

VIETNAM BULLETIN

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Highlights of Vietnam's technical updates in October 2023

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Please refer to our following edition for further details.



CORPORATE TAX

▶ Tax Administration

1. Decision No. 25/2023/QĐ-TTg dated 3 October 2023 by the Prime Minister on reduction in land rent for the year 2023.

The policy on reduction of 2023 land rent is applicable to organisations, units, businesses, households, and individuals who lease land directly from the State with annual rental payments.

The 30% reduction is calculated on the land rent payable in 2023 only in accordance with regulations. The reduction is not applicable to outstanding land rent from previous years or any associated late payment interest.

2. Official Letter No. 4383/TCT-CS dated 4 October 2023 by the General Department of Taxation ("GDT") on transferring losses from branch(es) to parent company.

According to the Official Letter, the current law and regulations on Corporate Income Tax ("CIT") do not provide guidance on loss transfer in the event its branch(es) changes from an independent accounting unit to a dependent one.

3. Official Letter No. 4542/TCT-CS dated 12 October 2023 by the GDT on the Foreign Contractor Tax ("FCT") policy for imported goods unloaded at the border gate.

If a foreign organisation provides goods to a Vietnamese organisation with no accompanied services performed in Vietnam, and the seller and buyer meet the requirements set out in Clause 2 Article 2 of Circular 103/2014/TT-BTC, the foreign organisation is not subject to governance of the FCT regulations.

4. Official Letter No. 4602/TCT-CS dated 17 October 2023 by the GDT on CIT policy for capital restructuring among group members.

If a foreign investor plans to internally restructure and transfer all investment capital in Vietnam to another company within the same group, the investor is responsible for determining and declaring CIT arising from the capital transfer in accordance with prevailing regulations.

5. Official Letter No. 4517/TCT-QLN dated 12 October 2023 by the GDT on the cancellation of tax debts in accordance with the Law on Tax Administration No. 38/2019/QH14.

Local tax authorities will rely on the provisions outlined in clause 3 Article 85 Law on Tax Administration No. 38/2019/QH14, point c clause 2 Article 65 Circular No. 80/2021/TT-BTC, and relevant documents submitted by taxpayers to evaluate and forward to competent authorities for the resolution of tax debt cancellations, late payment interest, and fines in accordance with the prescribed regulations.

6. Official Letter No. 4627/TCT-CS dated 19 October 2023 by the GDT on the VAT of enterprises prior to changing to Export Processing Enterprises (“EPEs”).

Input VAT of exported goods and services in the period before the implementation of tax policies for EPEs will be eligible for credit and refund in accordance with VAT regulations.

7. Official Letter No. 4657/TCT-KK dated 20 October 2023 by the GDT on VAT declaration and refund for investment projects.

If a company undertakes an investment project in a province different from its head office and subsequently relocates its head office to the project's location, it is mandatory to submit separate VAT declaration returns for the project from the project's commencement. Simultaneously, the company should offset the input VAT of goods and services acquired for the project against any payable VAT for activities or business operations conducted in the same tax period.

8. Official Letter No. 4595/TCT-KK dated 17 October 2023 by the GDT on VAT refunds for ODA projects.

9. Official Letter No. 4480/TCT-CS dated 10 October 2023 by the GDT on transferring profits abroad.

Foreign investors are allowed to transfer profits earned from their investments in Vietnam abroad either after the end of a given financial year or upon the conclusion of their direct investment activities in Vietnam. This transfer is contingent upon the foreign-invested enterprise meeting its financial obligations to the State of Vietnam in accordance with provisions of the law, submission of audited financial statements and the CIT finalisation returns to the overseeing tax authority, in addition to fulfilled all obligations outlined in the Law on Tax Administration and its associated guidelines.

10. Official Letter No. 72027/CTHN-TTHT dated 9 October 2023 by the Hanoi Tax Department on tax policy for collection on behalf.

If a company receives payments on behalf which are not related to the sale of its goods or services, it is not obliged to declare, calculate, and pay VAT on those payments in accordance with prescribed regulations.

11. Official Letter No. 71228/CTHN-TTHT dated 4 October 2023 by the Hanoi Tax Department regarding FCT imposed on surcharges other than the fee for sea shipping services.

In the event that a foreign organisation earns revenue from services (i.e. surcharges related to transportation services), and these services are provided and consumed outside Vietnam, it is not subject to FCT in accordance with established regulations.

