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Newsletter Tax & Customs

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Tax Administration

Guidance ruling

Guidance on coordination, awareness, and dissemination in relation to Personal Income Tax (“PIT”) refund process

To ensure the rights and benefits of taxpayers, the Tax Department of Large Enterprises has issued the following directives for income-paying organizations:

- **Promoting electronic tax accounts:**

Encourage employees to register and use electronic transaction accounts with the Tax authority to facilitate PIT finalization and refunds. Collaborate with the Tax Department of Large Enterprises to assist employees in installing and using the **EtaxMobile application**.

- **Timely resolution of taxpayer concerns:**

Organizations should collect and consolidate employees' issues encountered during the PIT finalization and refund process. Submit these concerns to the Tax authority to ensure timely guidance. Any challenges related to PIT finalization, exemptions, or refunds should be escalated through the organization's designated contact point for resolution by the Tax Department of Large Enterprises.

- **Reporting impersonation incidents:**

If taxpayers detect impersonation attempts or receive suspicious information, they should promptly report this to the Tax authority or their income-paying organization. This ensures timely inspection, verification, and actions to prevent potential losses

- **Avoiding fraudulent applications:**

Taxpayers must avoid downloading or installing applications from unofficial sources. Be vigilant for signs of fraudulent applications, such as frequent requests for permissions to view screens, input data, or control devices during the installation process.

(Official Letter No. 1345/CT-QLT2 dated 18 October 2024 issued by the Tax Department of Large Enterprises)

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Corporate Income Tax

Guidance ruling

Corporate Income Tax (“CIT”) allocation for construction activities

If a company conducts construction activities in a province different from where its head office is located, the CIT related to these construction projects is not subject to allocation under the rules for dependent units or business locations classified as production facilities, as stipulated in Article 17 of Circular No. 80/2021/TT-BTC.

(Official Letter No. 4864/TCT-KK dated 28 October 2024 issued by the General Department of Taxation)

Depreciation expenses of fixed assets on leased land without a construction permit

Fixed assets established on leased land for construction purposes that lack a valid construction permit (and are not exempt from the permit requirements under the 2014 Law on Construction), and the ownership certificate, for assets attached to the land issued by a competent authority are:

- **Ineligible for input Value-Added Tax (“VAT”) deduction**, and
- **Not deductible for CIT purposes** through depreciation

(Official Letter No. 4781/TCT-CS dated 24 October 2024 issued by the General Department of Taxation)

Land rental expenses during the project investment phase

Land rental expenses associated with a definite land use right certificate can be amortized as deductible expenses over the allowable land use period stated in the certificate. This is applicable if the expenses are supported by valid invoices and documents, comply with legal regulations, and are directly related to commercial activities generated during the investment phase.

(Official Letter No. 4588/CTLAN-TTHT dated 17 October 2024 issued by the Long An Tax Department)

Planting trees expenses

Expenses, for planting trees within the factory premises, as required by the industrial park Management Board to maintain environmental hygiene and create a fresh and clean atmosphere, are considered related to the company’s production and business activities. These expenses are eligible for input VAT deduction and can be treated as deductible expenses for CIT purposes, provided they are supported by valid invoices and documents.

(Official Letter No. 28365/CTBDU-TTHT dated 31 October 2024 issued by the Binh Duong Tax Department)

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Corporate Income Tax

Guidance ruling

Guidance on filing and CIT payment for real estate transfer activities outside the province of the head office

When a company engages in real estate transfer activities in a province different from the location of its head office:

- **At the Tax authority where the real estate transfer occurs:** The company is required to pay CIT at a rate of 1% based on the CIT taxable revenue from the real estate transfer activity.
- **At the Tax authority where the head office is located:** The company must include the income from real estate transfer activities in its CIT finalization return.

Additionally, industrial park management fees and land rental expenses that were previously deducted for CIT purposes in earlier tax periods related to production and business activities cannot be deducted from the income derived from real estate transfer activities.

(Official Letter No. 4777/CTBNI-TTHT dated 05 November 2024 issued by the Bac Ninh Tax Department)

CIT incentives for supporting industry projects

The Bac Giang Tax Department provided guidance on CIT incentives for new investment projects, particularly those producing prioritized supporting industry products:

1. Incentives for new investment projects

Eligible projects in an industrial park located in non-favorable socio-economic zones can receive 2 years CIT exemption and a 50% CIT reduction for 4 subsequent years. Incentives apply from the first year of taxable income or the fourth year of revenue if there is no taxable income in the first three years.

