

VIETNAM BULLETIN

Highlights of Vietnam's technical updates in December 2023

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Corporate Tax

► Tax Administration

1. Official letter No. 5568/TCT-CS dated 11 December 2023 by the General Department of Taxation (“GDT”) on tax treatment for employee welfare expenses.

Under price policy, the expenditures on the employees’ welfare are not included in the items constituting the cost of irrigation products and services pursuant to regulations.

Under the CIT regulations, the welfare expenditures paid directly to employees are treated as deductible expenses for CIT computation purposes if there are sufficient, valid invoices and documentation as prescribed and the total expenditure incurred in the tax year does not exceed one month’s average salary actually paid in the tax year.

► Land rent

1. Official letter No. 5831/TCT-CS dated 20 December 2023 by the GDT explaining land rent policy.

Where the transferor to whom the land is leased by the Government pays land rent annually and is in the period of enjoying land rent exemption incentives, if the transferor transfers the assets attached to the leased land and the Government continues to lease the land to the transferee for the remaining land lease period with the land use purpose aligning with which when receiving the transferred assets, the transferee continues to be entitled to land rent exemption or reduction for the remaining period in accordance with regulations.

Where the transferor to whom the land is leased by the Government had been exempted from land rent as prescribed and was subsequently allowed to transfer the project by a competent authority, if the transferee continues to implement the project, the transferee shall still be entitled to land rent exemption or reduction for the remaining period in accordance with regulations.



► **Value-added Tax (“VAT”)**

1. Resolution No. 110/2023/QH15 dated 29 November 2023 by the National Assembly on approving the policy of 2% VAT reduction in 2024.

According to this Resolution, the National Assembly approved the policy of reducing VAT rate by 2% for groups of goods and services stipulated in point a section 1.1 clause 1 Article 3 Resolution No. 43/2022/QH15 of the National Assembly on fiscal and monetary policies to support the Socio-Economic Recovery and Development Program for the period from 1 January 2024 to 30 June 2024.

2. Official letter No. 5567/TCT-CS dated 11 December 2023 by the GDT on tax treatment for the transfer of entire capital in a Sole Member Limited Liability Company (“SMLLC”) owned by an organisation.

• Regarding VAT:

Where the mentioned capital transfer of a foreign investor is in accordance with the law on enterprises and the law on investment, it is not subject to VAT as prescribed.

Regarding the refunded VAT amount, if the transferee changes the project’s operational objectives, which is in accordance with the law and the transferee continues to implement the project to invest in production and trading of goods and services subject to VAT, the refunded VAT amount of the project will not be revoked.

However, if the transferee of capital does not continue to execute the project to serve the production and trading of goods and services subject to VAT, the refunded VAT amount of the project will be revoked.

• Regarding CIT:

Where the foreign investor owning 100% charter capital of a company established in Vietnam transfers the entire contributed capital to an organisation or individual in the form of transferring capital attached with real estate, the foreign investor shall declare and pay tax for each transfer. Institutional and individual transferees are responsible for determining, declaring, withholding, and paying the CIT payable on behalf of the foreign organisation.

The tax authority has the right to inspect and impose the transfer price if the capital assignment contract does not specify the payment price or if the tax authority has a basis to determine that the price is not at arm’s length.

3. Official letter No. 5847/TCT-KK dated 21 December 2023 by the GDT responding to concerns about declaration of missing payment vouchers of import VAT.

Where the company had not sufficiently declared the import VAT due to missing payment vouchers but had already submitted the tax refund application for the tax period in which these missing VAT payments arise, and the tax authority completed the tax inspection and issued the decision on tax refund, the company shall not be allowed to make a supplementary declaration.

► **Invoice, Accounting voucher**

1. Official letter No. 13870/BTC-TCHQ dated 18 December 2023 by the Ministry of Finance on the use of documents to replace sales invoices of export processing enterprises.

When an export processing enterprise carries out on-spot export procedures to export goods to domestic enterprises as prescribed by regulations, and is unable to issue an invoice because the transfer of ownership or use rights of the goods has not been completed, the enterprise should submit the goods delivery (snapshot) as a replacement for the sales invoice to the customs authority through the customs electronic data processing system.

When carrying out on-spot import procedures, the customs declarants shall follow customs procedures according to regulations and submit the customs dossier together with the sales invoice, clearly stating "For organisations and individuals in the duty-free zone" (snapshot) to the customs authority through the customs electronic data processing system.

