

VIETNAM BULLETIN

APRIL 2023

www.bdo.vn

Highlights of Vietnam's technical updates in April 2023

BUSINESS TAX

Page 1

INVOICE

Page 4

SOCIAL SECURITIES ("SHUI")

Page 5

LABOUR

Page 5

PERSONAL INCOME TAX ("PIT")

Page 5

OTHERS

Page 9

CONTENT

- ▶ Business Tax;
- ▶ Invoice;
- ▶ Social Securities ("SHUI");
- ▶ Labour;
- ▶ Personal Income Tax ("PIT")
- ▶ Others.

Please refer to our following edition for further details.



BUSINESS TAX

▶ Tax Administration

1. Official Letter No. 1023/TCT-CS dated 30 March 2023 by the General Department of Taxation ("GDT") on value-added tax ("VAT") treatment.

Accordingly, enterprises engaged in the sale of liquidated rubber tree wood shall determine VAT as follows:

- For round wood and unprocessed solid wood products that are directly planted and sold by organisations and individuals, they are not subject to VAT.
- For round wood and unprocessed solid wood products that enterprises and cooperatives pay VAT through the deduction method and sell to other enterprises and cooperatives at the commercial stage, they are not required to declare or calculate VAT, in case of sale to household business, business individuals and other organisations and individuals, they are subject to the VAT rate of 10%.
- Processed wood products such as wooden planks, wood panels, wood chips are subject to the VAT rate of 10%.

2. Official Letter No. 1042/TCT-CS dated 31 March 2023 by the GDT on foreign contractor withholding tax ("FCT").

In case foreign suppliers sell goods to a Vietnamese enterprise without providing services in Vietnam and meet the requirements as prescribed in clause 2, Article 2 of Circular No. 103/2014/TT-BTC, the foreign suppliers are not subject to the regulation on FCT.

3. Official Letter No. 1139/TCT-CS dated 5 April 2023 by the GDT on the policy on collection of registration fees.

In case the investor is allocated land with collection of land use, leases land with one-off payment for the entire lease period and uses it for the purpose of investment in infrastructure construction or house construction for transfer, the registration fee is exempt. In case of registration of ownership or use rights for lease or self-use, organisations and individuals that are allocated or leased land by the State must pay a registration fee.

4. Official Letter No. 1160/TCT-CS dated 5 April 2023 by the GDT on determining the time for calculating the land lease fee.

Accordingly, the time of calculating land lease fee is the time when the State decides to allocate land, lease land, permit the change of land use purpose, and acknowledge the land use right. Incentives for exemption or reduction of land lease fees are only applied after the person who is leased land by the State completes the application procedures for exemption or reduction of land lease fee according to prevailing regulations. In case of delay in carrying out these procedures, the period of time when the land tenant is late in carrying out the procedures shall not be entitled to land rent exemption or reduction.

5. Official Letter No. 1489/TCT-QLN dated 24 April 2023 by the GDT on the implementation of measures to collect and handle tax arrears.

The GDT notifies and requests Tax Departments of provinces and cities to implement measures to urge and enforce tax debt collection in 2023 as follows:

- For taxpayers who have only owed tax for less than 90 days, tax authorities immediately take measures to call, text, email, invite to Tax Department offices, issue tax debt notices, etc. to urge taxpayers to pay taxes so that tax debts are not entangled and prolonged.
- For taxpayers with tax arrears over 90 days or tax amounts subject to force, tax authorities immediately apply coercive measures and publish information to recover the tax debts. In case the enforcement decision expires and the taxpayer has not yet paid or has not paid the tax arrears sufficiently, other regulatory coercive measures must be promptly applied.

In particular, the GDT also requested the Tax Departments of provinces and cities to strengthen the application of the measure of postponing the departure from the country for individuals who owe taxes and individuals who are legal representatives of businesses that owe taxes, in order to improve the efficiency of tax debt collection.

In addition, for debts of land use levy, land rent and mineral mining license fee, in case the land user has not fulfilled the obligation to pay land use levy, land rent in full and the tax authority has already applied coercive measures but the land user is non-compliant, the tax authority will proactively issue a written request to the People's Committee to recover the land.

6. Official Letter No. 1492/TCT-KK dated 25 April 2023 by the GDT on VAT refund for exported goods and services.

Upon receipt of the enterprises' applications for VAT refund, the Tax Departments are responsible for receiving, classifying and processing tax refund dossiers as prescribed in Articles 33, Article 34, and Article 35 of Circular No. 80/2021/TT-BTC.

During the processing of VAT refund application dossiers, if the Tax Departments detect high-risk dossiers, they shall check first and refund tax later according to regulations.



