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Highlights of Vietnam's technical updates in May 2023

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Please refer to our following edition for further details.

BUSINESS TAX

▶ Tax Administration

1. **Official Letter No. 1483/TCT-KK dated 24 April 2023 by the General Department of Taxation ("GDT") on the implementation of tax collection and payment using tax payable identification number ("ID").**

Starting from 10 May 2023, the GDT's web portal shall provide and notify taxpayers with the payable ID numbers. These ID numbers will be shared to the collecting institutions for tax collection and other receivables belonging to state budget managed by the tax authorities.

The ID numbers shall be issued to taxpayers via a Notice of Acceptance of Electronic Tax Returns or Notice of Tax Payment or a Notice on the GDT's portal.

Taxpayers could use the ID numbers to track the status of their tax obligations and tax payments. They are also able to check and make adjustments to information related to the collection and make payment through the GDT's portal.

▶ Corporate Income Tax ("CIT")

1. **Official Letter No. 1316/TCT-CS dated 14 April 2023 by the GDT on CIT incentives upon issuance of a new document that changes the areas of investment incentives.**

When there is a change on the administrative boundaries or urban classification made by the National Assembly's Resolution or the Prime Minister after the investment certificate has been granted to a new investment project, the investor shall still be entitled to enjoy incentives for the remaining incentive period of the project according to the previous regulations if such project satisfied the conditions for incentives for new investment projects at the issuance time of the investment certificate.

2. Official Letter No. 1321/TCT-CS dated 14 April 2023 by the GDT on CIT exemption for socialised establishments.

In the event a company satisfies the regulations on the types, sizes and standards of socialised establishments in the medical field, the undivided income which are retained for development investment in socialisation field shall be exempt from CIT.

If the company uses the retained earnings to invest in the development of the company and then issues shares to its shareholders in order to record the increase in equity, such income shall not be exempted for CIT.

3. Official Letter No. 1633/TCT-CS dated 9 May 2023 by the GDT regarding CIT and Value Added Tax (“VAT”) policies.

For the case of goods received by an enterprise without payment, if such income is not generated in areas eligible for investment incentive or not derived from the normal production and business activities of the relevant investment project, it is not entitled to CIT incentives.

With regards to the output VAT on CBU (Completely Built Up) goods provided by the company for warranty purposes, if the company had already sold goods to distribution agents, issued a VAT invoice, declared and paid the taxes, then soon after the sold products became faulty and needed to be replaced in accordance with the warranty policy, the company shall be responsible for preparing and maintaining all documents and vouchers evidencing the legitimacy and rationality of the product replacement as a basis for accounting, serving the management of tax authorities and other functional agencies during the inspection process according to regulations. The tax treatments regarding input VAT deduction and calculation of deductible expenses when determining CITable income corresponding to the value of goods taken away for destruction by the Company are as follows:

- For VAT: If the destruction of defective goods and components is considered to be a loss that is not covered by insurance, then the input VAT is creditable. The company must have sufficient documentation to substantiate the cases of uncompensated losses for tax deduction purposes.
- For CIT: In principle, the company is allowed to include an expenses as deductible when determining taxable income only if such expense satisfies the conditions for deductible expenses and are not among non-deductible expenses.

4. Official Letter No. 1713/TCT-CS dated 12 May 2023 by the GDT regarding CIT incentives for investment projects in the production of supporting industry products.

Accordingly, the period of eligibility for CIT incentives for ancillary products must exclude any preferential period that has already been eligible under other conditions for investment projects in the manufacturing of products belonging to:

- The list of ancillary products given priority for development since 1 January 2015, satisfying the requirements for a project on ancillary products as prescribed in Law No. 71/2014/QH13.
- The projects which have been granted a certificate of incentives for the manufacturing of ancillary by a competent authority, are being eligible for or have used up all incentives under other conditions.

5. Official Letter No. 1861/TCT-CS dated 17 May 2023 by the GDT on foreign contractor withholding tax (“FCT”).

In case a foreign supplier delivers goods to a foreign buyer through a Vietnamese company within the Vietnam territory, the foreign supplier is subject to FCT in Vietnam. The Vietnamese party is obliged to declare and pay the tax on behalf of the foreign supplier as prescribed.

► Value Added Tax (“VAT”)

1. Official Letter No. 27083/CTHN-TTHT dated 25 April 2023 by the Hanoi Tax Department on the handling payment-on-behalf transactions when differences incurred.

