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Personal Income Tax



GUIDANCE RULING

Personal Income Tax (“PIT”) regulations with respect to Covid-19’s relevant expenses

During the Covid-19 pandemic, if the company implements “3 on-site” working plan, and there are health care expenses arisen to support employees for prevention the epidemic (such as sleeping bags, personal hygiene tools, drinking water, money subsidies, Covid test fee on a collective basis), those expenses shall not be included in the taxable income for PIT calculation purposes. If the above amounts are clearly stated with name of beneficiary (individual), they will be considered as benefits supported for employees and will subject to PIT.

In case company has paid Covid-19’s quarantine expenses, visa fees and air ticket upon Vietnam entrance of foreign employees, then such support is regarded as benefits for employees and therefore are included in taxable income for PIT computation purpose.

(Official Letter No. 14626/CTBDU-TTHT dated 07 October 2021 issued by Binh Duong Tax Department)



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NEW REGULATION

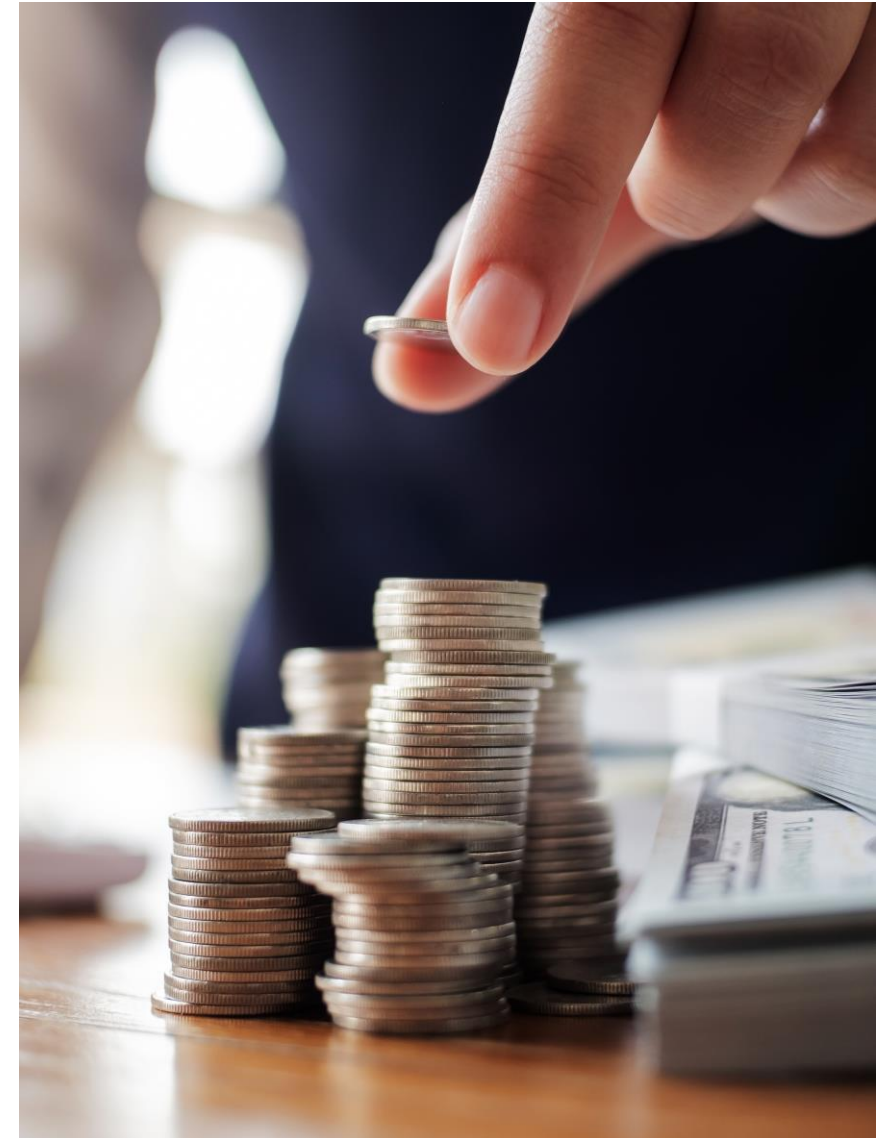
Policies to support employees and employers facing difficulties due to Covid-19 pandemic from Unemployment Insurance Fund

The Government has issued the Resolution No.116/NQ-CP dated 24 September 2021 regarding the supporting policies during Covid-19 pandemic for employees and employers from Unemployment Insurance Fund, including:

- Employees who are affected by the Covid-19 pandemic will be entitled to cash allowance from VND1,8 million to VND3,3 million per, based on the time employees contributing to unemployment insurance and excluding the time they already received the unemployment allowance.
- Employers who are affected by the Covid-19 pandemic will be allowed to reduce their contribution rate to unemployment insurance from 1% to 0% starting from 01 October 2021 to 30 September 2022.