2. Incentives for supporting industry products

Projects producing prioritized supporting industry products with a valid certificate of incentives can transfer remaining incentives from other regimes to the supporting industry regime.

Incentives are calculated based on the remaining period after deducting incentives already utilized under different schemes.

3. Income segregation

Companies must separate income from incentivized and non-incentivized activities to ensure proper CIT compliance.

(Official Letter No. 8005/CTBGI-TTHT dated 20 November 2024 – Bac Giang Tax Department)



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Indirect Tax

New regulation

Decree amending Decree No. 81/2018/ND-CP detailing the Law on Commerce on trade promotion activities

On 10 October 2024, the Government issued Decree No. 128/2024/ND-CP (“**Decree 128**”) amending and supplementing a number of articles of Decree No. 81/2018/ND-CP (“**Decree 81**”) detailing the Law on Commerce on trade promotion activities, effective from 01 December 2024. Key amendments of Decree 128 are summarized as follows:

1. Additional cases that do not require enterprises to notify promotional activities:

Including:

- Organizing for customers to participate in cultural, artistic, and entertainment programs and other events for promotional purposes;
- Providing free samples of goods and services for customers for testing;
- Giving goods and providing services free of charge;
- Selling goods and providing services at prices lower than the previous selling prices, applied during the announced promotional period;
- Selling goods and providing services with purchase vouchers and service vouchers.

2. Abolishing the regulation limiting the time period for implementing concentrated promotional programs:

No time limit for promotional activities (determined by hours, days, weeks, months or promotional seasons) applies to cases of organizing concentrated promotional programs.

3. Update on the methods to notify/register for promotional activities online:

- **For promotional activity notification procedures:** Abolish the method of submitting documents via the Department of Industry and Trade's email; instead, enterprises submit documents via the National Public Service Portal or the Provincial Administrative Procedure Information System.
- **For promotional activity registration procedures:** Enterprises submit registration documents via the Ministry of Industry and Trade's Administrative Procedures Information System (when implemented in two or more provinces or centrally-run cities) or the Provincial Administrative Procedures Information System (when implemented in one province or municipal city).

4. Supplement, replace and abolish forms and application dossier:

Abolish the submission of reports according to Form 09 - Report on contribution to the State budget in cases where 50% of the value of prizes without winners must be paid to the State budget.

Our recommendations:

The issuance of Decree 128 marks a significant step forward in addressing the shortcomings revealed during the 5-year implementation of Decree No. 81/2018/ND-CP.

One of the key highlights of the new Decree is the continued simplification of administrative procedures and the facilitation of notifying promotional programs, especially those frequently applied by businesses. This not only helps companies save resources but also allows for the flexible and timely implementation of promotional activities.

Additionally, from the perspective of VAT and CIT, the new Decree brings substantial benefits, enhancing efficiency in applying tax policies to promotional activities.

(Decree No. 128/2024/ND-CP dated 10 October 2024 issued by the Government)

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Indirect Tax

Guidance ruling

The guidance on VAT refund process for exported goods

In relation to pre-refund applications, the Tax authority will reference the taxpayer's refund application, and the taxpayer's information managed in the database, to assess the application at the Tax authority's office and determine the eligible subjects, cases for refunds.

A notification will be issued to the taxpayer to request explanations and supplementary information in cases where the declared information in the refund application differs from the information managed by the Tax authority. The time for handling supplementary submitted shall be excluded from the regulated timeline for handling the VAT refund application.

The Tax authority will review and reconcile the taxpayer's bank payment vouchers upon performing post-refund audits for pre-refund applications cases as prescribed to conclude the eligible refund amount and process the taxpayer's refund application as prescribed.

