

VIETNAM BULLETIN

JANUARY 2023

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Highlights of Vietnam's technical updates in January 2023

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BUSINESS TAX

▶ Tax administration

1. Resolution No. 30/2022/UBTVQH15 dated 30 December 2022 by the National Assembly's Standing Committee on the environmental protection tax rates applied to gas, oil, lubricants and grease.

Accordingly, the environmental protection tax rates applied from 1 January 2023 to the end of 31 December 2023 will be as follows: gas: VND2,000/liter (increase by VND1,000/liter); diesel oil, mazut oil, lubricant, aviation fuel: VND1,000/liter (increase by VND500-700/liter, aviation fuel remains unchanged), kerosene: VND600/liter (increase by VND300/liter) and grease: VND1,000/kg (increase by VND700/kg).

2. Official Letter No. 377/CTHN-TTHT dated 4 January 2023 by Hanoi Tax Department on the VAT and CIT policies for compensation.

Where enterprises receive compensation according to the court's decision specified in clause 1, Article 5, Circular No. 219/2013/TT-BTC, they are not required to declare or pay VAT. When receiving the compensation, enterprises only need to issue receipts, and not invoices. However, enterprises must declare and pay CIT on the amount of compensation as prescribed in clause 13, Article 7, Circular 78/2014/TT-BTC.

3. Decision No. 08/QĐ-TCT 2023 dated 6 January 2023 by the General Department of Taxation ("GDT") on the framework program for updating the knowledge of tax procedure service practice, effective from 6 January 2023.

4. Resolution No. 07/NQ-CP dated 30 January 2023 by the Government on the reduction in land rent and water surface rent payable in 2022 given to entities affected by the Covid-19 pandemic.

Accordingly, lessees (enterprises, organisations, households, individuals) that have been affected by the Covid-19 pandemic and who directly lease land from the State in the form of land lease with annual payment, shall receive a reduction of 30% in land rent and water surface rent payable in 2022. This Resolution takes effect from 30 January 2023 and replaces the fourth paragraph point a, section 3, part II of the Government's Resolution No. 11/NQ-CP dated 30 January 2022.

5. Official Letter No. 4952/TCT-KK dated 28 December 2022 by the GDT on the declaration of environmental protection tax.

Where enterprises import PE bags and make a commitment or declaration at the import stage that the usage purpose is for products packaging in accordance with Law on Environmental Protection Tax, but then re-purpose for exchange, internal consumption or donation, the enterprise is required to declare and pay environmental protection tax and be handled in accordance with the law on tax administration. Enterprises shall declare and pay environmental protection tax on a monthly basis for the unused or underused PE bags according to the provisions of the Law on Tax Administration.

6. Official Letter No. 32/TCT-KK dated 6 January 2023 by the GDT on the registration of tax identification numbers for capital transfer tax declaration.

For capital transfer activities where both the transferor and the transferee are foreign contractors without legal status in Vietnam, the company established under Vietnamese law, in which the foreign contractor invested, is obliged to declare and pay corporate income tax imposed on capital transfer transactions on behalf of the foreign contractors.

7. Official Letter No. 3377/CTHN-TTHT dated 31 January 2023 by the Hanoi Tax Department on VAT policy for construction and installation activities.

Accordingly, the issuance time of invoices for construction and installation activities is at the time of acceptance and handover of works, construction items, completed construction and installation volumes regardless the payment has been received or not. The period for applying the VAT reduction policy as prescribed in Decree No. 15/2022/ND-CP is from 1 February 2022 to the end of 31 December 2022. In case companies provided services that are subject to VAT reduction according to Decree No. 15/2022/ND-CP, but issued invoices after 31 December 2022, the VAT reduction policy shall not be applied.

► **Invoice**

1. Official Letter No. 392/CTHN-TTHT dated 4 January 2023 by The Hanoi Tax Department regarding the content in the tax-free sales invoice.

The issuance of invoices when selling tax-free goods shall comply with the provisions of Decree No. 100/2020/ND-CP. Accordingly, where duty-free goods buyers are exiting and transiting passengers, passengers on departure aircrafts, passengers on international flights to Vietnam and passengers waiting to exit and buying goods at a domestic duty-free shop, the salesperson must issue invoice as prescribed by laws and fill in all the necessary information such as the buyer's full name, passport number, nationality, flight number and date, name of goods, unit, quantity, and value on the sales invoice.