Please refer to Infographic issued by Deloitte Vietnam on 04 October 2021 for the detail of subject, level of allowance support and execution timeline.

(Resolution No. 116/NQ-CP issued by the Government on 24 September 2021)





Tax Administration



CIRCULAR

Circular No. 80/2021/TT-BTC guiding on certain articles of the Law on Tax Administration and Decree No. 126/2020/ND-CP

The Ministry of Finance issued the Circular No. 80/2021/TT-BTC on 29 September 2021 with the effective from 01 January 2022 provides details guidance of Decree 126/2020/TT-BTC on the following:

- Currency of tax declaration, tax payment in foreign currency and exchange rate;
- Duties, powers, and responsibilities of tax advisory councils of communes, wards, and townships;
- Tax declaration, tax calculation, tax liability allocation, tax declaration form; handling of overdue payment of tax;
- Handling of overpaid tax, overdue payment interest and fines; dossiers of installment payment of tax owed, dossiers of tax payment extension; procedures for tax refund, classification of tax refund dossiers, receipt of tax refund dossiers; tax exemption and reduction dossiers; dossiers for tax debt written-off, overdue payment interest, fines;
- Building, collecting, processing, and managing taxpayer information;
- Orders and procedures for tax inspection dossiers;

- Tax administration for e-commerce business, digital-based business, and other services of overseas suppliers without a permanent establishment in Vietnam;
- Tax collection authorization fees.

It is notable that the tax returns prescribed in Circular No. 80/2021/TT-BTC shall be applied for the tax periods starting from 1 January 2022 onwards. The forms specified in this Circular shall be applied for tax finalization declaration for the tax period of year 2021.

Deloitte Vietnam will publish a Tax Alert to update on notable contents of this Circular. You can access our website for reference.

(Circular No. 80/2021/TT-BTC)



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Corporate Income Tax



GUIDANCE RULING

Tax incentives for interest income from bank deposit

Regarding the Corporate Income Tax (“CIT”) incentive for interest income from bank deposit, the General Department of Taxation guided that interest income from bank deposits arising outside the preferential locations is not subject to CIT incentives.

(Official Letter No. 3253/TCT-CS dated 30 August 2021 issued by the General Department of Taxation)

CIT incentive for trading activities

In case a company has a new investment project which was granted with the Investment Registration Certificate issued by the Management Board of Bac Giang Industrial Zone (“IZ”) that meets conditions for CIT incentives thanks to preferential locations, CIT incentives shall be applied as follows:

Incomes eligible for tax incentives are all incomes arising from business activities in the IZ, except for the incomes mentioned under Clause 1, Article 10 of Circular 96/2015/TT-BTC. Specifically:

- If the company supplements trading activities but does not change tax incentive conditions of the original project, income from the trading activities in the IZ area is also entitled to CIT incentives of the existing project for the remaining period or CIT incentives for expansion investment project.
- If the Company generates income from trading activities outside of the IZ area (i.e. outside of the preferential location), such income is not entitled to CIT incentives.

(Official Letter No. 4093/CTBGI-TTHT dated 31 August 2021 issued by Bac Giang Tax Department)

Deductible of expenses related to gift card

In case company purchases VinID cards as a gift for its customers, the company is not required to issue VAT invoice when giving the VinID cards to the customers. Based on the receipt notes of seller and relevant documents proving the relation of VinID cards to the company’s business activities, such expense could be deductible for determining taxable income if it qualifies the conditions as specified under Article 4 Circular No. 96/2015/TT-BTC issued by the Ministry of Finance.

(Official Letter No. 34762/CTHN-TTHT dated 14 September 2021 issued by the Hanoi Tax Department)



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Corporate Income Tax



GUIDANCE RULING *(cont.)*

Tax policies for implementing Covid-19 prevention measures in Bac Ninh province

Guidance on the deductibility of expenses, when a company implements Covid-19 prevention measures following orders of the People's Committee of Bac Ninh Province and the Board of Management of the IZ such as arrangements for its employees to stay in Bac Ninh, without daily traveling between the workplace and their home in different provinces.