(Official letter No. 5025/TCT-KK dated 06 November 2024 issued by the General Department of Taxation)

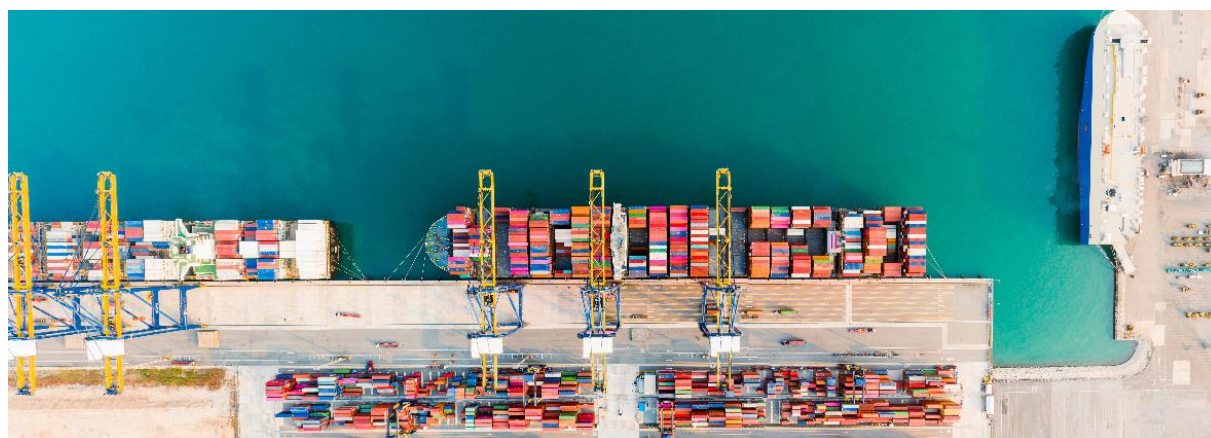
VAT refund conditions for export production projects

The company has not submitted a VAT refund application for a project that has completed its investment phase and commenced operations. Instead, the company carried forward the unrefunded VAT amount from the project to Form No. 01/GTGT for declaration during the production and business phase.

Refund eligibility is subject to the following conditions:

- Input VAT for exported goods, including input VAT from the investment phase, construction, and fixed asset acquisition (in compliance with the Law on Investment and related to the production and export activities), after offsetting against the output VAT for domestically consumed goods and services, must amount to VND **300 million or more** to qualify for a refund.
- The refunded VAT for exported goods and services **must not exceed 10% of the revenue generated from those goods and services.**

(Official Letter No. 4566/TCT-KK dated 14 October 2024 issued by the General Department of Taxation)



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Indirect Tax

Guidance ruling

VAT on food products

For meat, fish, vegetables, and fruits that are agricultural, livestock, or aquaculture products and have not been processed into other products or have only undergone basic processing:

- **Sold to educational institutions (non-corporate):** These products, when sold for preparing daily meals for students, are subject to 5% VAT and must be declared and paid.
- **Sold to corporate entities:** These sales are **not subject to VAT declaration or payment.**

(Official Letter No. 4662/TCT-CS dated 18 October 2024 issued by the General Department of Taxation)

VAT on services provided by individual real estate brokers

Individuals providing real estate brokerage services who hold a valid real estate brokerage license, and are not employees of real estate e-commerce platforms or brokerage companies, must register for taxation and obtain a tax code from the Tax authority before starting their business or incurring tax obligations. The applicable tax rates are:

- **5% for VAT**
- **2% for PIT**, calculated on total revenue.

For real estate e-commerce platform companies authorized under Civil Law to declare and pay taxes on behalf of individuals, tax declaration and payment must be performed on a monthly or quarterly basis as stipulated in point b, Clause 2, Article 8 of Circular No. 40/2021/TT-BTC.

(Official Letter No. 4784/TCT-CS dated 24 October 2024 issued by the General Department of Taxation)



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Indirect Tax

Guidance ruling

VAT on offshore goods trading transactions

Revenue generated from purchasing goods abroad and selling them directly offshore, without undergoing customs procedures in Vietnam, is eligible for a 0% VAT rate. This is applicable if supported by documentation proving that the delivery and receipt of goods occur entirely outside Vietnam, as specified in point a, Clause 2, Article 9 of Circular No. 219/2013/TT-BTC dated 31 December 2013 by the Ministry of Finance. The company is required to issue VAT invoices in compliance with regulations.

(Official Letter No. 27668/CTBDU-TTHT dated 23 October 2024 issued by the Binh Duong Province Tax Department)

VAT on the transfer of non-taxable manufacturing project

Input VAT related to manufacturing investment projects that are not subject to VAT is not deductible.

When the project is transferred to another enterprise to continue implementation as per the original objectives, a 10% VAT rate applies.