2. Official Letter No. 391/CTHN-TTHT dated 4 January 2023 by Hanoi Tax Department on VAT invoice with adjusted date.

According to clause 2, Article 9, Decree No. 123/2020/ND-CP, invoices for provision of services shall be issued upon completion of the services, regardless of whether payment has been received or not. In the event when a service is provided with payments collected in advance or during the provision of that service, an invoice shall be issued for each payment collected. Enterprises that issue invoices at the wrong time shall be sanctioned according to Article 24, Decree 125/2020/ND-CP.

The enterprise shall declare and deduct input VAT in the period when it is incurred according to clause 8, Article 14, Circular No. 219/2013/TT-BTC dated 31 December 2013 by the Ministry of Finance.



► Customs

1. Official letter No. 156/TCHQ-TXNK dated 11 January 2023 by the General Department of Customs on the notification of use of duty-free goods.

Accordingly, organisations and individuals using duty-free goods such as project owners, owners of production and business establishments, owners of shipbuilding establishments, organisations and individuals conducting oil and gas activities must notify the customs authorities of the use of duty-free goods on an annual basis within 90 days from the end of the fiscal year.

The notification of the use of duty-free goods must be carried out until the entire project operation is shut down or the goods have been re-exported from Vietnam or when the duty-free imports are repurposed and sold domestically, or destroyed.

2. Decree No. 129/2022/ND-CP dated 30 December 2022 by the Government on Vietnam’s special preferential import tariff schedule for the implementation of the Regional Comprehensive Economic Partnership in 2022 - 2027 period, effective from 30 December 2022.

Accordingly, Decree No. 129/2022/ND-CP promulgates Vietnam’s special preferential import tariffs for ASEAN countries (Appendix A); Australia (Appendix B); China (Appendix C); Japan (Appendix D); Korea (Appendix E) and New Zealand (Appendix F) and conditions for claiming special preferential import tariff rates.



PERSONAL INCOME TAX (“PIT”)

1. Employees shall not be eligible for PIT finalisation through their employers if they simultaneously sign multiple labour contracts with different employers according to Official Letter No. 289/CTHN-TTHT dated 4 January 2023 by the Hanoi Tax Department.

Pursuant to Point d.2, Clause 6, Article 8 Decree No. 126/2020/ND-CP, employees are only able to authorise their employer to conduct PIT finalisation on their behalves if they sign a labour contract of 3 months or more with one employer and are currently working for such employer at the time of tax finalization authorisation.

In case where employees sign labour contracts of 3 months or more with 2 different companies at the same time and have their tax withheld according to the progressive tax rates, they are not allowed to authorise the employers to conduct PIT finalisation on their behalves.

2. Official Letter No. 388/CTHN-TTHT dated 4 January 2023 by the Hanoi Tax Department regarding electronic PIT withholding receipt (PIT e-receipt).

Accordingly, the Hanoi Tax Department guides enterprises to issue PIT e-receipts for employees who are not eligible for PIT finalisation authorisation as below:

- Companies only issue 1 tax receipt for one tax period for employees signing labour contracts of 3 months or more.
- Companies have options to issue one tax receipt for each withholding or one tax receipt for many withholdings within the same tax period for employees who do not sign or sign labour contracts of under 3 months.

In addition, when using PIT e-receipt, enterprises are not required to register for usage or submit usage status reports periodically.

3. Official Letter No. 65356/CTHN-TTHT dated 29 December 2022 by the Hanoi Tax Department regarding supporting documents for other dependants.

Accordingly, employees can register their grandfather, grandmother, aunt, uncle as their dependants if they meet all of the conditions and have sufficient supporting documents prescribed in Circular No. 111/2013/TT-BTC.

In addition to the dependant registration forms regulated in Decree No. 126/2020/ND-CP, the compulsory supporting dossiers for dependant registration include photos of documents determining fostering responsibility, such as household registration book/temporary registration of dependant, the self-declaration by taxpayer certified by the People’s Committee at the commune level acknowledging that the tax payer is living with the dependant and the dependant does not have any fosterer.

In conclusion, if the above-mentioned dependants still have relatives, such as brothers, sisters, or children with fostering capability, they shall not be eligible for dependant registration by the employee.

4. Amended regulations on dependant registration dossiers as per Circular No. 79/2022/TT-BTC dated 30 December 2022 by the Ministry of Finance amending, supplementing some legal documents, effective from 1 January 2023.