Accordingly, if the collateral management service is subject to VAT rate reduction under the Decree No. 15/2022/ND-CP but its invoice is issued after 31 December 2022, the VAT rate of 8% shall not apply.

In case a company, during its performance of an entrustment contract for managing and handling collateral, incurs payments on behalf of the entrusting party for the costs of valuation and collateral management, the company must issue invoices when the entrusting party reimburses such payments-on-behalf and send the invoices to the entrusting party as a supporting document for accounting purposes.



► Invoice

1. **Decision No. 575/QĐ-TCT dated 10 May 2023 by the GDT promulgating the application process of risk management to assess and identify taxpayers showing signs of risk in the management and use of invoices.**
2. **Official Letter No. 1586/TCT-CS dated 4 May 2023 by the GDT providing guidance on VAT declaration for e-invoices with the invoice date different from the invoice signing date.**

An electronic invoice for the sale of goods or provision of services shall be considered a valid invoice if the date of digital signing is the same or later than the invoice issuance date.

The seller shall declare and pay VAT based on the invoice date. The buyer shall declare VAT at the time of receiving a valid invoice that is correct and complete in terms of both form and content as prescribed.

3. **Official Letter No. 1970/TCT-CS dated 23 May 2023 by the GDT on the use of e-invoices.**

When a company which registered to declare and pay VAT under the credit method is banned from using invoices by the tax authority, the tax authority shall provide the company with an e-invoice embedded with the tax authority's authentication code for each time the company sells goods and services, transfers goods to branches and outlets located in other provinces or delivers goods to retail agents. The company shall submit Form No. 06/DN-PSDT for the application for provision of authenticated e-invoices for each occurrence.

4. **Official Letter No. 1971/TCT-CS dated 23 May 2023 by the GDT on the use of invoices.**

In case the company's branch operates in the same province as the company and directly sells goods, records revenue and output VAT, but does not sufficiently records input VAT and the company also declares VAT for the branch, then the branch is ineligible to register for its own use of e-invoices.

5. **Official Letter No. 30380/CTHN-TTHT dated 5 May 2023 by the Hanoi Tax Department regarding invoices and documents.**

In case a company transfers assets (machinery) to its independent accounting branch, the company must issue an e-invoice and send it to the branch.

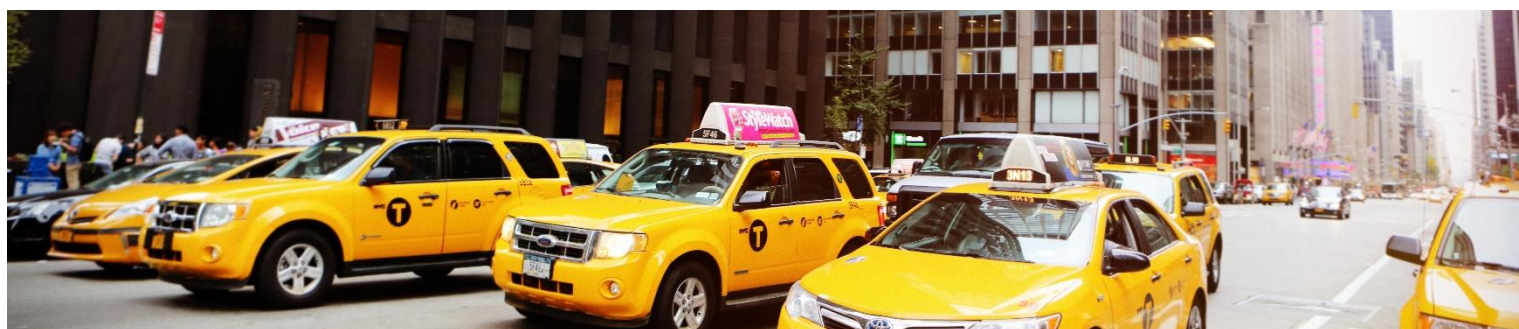
6. **Official Letter No. 30384/CTHN-TTHT dated 5 May 2023 by the Hanoi Tax Department on the use of lists when invoicing.**

According to regulations, the list attached to an e-invoice is only allowed for special goods/services that are periodically sold such as electricity, water, telecommunication services, IT services, television services, postal and delivery services, banking, securities or insurance. For other types of goods and services, it is not allowed to attach a list to e-invoices.

In addition, for special goods/services that are periodically sold for which it is allowed to attach a list to the e-invoice, the invoice shall specify the period of goods purchase or service provision and such list shall be retained together with the invoice to serve inspections by competent authorities.