7. Official Letter No. 17832/CTHN-TTHT dated 4 April 2023 by the Hanoi Tax Department on foreign withholding tax (“FCT”) declaration.

In case an enterprise purchases services from foreign suppliers who have directly registered, declared and paid taxes in Vietnam as prescribed in Article 76, Article 77, Article 78, and Article 79 of Circular No. 80/2021/TT-BTC, the enterprise is not required to declare, withhold, and pay taxes on behalf of the foreign suppliers.

VAT on purchased goods and services used for production and trading in goods and services subject to VAT, satisfying the conditions as prescribed in Article 15 of Circular No. 219/2013/TT-BTC (amended at clause 10, Article 1 of Circular No. 26/2015/TT-BTC and Article 1 of Circular No. 173/2016/TT-BTC) is fully deductible.

8. Official Letter No. 17836/CTHN-TTHT dated 4 April 2023 by the Hanoi Tax Department on corporate income tax (“CIT”) incentives for expansion investment projects.

In case the enterprise increases capital to develop and extend the production scale of a project operating in an industrial park (not located in a special urban area), and the project meets one of the three criteria for an expansion investment project prescribed in Clause 4, Article 10 of Circular No. 96/2015/TT-BTC, the enterprise can select between:

- (i) To enjoy CIT incentives (preferential tax rate, period for tax exemption, tax reduction) under the current operating project for the remaining period; or
- (ii) To apply tax exemption or tax reduction duration to the additional incomes yielded by the expansion investment equaling to the tax exemption or tax reduction duration applicable to new investment projects in the same geographical area or industrial field eligible for incentives.

If the enterprise chooses to apply the incentives of the tax exemption or tax reduction period to the additional income generated by the expansion investment which is equal to the tax exemption or tax reduction period applicable to new investment projects in the same geographical areas with tax incentives, the additional income generated by the expansion investment is eligible for tax exemption and reduction as prescribed in clause 4, Article 10 of Circular No. 96/2015/TT-BTC and Article 6 of Circular No. 151/2014/TT-BTC.

The enterprise determines the conditions for tax incentives and preferential CIT rates to be entitled to for self-declaration and tax finalisation with the tax authorities.

9. Official Letter No. 18556/CTHN-TTHT dated 5 April 2023 by the Hanoi Tax Department regarding tax policy on scientific and technological services.

According to the provisions in Clause 13, Article 4 of Circular No. 219/2013/TT-BTC, teaching and vocational training activities aimed at enhancing the level of culture and professional knowledge are not subject to VAT. For the provision of services of communications, consultancy, education, vocational training, dissemination and application of scientific and technological achievements in socio-economic fields under contracts of scientific and technological services, these services are subject to a VAT rate of 5% as prescribed in Clause 15 Article 10 of Circular No. 219/2013/TT-BTC.

10. Official Letter No. 23833/CTHN-TTHT dated 17 April 2023 by the Hanoi Tax Department on deductible expenses for CIT purposes for educational grants.

Accordingly, if educational grants are given to eligible subjects as per the regulations and are supported by sufficient documentation to determine the grant as prescribed in Circular No. 96/2015/TT-BTC, the grants shall be considered deductible expenses when determining taxable income.

In case an enterprise is the subject of Decree No. 132/2020/ND-CP and has related party transactions, the determination of expenses for CIT purposes for enterprises having related transactions shall comply with the provisions of Article 16 of the Decree.

11. Official Letter No. 27084/CTHN-TTHT dated 25 April 2023 by the Hanoi Tax Department on VAT rate.

Accordingly, in case an enterprise sells a ship that is allowed for international transportation only and must not be used for domestic transportation to a foreign organisation or individual, a VAT rate of 0% shall be applied if it satisfies the conditions at point a, Clause 2, Article 9 of Circular No. 219/2013/TT-BTC. If an enterprise sells domestic-transport ships to a foreign organisation or individual, the 10% VAT rate shall apply as prescribed.



INVOICE

1. Dispatch No. 01/CD-BTC dated 12 April 2023 by the Ministry of Finance on strengthening the management and supervision of the issuance and use of e-invoices.

In order to prevent enterprises from issuing fraudulent electronic invoices (“e-invoices”) and trading e-invoices for their own benefits, the Ministry of Finance has requested the Tax Departments of provinces and cities to strengthen propagation, warning and conduct audits, inspections, and supervision on the issuance and use of e-invoices by enterprises, thereby promptly detecting violations and strictly handling them in accordance with regulations.

In addition, the Ministry of Finance has also assigned the General Department of Taxation to review and propose an upgrade to the information system for e-invoices to ensure information security and enable the analysis, evaluation, prompt detection and warning against fake and fraudulent acts related to e-invoices.

