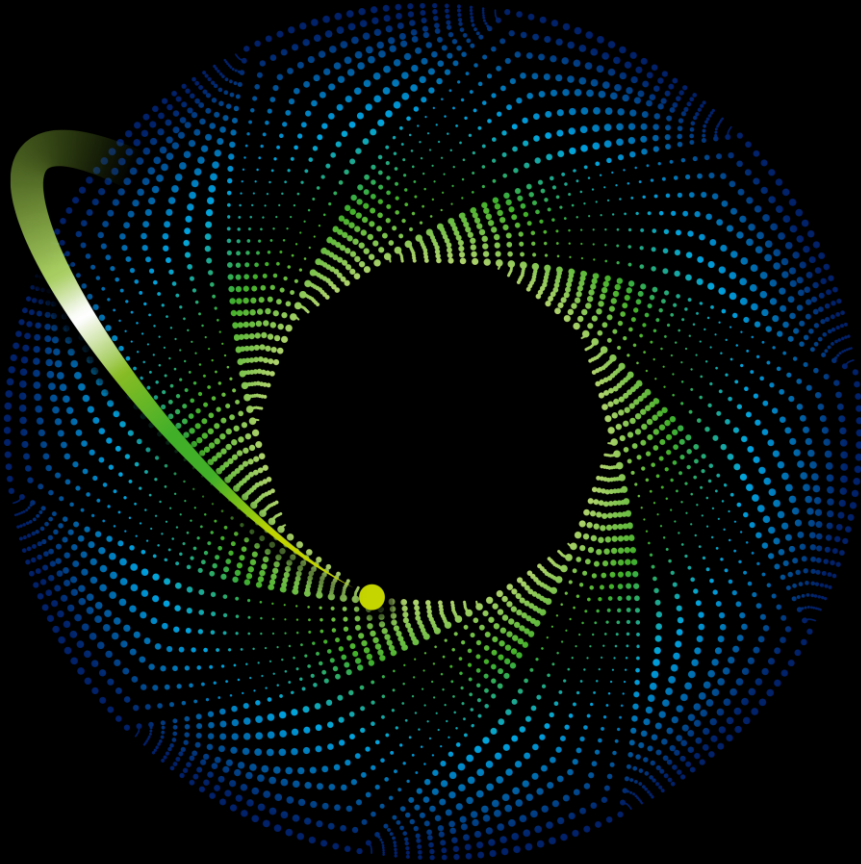


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Newsletter
Tax & Customs

October 2024



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AWARDS 2024

Vietnam Tax Firm of the Year



Tax Administration

Guidance ruling

Land rental reduction policy

Land lessees eligible for a land rental reduction under Clause 1, Article 2 of Decision No. 25/2023/QĐ-TTg, dated 03 October 2023, issued by the Prime Minister, must submit their application by 31 March 2024. Applications submitted after this deadline will not be considered for the reduction as per Decision No. 25/2023/QĐ-TTg.

(Official Letter No. 4258/TCT-CS dated 24 September 2024 issued by the General Department of Taxation)

Temporary exit suspension for legal representative of enterprise under the tax enforcement

An individual who serves as the legal representative of an enterprise subject to tax enforcement and has not fulfilled its tax payment obligations may face a temporary exit suspension.

However, if the Tax authority has sufficient evidence to determine that the individual is no longer the legal representative of the enterprise under tax enforcement, the temporary exit suspension will not apply to that individual.

(Official Letter No. 4387/TCT-QLN dated 01 October 2024 issued by the General Department of Taxation)



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Corporate Income Tax

Guidance ruling

Accrual expenses for major fixed asset repair

A company has a plan for major fixed asset repairs on a cyclical basis of 2 to 3 years and accrues repair expenses annually. In the final year of the repair cycle, if:

- The actual repair costs exceed the accrued amount, the excess can be deducted as an additional expense.
- Conversely, if the actual repair costs are lower, the difference must be recorded as a reduction in business expenses for the period.

