciated for a period not exceeding 03 years if they meet the provisions of Article 4, Circular No. 96/2015/TT-BTC dated 22 June 2015 of the Ministry of Finance.

Official Letter No. 68700/CT-TTHT dated 23 July 2020 of Hanoi Tax Department on tax policy when liquidating land lease contract

The Official Letter addresses the situation where a company signs a lease contract with other organizations and individuals ("the lessee") and then liquidates the lease contract ahead of time because the lessee no longer needs to use the leased land. When the contract liquidates, the lessee receives an amount of money back from the company after subtracting the actual rental period.

Guidance in the Official Letter is that if, upon liquidation of the contract the lessee does not receive any income and, when the leased land is liquidated, the lessee has not constructed any infrastructure and, the liquidation is not associated with the asset transfer on the land, then the lessee is not required to declare and pay tax.

If the liquidation of the contract is associated with the transfer of real estate (infrastructure on the land that the lessee has built during the lease period) then the lessee is responsible for declaring and paying tax on the transfer of real estate according to regulations.

Official Letter No. 78002/CT-TTHT dated 24 August 2020 of Hanoi Tax Department on tax policy for advertising activities on Facebook, Google

If a company incurs service fee for advertising activities on Facebook and Google, then the expense shall be treated as deductible expenses when determining the taxable income for CIT purpose, provided such expense meets the conditions of being related to the production and business activities of the company, and there is a Foreign Contract Withholding Tax ("FCWT") declaration and non-cash payment document that comply with the provisions on Value-Added Tax ("VAT").

If a company authorizes an employee in the company to use his/her credit card to pay for the above service and then the company will pay to the individual via bank transfer from the company's account to the individual's account (a credit card opened by the company for individuals at the bank), then provided this form of payment is specified in the financial policies or authorization decision for individuals, it can also be considered as a non-cash payment document.



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Value Added Tax



GUIDANCE RULINGS

Decree No. 109/2020/ND-CP guiding the extension of the deadline for payment of Special Consumption Tax ("SCT") on cars manufactured or assembled domestically

According to the Decree, the deadline for payment of SCT for the tax period from March to October 2020 could be extended as follows:

- March 2020: no later than 20 September 2020;
- April 2020: no later than 20 October 2020;
- May 2020: no later than 20 November 2020;
- June, July, August, September and October 2020: no later than 20 December 2020.

To enjoy the extension of the deadline for SCT payable, the qualified taxpayer should submit the statutory request enclosed with this Decree to the direct managing tax authority at once to request extension for the whole tax period by 30 September 2020 as latest.

The extension of the deadline for SCT payable applies to both first declaration tax return and supplementing ones.

The extension of the deadline for SCT payable also applies to branches, subsidiaries having activities of manufacturing and assembling cars, thus incur SCT declaration and payment obligation.

(Decree No. 109/2020/ND-CP effective as of 15 September 2020)

To issue VAT invoice and declare VAT regarding goods re-sell at Vietnam port/airport without prior import declaration

If a Vietnamese company purchases goods from a foreign supplier with the condition of delivery at a Vietnamese port/airport, but instead of carrying out the import procedure into Vietnam, it resells these goods to the customer in Vietnam, such re-sell transaction is not qualified to apply VAT rate 0%. The Vietnamese company who did not carrying out the import procedures and re-sells the goods should issue VAT invoice and declare VAT for goods.

(Official Letter No. 3330/TCT-CS dated 14 August 2020 issued by the General Department of Taxation)



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Foreign Contractor Withholding Tax



GUIDANCE RULINGS

FCWT declaration and payments for solar power plant projects

If a foreign contractor has a solar power plant project but does yet maintain the Vietnamese accounting regime, the investor of the project is responsible for withholding and filling FCWT on behalf of foreign contractor to local Tax authority where the project is located.

(Official Letter No. 3026/TCT-KK dated 29 July 2020 issued by the General Department of Taxation).