2. Official Letter No. 1142/TCT-CS dated 5 April 2023 by the GDT on the invoice.

In case the enterprise uses "-" sign instead of "," sign, according to the business registration certificate to separate parts of the enterprise's address in an electronic invoice, but it can still be identified correctly and other contents on the invoice are in line with the business registration certificate and the tax registration certificate, the invoice will still be accepted for tax declaration purposes.

3. Official Letter No. 19294/CTHN-TTHT dated 6 April 2023 by the Hanoi Tax Department on timing to issue the invoice for export activities.

Accordingly, starting from the time that an enterprise is accepted to use e-invoices according to Decree No. 123/2020/ND-CP, when exporting goods (including export processing), they must issue electronic VAT invoices in accordance with the prevailing regulations. Enterprises that issue invoices at the wrong time shall be sanctioned according to Decree No. 125/2020/ND-CP.

4. Official Letter No. 23830/CTHN-TTHT dated 17 April 2023 by the Hanoi Tax Department guiding the issuance of invoices for goods and services gifted to customers.

Accordingly, goods and services used to give or donate to customers must be invoiced with full content as prescribed in Decree No. 123/2020/ND-CP. The taxable price of goods and services used for gifting or donation purposes should be based on the VAT taxable price of goods and services of the same or equivalent type at the time of arising these activities.

In case enterprises sell vouchers to customers, they must issue invoices at the time of collecting payment as prescribed in Clause 2 Article 9 of Decree 123/2020/ND-CP.

5. Official Letter No. 17831/CTHN-TTHT dated 4 April 2023 by the Hanoi Tax Department on invoicing for on-spot export goods.

Accordingly, when issuing VAT invoices for goods exported on the spot as prescribed by law, the enterprise must clearly specify the name of the foreign buyer, the name of the receiving enterprise and the delivery location in Vietnam. In case the enterprise detects that the invoice has been issued with errors, which requires the issuance of an adjustment or replacement invoice, the enterprise shall handle the incorrect invoice according to the regulations.

6. Official Letter No. 18553/CTHN-TTHT dated 5 April 2023 by the Hanoi Tax Department providing guidance on invoices when receiving sponsorship money.

If an enterprise receives the sponsorship money that falls under the provisions of Clause 1, Article 5 of Circular No. 219/2013/TT-BTC, it is not required to declare and pay VAT. The enterprise only needs to prepare receipt vouchers in accordance with regulations and is not required to issue invoices.

In case an enterprise receives sponsorship money to perform services for organisations and individuals such as repair, warranty, promotion, and advertising, it must issue an invoice with the sufficient required content and ensure the data format according to Decree No. 123/2020/ND-CP, and must declare and pay tax according to regulations.

7. Official Letter No. 27085/CTHN-TTHT dated 25 April 2023 by the Hanoi Tax Department guiding the issuance of VAT invoices for goods temporarily imported for re-export, temporarily exported for re-import.

Accordingly, goods temporarily exported for re-import are not subject to VAT as prescribed in Clause 20 Article 4 of Circular No. 219/2013/TT-BTC. The enterprise should issue invoices in accordance with the instructions in Article 10 of Decree No. 123/2020/ND-CP with the "tax rate" item of “KCT” (Not subject to VAT).



SOCIAL INSURANCE (“SHUI”)

1. Decision No. 490/QD-BHXH dated 28 March 2023 by the Vietnam Social Security regarding the amendment, supplementation of several articles on the process of collecting social insurance (“SI”), health insurance (“HI”), unemployment insurance (“UI”), and occupational accidents, diseases insurance; management of SI book, HI card attached with Decision No. 595/QD-BHXH and amending, supplementing Article 1 of Decision No. 505/QD-BHXH dated 27 March 2020.

2. Notification No. 1553/TB-BHXH dated 11 April 2023 by the Social Insurance Department (“SID”) of Ho Chi Minh City (“HCMC”) regarding issuing, amending the Procedure and Recipient Ticket (“RT”) based on one-stop mechanism (Procedure No. 801, 802, 803 and RT: 50..., 502, 506, 507, 701, 801, 802, 803).

3. Procedure for one-time allowance settlement for individuals migrating to foreign countries will be applied in HCMC from 10 April 2023 pursuant to Notification No. 1461/TB-BHXH dated 5 April 2023 by the HCMC SID.

The notification issues a new procedure for handling a one-time allowance for those who are currently receiving a pension or a monthly SI allowance but plan to settle abroad and submit their applications at the district SI agencies (Procedure No. 209).

