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- Resolution of the Government on exemption and reduction of tax, fees and charges, extension of tax payment deadlines to support the recovery of enterprises, cooperatives and business households

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## Tax Administration



### OTHERS

The Ministry of Finance (“MOF”) has drafted Decree amending and supplementing Decree No. 126/2020/ND-CP detailing a number of articles of the Law on Tax Administration and Decree No. 123/2020/ND-CP stipulating invoices and records

In the draft Decree, the MOF proposed to amend and supplement some regulations to remove difficulties and facilitate the taxpayers for ease of implementation in practice. Accordingly, a number of key amendments are as follows:

- Amendment and supplement of obligation of the owner of e-commerce platform in terms of tax declaration, tax payment and information provision on behalf of the buyers;
- Amendment of regulations on temporary payment of Corporate Income Tax (“CIT”) by 75% within 03 quarters: the Draft Decree stipulate that the total amount of temporarily paid CIT of 04 quarters must not be less than 80% of the payable corporate income tax according to the annual finalization. This amendment would be effective from tax year 2021.

(Draft Decree of the Ministry of Finance)

Resolution of the Government on exemption and reduction of tax, fees and charges, extension of tax payment deadlines to support the recovery of enterprises, cooperatives and business households

The Government issued Resolution No. 11/NQ-CP dated 30 January 2022 on the socio-economic recovery and development Program and implementing Resolution No. 43/2022/QH15 of the National Assembly on fiscal and monetary policy to support the Program, which includes solutions on exemption and reduction of tax, fees and charges, extension of tax payment deadlines in 2022 as follows:

- Reduce 2% of Value-Added Tax (“VAT”) rate for groups of goods and services currently subject to 10% tax (specified regulated in Decree No. 15/2022/ND-CP by the Government) (\*);
- Allow accounting the expenses for support and anti-epidemic funding to reasonable expenses (specified regulated in Decree No. 15/2022/ND-CP by the Government) (\*);
- Reduce 50% of Environmental Protection Tax for jet fuel according to Resolution No. 13/2021/UBTVQH15;

- Reduce 30% of land rent and water surface rent in 2022;
- Apply new import and export tax rates according to Decree No. 101/2021/ND-CP;
- Reduce 50% of registration fee for cars manufactured or assembled domestically according to Decree No. 103/2021/ND-CP;
- Extend the deadlines for payment of CIT, Personal Income Tax (“PIT”), VAT, Special Consumption Tax (“SCT”) and land rent in 2022 (Currently, the MOF is developing a draft Decree detailing regulations);

(Resolution No. 11/NQ-CP dated 30 January 2022 of the Government)



### Contact us

Website: [deloitte.com/vn](https://deloitte.com/vn)

Email: [deloittevietnam@deloitte.com](mailto:deloittevietnam@deloitte.com)

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## Corporate Income Tax



### GUIDANCE RULING

#### CIT obligation for income from deposit interest

If the company enjoying CIT incentives for the investment project thanks to preferential location has saving account at a credit institution (regardless of whether the credit institution is inside or outside of the preferential location) and incurs deposit interest paid by the credit institution, deposit interest is considered as income from financial investment and not related to the investment project enjoying CIT incentives. Accordingly, such income is not entitled to CIT incentives.

(Official Letter No. 261/CTHPH-TTHT dated 26 January 2022 issued by Hai Phong Tax Department)

#### CIT incentives for income from compensation

In case the company is enjoying CIT incentives thanks to preferential location, the income received from customers as a compensation for breach of contract due to not using up the input materials of the investment project enjoying incentive in the economic zone is also entitled to CIT incentives as prescribed.

(Official Letter No. 194/CTHPH-TTHT dated 21 January 2022 issued by Hai Phong Tax Department)

#### Non-deductible expense of goods destruction

In case the company has products that have been notified of suspension by the Ministry of Health, recalled nationwide and must be destroyed compulsively, the expense of goods destruction is not subject to force majeure and shall not be deductible for CIT purpose.

(Official Letter No. 1827/CTBDU-TTHT dated 11 February 2022 issued by Binh Duong Tax Department)

#### Expenses paid to the account of enforcement authorities

In case the company makes payment (for the construction to the contractor) to the account of enforcement authorities according to the enforcement authorities' decision on "collection money of the subject serving the sentence (held by a third party)", the payment is considered as a form of bank payment. This expense shall be treated as deductible expenses for CIT purpose if the other conditions specified in Article 4 Circular No. 96/2015/TT-BTC are met.