Not allow to offset tax paid overseas against the CIT payable in Vietnam if it is not a permanent establishment at this overseas country

Provided that a Vietnamese company provides services via emails, phone calls and conducts business activities directly at the warehouse or office site of overseas company in Indonesia, and the Vietnamese entity's employees, who perform services in Indonesia for one or more periods which the total accumulated working time does not exceed three months in a period of twelve months, then the Vietnamese company would not be considered as a permanent establishment in Indonesia.

Accordingly, the Vietnamese company is not subjected to tax in Indonesia and if there is any tax payment made in Indonesia then such amount would not be deducted against the CIT payable in Vietnam.

(Official Letter No. 3185/TCT-HTQT dated 07 August 2020 issued by General Department of Taxation)

FCWT treatment on income from brokerage fee

In cases where a Vietnamese company signs a brokerage contract for selling goods with a foreign contractor, then the FCWT treatment will be as follows:

- If goods are consumed inside Viet Nam, the foreign contractor is subjected to FCWT obligation. The Vietnamese entity is responsible for deduct, declare, and pay tax liability on behalf of the contractor as guidance in Circular No. 103/2014/TT-BTC;
- If goods are consumed outside Vietnam, the foreign contractor is not subject to FCWT liability.

(Official Letter No. 20512/CT-TTHT dated 01 September 2020 issued by Binh Duong Tax Department).

FCWT treatment for delivering goods at bonded warehouse (without any associated services)

If an overseas company provides goods to a Vietnamese entity with delivery at bonded warehouse (without any attached services), the income earned by overseas company is subject to FCWT with tax rate 1% for CIT portion. The Vietnamese entity is responsible for deducting, declaring, and paying tax liability on behalf of the foreign contractor.

(Official Letter No. 20511/CT-TTHT dated 01 September 2020 issued by Binh Duong Tax Department).



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Trade & Customs



GUIDANCE RULINGS

Customs procedure for export declaration with an incorrect customs procedure code

Responding to Official Letter No. 1480/HQBRVT-GSQL from Ba Ria – Vung Tau Customs Department regarding incorrect customs procedure codes in export declarations, the General Department of Customs provided the following guidance:

Pursuant to Clause 3, Article 36, Decree No. 134/2016/ND-CP and Clause 9, Article 1, Circular No. 39/2018/TT-BTC, for export declarations with the incorrect customs procedure code, no additional declaration is allowed and the company is only entitled to tax refund for raw materials and supplies imported under the A12 code to be put into production for export when fully meeting the requirements under Article 36, Decree No. 134/2016/ND-CP.

In addition, the General Department of Customs also requested Ba Ria – Vung Tau Customs Department to conduct post-customs clearance audit to determine the actual use of imported materials and exported goods related to the declarations above-mentioned with the incorrect customs procedure code.

The General Department of Customs further guided that if the audit results clearly indicate that:

- The HS Code of the goods, declared in the export declaration with incorrect customs procedure code stated in Official Letter No. 1480/ HQBRVT-GSQL, are correctly declared;
- The imported raw materials and supplies used for manufacturing of exported goods, which are declared in the export declaration under the incorrect customs procedure code, are monitored, managed, and used according to the right purpose of manufacturing for export, thus, aligned with the customs procedure code proposed by the company; and
- The company does not take advantage of incorrect Customs procedure code to evade tax, fraudulently declare origin, or violate the management policy for goods, for export and import, then,

The declarations which have been declared incorrectly customs procedure codes are accepted and used to engage in the procedures for the finalization report and goods management according to regulations.

(Official Letter No. 4602/TCHQ-GSQL dated 09 July 2020 issued by the General Department of Customs)

Customs and VAT treatment on outsourced processing activity performed by an Export Processing Enterprise (“EPE”)

i. Where an EPE performs processing activities for another EPE under a processing contract:

- Regarding import duty, export duty: When an EPE outsources processing activities to another EPE, then the goods sent for processing shall not be subject to import and export duties.
- Regarding VAT on the processing service fee: the processing fee between the EPEs is not subject to VAT.

ii. When an EPE takes on processing activities for a domestic company

- **With regard to the domestic company:**
 - Regarding import duty: The domestic company, when receiving back the goods processed by the EPE, must declare and pay import duty. The import value shall not include the value of raw materials which the domestic company sent for processing according to the processing contract.
 - Regarding VAT: The domestic company shall declare and pay VAT according to Clause 2, Article 7, Circular No. 219/2013/TT-BTC.

