



VIETNAM BULLETIN

Highlights of Vietnam's technical updates in November 2023

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Corporate Tax

► Tax Administration

1. Official Letter No. 4654/TCT-QLRR dated 20 October 2023 by the General Department of Taxation (“GDT”) guiding on implementing and applying risk management in Value Added Tax (“VAT”) refund classification.
2. Official Letter No. 5004/TCT-TTKT dated 9 November 2023 by the GDT on conducting inspections and audits against VAT refund applications.
3. Official Letter No. 5334/TCT-KK dated 29 November 2023 by the GDT on supporting the reactivation of tax codes for taxpayers.
4. Resolution No. 107/2023/QH15 dated 29 November 2023 by the National Assembly on the application of additional corporate income tax (“CIT”) under regulations to prevent global tax base erosion (“Global Minimum Tax”). The Resolution takes effect from 1 January 2024 and is applicable from fiscal year 2024.

Accordingly, a Global Minimum Taxpayer is defined as any constituent unit of a multinational corporation that generates a revenue of EUR 750 million or more for at least two years out of four consecutive years preceding the fiscal year, according to the consolidated financial statements of the ultimate parent company, except for certain cases as prescribed.

► Land rent

1. Official Letter No. 5210/TCT-CS dated 22 November 2023 by the GDT on determining land rental incentives when using land leased by the state to sell goods and services that are subject to special consumption tax.
2. Official Letter No. 5241/TCT-CS dated 23 November 2023 by the GDT regarding exemption and reduction of land use fees for households, individuals and revolutionary contributors.
3. Official Letter No. 5242/TCT-CS dated 23 November 2023 by the GDT on land rental fees.



► Corporate Income Tax (“CIT”)

1. Official Letter No. 5115/TCT-CS dated 15 November 2023 by the GDT on tax incentives for expansion investment projects.
2. Official Letter No. 4903/TCT-CS dated 3 November 2023 by the GDT responding on tax policy for payments of VAT and CIT of public service units in the health sector.
3. Official Letter No. 4819/TCT-CS dated 30 October by the GDT on invoicing.

If the judgment enforcement agency auctions judgment enforcement assets and these assets include land use rights that are not subject to VAT, the tax authority shall not issue invoices for this case.

► Foreign Contractor Tax (“FCT”)

1. Official Letter No. 4666/TCT-CS dated 23 October 2023 by the GDT on determining the exchange rate for FCT payment purposes.

For the purpose of recording accounting books, preparing and presenting financial statements, enterprises should determine whether the contract value is gross (inclusive of tax) or not so that they can apply the appropriate accounting exchange rates when paying FCT on behalf of their contractors:

- If according to the contract, the FCT liability is a receivable debt of the Vietnam enterprise, the actual exchange rate shall be the buying rate of the commercial bank where the enterprise appoints the customer to pay at the time of the transaction.
- If according to the contract, the FCT liability is included in the value of assets or expenses purchased from foreign contractors that have not been paid immediately, the actual exchange rate shall be the selling rate of the commercial bank where the enterprise plans to transact at the time of transaction.
- If according to the contract, the FCT liability is included in the asset value or the purchase costs from foreign contractors that are paid immediately in foreign currency, the actual exchange rate shall be the buying rate of the commercial bank where the enterprise makes payments.

► Value-added Tax (“VAT”)

1. Official Letter No. 4665/TCT-CS dated 23 October 2023 by the GDT on VAT policy for REC certificate transfer.

Accordingly, REC certificates are not regulated as carbon credits or greenhouse gas emission reduction credits in clause 35 Article 3 Law on Environmental Protection 2020 and are not within the scope of Decree No. 06/2022/ND-CP dated 7 January 2022 of the Government providing regulations on the mitigation of greenhouse gas emissions and the protection of ozone layer. Therefore, taxpayers are required to declare the revenue from the transfer of REC certificates and calculate & pay VAT arising therefrom at the 10% VAT rate as outlined by law.

