

# VIETNAM BULLETIN

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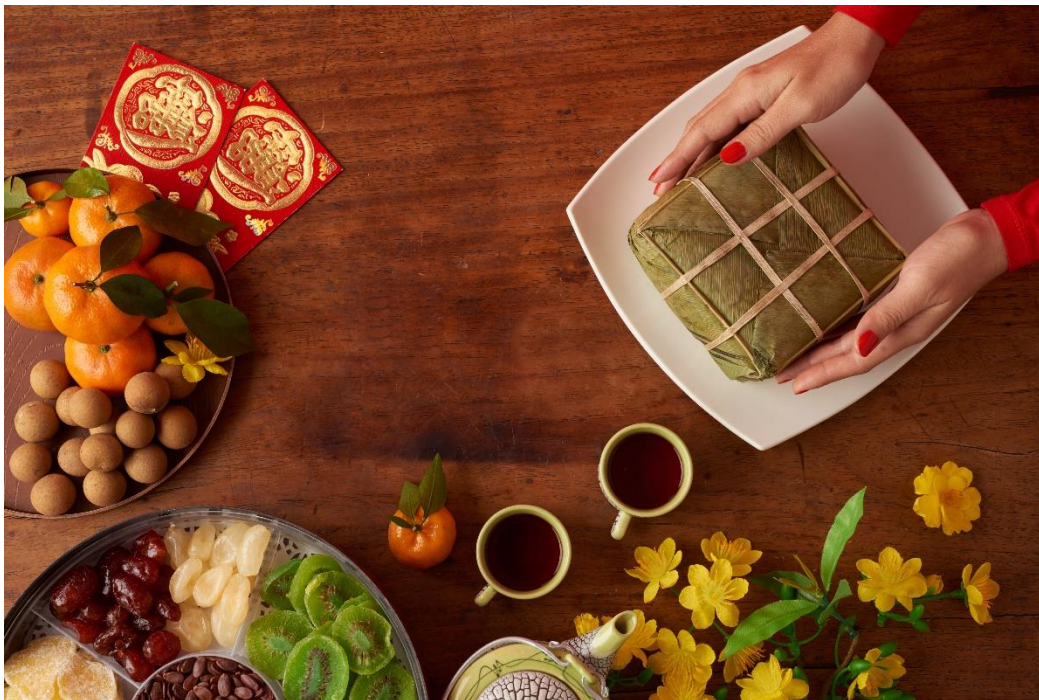
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Please refer to our following edition for further details.



## CORPORATE TAX

1. Petroleum Law No. 12/2022/QH15 dated 14 November 2022 by the National Assembly promulgating new regulations on oil and gas activities and supplementing special preferential policies applicable to oil blocks and fields when oil and gas contracts are approved, effective from 1 July 2023.
2. Decision No. 1795/QĐ-TCT ("Decision 1795") dated 11 November 2022 by the General Department of Taxation ("GDT") on promulgating the process of tax debt coercion, effective from the date of signing and replacing Decision No. 751/QĐ-TCT dated 20 April 2015.

According to Decision 1795, the following coercive measures shall be applied:

- ✓ Coercion by deducting money from accounts, requesting freezing of taxpayers' accounts opened at state treasuries, commercial banks and other credit institutions.
- ✓ Coercion by deducting part of salary or income.
- ✓ Request the Customs authority to impose coercive measure by stopping customs procedures for imported and exported goods.

- ✓ Coercion by stopping invoice usage.
- ✓ Coercive measure by distraint of assets, auction of distrained assets.
- ✓ Coercion by collecting money and other properties of taxpayers held by other organisations and individuals.
- ✓ Coercion by revoking the business registration certificate.

In principle, the above tax debt enforcement measures shall be implemented in sequence from first to last. In case where this coercive measure is being applied but there is information and conditions for the implementation of the previous/following measure which is more effective, the tax authority shall simultaneously apply multiple coercive measures to collect tax debt.

In case the taxpayer is in the period of being applied the coercive measure of "stop invoice usage", the tax authority shall neither approve the "Notice of invoice issuance" application, issue QR code for the electronic invoices which must have tax-authority-issued code, sell invoices nor issue invoices to taxpayers (except for cases where taxpayers meet the conditions to be issued invoice per each incurring time after paying at least 18% of the invoice's revenue).

