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Highlights of Vietnam's technical updates in June 2023

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Please refer to our following edition for further details.

CORPORATE TAX

▶ Tax Administration

1. **Decision No. 657/QD-TCT dated 25 May 2023 by the General Department of Taxation promulgating the Regulation on the settlement of state compensation at tax authorities at all levels.**

On 25 May 2023, the General Department of Taxation issued Decision No. 657/QD-TCT, which introduces the Regulation for resolving state compensation matters at tax authorities of all levels.

2. **Decision No. 679/QD-TCT dated 31 May 2023 by the General Department of Taxation on the promulgation of the tax refund process.**

This Decision updates the Tax Refund Process, which includes steps for receipt, classification and settlement of tax refund dossiers, as prescribed in Circular No. 80/2021/TT-BTC. The Decision takes effect from the date of signing and replaces Decision No. 905/QD-TCT dated 1 July 2011.

3. **Official Letter No. 1861/TCT-CS dated 17 May 2023 by the General Department of Taxation on foreign contractor withholding tax policy.**

In the case of goods bought and sold between foreign companies but delivered through a Vietnamese company, the company selling the goods is subject to the application of foreign contractor withholding tax in Vietnam.



Vietnamese companies are responsible for declaring and paying the foreign contractor withholding tax on behalf of foreign companies selling goods, according to regulations.

4. Decree No. 36/2023/ND-CP dated 21 June 2023 by the Government prescribing the extension of tax payment deadline for excise tax on domestically manufactured or assembled automobiles (“Decree No. 36”).

The Decree allows for an extension of the tax payment deadline for the excise tax due in the tax periods of June, July, August, and September 2023 for domestically manufactured or assembled automobiles. The extension period is from the original excise tax payment deadline in accordance with the tax administration law until the end of 20 November 2023. Decree No. 36 takes effect from 21 June 2023 to 31 December 2023.

5. Decree No. 41/2023/ND-CP dated 28 June 2023 by the Government prescribing the registration fees for cars, trailers or semi-trailers to be towed by automobiles and other vehicles similar to automobiles domestically manufactured and assembled (“Decree No. 41”).

Accordingly:

- From 1 July 2023 to 31 December 2023:

The registration fee rate is set at 50% of the rate specified in Decree 10/2022/ND-CP by the Government dated 15 January 2022, on registration fees. This applies in accordance with the current resolutions of the People’s Council or decisions of the People’s Committees of provinces and cities directly under the Central Government concerning local registration fee rates and any relevant documents that amend, supplement, or replace these regulations, if applicable (referred to as “Relevant Legal Documents”).

- From 1 January 2024 onwards:

The registration fee rate shall remain to be in accordance with the provisions of relevant legal documents.

Decree No. 41 takes effect from 1 July 2023 to 31 December 2023.

6. Decree No. 44/2023/ND-CP dated 30 June 2023 by the Government prescribing VAT reduction policies under Resolution No. 101/2023/QH15 dated 24 June 2023 by the National Assembly (“Decree No. 44”).

The main contents of Decree No. 44 are as follows:

- Reducing VAT for groups of goods and services currently subject to a tax rate of 10%, except for the following groups of goods and services:
 - Telecommunications, financial activities, banking, securities, insurance, real estate trading, metals and prefabricated products, mining products (excluding coal mining), coke, refined petroleum, chemical products. Details are specified in Appendix I issued together with Decree No. 44;
 - Goods and services subject to excise tax. Details are specified in Appendix II issued together with Decree No. 44; and
 - Information technology under the law on information technology. Details are specified in Appendix III issued together with Decree No. 44.
- VAT reduction: The VAT rate of 8% is applied to business premises declaring through the deduction method. For business premises (including business households and business individuals) calculating VAT using the direct method, there is a reduction of 20% of the percentage points for VAT calculation.
- The reduction of VAT for each type of goods and services according to the above provisions shall be applied uniformly at the stages of import, production, processing and trading.

Decree No. 44 takes effect from 1 July 2023 to 31 December 2023.

► Customs

1. **Decree No. 26/2023/ND-CP dated 31 May 2023 by the Government on Preferential Export Tariffs and Import Tariffs, the List of goods and flat-rate duties, mixed tariff, and import taxes excluding tariff rate quotas. The Decree takes effect from 15 July 2023.**

2. **Decision No. 947/QD-BTC dated 10 May 2023 by the Ministry of Finance on the announcement of administrative procedures to be replaced or annulled in the field of customs within the scope of State management functions of the Ministry of Finance. The Decision takes effect from the date of signing.**

This Decision provides guidance on new procedures for gradual payment of tax debt at customs offices, which are uniformly applied across all levels of the General Department, Department and District Level Department of Customs.