7. **Official Letter No. 34134/CTHN-TTHT dated 18 May 2023 by the Hanoi Tax Department on issuing invoices.**

Accordingly, when a company sells shares, it must issue an invoice according to clause 1 Article 4 Decree No. 123/2020/ND-CP ("Decree 123"). Besides, it shall follow point l clause 4 Article 9 Decree 123 to determine the time of invoice issuance for the sales of shares.



► Export and import taxes

1. **Decision No. 13/2023/QĐ-TTg dated 22 May 2023 by the Prime Minister on promulgation of List of scrap allowable to be imported from foreign countries as production materials.**
2. **Official Letter No. 2457/TCHQ-TXNK dated 23 May 2023 by the General Department of Customs on customs procedures and tax policies for goods sold by domestic companies to export processing companies.**
3. **Official Letter No. 1978/TCHQ-TXNK dated 25 April 2023 by the General Department of Customs regarding goods processed by an export processing enterprise under a processing contract.**
4. **Official Letter No. 27085/CTHN-TTHT dated 25 April 2023 by the Hanoi Tax Department regarding VAT invoices for goods temporarily imported and re-exported.**

PERSONAL INCOME TAX (“PIT”)

1. Official Letter No. 33037/CTHN-TTHT dated 15 May 2023 by the Hanoi Tax Department on the PIT treatment for gifts to employees when resign.

In cases whereby a company gives gifts to its employees after the termination of their labour contracts, if the gifts are not securities/ capital contribution in business establishments/ real estate or other properties subject to registration of ownership or right to use, then they are not subject to PIT on income from receiving gifts.

2. Official Letter No. 35708/CT-TTHT dated 24 May 2023 by the Hanoi Tax Department on PIT treatment for income from winning prizes when participating in gameshow.

Accordingly, in case an individual does not work at the company but participates in a gameshow sponsored by the company and wins a prize, when paying the prize, the company is responsible for withholding and declaring PIT from the award on behalf of the individual according to Form No. 06/TNCN issued together with Circular No. 92/2015/TT-BTC. Taxable income from prize winning is the award’s value in excess of VND 10 million that the taxpayer receives per each winning time, regardless of the number of times the award is received.

3. Directive No. 18/CT-TTg dated 30 May 2023 of the Prime Minister setting out the contents that ministries and state agencies need to implement in order to promote data connection and sharing for the development of electronic commerce (“e-commerce”), combating tax loss, and ensuring monetary security.



LABOUR

1. The common base salary shall increase from VND1.49 million/month to VND1.8 million/month from 1 July 2023 according to Decree No. 24/2023/ND-CP dated 14 May 2023 by the Government.

With this, the cap for social insurance (“SI”), health insurance (“HI”) contribution shall increase to VND36 million/month and the one-off allowance for childbirth shall increase to VND3.6 million as well.

2. Official Letter No. 10180/SLDTBXH-VLATLD dated 10 May 2023 by the Department of Labour, War Invalids and Social Affairs (“DOLISA”) of Ho Chi Minh City on the implementation of the reporting on local labour usage in the first 6 months of 2023.

Accordingly, agencies, organisations and businesses in the city shall report the status of using (Vietnamese) employees in the first 6 months of 2023 as follows:

- Submission time: before 05 June 2023.
- Reporting form: Form No. 07/PLI issued in Appendix I attached to Decree No. 152/2020/ND-CP.
- Method of submission:
 - ✓ Submit at the National Public Service Portal: the units to implement "The joint procedure to register for adjustment of payment of compulsory SI, HI, unemployment insurance and report on the status of labour usage" on the website <https://dichvucong.gov.vn/>; or
 - ✓ Submit online at <https://forms.gle/JqHU5UoqVz5rXNc77> or scan the QR code attached to this Official Letter.

3. Official Letter No. 11072/SLDTBXH-ATLD dated 23 May 2023 by the DOLISA of Ho Chi Minh City on the implementation of the reporting on the foreign labour usage in the first 6 months of 2023.

Accordingly, the units within the city shall report the status of using foreign employees for the period from 15 December 2022 to 14 June 2023 as follows:

- Submission time: From 15 June 2023 to 5 July 2023.
- Reporting form: Form No. 07/PLI issued in Appendix I to Decree No. 152/2020/ND-CP.
- Method of submission: submit online at <https://forms.gle/kNqRgsH42Vu4evwj8> or scan the QR code attached to this Official Letter.