### **3. Official Letter No. 1305/TCT-KK dated 26 April 2022 by the GDT on the provision of information about taxpayers' payment accounts in accordance with Decree No. 126/2020/ND-CP.**

The GDT requires commercial banks and branches of foreign banks to provide payment account information of each taxpayer from 3 May 2022.

Within 90 days from the issuance date of this Official Letter, the commercial banks and branches of foreign banks shall make and send the list of first-time taxpayers' accounts to the GDT. Then, on a monthly basis (no later than the 10<sup>th</sup> of next month), commercial banks and branches of foreign banks shall provide their information on new account numbers and closed accounts within the period to the GDT.

### **4. Official Letter No. 59940/CTHN-TTHT dated 6 December 2022 by the Hanoi Tax Department on tax policy for foreign contractors.**

In case the Company buys online tickets of foreign airlines on their website, then:

- ✓ Foreign airlines that generate income in Vietnam from providing passenger transportation services on the basis of transport contracts (tickets) are subject to foreign contractor tax obligations.
- ✓ In case a foreign airline sells air tickets on its website, issues e-tickets directly to the Company through the website, not through its agent or ticket office in Vietnam, and does not meet the conditions on self-declaration of foreign contractor withholding tax ("FCT") in Vietnam, the Vietnam Company shall be responsible for withholding and paying tax on behalf of the foreign contractor.
- ✓ In case a foreign airline issues air tickets through its agents or offices in Vietnam, these agents and offices are responsible for withholding and paying FCT on its behalf.

### **5. Official Letter No. 61429/CTHN-TTHT dated 12 December 2022 by the Hanoi Tax Department Hanoi on Value Added Tax ("VAT") policy.**

In case the Company signs a contract to provide services whereby payments are made before or during service rendered and the invoices for such payments have been already issued at the time of collection before 1 February 2022 with the tax rate of 10% but the services are completed during the period from 1 February to the end of 31 December 2022, then the VAT reduction scheme shall be applied only to the remaining unpaid amount.

### **6. Official Letter No. 4498/TCT-KK dated 2 December 2022 by the GDT on the declaration and payment of license fees for business locations.**

In case the Company establishes business locations (warehouses) in other provinces different from where the head office is located, the license fee declaration must be submitted to the Tax Department where the business locations are situated.

### **7. Official Letter No. 57839/CTHN-TTHT dated 25 November 2022 by the Hanoi Tax Department on tax policy for foreign contractors.**

In case a foreign forwarding company ("foreign party") generates income from providing international transportation services from Vietnam to abroad on the basis of a contract signed with a Vietnamese enterprise, it is subject to FCT at the CIT rate of 2% of revenue.

The Vietnamese party is responsible for withholding and paying FCT on behalf of the foreign party if the foreign party does not fully satisfy the conditions to directly declare and pay tax in Vietnam.

**8. Official Letter No. 57837/CTHN-TTHT dated 25 November 2022 by the Hanoi Tax Department on tax policy for asset liquidation.**

In case the representative office of a foreign trader in Vietnam does not have any production or business activities, if there is a liquidation of assets that are goods purchased to serve the operation of the representative office, it is not required to declare and pay VAT and CIT.

**9. Official Letter No. 4679/TCT-KK dated 12 December 2022 by the GDT on VAT refund for new investment projects in other provinces.**

In case the Company has new investment projects, which are in the investment stage, in province, city other than the province of headquarters located:

- ✓ If the Company (project owner) assigns a branch of the Company to directly manage the projects, declare VAT, and claim VAT refund for investment projects on behalf of the Company and the branch meets the regulations on tax code, company seal, accounting books and documents, and bank account, the branch shall prepare and submit a separate VAT declaration and VAT refund dossiers for each investment project to the tax authorities of the places where the projects are located in accordance with the regulations.
- ✓ If the Company (project owner) directly prepares and submits a separate VAT declaration for each investment project, the company shall submit a VAT refund dossier to the tax authorities of the places where the projects are located in accordance with the regulations.