In the situation where a company has rented a temporary house in Hanoi for these employees, then the rental costs in Hanoi and expenses for meals and accommodation in Bac Ninh paid by the Company would be treated as below:

- Expenses for meals and accommodation in Bac Ninh which are properly supported with valid invoices, non-cash payment vouchers for any invoices exceeding VND20 million would be deductible for CIT calculations.

- House rental costs for the employees in Hanoi which are specifically regulated in the labor contract, and properly supported by valid invoices, non-cash payment vouchers for any invoices of which the value exceeds VND20 million, would be included to deductible lists for CIT calculation purposes.

(Official Letter No. 3381/CTBNI-TTHT dated 27 September 2021 issued by the Bac Ninh Tax department)

Tax policies for implementing Covid-19 prevention measures in Bac Giang province

When a company follows orders of the People's Committee of Bac Giang Province and the Management Board of Bac Giang IZ to test Covid-19 for employees before entering workplace, with the frequency of once every 3 days and rotation for at least 10% of employees, the testing expenses would be deductible for CIT calculation purposes if having valid invoices, legitimate documents, and payment vouchers under Clause 1 Article 6 of Circular 78/2014/TT-BTC.

(Official Letter No. 4502/CTBGI-TTHT dated 24 September 2021 issued by the Bac Giang Tax department)



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Indirect Tax



GUIDANCE RULING

Special Consumption Tax (“SCT”) and Value Added Tax (“VAT”) levied on the importation activity of aircraft

When a company purchases and imports the aircraft to be leased to airline agencies for carrying out the business of delivering goods, passengers, tourists, then:

1. SCT:

Aircraft (helicopter) used by the Company for the business purposes of delivering goods, passengers, tourism business activities, and national security and defense purposes in line with Clause 4, Article 3, Circular No. 195/2015/TT-BTC dated 24 November 2015 issued by the Ministry of Finance are not subject to SCT.

On the contrary, aircraft not used for the afore-mentioned activities are subject to SCT.

2. VAT:

Per Clause 17, Article 4, Circular No. 219/2013/TT-BTC dated 31 December 2013 issued by the Ministry of Finance, if aircraft meet the conditions of being under the list of products not being capable of domestically manufacturing, such aircraft would not be subject to VAT.

(The Official Letter No. 26246/CTHN-TTHT dated 09 July 2021 issued by Hanoi Tax Department)

VAT invoices issuance when transferring fixed assets to the dependent accounting branches

If a company owns 100% the capital of dependent branch for serving the activity of manufacturing, supplying goods and/or services that subject to VAT, it is not required to issue VAT invoices and perform the VAT declaration when transferring fixed assets to its dependent branches.

When transferring the fixed assets, the Company must have the decision or the assignment on assets transfer together with the dossiers on origins of assets.

When transferring fixed assets to an independent accounting branch, the Company must issue VAT invoices and declare, pay VAT as regulated.

(The Official Letter No. 12494/CTBDU-TTHT dated 13 August 2021 issued by Binh Duong Tax Department)

VAT and the use of invoices when the Export Processing Enterprise (“EPE”) provides processing service for domestic enterprises

The processing service provided to domestic enterprises is subject to VAT rate of 10% and must be accounted and declared separately the VAT by the EPE for the above processing activity. The EPE must issue invoices in the following 02 scenarios:

- Issue VAT invoices where the Company pays VAT using the credit method.
- Issue sales invoices “using for organizations and individuals located in the non-tariff zone” where the Company pays VAT using the direct method.

(The Official Letter No. 2719/CT-TTHT dated 03 August 2021 issued by Ha Nam Tax Department)

Treatment of the refunded VAT on the exported products which are then re-imported

According to the General Department of Taxation, for exported products that have to be returned/re-imported to Vietnam, if the enterprise has **completed**, and **obtained** the input VAT refund, then the enterprise must **pay back the refunded VAT amount plus late payment interest** per regulations.

(Official Letter No. 1613/TCT-KK dated 19 May 2021 issued by the General Department of Taxation)



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Foreign Contractor Withholding Tax



GUIDANCE RULING

Foreign Contractor Withholding Tax (“FCWT”) in a 04-parties sales transaction

A 4-parties' sales and purchase contract in which Company A in Hong Kong purchase goods from Company B in Vietnam and sells the goods to Company C in Hong Kong and assigns the delivery party (Company B) in Vietnam to deliver to consignee (Company D) in Vietnam.