Of note, the employee must submit the application directly to the SI agency. In case of authorising another person to carry out the procedure or to receive SI benefits on their behalf, the original authorisation letter is required.

4. Official Letter No. 1757/BHXH-TST dated 20 April 2023 by the HCMC SID on guiding the applications for SI, HI contributions of expatriates, replacing Official Letter No. 1639/BHXH-TST dated 14 April 2023.

Accordingly, in case of new registration from 20 April 2023, employers must declare the name of expatriates in the correct order as stated on their passports in the declaration forms TK1-TS, D02-LT and D03-TS.

For expatriates who are participating in SI and/or HI, the SID shall send a list of participants to their employers to review the information on the passports/ visas/ temporary residence cards of these foreign nationals. If the expatriates’ names are not recorded correctly according to the above principle, the employer shall submit dossier no. 608 to the SID for adjustment.



LABOUR

1. Official Letter No. 887/UBND-KTN dated 30 March 2023 by the People’s Committee of Hanoi City regarding the management of expatriates temporarily residing in industrial zones.

PERSONAL INCOME TAX (“PIT”)

1. Official Letter No. 19297/CTHN-TTHT dated 6 April 2023 by the Hanoi Tax Department regarding PIT treatment for certification exam fees paid by employers on behalf of their employees.

Vocational training and certification exam costs paid by employers for their employees shall not be regarded as taxable income provided they are clearly stated in the employers’ labour regulations and supported by sufficient invoices and legitimate supporting documents.

Vocational training fees are determined pursuant to Clause 3 Article 62 of the Labour Code No. 45/2019/QH14.

2. Official Letter No. 24601/CTHN-TTHT dated 19 April 2023 by the Hanoi Tax Department regarding PIT treatment for the prize won by the employee.

In case an employee receives a bonus-in-kind from participating in prize-winning contests or other forms of winning organised by the employer, such prize awarded to the employee is considered an income from winning a prize. The taxable income is the value of the prize value exceeding 10 million dong and the employer must withhold PIT at the 10% rate before paying the reward to the employee.

OTHERS



1. **Circular No. 02/2023/TT-BKHDT dated 18 April 2023 by the Ministry of Planning and Investment amending and supplementing a few regulations of Circular No. 01/2021/TT-BKHDT, effective from 01 July 2023.**

This Circular supplements regulation on the order and procedure for household business registration. Some noticeable contents are as follows:

- Conditions for receiving registration applications via the information system for household business registration;
- Issuance of household business code which is also a tax code;
- Declaration of business lines on the application form for household business registration.
- Notification requirement for business locations located outside their headquarters;
- Procedure for approving household business registration under backup process;
- Online procedures & documentation for household business registration;
- Address to look up household business registration information.

2. **Decree No. 18/2023/ND-CP dated 28 April 2023 by the Government amending, supplementing a number of articles of Decree No. 40/2018/ND-CP dated 12 March 2018 regarding the management of multi-level marketing (“MLM”) business activities, effective from the signing date.**

This Decree amends, supplements the following points:

- a. Supplementing conditions for registration of MLM activities: In case the organisation registering for MLM activities is an enterprise whose owners or members or shareholders are foreign investors or a foreign-invested business organisation, all of these foreign investors or foreign-invested business organisations must have at least **3 years of continuous MLM business operation** in a certain country or territory worldwide.
- b. Supplementing regulations: enterprises are not required to carry out procedures for terminating MLM activities locally in case of terminating MLM activities nationwide.

3. **Decree No. 17/2023/ND-CP dated 26 April 2023 by the Government detailing a number of articles and measures for implementing Intellectual Property Law on copyright and copyright-related rights, effective from the signing date.**

This Decree provides detailed information on various articles and measures to implement the Intellectual Property Law of 2005; the Law amending and supplementing several articles of the Intellectual Property Law in 2009; the Law amending and supplementing a number of articles of the Law on Insurance Business, the Law on Intellectual Property in 2019 and the Law amending and supplementing a number of articles of the Law on Intellectual Property in 2022 (“the Law on Intellectual Property”) about copyright and copyright-related rights, specifically:

- a. Amending and supplementing several terms guiding the Intellectual Property Law on copyright and copyright-related rights, such as: (i) a posthumous work is a work published for the first time after the author’s death; (ii) an infringing element is an element created from the act of infringing copyright or copyright-related rights.

b. Amending and supplementing regulations on the subjects of application of Decree No. 17/2023/ND-CP on copyright and copyright-related rights, including: (i) authors, copyright holders, performers, copyright-related rights holders in accordance with the Intellectual Property Law; (ii) other organisations and individuals engaged in activities related to copyright and copyright-related rights; and (iii) the competent agency to perform the state management of copyright and copyright-related rights.

c. Amending and supplementing regulations on the suspension of vocational education quality accreditation (Article 9 of Decree No. 49/2018/ND-CP).