This Decision also abolishes the following procedures:

- Procedures for debt forgiveness of taxes and fines according to Circular No. 77/2008/TT-BTC and Circular No. 24/2012/TT-BTC (abolished according to Circular No. 103/2020/TT-BTC).
- Procedures for registering to participate in electronic customs procedures for aircraft on exit, entry or in transit (abolished according to Circular No. 50/2018/TT-BTC).

3. **Official Letter No. 676/GSQL-GQ2 dated 17 May 2023 of the General Department of Customs on customs procedures of foreign traders without presence in Vietnam.**

According to the provisions of Point c, Clause 1, Article 35 of Decree No. 08/2015/ND-CP, goods purchased and sold between Vietnamese enterprises and foreign organisations and individuals without a presence in Vietnam, which are appointed for delivery to/received from other enterprises in Vietnam by foreign traders, are considered on-spot export and import goods.

Accordingly, the General Department of Customs stated that in the case of a foreign trader involved in goods buying and selling transactions with a Vietnamese enterprise is determined to already have a presence in Vietnam, the purchased and sold goods will not be identified as on-spot export and import goods.

The determination of foreign traders having a presence or no presence in Vietnam is in accordance with the provisions of Clause 5, Article 3 of the Law on Foreign Trade Management.

4. **Decision No. 15/2023/QD-TTg dated 31 May 2023 by the Prime Minister on the application of ordinary tax rates on imported goods.**

The decision promulgates a new schedule of ordinary import tax rates. The schedule of ordinary import tax rates promulgated in this Decision is applied from 15 July 2023.

For import goods that are not listed in the schedule of ordinary import tax rates promulgated in this Decision and are not subject to preferential rates and special preferential rates under Points a and b of Clause 3 of Article 5 of the Law on Import and Export duties, the ordinary tax rate will be equal to 150% of the preferential import tax rate of each corresponding item stipulated in Appendix II of Decree No. 26/2023/ND-CP.



PERSONAL INCOME TAX (“PIT”)

1. Official Letter No. 43859/CTHN-TTHT dated 26 June 2023 and Official Letter No. 40818/CTHN-TTHT dated 12 June 2023 by the Hanoi Tax Department on PIT declaration for foreigners working in Vietnam.

The PIT declaration for a foreign expert or General Director working in Vietnam depends on the individual’s residency status. If the foreign individual meets all the conditions of being tax resident of Vietnam, the taxable income includes worldwide income (both Vietnam-sourced income and foreign-sourced income), regardless of where it is paid. On the contrary, if the foreigner is ineligible for being a tax resident of Vietnam, he/she shall be considered as a non-resident and taxed only on the Vietnam-sourced income, including benefits in cash or in kind, other than salary or wages that the foreign employee receives under any form or pretense.

The payment for round-trip air tickets for home leave once a year for foreigners working in Vietnam which has been paid or reimbursed by the employer on their behalves shall not be included in their taxable income.

LABOUR

1. Decree No. 42/2023/ND-CP dated 29 June 2023 by the Government adjusting pensions, SI benefits and monthly allowances, effective from 14 August 2023.

The Decree promulgates the new pensions, SI benefits and monthly allowances to be applied from 1 July 2023.

2. Official Letter No. 13739/SLDTBXH-VLATLD dated 20 June 2023 by the Ho Chi Minh City Department of Labour, War Invalids and Social Affairs (“DOLISA”) regarding the reporting of occupational accidents in the first 6 months of 2023.

Enterprises in Ho Chi Minh City are required to prepare and submit online the Report on Occupational Accidents for the period 1 January to 30 June 2023 to the DOLISA. The timeline for submission is from 20 June 2023 to before 5 July 2023. Of note, enterprises that do not have any occupational accidents during this period are still required to submit the said report.

SOCIAL INSURANCE (“SI”)