(Official Letter No. 1826/CTBDU-TTHT dated 11 February 2022 issued by Binh Duong Tax Department)



### Contact us

Website: [deloitte.com/vn](https://deloitte.com/vn)

Email: [deloittevietnam@deloitte.com](mailto:deloittevietnam@deloitte.com)

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## Indirect Tax



### GUIDANCE RULING

#### Use VAT invoices for export of goods and services

In case the company uses electronic invoices according to Decree 123/2020/ND-CP and declares VAT by the deduction method, the company shall use value-added invoices for export of goods and services.

The currency stated on the invoice shall be in foreign currency, the seller must also show on the invoice the exchange rate of foreign currency with VND.

(Official Letter No. 4251/CTHN-TTHT dated 28 January 2022 issued by Hanoi Tax Department)

#### Refund of VAT for investment projects expansion

In case an enterprise implements an investment project divided into several phases:

For investment items which have been completed and generated revenue, input VAT incurred after the time of revenue generation is not refundable, whereas input VAT amount incurred before the time of revenue generation, which qualifies creditability condition, shall be considered for refund.

For items that are still in the investment phase, input VAT of investment projects shall be declared on VAT declaration form 02/GTGT and offset against VAT declaration of on-going production and business activities on VAT declaration form 01/GTGT. In case, the input tax amount of an investment project is not fully credited, then it will be refunded according to Clause 3, Article 1 of Circular No. 130/2016/TT-BTC dated 12 August 2016. of the Ministry of Finance.

(Official Letter No. 1068/CTBDU-TTHT dated 21 January 2022 issued by Binh Duong Tax Department)

#### VAT for construction activities performed in other provinces

In case the Company has construction activities carried out in provinces other than head office's province, the construction activities are subject to payment of VAT in other provinces. From 01 January 2022 (effective date of Circular 80/2021/TT-BTC), the rate for allocation of VAT payable for construction activities in other provinces is 1%.

In case the input VAT that has not been fully deducted (including the VAT already paid in other province), the Company is entitled to refund under the guidance in Clause 3, Article 1 of Circular 130/2016/TT-BTC if applicable conditions on tax declaration, deduction and refund as prescribed.

(Official Letter No. 1261/CTBDU-TTHT dated 25 January 2022 issued by the Binh Duong Tax Department of Taxation)

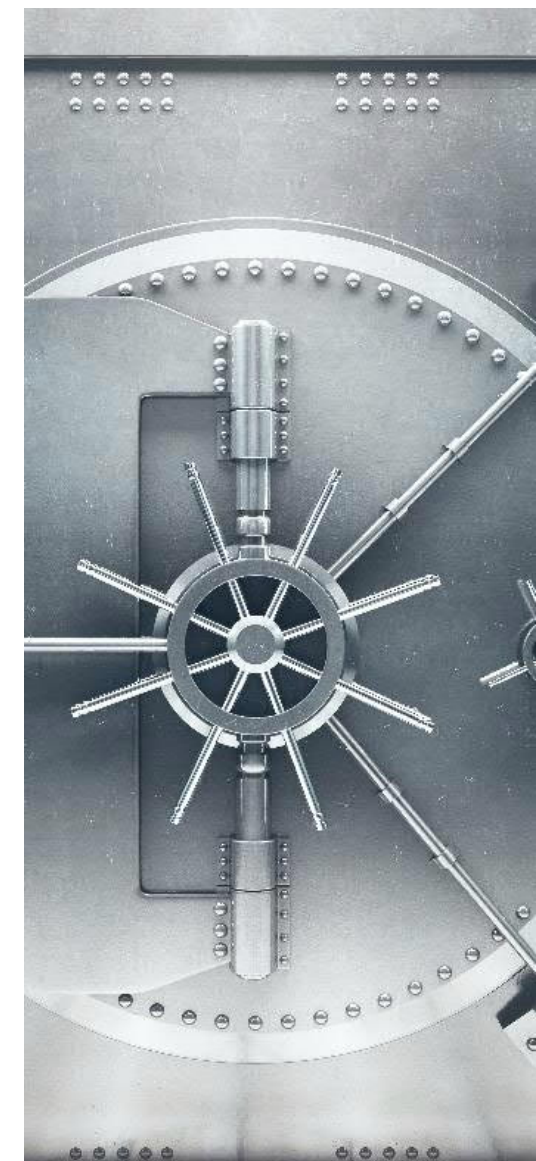


### Contact us

Website: [deloitte.com/vn](https://www.deloitte.com/vn)

Email: [deloittevietnam@deloitte.com](mailto:deloittevietnam@deloitte.com)

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## Foreign Contractor Withholding Tax



### GUIDANCE RULING

#### Foreign Contractor Withholding Tax (“FCWT”) levied on international factoring services

When the Vietnamese company (Seller) enters into goods purchase agreement with customers (Buyer) in the United States of America, the two parties have an agreement to use international payment service of a credit institution located in the United States of America. If the seller requests early payment and must pay an amount of service fee to the credit institution, such income of credit institution would be subject to Vietnam FCWT. If this is qualified as an international factoring service, the seller is responsible for declaring, withholding and paying tax on behalf of the credit institution as follows:

- VAT: International factoring service is not subject to VAT;
- CIT: CIT rate of 5% on taxable turnover.