• With regard to EPE:

Regarding VAT on the outsourcing service of the EPE provided for the domestic company: It should refer to the regulations at Clause 7, Article 30, Decree No. 82/2018/ND-CP dated 22 May 2018 to determine whether or not the EPE's processing activity belongs to goods trading activity and other activities directly related to the purchase and sale of goods in Vietnam in order to apply VAT policy in accordance with regulations of laws.

If the EPE's processing activity belongs to goods trading and other activities directly related to the purchase and sale of goods in Vietnam, the EPE shall record the accounting and declare those transactions separately, pay VAT on the prescribed processing activity at the VAT rate of 10%.

(Official Letter No. 5589/TCHQ-TXNK dated 21 August 2020 issued by the General Department of Customs)



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Trade & Customs



GUIDANCE RULINGS

Import-export duties of goods outsource EPEs for processing

According to the General Department of Customs, in cases where, a domestic company signs a processing contract with a foreign trader but hires an enterprise in the free-trade zone to process (subcontracts processing), the import duty treatment of processed goods after processing are as follows:

- If the processing enterprise in the free-trade zone does not use raw materials and components imported from abroad (the domestic company provides all raw materials and components to the enterprise in the free-trade zone), then, the processed goods, when being imported into the domestic market, are exempt from import duty.
- If the enterprise in the free-trade zone uses raw materials and components imported from abroad, the processed products when being imported into the domestic market, must be declared and paid import duty.

(Official Letter No. 5864/TCHQ-TXNK dated 04 September 2020 issued by the General Department of Customs)

Quota on import of raw tobacco and poultry eggs originating from member countries of the Eurasian Economic Union (“EAEU”)

The Ministry of Industry and Trade issued Circular No. 20/2020/TT-BCT dated 28 August 2020 stipulating the application of tariff quotas on imported raw tobacco and poultry eggs originating from member countries of EAEU 2020, 2021, 2022. Accordingly, the specific quota is regulated as follows:

- Unprocessed tobacco leaves and tobacco waste such as un-stripped tobacco, tobacco leaves, partially or completely stripped, have the quotas in 2020, 2021, and 2022 of 500 tons.
- Besides, tariff quotas for poultry eggs (including eggs and poultry, whole, raw, preserved, or cooked) from the EAEU member countries are as follows: the year 2020: 9,742 dozen; the year 2021: 10,210 dozen; the year 2022: 10,721 dozen.

(Circular No. 20/2020/TT-BCT dated 28 August 2020 issued by the Ministry of Industry and Trade)

The Government issues the Decree on Preferential Export and Import Tariffs of Vietnam to implement the European Union – Vietnam Free Trade Agreement (“EVFTA”) in the period 2020 – 2022

On 18 September 2020, the Government issued Decree No. 111/ND-CP on Vietnam's Preferential Export and Import Tariffs to implement the EVFTA in the period 2020-2022 to implement Vietnam's commitments on opening the market in the EVFTA.

For customs declarations of exported and imported goods registered from 01 August 2020 to before the effective date of this Decree, if the goods meet all prescribed criteria to enjoy the preferential tax rates in this Decree and had been paid tax at a higher tax rate, the overpaid tax shall be handled by the customs authority in accordance with the law on tax administration.

This Decree also applies to goods exported from Vietnam to the United Kingdom and Northern Ireland and goods imported into Vietnam from the UK and Northern Ireland during the period from 01 August 2020 to 31 December 2020.

(Decree No. 111/2020/ND-CP dated 18 September 2020 issued by the Government)



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