12. Official Letter No. 72028/CTHN-TTHT dated 9 October 2023 by the Hanoi Tax Department on VAT policy.

If the dependent unit is directly involved in the sale of goods, utilising invoices that are registered either by the dependent unit or the company with the tax authority overseeing the dependent unit, and maintaining thorough records of output and input VAT, it is necessary for the dependent unit to declare and remit VAT directly to the supervising tax authority, in accordance with established regulations.



► E-invoice

1. Official Letter No. 70779/CTHN-TTHT dated 02 October 2023 by the Hanoi Tax Department providing guidance on invoicing in cases involving the lending of goods.

When selling goods or providing services, the seller must issue an invoice to the buyer, including cases of lending or returning goods in accordance with regulations.

2. Official Letter No. 4511/TCT-CS dated 11 October 2023 by the GDT on VAT invoice for goods returned by buyer.

If a portion or the entire of the goods sold are returned to the buyer, issuance of an invoice serves as an adjustment or replacement of the original invoice issued shall be made in accordance with the provisions of Clause 1 Article 4 and Point b Clause 2 Article 19 of the Government's Decree No. 123/2020/ND-CP.

3. Official Letter No. 74367/CTHN-TTHT dated 18 October 2023 by the Hanoi Tax Department providing guidance on invoice issuance for return of imported goods.

If an enterprise imports materials from abroad but subsequently realises that the materials' quality fails to meet the standard on quality which results in an agreed goods return, the enterprise must adhere to the export procedures with the Customs office. In addition, the company must issue VAT invoices for the goods returns in compliance with the provisions outlined in Article 8 of Decree No. 123/2020/ND-CP.

4. Official Letter No. 74722/CTHN-TTHT dated 19 October 2023 by the Hanoi Tax Department on the invoice issuance for sales discounts goods.

If errors are detected after the e-invoice has been issued and sent to the buyer, the Company shall handle the errors according to the provisions at Point b Clause 2 Article 19 of Decree No. 123/2020/ND-CP.

5. Official Letter No. 4803/TCT-CS dated 27 October 2023 by the GDT regarding issuance of e-invoices to individual buyers.

If the enterprise issues e-invoice with a code initiated from a cash register, the contents of this invoice must conform to the provisions of Article 8 of Circular 78/2021/TT-BTC and guidance on e-invoice data components prescribed in Decision No. 1450/QD-TCT dated 07 October 2021, as well as amended and supplemented Decisions and Notices (if any).

► Customs

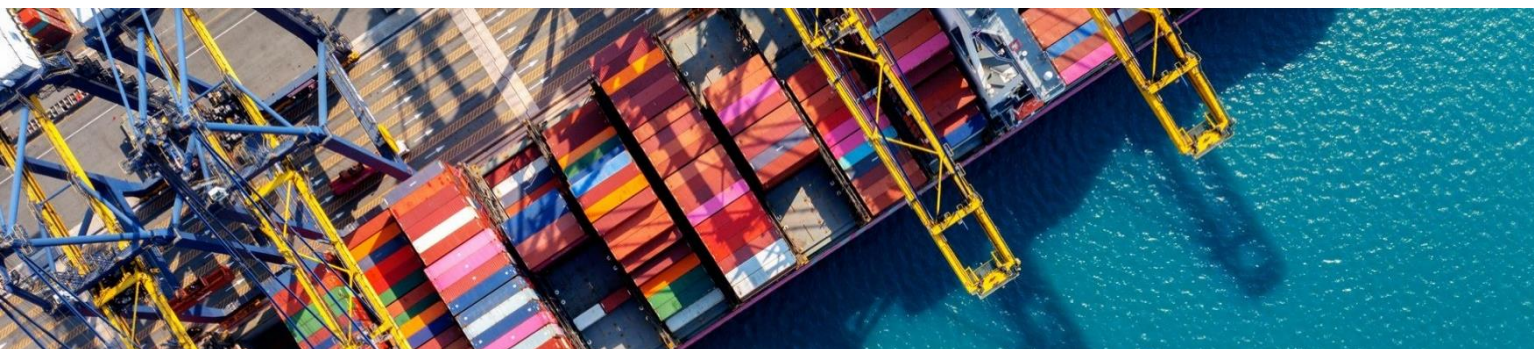
1. Official Letter No. 2861/HQTPHCM-GSQL dated 06 October 2023 by the Ho Chi Minh City Customs Department regarding issues in relation to procedures changing purpose of use and transfer to domestic consumption for foreign-invested enterprises.