SOCIAL SECURITIES (“SHUI”)

1. Circular No. 09/2023/TT-BYT dated 05 May 2023 by the Ministry of Health amending and supplementing a number of articles of Circular No. 14/2013/TT-BYT on health examination, effective from 20 June 2023.

Accordingly, female employees, when having periodical health check-ups, will be entitled to a specialised obstetrician-gynecological examination according to the list specified in Appendix 3b issued with this Circular.

2. Official Letter No. 2252/BHXH-CD dated 22 May 2023 by the Social Insurance Department (“SID”) of Ho Chi Minh City on the settlement of sickness, maternity, convalescence regimes.

Employees are only entitled to salary from the SID or from the company during the period of sick leave due to illness, maternity or convalescence. If the employee receives salary concurrently from the SID and the company, the SID shall recover the paid amount. The employer is responsible for fully retrieving the money from the employee and returning it to the SI fund.

OTHERS

1. Decree No. 27/2023/ND-CP dated 31 May 2023 of the Government prescribing environmental protection fees (“EPF”) for mineral exploitation, effective from 15 July 2023 and replace Decree No. 164/2016/ND-CP dated 24 December 2016.

Noted that the payers of EPF under this Decree include cases of production and business activities of organisations and individuals that do not have the purpose of mining minerals but obtain minerals.

2. Decision 15/2023/QĐ-TTg issued by the Prime Minister on 31 May 2023 on the application of normal tax rates to imported goods, effective from 15 July 2023.

For imported goods that are not on the List of ordinary import tax rates promulgated in this Decision and are not eligible for preferential tax rates or special incentives under the provisions of the Law on Export and Import tax, the normal tax rate is equal to 150% of the preferential import tax rate of each respective item specified in Appendix II of Decree No. 26/2023/ND-CP.

3. Circular 04/2023/TT-BTTTT dated 31 May 2023 by the Minister of Information and Communications (“MIC”) on the list of potentially unsafe commodities under the management of the MIC, effective from 15/07/2023.

This Circular only applies to organisations and individuals that have production and business activities and activities related to quality control of products and goods on the List of products and goods of Group 2. Applicable to organizations and individuals engaged in production activities, business and activities related to quality control of products and goods on the List of products and goods of Group 2 in Vietnam.

Details of the List of products and goods of Group 2 are specified at:

- a. Appendix I: The list of information technology and communication commodities subject to certification and declaration of conformity; and
- b. Appendix II: The list of information technology and communication commodities subject to the declaration of conformity.

If there are technical regulations which were issued before the effective date of this Circular and such regulations are different from this Circular in terms of conformity certification or announcement of conformity, then this Circular shall prevail. In case there is a new technical regulation amending, supplementing or replacing technical regulations specified in the List of products and goods of Group 2, the provisions of the new technical regulations shall apply.

4. Circular No. 27/2023/TT-BTC dated 12 May 2023 by the Ministry of Finance on rates, collection/remittance regime, management and use of the charges for appraisal of technical design, appraisal of construction cost estimation, effective from 01 July 2023 and annuls Circular No. 210/2016/TT-BTC dated 10 November 2016.

This Circular stipulates rates, collection/remittance regime, management and use of the fees for appraisal of technical design (charges for appraisal of construction designs implemented after basic design), fees for appraisal of construction estimates when performing the appraisal of designs and estimates of construction works in accordance with the provisions of the Law on Construction, Law on amendment and supplement a number of articles of Law on Construction, Decree 15/2021/ND-CP dated 03 March 2021 by the Government detailing a number of contents on construction investment project management.

The main contents of this Circular include:

- a. Regulations on fee payers;
- b. Regulations on organisations competent to collect fees;
- c. Regulations on fee rates;
- d. Regulations on declaration and payment of fees; and
- e. Regulations on management and use of fees.

5. Circular No. 28/2023/TT-BTC dated 12 May 2023 by the Ministry of Finance on rates, collection/remittance regime, management and use of charge for appraisal of construction investment projects, effective from 01 July 2023 and annuls Circular No. 209/2016/TT-BTC dated 10 November 2016.

This Circular prescribes rates, collection/remittance regime, management and use of fees for appraisal of construction investment projects, including: (i) Appraisal of the Report on Construction Investment Feasibility Study; or (ii) Appraisal of Economic-Technical Report of Construction Investment.

The main contents of this Circular include:

- a. Regulations on fee payers;
- b. Regulations on organisations competent to collect fees;
- c. Regulations on fee rates;
- d. Regulations on declaration and payment of fees; and
- e. Regulations on management and use of fees.

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