(Official Letter No. 7567 /CTDAN-TTHT dated 19 September 2024 issued by the Da Nang City Tax Department)

Corporate Income Tax (“CIT”) on income from liquidation of collateral assets for loan security

If the value of collateral real estate assets, transferred to a bank due to insolvency, is liquidated at a price higher than the outstanding debt, the company must declare and pay CIT on the excess amount received.

(Official Letter No. 1641/CTDTH-TTHT dated 30 September 2024 issued by the Dong Thap Province Tax Department)

CIT on sponsored funds

Funds received as sponsorships from other organizations, in the form of certification for product and factory standards that are not used for educational, scientific research, cultural, artistic, charitable, humanitarian, or other social activities in Vietnam, are not tax-exempt. The company is required to declare, account for, and pay CIT as per regulations.

(Official Letter No. 4102/TCT-CS dated 17 September 2024 issued by the General Department of Taxation)

Depreciation expenses of fixed assets during the repair period of an inactive factory

Depreciation expenses incurred during the repair and maintenance period of a temporarily inactive factory, which remains non-operational after repairs, are not deductible for CIT purposes. This is because such expenses are not considered to serve the company’s business operations.

(Official Letter No. 2562/CTHNA -TTHT dated 01 October 2024 issued by the Ha Na Province Tax Department)



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Corporate Income Tax

Guidance ruling

Depreciation expenses for machinery used in employee healthcare

The company is permitted to include depreciation expenses of machinery, provided it qualifies as a fixed asset and is installed in a medical room or station for the healthcare of employees working at the company, as deductible expenses for tax calculation purposes.

(Official Letter No. 3943/CTLAN -TTHT dated 05 September 2024 issued by the Long An Province Tax Department)

Employment expenses for expatriates working in Vietnam under an assignment letter

If an expatriate's assignment letter specifies the agreement between the employee and the company regarding their respective rights and obligations as the employment relationship during the assignment period in Vietnam, and the assignment complies with regulations, then the salary

and other related employment expenses paid by the company are deductible for CIT purposes. This is conditional on having a valid labor contract and meeting the criteria outlined in Article 4 of Circular No. 96/2015/TT-BTC.

(Official Letter No. 25781/CTBDU-TTHT dated 23 September 2024 issued by the Binh Duong Province Tax Department)



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Indirect Tax

Guidance ruling

Value-Added Tax (“VAT”) on payment service under a Letter of Credit (“L/C”)

Effective from 01 January 2011, with the enactment of the Law on Credit Institutions No. 47/2010/QH12, the issuance of a L/C is considered a taxable payment service subject to VAT. Banks are required to declare and pay VAT for L/C services in accordance with the VAT regulations and the Law on Credit Institutions.

(Official Letter No. 7568/CTDAN-TTHT dated 17 September 2024 issued by the Da Nang Province Tax Department)

VAT on bank interest income and related input VAT

Interest income from bank deposits is classified as other financial income and is not subject to VAT declaration and payment. The company reports this interest income under item **[32a]** on the VAT declaration form No. 01/GTGT.

Input VAT on goods and services used for activities not subject to VAT declaration and payment is fully creditable if it meets the conditions for creditable input VAT.

(Official Letter No. 53004/CTHN-TTHT dated 26 September 2024, issued by the Hanoi Tax Department)

Regarding invoice issuance for deposit interest income, the Binh Dinh Province Tax Department issued Official Letter No. 3642/CTBDI-TTHT dated 7 October 2024, correcting its earlier response in Official Letter No. 3332/CTBDI-TTHT dated 13 September 2024.

Accordingly, deposit interest income is classified as other financial income and does not require the issuance of an invoice. The company is not required to allocate creditable input VAT related to the bank deposits.

(Deloitte updated the details of Official Letter No. 3332/CTBDI-TTHT dated 13 September 2024 in the [Tax and Customs Newsletter of September 2024](#)).