According to the official letter, the Customs Department of Ho Chi Minh City has put forth a requirement applicable for foreign-invested enterprises ("FIE") who perform procedures to change the purpose of use, transfer to domestic consumption for goods of imported origin such as raw materials, supplies, and components imported for processing (type code E21), export production (type code E31), and goods temporarily imported - re-exported. FIE must comply with the regulations on import rights stipulated under Decree No. 09/2018/ND-CP.

2. Official Letter No. 2882/HQTPHCM-GSQL dated 10 October 2023 by the Ho Chi Minh City Customs Department regarding the customs procedures for goods exported and imported on the spot.

3. Official Letter No. 5334/TCHQ-TXNK dated 16 October 2023 by the General Customs Department regarding payment documents in tax refund dossiers.

If the goods were initially imported for production and business purposes, but the products were then indeed exported, the tax refund dossier must include a copy of payment evidence for both the imported and exported goods (if payments have been made).



PERSONAL INCOME TAX (“PIT”)

1. Official Letter No. 70784/CTHN-TTHT dated 2 October 2023 by the Hanoi Tax Department regarding tax treatment for tax non-resident.

The official letter states that expatriates who come to Vietnam for a short-term trip shall be treated as tax non-residents and subject to PIT on the income generated in Vietnam regardless of where it is paid or received. In case where expatriates receive housing benefits or other benefits in cash or in kind from the Vietnamese company, such benefits shall be treated as taxable employment income in Vietnam. Payments for expatriates of a Vietnam company shall be treated as its deductible expenses when determining taxable income for CIT purposes, if the purpose of these expatriates’ assignments is for the operation of the Vietnam company.

2. Official Letter No. 4172/TCT-DNNCN dated 20 September 2023 by the GDT on expediting the process of handling PIT refund applications.

Aside from announcing the promotion of timely and compliant processing of PIT refund applications, the GDT instructed that the place to submit the PIT refund dossiers is the tax office where the individual resides or the tax office managing the income-paying organisation, depending on the place where circumstantial deductions are declared and the actual working status at the time of tax finalisation.

3. Official Letter No. 74364/CTHN-TTHT dated 18 October 2023 by the Hanoi Tax Department on deductible expenses when determining CIT and PIT withholding.

The Official Letter states that if the Company has a service contract with a non-business individual who does not sign any labour contract or signs a labour contract with the term of under three months with the Company, the incomes received by individuals from such a service contract are taxable employment income for PIT purposes. The Company is responsible for withholding tax at the rate of 10% for income valued more than VND 2,000,000 per each payment before making payment to the individual as prescribed in point i clause 1 Article 25 Circular No. 111/2013/TT-BTC dated 15 August 2013 by the Ministry of Finance.



SOCIAL SECURITIES (“SHUI”)

1. Decree No. 75/2023/ND-CP dated 19 October 2023 by the Government amends and supplements several articles of Decree No. 146/2018/ND-CP, detailing and guiding the implementation of a number of articles of the Law on Health Insurance, effective from 3 December 2023.

Some new points of Decree 75 include:

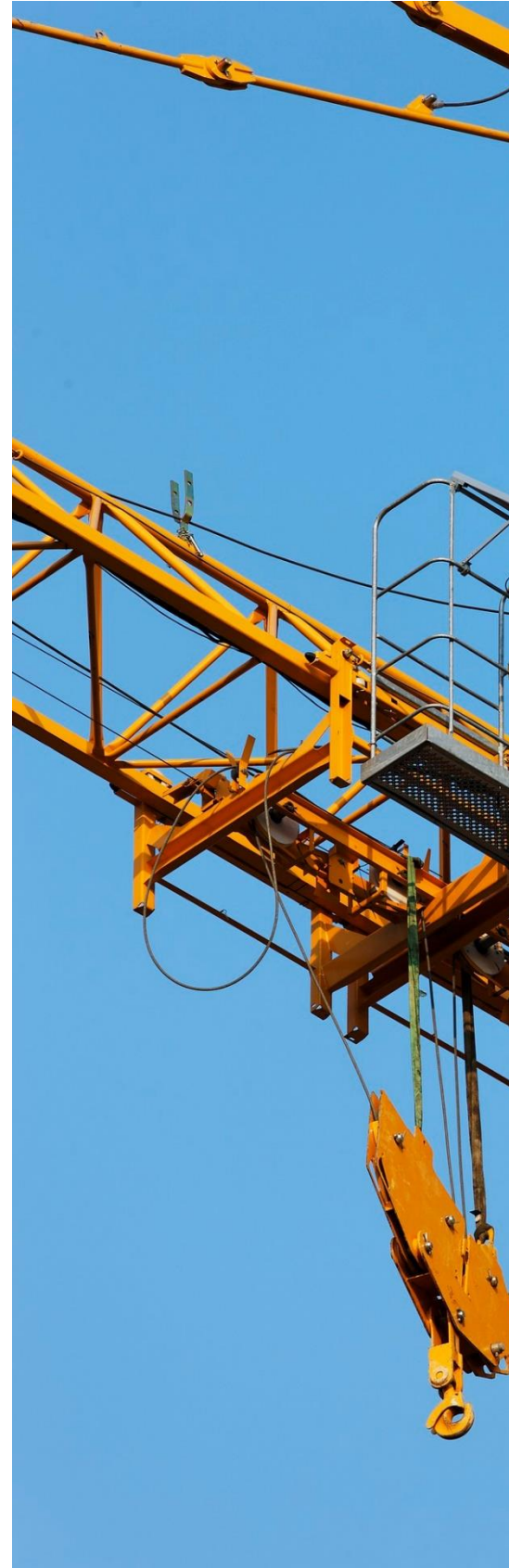
- ✓ To supplement subjects participating in health insurance (“HI”) in (i) group for whom HI premiums are paid by the state budget and (ii) group for whom HI premiums are supported by the state budget;
- ✓ To increase the coverage of HI benefits from 80% to 100% of the medical examination and treatment costs for certain groups, including revolution contributors; increase the coverage for ethnic minority groups escaping poverty according to Decision No. 861/QĐ-TTg dated 04 June 2021 by the Prime Minister; and group of beneficiaries under the Law on Preferential Treatment of Revolution Contributors;
- ✓ To abolish regulation on total payment limit for healthcare expenses covered by HI; and implement payment of healthcare expenses covered by HI according to the payment method based on service prices.

2. Official Letter No. 5386/BHXH-TST dated 11 October 2023 by the Social Insurance Department (“SID”) of Hanoi regarding renewal of HI card for individuals currently entitled to unemployment allowance.

Starting from 15 October 2023, the Hanoi SID shall stop issuing paper HI card for individuals who are currently receiving unemployment allowance. Instead, their HI card shall be renewed on the database managed by the Social Insurance (“SI”) officials. When going for medical examination and treatment, unemployment benefit recipients can use the previously issued paper HI card or electronic HI card on the VssID/ VnelD application or use a chip-implemented Citizen Identity Card (“CIC”).

3. Official Letter No. 3452/BHXH-CSYT dated 24 October 2023 by the Vietnam Social Security (“VSS”) regarding the implementation of Decree No. 75/2023/ND-CP.

Regarding the HI medical examination and treatment procedures, pursuant to the amendments outlined in Decree No. 75/2023/ND-CP (clause 6 Article 1), in case a patient cannot present the HI card with personal photo attached thereon when going for medical examination and treatment, this individual can use his/her CIC or equivalent documents which have been digitally recognised at level 2 in accordance with Decree No. 59/2022/ND-CP.





4. Official Letter No. 2979/BHXH-CSXH dated 25 September 2023 by the VSS regarding the time of receiving pension salary for employees who are on leave from work waiting to reach retirement age.

The time to receive pension for employees who are taking time off to wait for full retirement age in pursuant to Decree No. 26/2015/ND-CP (but the Retirement Decision has yet to be issued) shall follow the guidance outlined in Decree No. 135/2020/ND-CP dated 18 November 2020. Accordingly, the retirement period begins after the last day of the month of full retirement age as prescribed by law.

5. Decision No. 1333/QD-BHXH dated 25 September 2023 by the VSS regarding the process of digitalising records and administrative paperworks under the jurisdiction of VSS.

6. Official letter No. 3446/BHXH-TST dated 24 October 2023 by the VSS regarding the implementation of SHUI collection and developing SHUI participants.

From now until the end of 2023, the SHUI authorities shall closely coordinate with the tax authorities, the Departments of Planning & Investment and the government agencies of related sectors to monitor information regarding the establishment of new businesses, operations of businesses, labour utilisation, salaries and other additional payments in accordance with the data provided by the tax authorities. Simultaneously, the SHUI authorities shall continue to intensify specialised inspections and audits targeting companies that underpay or have yet to pay SHUI for employees, as well as those that are overdue in SHUI payments for three months or more; penalise and promptly file a request for prosecution in accordance with Article 126 Criminal Code 2015 against businesses that intentionally evading or delaying SHUI payments.

LABOUR

1. Decision No. 4844/QĐ-UBND dated 28 September 2023 by the People's Committee of Hanoi on approving the internal procedure to handle administrative procedures in the fields of Labour - War Invalids and Social Affairs to be implemented according to the delegation plan to handle administrative procedures, under the jurisdiction of the People's Committees at district level within Hanoi.