2. Resolution No. 182/NQ-CP dated 3 November 2023 by the Government on the National Assembly's Resolution project on VAT reduction in 2024.
3. Official Letter No. 4904/TCT-CS dated 3 November 2023 by the GDT on the handling of input VAT in the period prior to the application of tax scheme for export processing enterprises.
4. Official Letter No. 4980/TCT-CS dated 7 November 2023 by the GDT on VAT treatment for capital transfer activities.
5. Official Letter No. 5318/TCT-CS dated 28 November 2023 by the GDT on VAT treatment for products used in dentistry.
6. Official Letter No. 4692/TCT-CS dated 24 October 2023 by the GDT on VAT treatment for the case when the lessee of land and infrastructure is allowed to apply the tax scheme of export processing enterprises.
7. Official Letter No. 5329/TCT-DNNCN dated 29 November 2023 by the GDT on tax declaration for real estate rental activities of business households.

If a business household infrequently leases real estate on a small scale, as outlined in Article 5 Decree No. 02/2022/ND-CP, it is not required to set up a legal entity. However, it must declare and pay taxes on the individual's property rental activities. Applicable tax rates are 5% VAT and 5% PIT.

► **Invoice**

1. **Official Letter No. 4694/TCT-DNNCN dated 24 October 2023 by the GDT providing guidance on concerns about using electronic invoice (e-invoice).**

For e-invoice (with authentication code) initiated from a cash register with a data transfer connection to the tax authority, the buyer's address information shall not be required. However, if the buyer requests for an e-invoice with full name, address, identification number or tax code, then the business shall be responsible for putting all these information on the invoice.

2. **Official Letter No. 4998/TCT-CS dated 8 November 2023 by the GDT on e-invoice for return of goods.**

When distributing goods in the form of returns (i.e. the buyer returns the goods to the seller), an invoice for sales return must be issued in accordance with clause 1 Article 4 Decree No. 123/2020/ND-CP.

3. **Official Letter No. 76791/CTHN-TTHT dated 27 October 2023 by the Hanoi Tax Department on issuing invoice for the branch.**

If a company signs a property lease contract with a branch and the branch directly sells goods and provides services with separate invoices and separate tax declarations & payments, the company must issue invoices and declare VAT on assets leased to the branch.

4. **Official Letter No. 77225/CTHN-TTHT dated 30 October 2023 by the Hanoi Tax Department guiding the issuance of adjusted e-invoice.**

When a company has issued an e-invoice according to the provisions of Decree No. 123/2020/ND-CP and sent it to the buyer, and it is later discovered that there are errors in the amount, tax rate, and tax amount, the company can choose to issue an adjusted e-invoice or create a new replacement e-invoice.

In case the invoice with errors is an invoice issued according to the provisions of Decree No. 51/2010/ND-CP and Decree No. 04/2014/ND-CP, the company and the buyer must make a written agreement clearly stating the errors. At the same time, the company shall send a notice to the tax authority according to Form No. 04/SS-HDDT and issue a new e-invoice to replace it.

5. **Official Letter No. 4890/TCT-KK dated 02 November 2023 by the GDT on the time of issuing invoices for exported goods.**

From 1 July 2022, businesses must use invoices when exporting goods or providing services abroad.

For enterprises paying taxes under the deduction method (including establishments processing exported goods), the time of issuing e-invoices for exported goods must follow the provisions of point c clause 3 Article 13 Decree No. 123/2020/ND-CP.

The basis for determining exported goods and the time to determine export revenue are implemented according to the provisions of clause 7 Article 3 Circular No. 119/2014/TT-BTC and clause 33 Article 1 Circular No. 39/2018/TT-BTC.