(Official Letter No. 3642/CTBDI-TTHT dated 07 October 2024, issued by the Binh Dinh Province Tax Department)

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Indirect Tax

Guidance ruling

VAT on the sale of spare parts for agricultural production

The company holds spare parts in inventory that were purchased with a 10% VAT rate. If these parts are classified as specialized equipment for agricultural production by the Department of Agriculture and Rural Development, they will be exempt from VAT. When the company sells these spare parts, the VAT rate on the invoice should be marked as "Non-subject to VAT."

(Official Letter No. 3378/CTBPH-TTHT dated 08 October 2024 issued by the Binh Phuoc Province Tax Department)

VAT rate for unused fuel upon leasing a vessel

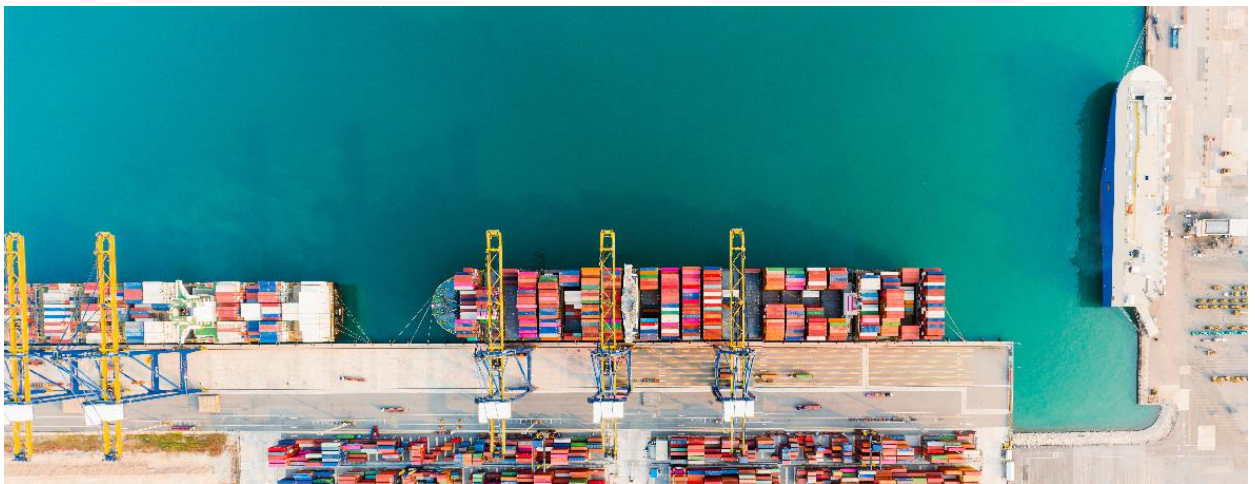
When the company leases a bareboat vessel to another enterprise for international operations, and hands over the vessel along with the remaining fuel on board at the port, it must issue a VAT invoice and apply a VAT rate of 10% for the supply of the unused fuel.

(Official Letter No. 7792/CTNDI-TTHT dated 07 October 2024 issued by the Nam Dinh Province Tax Department)

VAT on imported goods imposed by Customs authority decision

The VAT imposed on imported goods due to an incorrect declaration of the goods code (not involving tax evasion or fraud) is eligible for credit if it meets the stipulated conditions.

(Official Letter No. 4458/CTBNI-TTHT dated 08 October 2024 issued by the Bac Ninh Province Tax Department)



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Personal Income Tax

Guidance ruling

Personal Income Tax (“PIT”) on overseas securities transfers

A foreign employee classified as a Vietnamese tax resident under the Law on PIT who earns income from overseas securities transfers must declare and pay PIT at a rate of 0.1% on the sales proceeds for each transaction as it occurs.