If Company D has declared on-spot import of goods under the HS code E21 (imported for processing, no payment) with Company B as the designated delivery party based on the 04-party contract above, and then return the processed goods to Company C, this arrangement would not be subject to FCWT.

(Official Letter No. 4384/CTHYE-TTHT dated 21 September 2021, issued by the Hung Yen Tax Department)

FCWT implication on international bond issuance

If a company enters into an agreement with foreign organization providing the consulting services related to international bond issuance, and these services satisfy the conditions of provisions and consumption outside of Vietnam, then these services would not be subject to Vietnamese FCWT.

(Official Letter No. 5425/CTQNI-TTHT dated 15 July 2021, issued by the Quang Ninh Tax Department)



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Trade & Customs



GUIDANCE RULING

Customs declaration for the purchase of finished products resulted from processing activities, for export manufacturing

When an enterprise signs a processing contract with a foreign principal, and after completion of the processing activities, the enterprise wants to purchase the finished products resulted from processing, then for export manufacturing purpose (not for processing purpose), the enterprise must:

- Register a new customs declaration with mode A11 - import for business and for domestic consumption, or A12 - import for manufacturing operations;
- Pay import duty and other applicable taxes according to import modes A11, A12.

After the manufacturing activities, the finished goods will be exported to overseas or to non-tariff zone, the enterprise can claim duty refund for the processed finished products, which were used as materials for the manufacturing of the exported finished products.

(Official Letter No. 4395/TCHQ-TXNK dated 13 September 2021 issued by the General Department of Customs)

Validity of self-certified Proof of Origin under EVFTA

According to the General Department of Customs, if the self-certified Proof of Origin issued by an EU Exporter, follows the requirements under Circular 11/2020/TT-BCT, discrepancies between the HS code declared on the self-certified Proof of Origin, and the HS code recorded on the REX System, will not affect the validity of the self-certified Proof of Origin.

(Official Letter No. 4523/TCHQ-GSQL dated 20 September 2021 issued by the General Department of Customs)

Submission of Proof of Origin for goods subject to trade remedies

1. For the steel-plated products imported:

If the enterprise submits a Certificate of Origin ('C/O') proving that the goods are manufactured in a specific country/territory **other than** China, Hong Kong and South Korea, the anti-dumping duty shall not be imposed.

If the enterprise submits a **self-certified Proof of origin** instead of a C/O, then this is not in compliance with regulations, and Customs authority will impose anti-dumping duty as if no C/O given.

2. Regarding the proposal to use the self-certified Proof of origin, that is certified by a general consulate/ embassy, or quality inspection certificate issued by the manufacturer:

Pursuant to Decision No. 2717/QĐ-BCT dated October 20, 2020 issued by the Ministry of Industry and Trade, on results of the first review of anti-dumping measures applied to steel-plated products, **only** C/O and self-certification of origin that comply with Vietnam Circulars on CPTPP, EVFTA and ATIGA agreements are accepted by Customs.

(Official Letter No. 4769/TCHQ-GSQL dated 08 October 2021 issued by the General Department of Customs)

Risk classification of "branch" customs declarations.

Following Clause 2, Article 18 of Circular 38/2015/TT-BTC, the VNACCS system only supports a customs declaration up to a maximum of 50 items.. If an import has more than 50 lines of items, then "branch" customs declarations must be made

According to the General Department of Customs, each of these branch-customs declarations could have a independent risk classification, and be processed on the Customs system accordingly.

Based on the results of classification, the Customs authorities shall conduct inspection and complete the clearance procedures, for each customs declaration to ensure that the entire import is eligible to be completed Customs clearance. The time limit for completing the inspection is 2 working hours (for document inspection), 8 working hours (for physical inspection) and not more than 2 days (if the import has many items with massive quantities).

(Official Letter No. 4486/TCHQ-TXNK dated 17 September 2021 issued by the General Department of Customs)



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Trade & Customs



GUIDANCE RULING

Vietnam preferential import tariff schedule to implement the Arrangement on Bilateral Trade Enhancement, between the Government of Socialist Republic of Viet Nam and the Government of the Kingdom of Cambodia during 2021 - 2022.

On 13 September 2021, Vietnam Government issued Decree No. 83/2021/ND-CP providing the preferential tariff schedule and conditions for preferential duty application under the Arrangement on Bilateral Trade Enhancement between Vietnam and Cambodia in the period beginning from January 01, 2021 to December 31, 2022. Key contents include:

- Regulated entities;
- Preferential import tariff schedule; List of goods imported under tariff quotas and List of border gates allowed for customs clearance;
- Conditions for applying preferential import duty rates;
- Duty rates and tariff quotas applied to unprocessed rice and tobacco products originated from the Kingdom of Cambodia.