## E-INVOICE

### 1. Official Letter No. 15461/CTTPHCM-TTHT dated 12 December 2022 by the Ho Chi Minh Tax Department on the implementation of electronic invoice (“e-invoice”) created from cash registers.

According to the roadmap for implementing e-invoices (with codes) created from cash registers, the Ho Chi Minh Tax Department is expected to deploy phase 1 from 15th December 2022 to the end of March 2023 and phase 2 from 1st April 2023 onward.

Enterprises, business households and individuals (“taxpayers”) engaged in the provision of goods and services (food and beverage business, restaurants, hotels, trade centers, supermarkets, retail of goods, retail of modern medicines, recreation services, toll, bus tickets, sightseeing tickets, tourism, etc.) according to the direct-to-consumer business model have option to use e-invoice with tax authority code generated from cash register which has connection to transfer data to the tax authority.

Taxpayers are required to register to use e-invoices generated from cash registers prior to implementation.

### 2. Official Letter No. 62544/CTHN-TTHT dated 16 December 2022 by the Hanoi Tax Department on guidance on invoice processing.

In case the Company issued an invoice in accordance with Decree No. 51/2010/NĐ-CP of the Government, and then makes a downward adjustment to revenue according to the actual settlement value of the work, the Company and the buyers must prepare a written agreement clearly stating the error. In addition, the Company must notify the tax authority by Form No. 04/SS-HĐĐT and issue new invoice replacing the error invoice according to the guidance at Clause 6, Article 12 of Circular No. 78/2021/TT-BTC of the Ministry of Finance.

### 3. Official Letter No. 62542/CTHN-TTHT dated 16 December 2022 by the Hanoi Tax Department on the declaration of adjusted and replaced invoices

Where the enterprise issues adjustment or replacement invoices as prescribed in the regulations, leading to errors in the submitted VAT declaration, the enterprise must make an amendment declaration. The amendment declaration must be made to each VAT declaration with errors or omissions as prescribed.



## CUSTOMS

### 1. Official Letter No. 5350/TCHQ-GSQL dated 9 December 2022 by the General Department of Customs (“GDC”) about the incorrect declaration of type code.

Regarding the handling of incorrect declaration of type codes on export declarations, the local Customs Department is required to perform post-clearance inspection to determine whether the goods having wrong type codes on the export declarations comply with the regulations which include declaring and using import materials for the purpose of producing goods for export, committing frauds or evading taxes prior to accepting or rejecting the declarations with incorrect type codes.

### 2. Official Letter No. 5188/TCHQ-TXNK dated 2 December 2022 by the GDC on the treatment of tax on goods imported to manufacture for export (“GIME”).

Where a company imports raw materials under the form of GIME (type E31), then delivers a part of the raw materials imported to other companies for processing under a production cooperation contract and the parties issue VAT invoices when delivering materials as well as returning products, the company is not exempted from import tax.

### 3. Decision No. 28/2022/QĐ-TTg dated 20 December 2022 by the Prime Minister on amending and supplementing a number of articles of Decision No. 18/2019/QĐ-TTg dated 19th April 2019 that regulates the import of used machinery, equipment and technological lines.

**4. Official Letter No. 3405/HQTPHCM-GSQL dated 7 December 2022 by the Ho Chi Minh Customs Department on guiding customs procedures.**

Accordingly, on the on-spot import declaration, it is mandatory to specify the corresponding on-spot export declaration number. At the same time, the information in the on-spot import declaration and the on-spot export declaration must be consistent and similar in terms of product name and code to be used as a basis for the processing of on-spot import and export customs procedures.

**5. Official Letter No. 5246/TCHQ-TXNK dated 5 December 2022 by the GDC announcing that the enforcement measure of stopping the customs clearance applied by the Customs Sub-Department at the request of the tax authorities is in accordance with regulations.**

**6. Official Letter No. 5167/TCHQ-PC dated 1 December 2022 by the GDC on sanctions for administrative violations due to the impact of the Covid-19 pandemic.**

Where the Customs Sub-department verifies and collects sufficient information, data, and documents to clarify that the pandemic is the direct cause of the enterprise's violations and the Company has taken all necessary and permissible measures, but it still can not correct the violation, the regulation of unsanctioning administrative violations can be applied.