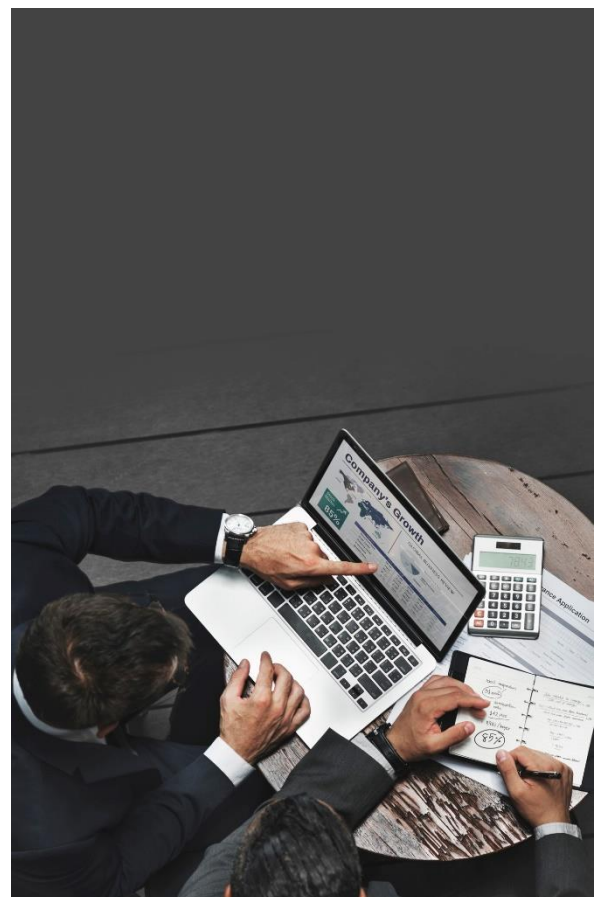
1. Official Letter No. 1880/BHXH-CSXH dated 21 June 2023 by the Vietnam Social Security on the implementation of SI regimes for employees working at enterprises that have not fulfilled their SI obligations.

The SI agency shall confirm the employees’ SI contribution period and make payments for sickness, maternity, convalescence, pension, and death claims etc., based on the actual time of SI payments of the employer who owes SI contributions. After the SI debt is paid off, the SI agency shall adjust the benefit entitlements and additionally pay the difference to the impacted employees.

2. Decision No. 948/QD-BHXH dated 5 June 2023 by the Vietnam Social Security amending and supplementing some articles related to the collection process of social insurance (SI), health insurance (HI), unemployment insurance (UI), and occupational accidents and diseases insurance (OADI). It also involves the management of SI books and HI cards, in conjunction with Decision No. 595/QD-BHXH dated 14 April 2017 and Decision No. 490/QD-BHXH dated 28 March 2023 by the General Director of Vietnam Social Security. The effective date of these changes is from April 1, 2023.

3. Notice No. 2651/TB-BHXH dated 7 June 2023 by the Social Insurance Department of Ho Chi Minh City on changing the cap for compulsory insurance from 1 July 2023.

From 1 July 2023, the common base salary shall increase from VND1.49 million per month to VND1.8 million per month. Therefore, the new maximum salary for SI, HI and OADI contributions is VND36 million per month, respectively.



OTHERS

1. **Decision No. 1202/QĐ-BKHCHN dated 9 June 2023** was issued by the Ministry of Science and Technology on the announcement of new administrative procedures for the science & technology field under their management, effective from 1 July 2023.

Accordingly, the application for a Technology Transfer Certificate can be submitted by the transferor or the transferee at the Science and Technology Department, via post office or online public service portal. The processing time is within 15 working days.

In addition, the issuance of the Technology Transfer Certificate shall be carried out subsequent to the implementation of such technology transfer contents and the manufacturing of relevant products.

2. **Official Letter No. 1846/TCT-CS dated 17 May 2023** by the General Department of Taxation on the reduction of land rent due to the impact of the Covid-19 epidemic.

The policy of a 30% reduction in land rent is applied only to the payable land rent in 2022 for land tenants who are directly leasing land from the State. The reduction is not applied to the outstanding land rent of the years prior to 2022 and to late payment interest (if any).

For enterprises that do not have a land lease contract in 2022, they are not eligible for land rent reduction in 2022.

3. **Plan No. 2237/KH-UBND dated 29 May 2023** by the People's Committee of Ho Chi Minh City on the plan to collect Natural Disaster Prevention and Control Fund (“the Fund”) in 2023.