A few amendments have been made to the supporting documents required for dependant-related including the following:

- Citizen Identity Card shall be used interchangeably with Identity Card.
- Certificate of Residence Information or Notice of Personal Identity Number and information in the National Database on Population shall be used in place of the Household Registration Book.

5. Invoice must be issued to gifts for employee and PIT on the gifts must be assessed pursuant to Official Letter No. 63653/CTHN-TTHT dated 22 December 2022 by the Hanoi Tax Department.

Accordingly, when giving gift to employees, enterprises must issue output invoices. Furthermore, these gifts shall be treated as benefits in cash or in kind in addition to the salaries & wages paid by the enterprises when determining PIT taxable income.



SOCIAL SECURITIES (“SHUI”)

1. Decision No. 49/QĐ-BHXH dated 19 January 2023 by Vietnam Social Security on the launch of online public service namely “Voluntary Social Insurance participation registration on the Public Service Portal”

Accordingly, the Decision regulates the procedure for registration, re-registration, and adjustment of voluntary social insurance (“SI”) contribution and the procedure for issuance of SI books on the online Public Service Portal, applicable to the following cases:

- Register to participate in voluntary SI for the first time;
- Change from compulsory SI participation to voluntary SI participation;
- Continue to participate in voluntary SI pursuant to the registered payment method and rate;
- Re-register the payment method and monthly income used as the basis for paying voluntary SI.

SI participants can submit dossiers via either the National Public Service Portal (<https://dichvucong.gov.vn/>) or the Public Service Portal of Vietnam Social Security (<https://dichvucong.baohiemxahoi.gov.vn/>). SI books shall be issued in electronic or paper format, depending on the participants’ registration.

2. Circular No. 18/2022/TT-BYT dated 31 December 2022 by the Ministry of Health amending and supplementing some regulations on SI claim dossiers and occupational safety and hygiene, effective from 15 February 2023.

3. Circular No. 01/2023/TT-BLDTBXH dated 3 January 2023 by the Ministry of Labour, War Invalids and Social Affairs (“MOLISA”) regulating the adjustment of monthly salary and income used for SI contributions for people who are entitled to pension and SI support in 2023. This Circular is effective from 20 February 2023 but its regulations are applicable from 1 January 2023.
4. Decision No. 62/QĐ-BYT dated 12 January 2023 by the Ministry of Health announcing and guiding some administrative procedures for the issuance, re-issuance, change of HI cards for employees and households, effective from the signing date.
5. For employees whose salaries and wages are denominated in foreign currency in the labour contract, the exchange rate for SI purposes in the first 6 months of 2023 is 23,606 VND/ USD pursuant to Official Letter No. 16/BHXH-TST dated 4 January 2023 by the Ho Chi Minh Social Insurance Department, applicable from 3 January 2023.

LABOUR

1. Resolution No. 06/NQ-DCT dated 16 January 2023 by the Vietnam General Confederation of Labour regarding financial support for trade union members and employers whose working hours are reduced or labour contracts are terminated due to business orders being cut off or reduced, effective from the signing date.

Accordingly, trade union members whose working hours are reduced or those who lost their jobs in the period from 1 October 2022 to 31 March 2023 due to business orders being cut off or reduced will receive one-time monetary support from the trade union as follows:

- 1 million dong/person for those, whose daily working hours, working days in a week/month are reduced, or those, who temporarily stop working due to force majeure for 14 days or more, and whose any monthly salary is lower than the regional minimum salary;
- 2 million dong/person for those having the period of temporary suspension of labour contracts or unpaid leave, which lasts for 30 consecutive days or more (except for unpaid leave due to personal reasons);
- 3 million dong/person for those, whose labour contracts are terminated, but who eligible for severance allowance (except for illegal unilateral termination of labour contract or being fired).

Employees who are not trade union members, shall receive support equals to 70% of the above amount. Female employees who are 35 years old or older, pregnant or currently fostering a child under 6 years old shall receive the full amount.

2. Decision No. 6696/QĐ-TLD dated 16 January 2023 by the General Confederation of Vietnam providing detailed guidance for Resolution No. 06/NQ-DCT on the subjects, conditions, procedures and dossiers for claiming one-time support from the trade union, effective from the signing date.