**7. Official Letter No. 4901/TCHQ-TXNK dated 18 November 2022 by the GDC on tax treatment of goods imported to create fixed assets when converting the type of business.**

## ACCOUNTING

**1. Circular No. 73/2022/TT-BTC dated 15 December 2022 by the Ministry of Finance stipulating the regime of management, calculation of depreciation, and depreciating clean water supply infrastructure assets. The Circular takes effect from 01 February 2023 and will be applied from the fiscal year 2023.**

## PERSONAL INCOME TAX (“PIT”)

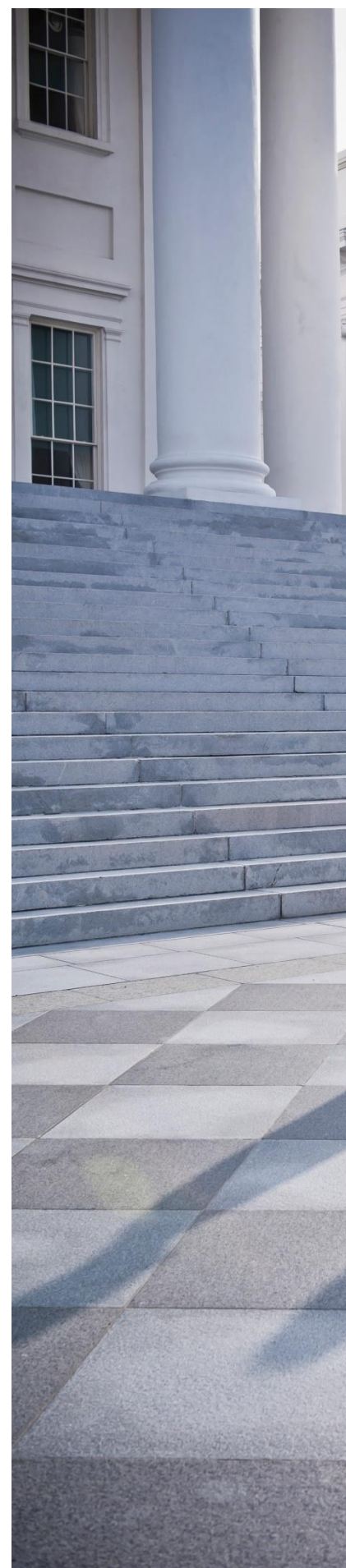
**1. Official Letter No. 4571/TCT-DNNCN dated 7 December 2022 by the GDT providing guidance on PIT treatment for house rental paid on behalf.**

Where an expatriate who is a tax resident in Vietnam receives net salary (exclusive of tax) from Vietnam and from abroad and the Vietnam company pays house rental on his behalf, the company shall calculate the taxable house rental based on actual expense paid but not exceed 15% of taxable income (gross income) earned (exclusive of house rental), regardless of where the income is paid.

**2. Official Letter No. 61433/CTHN-TTHT dated 12 December 2022 by the Hanoi Tax Department on PIT finalisation and PIT refund.**

Pursuant to the guidance of the Hanoi Tax Department, in case the employees are subject to PIT finalisation, the annual taxable income shall be the total taxable income of every month in the year. If the income payer incorrectly declares the income paid to the employees that leads to insufficient tax payable, it shall be sanctioned for tax administrative violations with a fine equal to 20% of the outstanding PIT amount as prescribed in Article 16 of Decree 125/2020/ND-CP.

Regarding the application for a refund of PIT from employment income, if the income payer conducts PIT finalization on behalf of the authorising individuals, the provisions of Article 42 of Circular 80/2021/TT-BTC shall be applied. The deadline for processing tax refund dossiers is specified in Article 75 of the Law on Tax Administration No. 38/2019/QH14.







## SOCIAL SECURITIES (“SHUI”)

1. New procedure for unemployment allowance claim under Decision No. 3879/QĐ-UBND dated 16 November 2022 by the People’s Committee of Ho Chi Minh City.