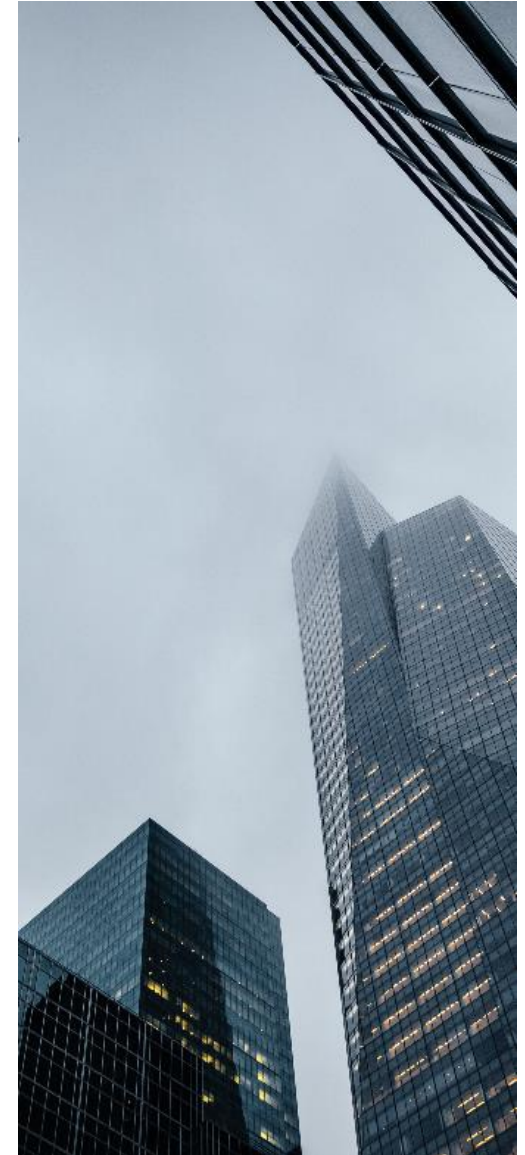
(Decree No. 83/2021/NĐ-CP dated 13 September 2021 issued by the Government)

Raw materials imported from inland for export manufacturing will not be exempted from import duties

According to the General Department of Customs, if a domestic enterprise purchases raw materials, through a contract with an Export Processing Enterprise ('EPE'), or delivered from an EPE as instructed by a foreign trader, following on-spot import customs procedure, then the raw materials **are** exempted from import duties if the import satisfies the conditions specified in Clause 6, Article 1 of Decree 18/2021/ND-CP. The import declaration shall apply import mode E31 - import of raw materials for export manufacturing. However, if the domestic enterprise purchases raw materials from an overseas company, but carries out the on-spot import customs procedure to receive raw materials from a domestic enterprise, as appointed by that overseas company, then such raw materials are not eligible for duty-exemption. The enterprise must register on-spot import declaration with mode A11 - import for business and domestic consumption, or A12 - import for manufacturing operations, and pay import duties in accordance with each import mode. The paid import duties would be eligible for refund when the finished goods, after manufacturing, are exported.

(For the same matter, the General Department of Customs has issued Official Letter No. 3487/TCHQ-TXNK dated 12 July 2021, Official Letter No. 6744/TXNK-CST dated 30 July 2021, and Official Letter No. 7074/TXNK-CST dated 15 September 2021)

(Official Letter No. 6471/TXNK-CST dated 14 September 2021 issued by the General Department of Customs)



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Trade & Customs



GUIDANCE RULING (cont.)

Tax policy on imported raw materials, scrap, defective products, and finished products generated from export manufacturing process that need to be disposed of.