This Decision issues and provides instruction for 18 internal procedures, which have been authorised by the Department of Labour, War Invalids and Social Affairs to the district-level People's Committees in Hanoi, including: Expatriate Management, Social Protection, Labour Safety, War Veterans and Prevention & control of social evils.

These include the following important procedures:

- ✓ Receive back the deposit money from businesses sending workers to train and improve their qualifications and technical skills in foreign countries (under contracts of less than 90 days);
- ✓ Register a contract to accept interns for less than 90 days;
- ✓ Register directly signed labour contracts;
- ✓ Recognise manufacturing facilities, business establishments having 30% or more of their total number of employees are disabled; and
- ✓ Declare to put into use machines, equipments with strict requirements on labour safety.

2. Decision No. 1549/QĐ-LĐTBXH dated 16 October 2023 by the Ministry of Labour, War Invalids and Social Affairs ("MOLISA") on announcing the amended, supplemented administrative procedures in the field of labour safety and hygiene under the management of the MOLISA.

3. Decision No. 1560/QĐ-LĐTBXH dated 17 October 2023 by the MOLISA on announcing the administrative procedures amended, supplemented in Decree No. 70/2023-ND-CP dated 18 September 2023 by the Government regulating expatriates working in Vietnam and recruitment and management of Vietnamese labours working for foreign organisations and individuals in Vietnam.

This Decision issues and provides guidance for the revised procedures regulated in Decree No. 70/2023/ND-CP regarding expatriates, including:

- ✓ Report on the needs, changes in demand for using expatriates;
- ✓ Issuance/Re-issuance/Extension of work permit for expatriates working in Vietnam;
- ✓ Acknowledgement of employees who are subject to work permit; and
- ✓ Request to recruit Vietnamese employees for positions initially designated for expatriates from contractors.

4. Circular No. 62/2023/TT-BTC dated 3 October 2023 by the Ministry of Finance amending and supplementing a number of articles of Circular No. 25/2021/TT-BTC dated 7 April 2021 on the rates, collection norms, payment, management and use of fees and charges in the fields of exit, entry, transit and residence in Vietnam.

Accordingly, visa issuance fees for expatriates (multiple entries) applied from 3 October 2023 will be amended as follows:

- ✓ Visa with validity of no more than 90 days: USD 50 per visa;
- ✓ Visa with validity of more than 90 days to 180 days: USD 95 per visa;
- ✓ Visa with validity of more than 180 days to 1 year: USD 135 per visa;
- ✓ Visa with validity of more than 1 year to 2 years: USD 145 per visa.

OTHERS

1. Resolution No. 177/NQ-CP dated 30 October 2023 by the Government on negotiating, signing Treaty on visa exemption for holders of diplomatic passports, official passports, and ordinary passports between Vietnam and Mongolia.

Pursuant to this Resolution, the Vietnam Government has approved the draft Treaty on visa exemption between Vietnam and Mongolia, and at the same time, allowed the application of simplified procedures for the negotiation and signing of this Treaty.

2. Official letter No. 8662/VPCP-KGVX dated 3 November 2023 by the Government's Office on Lunar New Year and National Day holidays in 2024.

Accordingly, the Prime Minister has agreed with the proposal to take a 7-day break for the Dragon's Lunar New Year holiday from 8 February 2024 to 14 February 2024, equivalent to Thursday of the week before to Wednesday of the week after.

In addition, the Prime Minister has also agreed to the National Day holiday plan, which will be observed from 31 August 2024 to 3 September 2024 (4 days in total).

3. Circular No. 13/2023/TT-NHNN dated 31 October 2023 by the State Bank of Vietnam ("SBV") amending and supplementing a number of articles of several Circulars on licensing, organisation, operation, application, order and procedures for approval of changes of commercial banks and foreign bank branches, effective from 14 December 2023.

Circular No. 13/2023/TT-NHNN amends and supplements the following notable contents:

- ✓ To amend and supplement regulations on application for issuance of Certificates on Establishment and Operation of Joint Stock Commercial Bank for cases where capital contributing shareholders are organisations;
- ✓ To supplement regulations on conditions for new partners that are non-bank enterprises when receiving transfer of capital contribution from joint venture banks; and
- ✓ To supplement regulations on application for approval of purchase, sale, or transfer of capital contributions in multi-member limited liability commercial banks in cases where buyers or transferees are non-bank enterprises.

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