► **Customs**

1. Official letter No. 8739/BCT-XNK dated 7 December 2023 by the Ministry of Industry and Trade on goods trading by foreign traders having no presence in Vietnam.

A foreign trader who has no presence in Vietnam is only allowed to trade goods in Vietnam within the scope of export and import rights as prescribed in Decree No. 90/2007/ND-CP and Decree No. 09/2018/ND-CP. In addition, it must obtain Certificate of Registration of Export Rights and Import Rights for goods allowed to be exported and imported according to the provisions of Vietnamese law.



Personal Income Tax (“PIT”)

1. Official Letter No. 84810/CTHN-TTHT dated 1 December 2023 by the Hanoi Tax Department on tax treatment of bonus for employees' children.

If bonuses paid to an employee's children belongs to other benefits that the employee is entitled to, they are considered taxable income from the employee's salaries and wages for PIT purposes.

In addition, if enterprises receive monetary sponsorships to spend on educational, scientific research, culture, art, charity, humanitarian activities, or other social activities in Vietnam, they do not need to issue an invoice and such sponsorships are exempt from CIT & VAT.

2. Official Letter No. 5852/TCT-PC dated 21 December 2023 by the GDT on sanctions of administrative violations for individuals whose PIT finalisations are filed more than 90 days late.

If the taxpayer has submitted the PIT finalisation dossier and paid the full amount of tax liabilities and late payment interest before the tax authority issues a minutes on administrative penalty for late submission of tax declaration dossier which overdue for more than 90 days, a sanction for administrative violation according to the provisions of clause 5 Article 13 Decree No. 125/2020/ND-CP shall apply.

Notwithstanding that, if the tax authority has issued a minutes on administrative violations for the act of late submission of PIT finalisation documents by more than 90 days but the taxpayer has not fully paid the tax liability incurred and late payment interest at the time of issuing the minutes, the individual shall be liable for penalties for tax evasion as prescribed in point a clause 1 Article 17 Decree No. 125/2020/ND-CP. Furthermore, the individual could be prosecuted for tax evasion if there are signs of tax evasion as prescribed in Article 200 of Criminal Code.

3. Official Letter No. 85779/CTHN-TTHT dated 5 December 2023 by the Hanoi Tax Department on PIT finalisation for the deceased.

If the employee has passed away at the time of PIT finalisation and the company has issued a PIT withholding receipt for the employee, the legitimate heir of the deceased employee shall submit the PIT finalisation declaration dossier to the tax authority where the individual resides as prescribed in item b.2 point b clause 8 Article 11 Decree No. 126/2020/ND-CP.

Social Insurance (“SHUI”)

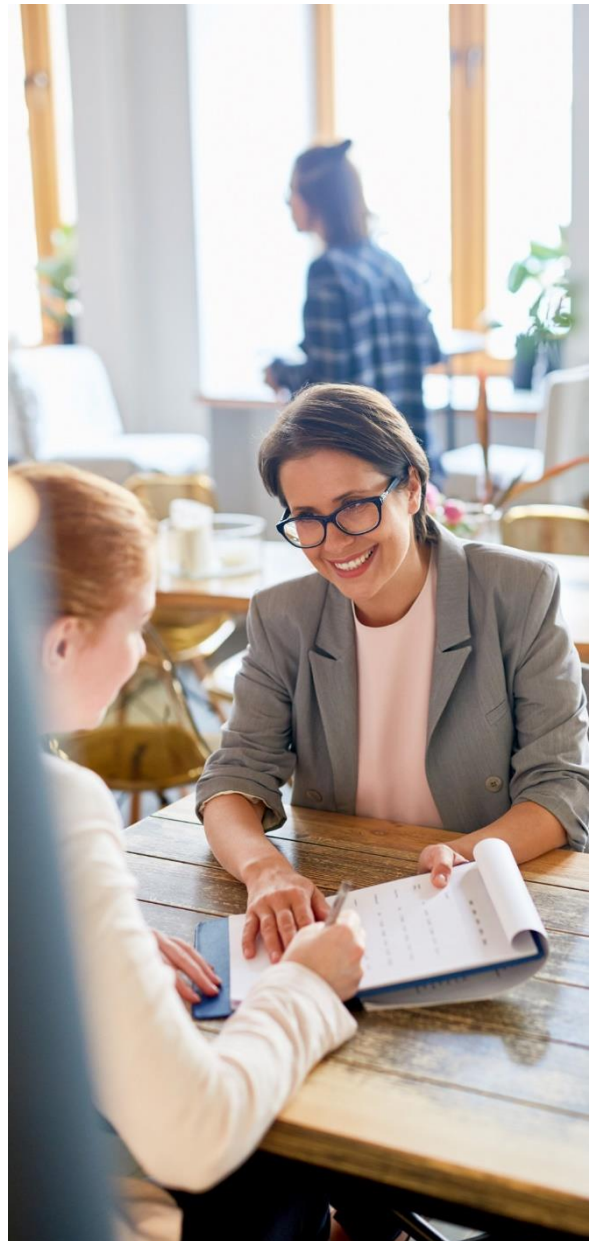
1. Official Letter No. 4144/BHXH-VP dated 7 December 2023 by the Vietnam Social Securities on not requiring submission or presentation of household registration book or temporary residence book when carrying out Social Insurance (“SI”) administrative procedures Industry.