4. Decree No. 19/2023/ND-CP dated 28 April 2023 by the Government detailing a number of articles of the Law on Anti Money Laundering.

This Decree details several articles and clauses of the Law on Anti-Money Laundering regarding: principles, criteria and methods of assessing national risks of money laundering; customer identification; criteria for determining beneficial owners; transactions with abnormally large value or complex transactions; competent state agencies to receive information, dossiers, documents and reports; collection, processing and analysis of anti-money laundering information; exchange, provision and transfer of information on the prevention and combat of money laundering with competent domestic agencies; and grounds for suspecting or detecting blacklisted transaction-related parties and competent state agencies to receive reports of transaction delays.

The Decree stipulates how to identify transactions with abnormally large values or complex transactions in anti-money laundering as follows:

a. An abnormally large transaction is a transaction that is noticeably disproportionate to the income or inconsistent with the value of the customer's regular transactions with the reporting subject.

b. A complicated transaction is a transaction that is not rational with the size, type and field of operation of the customer or is not rational with the frequency, method and scale of equivalent transactions in the same industry or field.

This Decree is effective from 28 April 2023, except for the case of the transaction value specified at Point b Clause 1, Clause 2 and Clause 4, Article 6 of the Decree which is effective from 1 December 2023.

5. Decree No. 13/2023/ND-CP dated 17 April 2023 of the Government on personal data protection, effective from 01 July 2023.

This Decree stipulates personal data protection and personal data protection responsibilities of relevant agencies, organisations and individuals, including Vietnamese agencies, organisations, and individuals; foreign agencies, organisations, and individuals in Vietnam; Vietnamese agencies, organisations, and individuals operating abroad; and foreign agencies, organisations, and individuals directly participating in or related to personal data processing activities in Vietnam.

Some highlighted regulations are as follows:

a. Defines the concept of personal data as information in the form of symbols, letters, numbers, images, sounds or the like on the electronic medium that is associated with a particular person or helps to identify a specific person. Personal data includes basic personal data and sensitive personal data.

b. Stipulates the violations against the personal data protection law that can be criminally handled, according to which, "Agencies, organisations, and individuals that violate the regulations on personal data protection, depending on the severity, can be disciplined, administratively sanctioned, and criminally processed pursuant to current regulations."

c. Stipulates the specialised authority for personal data protection i.e. the Department of Cybersecurity and High-tech Crime Prevention under the Ministry of Public Security, which has the responsibility to assist the Ministry of Public Security in the state management of personal data protection.



6. Decree No. 10/2023/ND-CP dated 3 April 2023 by the Government guiding the Land Law, effective from 20 May 2023.

This Decree issues new regulations on:

- a. More comprehensive instructions for online issuance of certificates of land use rights;
- b. Supplemental regulations on the conditions and criteria for the conversion of land use purposes from rice cultivation, protection forest, or special-use forest land to other purposes for the implementation of investment projects;
- c. Amendments to the authority responsible for issuing land use rights certificates.



CONTACT US

BDO IN VIETNAM

BDO Ho Chi Minh City

Hillary Vu
Tax and Advisory
hillary.vu@bdo.vn

Jeffrey Ong
Audit
jeffrey.ong@bdo.vn

An Gia Tower, 11th 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

BDO Hanoi

Mai Lan Phuong
Tax and Advisory
phuong.mai@bdo.vn

Pham Tien Hung
Audit
hung.pham@bdo.vn

Icon 4 Tower, 20th 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

This publication has been carefully prepared, but it has been written in general terms and should be seen as containing broad statements only. This publication should not be used or relied upon to cover specific situations and you should not act, or refrain from acting, upon the information contained in this publication without obtaining specific professional advice. Please contact BDO Consulting Vietnam Co., Ltd. to discuss these matters in the context of your particular circumstances.

BDO Consulting Vietnam Co., Ltd., its partners, employees and agents do not accept or assume any responsibility or duty of care in respect of any use of or reliance on this publication, and will deny any liability for any loss arising from any action taken or not taken or decision made by anyone in reliance on this publication or any part of it. Any use of this publication or reliance on it for any purpose or in any context is therefore at your own risk, without any right of recourse against any of its partners, employees or agents.

BDO Consulting Vietnam Co., Ltd., is member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms.

BDO is the brand name for the BDO network and for each of the BDO Member Firms.

Copyright © May 2023 of BDO in Vietnam. All rights reserved. Published in Vietnam.