(Official Letter No. 5102/TCT-CS dated 08 November 2024 issued by the General Department of Taxation)

VAT on non-production related expenses

The company underwent a VAT refund audit and was denied a refund for input VAT associated with expenses that were unrelated to production and business activities, as well as lacking non-cash payment vouchers as required by regulations.

Even if the company subsequently provides the necessary non-cash payment vouchers, the input VAT for these expenses remains non-deductible in subsequent years because the expenses are not related to production or business activities.

(Official Letter No. 28546/CTBDU-TTHT dated 01 November 2024 issued by the Binh Duong Tax Department)



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Personal Income Tax

Guidance ruling

PIT on employment income of foreign employees in Vietnam

The company should determine the foreign employee's working period in Vietnam, as specified in the labor contract or assignment letter, to apply the appropriate method for withholding PIT for employment income:

- **Progressive tax rates:** apply for employees working in Vietnam for **183 days or more** in the taxable year.
- **Flat tax rate:** apply for employees working in Vietnam for **less than 183 days** in the taxable year.

(Official Letter No. 27325/CTBDU-TTHT dated 16 October 2024 issued by the Binh Duong Tax Department)

Guidance on applying the Double Taxation Avoidance Agreement (“DTA”) between Vietnam and the United Kingdom for inheritance income from securities

Inheritance tax is **not covered** under the DTA between Vietnam and the United Kingdom, nor under international practices for inheritance tax. Therefore, individuals residing in the United Kingdom who receive inheritance income from securities in Vietnam must declare and pay tax in Vietnam in accordance with local regulations.

Tax declaration process:

- For individuals inheriting securities, tax declarations must be submitted to the Tax authority managing the enterprise that issued the securities.
- For non-resident individuals in Vietnam inheriting multiple types of securities deposited with a securities company, the tax declaration must be filed with the Tax authority managing that securities company.

(Official Letter No. 4816/TCT-DNNCN dated 25 October 2024 issued by the General Department of Taxation)



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Personal Income Tax

Guidance ruling

PIT for individuals required to directly finalize taxes

If an individual who has previously authorized their company to finalize PIT on their behalf later discovers that they are required to directly finalize taxes with the Tax authority, the company is not required to amend its PIT finalization dossiers. Instead, the company must issue a tax withholding certificate to the individual, enabling them to complete the tax finalization directly as per regulations.

(Official Letter No. 4917/TCT-DNNCN dated 30 October 2024 issued by the General Department of Taxation)

PIT for individuals without business registration

If a company enters construction contracts with individuals **without business registration**, the income received by these individuals is subject to PIT regulations for wages and salaries. The company is required to withhold **10%** PIT before making the payment, regardless of whether the individual acts on behalf of a group.

If the company signs a labor contract in accordance with Article 14 of the Labor Code No. 45/2019/QH14, which outlines different forms of labor contracts (verbal or written, definite or indefinite terms), the individual will be subject to mandatory social insurance contributions as stipulated in Article 2 of the Law on Social Insurance No. 58/2014/QH13.

(Official Letter No. 28333/CTBDU-TTHT dated 31 October 2024 issued by the Binh Duong Tax Department)



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Foreign Contractor Withholding Tax