Following Point d, Clause 2, Article 12 of Decree No. 134/2016/ND-CP amended and supplemented by Clause 6, Article 1 of Decree No. 18/2021/ND-CP:

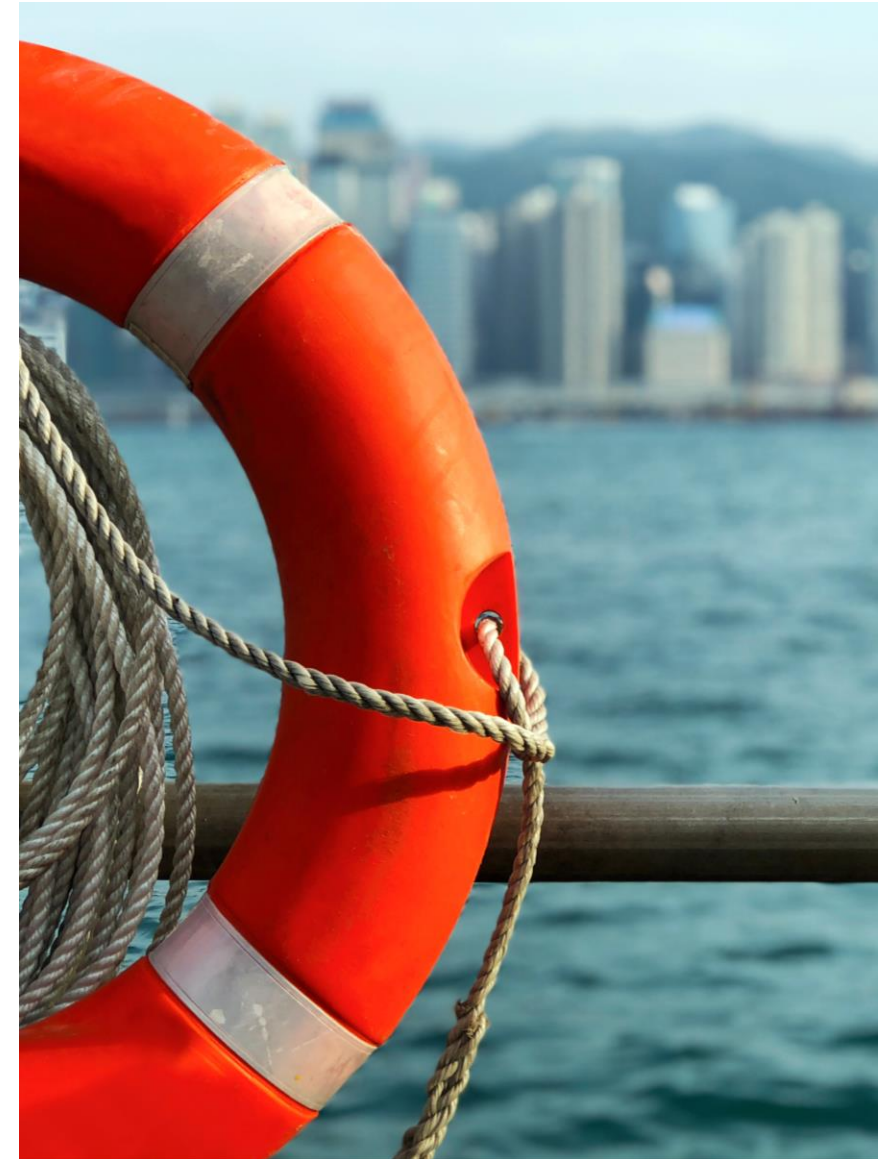
1. Disposal of imported raw materials, supplies, scrap, defective products, and finished products:

a. For imported raw materials and supplies that have not yet been put into production; scraps that are generated from the manufacturing process; defective products (finished products that fail during quality testing before released from production) that need to be disposed of: if the imported raw materials and supplies are registered under mode “import for export manufacturing”, scraps and defective products generated from the manufacturing process are allowed to be disposed, and have been actually disposed in accordance with regulations, the materials constituted into these scraps/defective products **shall be** exempted from import duties.

b. For finished products that meet quality requirements to be released from production for export, but then being tested and disposed of, or the products which cannot be exported and must be disposed of: if the products are allowed to be disposed and have been disposed in accordance with regulations, these finished products shall be exempted from import duties. However, if after disposal, the scraps incurred are later sold into domestic market, the enterprise must declare and SCT (if any), Environmental Protection Tax (if any), and VAT to the Tax Authorities.

2. Where imported raw materials and supplies, finished and semi-finished products are sold to the domestic market as “scrap products” but are capable of being used by the domestic buyer in the condition sold, (e.g. for use in further manufacturing of products) then these “scrap products” shall be **not** eligible for import duty-exemption. In such cases the enterprise must register a new customs declaration, pay import duties on raw materials and supplies used to manufacture the finished and semi-finished products that have been preliminarily destroyed.

(Official Letter No. 4783/TCHQ-TXNK dated 08 October 2021 issued by the General Department of Customs)



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