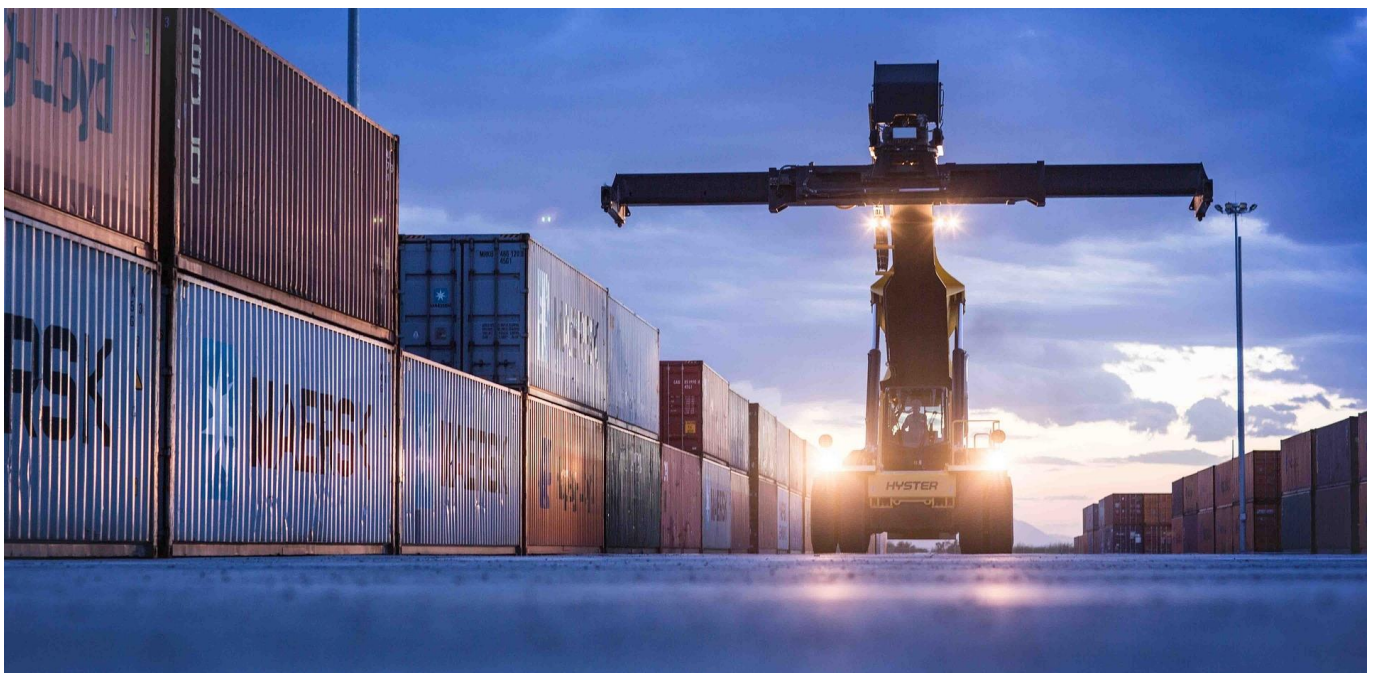
6. **Official Letter No. 73894/CTHN-TTHT dated 16 October 2023 by the Hanoi Tax Department on converting e-invoices.**

Businesses must ensure consistency between the content of the e-invoice and the paper invoice when converting an e-invoice into a paper invoice.

Paper invoices converted from e-invoices are only valid for record keeping and monitoring according to Vietnam regulations on accounting and electronic transactions. They are not valid for making transactions or payments.

► Customs

1. Official Letter No. 3234/HQTPHCM-GSQL dated 14 November 2023 by Customs Department of Ho Chi Minh City guiding customs procedures on import rights of foreign-invested enterprises.
2. Official Letter No. 5186/TCHQ-TXNK dated 6 October 2023 by the General Department of Customs (“GDC”) on customs value of goods with converted purpose.
3. Official Letter No. 5291/TCHQ-TXNK dated 12 October 2023 by the GDC on scrap from production of exported goods.
4. Decision No. 2866/QD-BCT dated 1 November 2023 by the Ministry of Industry and Trade on the results of the first review of the application of anti-dumping measures on a number of long fibre products made from polyester originated from India, Indonesia, Malaysia and China.
5. Official Letter No. 3119/HQTPHCM-GSQL dated 2 November 2023 by the Customs Department of Ho Chi Minh City guiding procedures for exporting used goods type B11.
6. Decree No. 77/2023/ND-CP dated 2 November 2023 by the Government on the management of imports of refurbished goods under the Comprehensive and Progressive Agreement for Trans-Pacific Partnership.
7. Official Letter No. 3310/HQTPHCM-GSQL dated 21 November 2023 by the Customs Department of Ho Chi Minh City on the implementation of processing contracts.
8. Official Letter No. 6087/TCHQ-GSQL dated 24 November 2023 by the GDC on customs procedures for temporarily imported and re-exported goods.



Personal Income Tax (“PIT”)

1. Official Letter No. 5303/TCT-DNNCN dated 27 November 2023 by the GDT on PIT treatment for industry-specific allowance.