The Decision issues 03 internal processes on handling administrative procedures which are under the management function of the Department of Labour, Invalids and Social Affairs of Ho Chi Minh City, including: (i) amending, supplementing 02 procedures in the field of employment (settlement of unemployment allowance and vocational training support); and (ii) 01 new internal approval procedure in the field of education (approval of teaching and learning in foreign languages).

The application for unemployment allowance under this Decision includes: (i) Application form; (ii) Social Insurance Book; and (iii) one of the supporting documents evidencing the termination of labour contract (eg. Termination Decision, Labour Contract Termination Agreement). The deadline for processing unemployment allowance dossier is 18 working days (2 days shorter than before).

2. One-time social insurance (“SI”) settlement procedure via digital signature authentication according to Decision No. 3612/QĐ-BHXH dated 9 December 2022 by the Vietnam Social Security, effective from 1 January 2023.

This is a pilot procedure to process one-time SI claims on the National Public Service Portal. To apply this process, an employee must have an account on the National Public Service Portal and a digital signature integrated in the application of mobile devices.

The maximum time limit for processing this procedure is 05 working days from the date the SI authority fully receives valid dossiers.

3. Official Letter No. 6914/BYT-BH dated 29 November 2022 by the Ministry of Health on urging the implementation of medical examination and treatment under health insurance (“HI”) scheme using chip-based ID Card, targeting 100% of nationwide hospitals accepting medical treatment under HI scheme by chip-based ID Card and 20% of people going for medical examination and treatment under HI scheme using chip-based ID Card or look up via VNeID application at the end of 2022.

4. Directive No. 21/CT-TTg dated 25 November 2022 by the Prime Minister on promoting digital transformation in non-cash social security payments.

## LABOUR

1. **Official Letter No. 33700/SLDTBXH-LD dated 14 November 2022 by the Department of Labour, Invalids and Social Affairs of Ho Chi Minh City regarding the report on labour, salary status in 2022 and Tet bonus plan in 2023.**

Accordingly, enterprises need to notify their employees of all information about salary, bonus, allowances and other subsidies for the employees during the Lunar New Year 2023, as well as information on Tet holiday, annual leave and time of salary, bonus payments. Simultaneously, enterprises need to prepare a report on salary and bonus according to the survey form attached to this Official Letter and submit it to the Department of Labor, War Invalids and Social Affairs before 25 December 2022.

2. **Decree No. 97/2022/ND-CP dated 29 November 2022 by the Government stipulating the policy of unemployment allowance and severance allowance for redundant employees upon transfer of ownership or rearrangement of sole member limited liability companies wholly owned by the Government, effective from 15 January 2023.**

## TRADE UNION

1. **Decision No. 5692/QD-TLD dated 8 December 2022 by the Vietnam General Confederation of Labour promulgating Regulations on Allowances for Trade Union Officers of all levels, effective from 1 January 2023.**

## CONTACT US

### BDO IN VIETNAM

#### BDO Ho Chi Minh City

Hillary Vu  
Tax and Advisory  
[hillary.vu@bdo.vn](mailto:hillary.vu@bdo.vn)

Jeffrey Ong  
Audit  
[jeffrey.ong@bdo.vn](mailto:jeffrey.ong@bdo.vn)

The Address Tower, 11<sup>th</sup> Floor,  
60 Nguyen Dinh Chieu Street,  
Dakao Ward, District 1,  
Ho Chi Minh City, Vietnam  
Tel.: +84 (28) 39110033  
Fax : +84 (28) 39117439  
[www.bdo.vn](http://www.bdo.vn)

#### BDO Hanoi

Mai Lan Phuong  
Tax and Advisory  
[phuong.mai@bdo.vn](mailto:phuong.mai@bdo.vn)

Pham Tien Hung  
Audit  
[hung.pham@bdo.vn](mailto:hung.pham@bdo.vn)

Icon 4 Tower, 20<sup>th</sup> Floor,  
243A De La Thanh Street,  
Lang Thuong Ward, Dong Da District,  
Hanoi City, Vietnam  
Tel.: +84 (24) 37833911  
Fax : +84 (24) 37833914  
[www.bdo.vn](http://www.bdo.vn)

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