(Official Letter No. 290/CTHPH-TTHT dated 27 January 2022, issued by Hai Phong Tax Department).

#### FCWT levied on goods accompanied with services

If the company signs contract with a foreign company to purchase machinery and equipment attached with services performed in Vietnam, if the value of imported machinery and accompanied service are separate on contract, the company is responsible for declaring, withholding and paying tax on behalf of the foreign contractor as follows:

- VAT:
  - Goods: only subject to VAT at the import stage;
  - Services: VAT rate of 5% on taxable turnover.

The VAT amount paid on behalf of the foreign contractor would be considered as creditable if qualify creditability condition, however, treated as non-deductible expense for CIT purpose.

- CIT:
  - Value of imported machinery and shipping fee: CIT rate of 1% on taxable turnover;
  - Services: VAT rate of 5% on taxable turnover.

The CIT amount paid on behalf of foreign contractors would be included in deductible expenses for CIT purpose if meet conditions specified under the regulation.

(Official Letter No. 303/CTLAN-TTHT dated 15 February 2022 issued by Long An Tax Department)



### Contact us

Website: [deloitte.com/vn](https://deloitte.com/vn)  
Email: [deloittevietnam@deloitte.com](mailto:deloittevietnam@deloitte.com)

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## Personal Income Tax & Social Contribution



### GUIDANCE RULING

#### Responsibility to withhold and declare PIT salary paid on behalf by parent company

In case the Vietnamese company having a Japanese employee transferred from the overseas company to work in Vietnam under the agreement that the Vietnamese company will bear all incomes paid to this employee (including the portion that the overseas company pays on behalf and recharges to the Vietnamese company), and the employee only has the income for his work in the Vietnamese company, not concurrently work for another company, the Vietnamese company is responsible for withholding his PIT liabilities for all of his taxable income paid to him and declaring his PIT.

(Official letter No. 53948/CTHN-TTHT dated 13 December 2021 issued by Hanoi Tax Department)

#### Announcement on new health insurance card ("HI card")

Ho Chi Minh City Social Security has announced that from 11 February 2022, the new version of HI card will be issued for the following cases in accordance with Decision no. 1666/QĐ-BHXH dated 03 December 2020:

- Issue HI card for cases newly participated in social insurance contribution;
- Reissue HI cards due to the loss, damage, change of HI card information.

The old version of HI cards issued before 11 February 2022 will continue to be used and have the same validity.

(Official letter No. 519/BHXH-CST dated 11 February 2022 issued by Ho Chi Minh City Social Security)



### Contact us

Website: [deloitte.com/vn](https://deloitte.com/vn)  
Email: [deloittevietnam@deloitte.com](mailto:deloittevietnam@deloitte.com)

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## Trade & Customs



### GUIDANCE RULING

#### Supplementary declaration of royalty fee after goods importation

The General Department of Customs (“GDC”) has further guided, through an Official Letter, on the revision of numerous customs declarations to account for royalty fee payments. Specifically:

The Company can make a single revision for all customs declarations in the period, provided that the royalty fee is fully allocated to the imported goods which are subject to such fee.

The supplementary declaration can be conducted at either:

- The customs Sub-Department where the initial import declaration was registered; or
- The customs Sub-Department where most customs declarations were registered.

(Official Letter No. 279/TCHQ-TXNK dated 24 January 2022 issued by the General Department of Customs)

#### Goods imported under A12 mode for manufacturing exports are not eligible for duty refund if outsourced for processing

Pursuant to Clause 1, Article 36 of Decree No. 134/2016/ND-CP, goods imported for production and trading purpose but have been used for manufacturing exports, and the final products are actually exported, are subject to duty refund.

However, according to Clause 3, Article 36 of Decree No. 134/2016/ND-CP, duty refund cannot be claimed in cases where enterprises pay import duty when importing goods for production; transfer 100% of such imported materials for outsourced processing; and then after receiving back the finished products, export them overseas.

(Official Letter No. 185/TCHQ-TXNK dated 17 January 2022 of the General Department of Customs on import duty refund)

#### Sale of raw materials imported/domestically purchased for exports manufacturing to overseas parties

1. For imported materials under E31 mode

For raw materials imported for export manufacturing, that are not used but instead are sold overseas, the change of usage purpose must be conducted prior to the export procedures.