The GDT instructs that the judicial expertise compensation paid to judicial experts, officers according to the case/workday as an industry-specific allowance prescribed by a competent State agency is a non-taxable income for PIT purposes. If the allowance received is higher than the prescribed amount, the excess must be regarded as a taxable income.

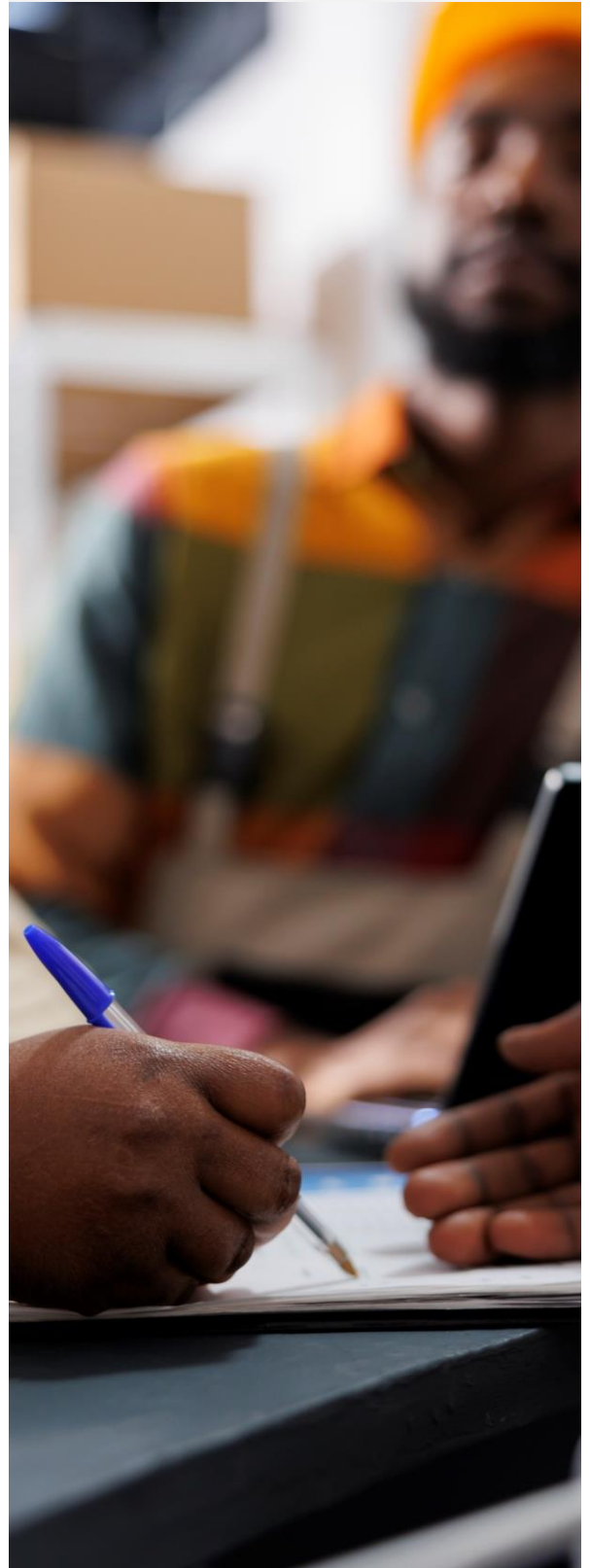
2. Official Letter No. 4888/TCT-DNNCN dated 2 November 2023 by the GDT on PIT treatment for remuneration for participating in the appraisal of political reports and the supervision team of scientific research projects.

In cases where individuals receive income other than salary or wages from providing opinions, appraisals, political reports, participating in inspection and supervision teams, and researching scientific works to perform political tasks of the Party and the State that meet the conditions specified in point g.4 and g.8 clause 2 Article 2 Circular No. 111/2013/TT-BTC, such incomes shall be treated as non-taxable for PIT purposes.

3. Official Letter No. 7942/CTTPHCM-TTHT dated 5 July 2022 by the Tax Department of Ho Chi Minh City on PIT withholding when paying back wages and salaries to employees.