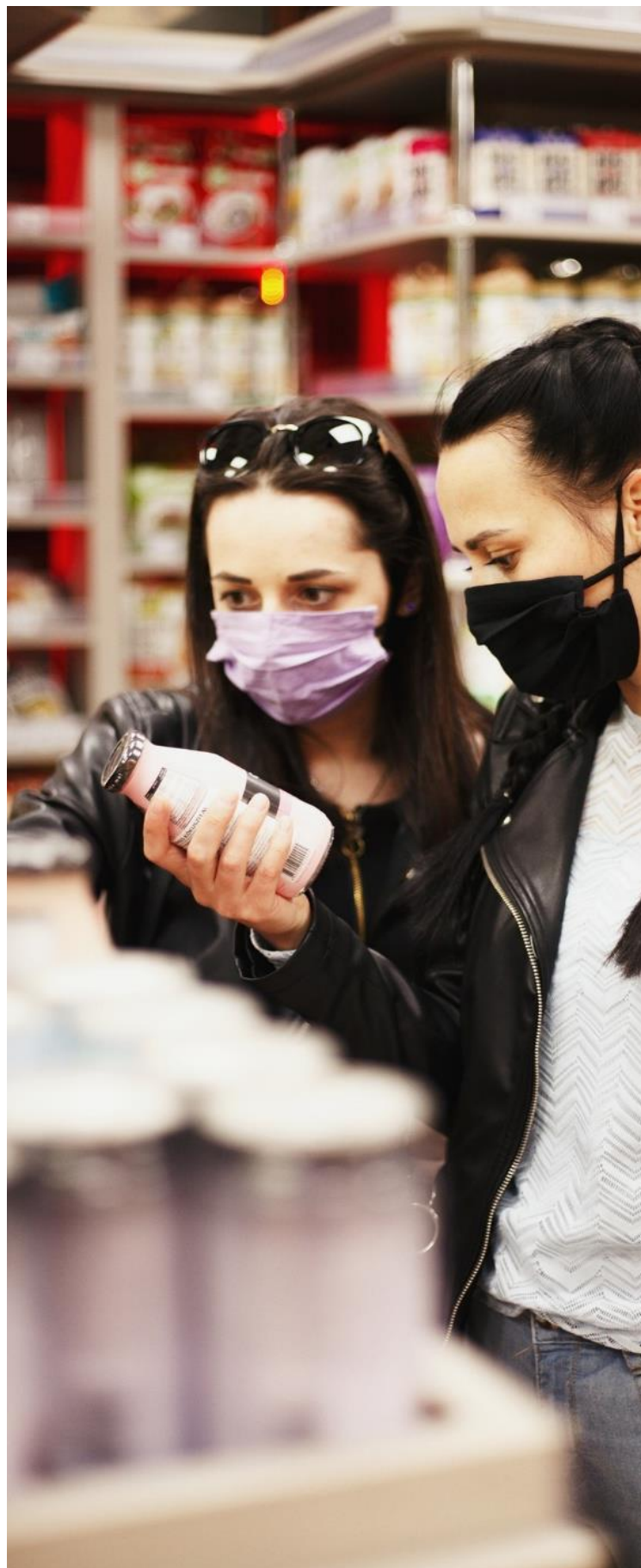
Enterprises operating in HCM City are responsible for contributing to the Fund in 2023 as follows:

- Contribution rate applied to enterprises: 0.02% of the total asset per the financial statement as at 31 December 2022 (with a minimum of VND500,000 and a maximum of VND100 million); and
- Contribution rate applied to individuals and employees managed by enterprises: VND80,000/person/year for enterprises in Can Gio District and VND90,000/person/year for enterprises in the remaining districts and Thu Duc City.

Enterprises must pay at least 50% of the payable amount before 31 July 2023 and the remaining balance before 30 November 2023 for the employer's portion. For the employee's portion, enterprises must make the full payment before 31 July 2023.

4. **Decision No. 2273/QĐ-UBND dated 2 June 2023** by the People's Committee of Ho Chi Minh City on administrative procedures related to foreign employees.

Accordingly, the processing time for confirming a foreign employee's eligibility for work permit exemption and work permit extension procedures is shortened to 3 working days from the date of receipt of fully valid dossiers.



5. Decree No. 13/2023/ND-CP dated 17 April 2023 by the Government on the protection of personal data, effective from 1 July 2023.

Some notable contents specified in the Decree include:

- a. **Notice of Data Processing:** Data subjects must be informed of the type of collected personal data, the purpose, the process, and the organisations entitled to access to the data.
- b. **Consent of data subjects:** Obtaining consent from data subject is mandatory when processing personal data. Consent must be explicitly given (silence is not considered consent) and can be either partial or full agreement with associated conditions. Data subjects have the right to access and inspect their personal data. If they withdraw their consent, the relevant data must be deleted within 72 hours.
- c. **Right to claim damages:** Data subjects have the right to claim damages if their right to data privacy protection is violated by any unlawful actions. Collecting, transferring, or buying and selling personal data without the consent of the subjects is illegal.
- d. **Impact assessment:** Data processors must prepare a Dossier of Impact Assessment of the personal data processing following the form attached to this Decree. The impact assessment is reviewed by the Department of Cybersecurity and High-tech Crime Prevention - Ministry of Public Security.
- e. **Outbound transfer of personal data:** In order to transfer Vietnamese residents' personal data abroad, a relevant Impact Assessment Dossier is required to be submitted to the Ministry of Public Security. The Ministry of Public Security has the right to inspect the outbound transfer of data and may issue a decision to stop transferring data abroad if there is a violation of the provisions of the Decree.
- f. **Protective measures:** Every organisation should establish an internal procedure for the protection of personal data in accordance with the provisions of the Decree.

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