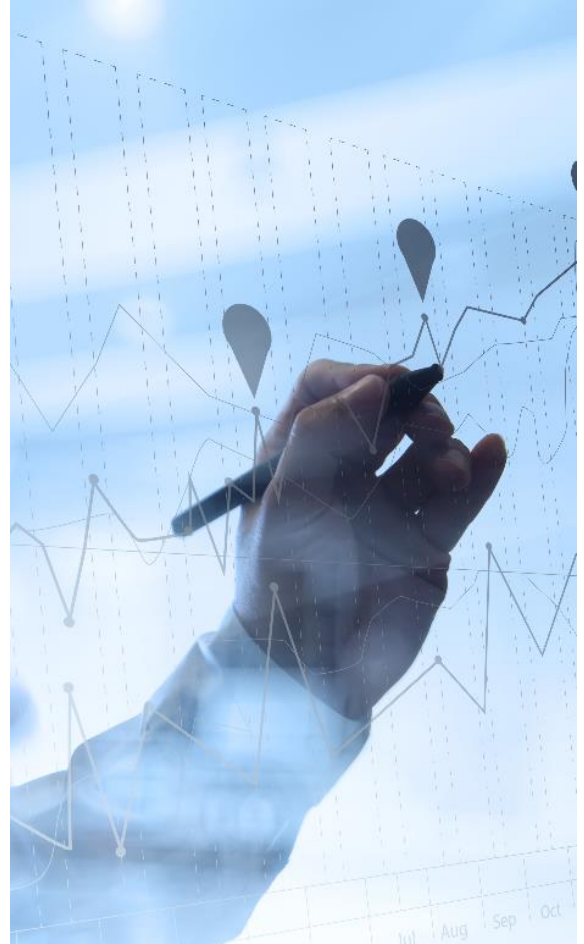
Guidance ruling

Foreign Contractor Withholding Tax (“FCWT”) on the sale of receivables to an offshore company

A company selling receivables from overseas customers to an offshore company (the buyer of receivables) in exchange for advance payment for goods, is not subject to FCWT if the following conditions are met:

- The sale of receivables does not constitute a credit loan transaction that requires interest payments.
- The Vietnamese company transfers all rights and obligations related to the receivables to the offshore buyer and assumes no responsibility for whether the buyer successfully collects the receivables from the overseas customers; and
- The Vietnamese company does not make any payment to the offshore company (the buyer of receivables).

(Official Letter No. 4909/TCT-CS dated 30 October 2024 issued by the General Department of Taxation)



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Trade & Customs Guidance ruling

Guidance on labeling of exported goods

Based on comments from the Ministry of Industry and Trade and the Ministry of Science and Technology, the General Department of Customs provides the following guidance:

- **Rules of origin:** Exported goods must comply with the rules of origin as prescribed in Decree No. 31/2018/ND-CP, Circular No. 05/2018/TT-BCT (amended and supplemented by Circular No. 44/2023/TT-BCT), and relevant Circulars outlining the rules of origin for Free Trade Agreements in which Vietnam participates.
- **Labeling origin:** Goods must be labeled in accordance with the provisions of Article 10 of Decree No. 43/2017/ND-CP (amended and supplemented by Clause 3, Article 1, Decree No. 111/2021/ND-CP) and Article 15 of Decree No. 43/2017/ND-CP (amended and supplemented by Clause 7, Article 1, Decree No. 111/2021/ND-CP)

(Official Letter No. 5302/TCHQ-GSQL dated 30 October 2024 issued by the General Department of Customs)

Guidance on import duty treatment for goods stored in bonded warehouses and reimported into Vietnam

The General Department of Customs has issued guidance on the application of special preferential import duty rates under Vietnam's Free Trade Agreements (FTAs) for goods deposited in bonded warehouses and subsequently reimported into the domestic market:

1. **Applicable duty rates:** bonded warehouses are classified as non-tariff zones under Decree No. 67/2020/ND-CP. Goods imported from bonded warehouses into the domestic market are eligible for special preferential import duty rates if they meet the conditions outlined in the relevant decrees.
2. **Direct Transportation:** goods exported from Vietnam to bonded warehouses and reimported into the domestic market, without any interference and under customs supervision, comply with the direct transportation rule.

(Official Letter No. 5177/TCHQ-GSQL dated 24 October 2024 issued by the General Department of Customs)

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Trade & Customs

Guidance ruling

Import tax refund for raw materials and supplies used in export production

The General Department of Customs provides the following guidance:

1. **Conditions for tax refund:** import tax paid on imported raw materials and supplies used for export production of finished goods is refundable if the finished goods are exported or moved to non-tariff zones and meet the conditions outlined in Article 36 of Decree No. 134/2016/ND-CP.
2. **Ineligible Cases:** import tax is not refundable if raw materials are imported under the business import category without completing customs procedures for export production.

(Official Letter No. 5262/TCHQ-TXNK dated 29 October 2024 issued by the General Department of Customs)

Customs duties exemption on re-imported goods

Exported goods that were subject to export duties and are later re-imported into Vietnam can qualify for an export duty refund and exemption from import duties if they meet the conditions specified in Clause 2, Article 19 of the Law on Export and Import Duties No. 107/2016/QH13.

The procedures and documentation for applying for customs duties exemption are governed by Clause 3 and Clause 4, Article 37a of Decree No. 134/2016/ND-CP, as amended by Clause 19, Article 1 of Decree No. 18/2021/ND-CP.

(Official Letter No. 5144/TCHQ-TXNK dated 23 October 2024 issued by the General Department of Customs)



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