4. Official letter No. 5054/TCT-DNNCN dated 10 November 2023 of the GDT regarding dependant deduction.

When an individual taxpayer registers a dependant for tax relief purposes and the tax authority has issued a tax code for such dependant, the dependant deduction shall be temporarily calculated from the date of registration. In case the taxpayer changes his/her workplace, he/she must undertake dependent registration again and submit required supporting documents as in the case of registering dependants for the first time as outlined by law.



Social Insurance (“SHUI”)

1. Official letter No. 3731/BHXH-CSXH dated 8 November 2023 on reserving the unemployment insurance (“UI”) payment period of over 144 months.

When an employee has paid unemployment insurance premiums for more than 144 months and meet requirement to receive UI allowance, he/she shall be entitled to receive the monthly unemployment allowance with the maximum duration of 12 months (corresponding to 144 months of payment of unemployment insurance premiums) and no reservation shall be made for the remaining period of unemployment insurance contribution.

2. Official letter No. 7133/BYT-BH dated 3 November 2023 by Ministry of Health on documents required when going for medical check-up or treatment under Health Insurance (“HI”) scheme.

When going for medical examination or treatment, HI participants can choose to present their HI card with their personal photo or ID card. Only in the case of presenting a HI card without a photo, the HI participants must additionally present one of the identification documents with a photo issued by a competent authority or any identification certificate from the commune-level police; or other documents certified by the educational institution where the student attends; other legal identity documents or the level 2 e-identification documents as stated in Decree No. 59/2022/ND-CP.

3. Decision 1697/QD-BHXH dated 27 November 2023 by the Vietnam Social Securities amending and supplementing regulations on issuance of HI card’s code, effective from 3 December 2023.

This Decision amends and supplements some provisions of Decision No. 1351/QD-BHXH dated 16 November 2015 by the General Director of Vietnam Social Securities as follows:

- To add four codes for groups of beneficiaries whose contributions are made by the state budget, including: ND, CT, TG, and AK;
- To add two codes for groups of beneficiaries receiving state budget’s support for their contributions, including: HK and DS;
- To add one code for individuals participating in household HI: TH;
- To amend and supplement symbols in the structure of HI card’s.



Labour

1. Decision No. 8086/QĐ-TLĐ dated 10 October 2023 by the Vietnam General Confederation of Labour on Trade Union (“TU”) budgeting for 2024.

The basis for determining the salary fund to pay 2% TU fees in 2024 of local organisations is calculated on the average monthly salary which is used for Social Insurance (“SI”) contribution in the first 6 months of 2023 multiplied by the number of employees subject to SI contribution according to the provisions of the Law on Social Insurance.



Others

1. Official Letter No. 4674/SLDTBXH-VLATLD dated 16 November 2023 by the Department of Labour, War Invalids and Social Affairs of Hanoi city on amending the work permit applications for technical workers.

The updated work permit applications for technical workers shall include:

- Diploma, degree or certificate;
 - Written confirmation from an agency, organisation, or enterprise abroad regarding the number of years of experience of the expert, technical worker, or the work permit which has been issued or a confirmation on work permit exemption.
2. Circular No. 67/2023/TT-BTC dated 2 November 2023 by the Ministry of Finance guiding a number of articles of the Law on Insurance Business, Decree No. 46/2023/ND-CP dated 1 July 2023 by the Government elaborating the Law on Insurance Business, effective from 2 November 2023.

Some notable points of Circular No. 67/2023/TT-BTC include:

- Regulations that insurance enterprises are allowed to carry out the entire process of providing insurance services and products in online environment for one or several insurance products;
 - Regulations on conditions for insurance buyers of life insurance contracts and health insurance contracts;
 - Regulations on conditions for credit institutions and foreign bank branches performing insurance agency activities.
3. Decree No. 79/2023/ND-CP dated 15 November 2023 by the Government detailing a number of articles and implementation measures of the Law on Intellectual Property regarding rights to plant varieties, effective from 15 November 2023.

This Decree elaborates on several articles and implementation measures of the Law on Intellectual Property regarding rights to plant varieties, including: (i) procedures for establishing rights to plant varieties; (ii) rights to plant varieties that are results of technology and science-tasks funded by the state budget; (iii) rights and obligations of holders of protection titles and plant variety breeders; (iv) transfer of rights to protected plant varieties; and (v) representation of rights to plant varieties.

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