2. For domestically purchased materials for export manufacturing

If a foreign-invested enterprise performs its export right to sell domestically sourced goods overseas, customs declaration mode B11 shall be applied and the following requirements need to be satisfied:

- The goods are not in the lists of goods banned or temporarily discontinued from export under the international treaties of which Vietnam is a member;
- Where the goods are subject to export license or conditions, the foreign-invested enterprise shall obtain such licenses or ensure the satisfaction of such conditions.

(Official Letter No. 86/HOTPHCM-GSQL dated 12 January 2022 of Ho Chi Minh City Customs)



### Contact us

Website: [deloitte.com/vn](https://deloitte.com/vn)

Email: [deloittevietnam@deloitte.com](mailto:deloittevietnam@deloitte.com)

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## Trade & Customs



### GUIDANCE RULING

#### Clarification on the implementation of Decree No. 111/2021/ND-CP

Imported materials used for export manufacturing and not for domestic consumption, and goods imported as gifts, are subject to labelling as prescribed.

For imported components, in case mandatory information could not be illustrated on the components, there must be a label on the covering packages displaying these contents as prescribed.

(Official Letter No. 408/TCHQ-GSQL dated 10 February 2022 issued by the General Department of Customs)

#### VAT exemption, reduction policy and guidance on the implementation at importation stage

1. The policy of VAT exemption, reduction

On 28 January 2022, the Government officially issued the Decree No. 15/2022/ND-CP ("Decree 15") guiding on the application of tax exemption, reduction per the Resolution No. 43/2022/QH15. Details of Decree 15 have been updated in Deloitte's Quick Alert, which could be referred at the following link.

2. The implementation of Decree 15 at importation stage

The General Department of Customs have provided guidance on the application of Decree 15 at the importation stage. Specifically:

- VAT rate of 10% shall be applied to imported goods in the List of goods and services not eligible for VAT reduction, which satisfy the criteria in column (8) "Product name", column (9) "Content" of Appendix I and Part A, Appendix III; column (3) "Goods" of part B, Appendix III; and imported goods subject to excise duty in Appendix II.

- The determination of HS codes of goods in Appendix I and Appendix III depends on the details of the listed chapter (02-digit), heading (04-digit), sub-heading (06-digit) and code (08-digit). For instance, if a chapter is listed, with heading but no sub-heading or code available, then all 08-digit HS codes belonging to that heading will be subject to 10% VAT. The same principle will be applied to chapters, sub-headings and codes;

- For lines with an asterisk (\*) in column (10) Appendix I, column (10) Part A and column (4) Part B Appendix III, the HS code is declared per the actual imported goods;

- On the import declaration, the code VB195 must be selected to declare VAT 8%;

- Only customs declarations registered from 12:00 am on 01 February 2022 will be eligible for VAT reduction.

(Official Letter No. 370/TCHQ-TXNK dated 28 January 2022 and Official Letter No. 521/TCHQ-TXNK dated 18 February 2022 issued by the General Department of Customs)



### Contact us

Website: [deloitte.com/vn](https://deloitte.com/vn)

Email: [deloittevietnam@deloitte.com](mailto:deloittevietnam@deloitte.com)

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# Contact us



**Thomas McClelland**  
National Tax Leader  
+84 28 7101 4333  
tmcclelland@deloitte.com



**Bui Ngoc Tuan**  
Tax Partner  
+84 24 7105 0021  
tbui@deloitte.com



**Bui Tuan Minh**  
Tax Partner  
+84 24 7105 0022  
mbui@deloitte.com



**Phan Vu Hoang**  
Tax Partner  
+84 28 7101 4345  
hoangphan@deloitte.com



**Dinh Mai Hanh**  
Tax Partner  
+84 24 7105 0050  
handinh@deloitte.com



**Vo Hiep Van An**  
Tax Partner  
+84 28 7101 4444  
avo@deloitte.com



**Vu Thu Nga**  
Tax Partner  
+84 24 7105 0023  
ngavu@deloitte.com

## Hanoi Office

15<sup>th</sup> Floor, Vinaconex Building,  
34 Lang Ha Street, Dong Da District,  
Hanoi, Vietnam.

Tel: +84 24 7105 0000  
Fax: +84 24 6288 5678

 [www.deloitte.com/vn](http://www.deloitte.com/vn)

## Ho Chi Minh City Office

18<sup>th</sup> Floor, Times Square Building,  
57-69F Dong Khoi Street, District 1,  
Ho Chi Minh City, Vietnam.

Tel: +84 28 7101 4555  
Fax: +84 28 3910 0750

 [deloittevietnam@deloitte.com](mailto:deloittevietnam@deloitte.com)

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