Accordingly, the support claim procedure is as follows:

- For trade union members and employees whose working time is reduced, labour contracts are temporarily suspended, and trade union members and





employees who are subject to work stoppage or unpaid leave: company-level trade unions shall determine who is eligible for the support under the guidance provided in this Decision and submit the list and necessary dossiers to the direct upper-level Trade Union. If the enterprise has not yet established a company-level trade union, the direct upper-level Trade Union shall coordinate with the employer to make a list and collect dossiers as prescribed.

- For trade union members and employees whose labour contracts have been terminated: they shall directly send their dossiers to the direct upper-level Trade Union or the provincial trade union where they reside or where their employer operates.

The deadline for submission is 31 March 2023.

3. Circular No. 24/2022/TT-BLDTBXH dated 30 November 2022 by the MOLISA regarding the increase in in-kind compensation for employees working in dangerous and toxic environment, effective from 1 March 2023 and replacing Circular No. 25/2013/TT-BLDTBXH.

From 1 March 2023, employees who are work in heavy, toxic or dangerous environment shall receive an increase in in-kind compensation as follows:

- 10,000 to 13,000 dong/day (for Level 1);
- 15,000 to 20,000 dong/day (for Level 2);
- 20,000 to 26,000 dong/day (for Level 3);
- 25,000 to 32,000 dong/day (for Level 4).

4. Circular No. 374/SLDTBXH-VLATLD dated 9 January 2023 by the Department of Labour, War Invalids and Social Affairs of Ho Chi Minh City regarding work permit issuance for expatriates.

Accordingly, regulations on relaxing conditions and procedures for issuing, renewing and certifying work permits for expatriates during the Covid-19 pandemic period under Resolution No. 105/NQ-CP dated 9 September 2021 are only applicable until the end of 31 December 2022.

Starting from 1 January 2023, when conducting administrative procedures relating to expatriates, enterprises must prepare sufficient documents as per the provision in Decree No. 152/2020/ND-CP.

5. Official Letter No. 4539/QD-UBND dated 27 December 2022 by the People's Committee of Ho Chi Minh City amending the procedure for reissuing work permits for expatriates, effective from the signing date.

Starting from 27 December 2022, the procedure for reissuing work permits for expatriates is amended as follows:

- Method of submission: expatriates can submit their application directly in person, via post or via online through the Public Service Portal;
- Time of processing: 1 working day;
- In case the work permit is lost, there must be a certificate from the Police department at the commune level where the expatriate resides or from the competent foreign authorities.

OTHERS

1. The Law on Inspection No. 11/2022/QH15 dated 14 November 2022 by the Congress, effective from 1 July 2023 and replacing the Law on Inspection No. 56/2010/QH12.

This Law regulates the organisational structure, functions and powers of inspection offices such as Government Inspectorate, Ministry Inspectorate, Provincial Inspectorate, District Inspectorate, etc. and the process of an inspection, the time limit for inspection as well as the handling of violations in the course of inspection; grounds for delaying or suspending the inspection.

1. Official Letter No. 1831/TTCP-KHTH dated 13 October 2022 by the Government Inspectorate regarding the plan of specialised inspection in 2023.

In 2023, the tax authority shall focus on inspecting and examining the following:

- Companies in industries and fields with large tax revenue potential or high risks such as oil and gas; petroleum; electricity; telecommunication; banking; insurance; stock; pharmaceutical; real estate etc.;
- Companies transferring capital, brand name, or investment projects;
- Companies having related party transactions, transfer pricing, or making loss in many years;
- Companies with high risk related to invoices;
- Companies with tax refund risk; companies subject to inspection after tax refunds as prescribed;
- Companies entitled to tax exemption and tax incentives in accordance with domestic laws and the Double Taxation Avoidance Agreements;
- Companies importing cars as gifts (based on information from the Customs).

As for the customs field, the Customs authority shall focus on inspecting and examining the following:

- Companies importing and exporting essential products (electronic components; iron and steel; wood; medical equipment; western medicines; alcohol, beer; automobiles, etc.);
- Companies with signs of fraud on origin (machinery, raw materials); fraud on quality, food safety and hygiene (scrap; consumer electronics; beverages; frozen food; etc.); fraud on value, tax rate and state management policy (minerals & products derived from minerals, etc.);
- Companies importing duty-free goods according to the type of investment incentives, export processing enterprises (EPEs) importing machinery and equipment from overseas.

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