Thanks to the completion of the connection with the national population database, the Vietnam Social Securities shall not require the presentation of paper household registration books or temporary residence books during the process of receiving SI applications.

However, the Vietnam Social Securities shall apply personal identity authentication to all administrative procedures to ensure that documents are processed for the right person through one of the following forms:

- (i) Look up the national population database;
- (ii) Look up through the electronic identity account displayed in the VneID application; and
- (iii) Use a QRCode code reader or a chip reader for chip-embedded citizen identification cards.

If there is no data available for authentication after trying the above look-up methods, SI officers shall require the individual to present or submit a copy of valuable documents proving residence information such as confirmation of residence information, notice of personal identification number, etc.



Labour

1. Decision No. 1842/QĐ-LĐTBXH dated 1 December 2023 by the Ministry of Labour, War Invalids and Social Affairs (“MOLISA”) on the announcement of new administrative procedures issued in the field of Children within the scope of state management functions of the MOLISA, effective from the date of signing.

In case an enterprise would like to employ workers under 13 years old, it must submit a dossier for each of those to the Department of Labour, War Invalids and Social Affairs (“DOLISA”) where the enterprise's headquarters is located (either in person, by post or online).

Within 10 working days from the date of receiving complete documents, the DOLISA shall coordinate with relevant agencies and organisations to verify information (if necessary), appraise the dossiers and respond in writing on whether the enterprise is allowed to employ workers under 13 years old or not.

Others

1. Official Letter No. 6084/TCHQ-TXNK dated 24 November 2023 by the General Department of Customs on temporary suspension of departure for legal representatives of enterprises.

If an enterprise has not fulfilled its tax obligations to the customs authority, the legal representative of that enterprise shall suffer from an exit postponement as prescribed in clause 5 and clause 6 Article 36 Law No. 49/2019/QH14.

If an individual has ceased to be the legal representative of the enterprise but the enterprise incurred a tax debt with the customs authority at a previous time when the individual was still holding the position of legal representative and the enterprise still has not yet fulfilled its tax payment obligation until now, the exit suspension order shall not be cancelled according to the provisions of point c clause 2 Article 21 Decree No. 126/2020/ND-CP.

2. Decree No. 87/2023/ND-CP dated 8 December 2023 by the Government on anti-counterfeit money and protection of Vietnamese currency, effective from 2 February 2024.

This Decree provides regulations for: detection, seizure, and handling of counterfeit money; temporary confiscation of suspected counterfeit money; suspected illegally mutilated currency; detection, seizure, and handling of illegally mutilated currency; assessment of counterfeit money and suspected counterfeit money; management of photocopy and duplication of Vietnamese currency; and responsibilities of state authorities, organisations, and individuals in anti-counterfeit money and protection of Vietnamese currency.

3. Circular No. 27/2023/TT-BGDĐT dated 28 December 2023 by the Minister of Education and Training on selection of textbooks in general education institutions, effective from 12 February 2024.

This Circular regulates the selection of textbooks in general education institutions, including organisation and operations of the Textbook Selection Council, organisation of textbook selection, as well as responsibilities of relevant agencies and organisations.

This Circular applies to elementary schools, middle schools, high schools, multi-level high schools, continuing education centres, vocational education-continuing education centres, and educational institutions implementing general education programmes, continuing education programmes at middle and high school levels, as well as related organisations and individuals.

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