The tax filing documentation must include Form No. 04/CNV-TNCN, as stipulated in Circular No. 80/2021/TT-BTC, and a copy of the securities transfer contract. The deadline for submitting the tax filing is within 10 days from the date the tax obligation arises.

(Official Letter No. 3692/CTLAN-TTHT dated 15 August 2024 issued by the Long An Province Tax Department)

PIT on income from land clearance compensation

Individuals whose land is reclaimed and receive compensation and support according to the approved land clearance compensation plan for residential area projects, supported by proper payment documentation, are exempt from PIT.

However, any additional support provided by the company beyond the approved compensation plan is subject to PIT on real estate transfers at a rate of 2%. The taxable income is determined as the amount of additional support received from the company, excluding the tax-exempt compensation.

Individuals must directly declare their taxes, or an organization or other individual may declare and pay the taxes on their behalf for real estate transfer income as it occurs.

The required tax filing documents include Form No. 03/BĐS-TNCN, a copy of the identification card or passport, a copy of the land use rights certificate, documents proving ownership of housing or structures on the land, with the individual's signed acknowledgment of responsibility for these copies, and the real estate transfer contract.

(Official Letter No. 4382/CTLAN-TTHT dated 03 October 2024 issued by the Long An Province Tax Department)

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Personal Income Tax

Guidance ruling

PIT on abnormal hardship and job loss allowances

Allowances for abnormal hardship and job loss paid to employees who have resigned with labor contracts of 3 months or more, in compliance with the Labor Code and the Law on Social Insurance, are not considered taxable employment income.

However, any portion of these allowances that exceeds the limits specified in the Labor Code and the Law on Social Insurance will be subject to PIT.

(Official Letter No. 4392/CTLAN-TTHT dated 03 October 2024 issued by the Long An Province Tax Department)

PIT on additional allowance for employees upon resignation

Additional allowances paid as part of a labor contract termination agreement between the company and the employee, which are not classified as severance pay, job loss allowances, unemployment benefits, or other allowances according to the Labor Code and the Law on Social Insurance, are subject to PIT. The company will withhold PIT from this income as follows:

- If the allowance is paid while the employee is still working at the company (i.e., the labor contract has not yet been terminated), the progressive tax rates will apply.
- If the labor contract has already been terminated and the employee has left the company, a 10% flat rate will be applied as per regulations.

(Official Letter No. 4510/CTBNI-TTHT dated 11 October 2024 issued by the Bac Ninh Province Tax Department)



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Foreign Contractor Withholding Tax

Guidance ruling

Foreign Contractor Withholding Tax for importing the software copyrights with containing equipment

The company entered into a contract with a foreign contractor to purchase software copyrights along with equipment containing the software, which is provided in Vietnam as per regulations. The income derived from the software copyright and the software-containing equipment is subject to Foreign Contractor Withholding Tax.

If the foreign contractor does not meet the conditions to directly declare taxes in Vietnam, the paying company is required to withhold, declare, and remit the taxes on behalf of the foreign contractor before making the payment. Specifically:

- VAT: The software copyright, as regulated, is not subject to VAT, whereas the transfer of the software-containing equipment is subject to a 2% VAT.
- CIT: If the contract specifies separate values for the software copyright and the software-containing equipment, the CIT rate applied to the taxable revenue is 1% for the equipment and 10% for the software copyright value.

(Official Letter No. 25581/CTBDU-TTHT dated 18 September 2024 issued by the Binh Duong Province Tax Department)



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Trade & Customs

New regulations

List of HS codes for imported foods subject to safety inspection from 02 November 2024

The Minister of Health has issued the List of foods, food additives, and food-related implements, packaging, and containers, assigned HS codes according to Vietnam's Nomenclature of Exports and Imports ("the List").

These items will require safety inspection under the Ministry of Health's jurisdiction, effective from 02 November 2024.

Key points for applying the List:

- In cases of discrepancies or inconsistencies in the classification or determination of HS codes for items on the List, the determination will follow customs regulations.
- For foods, food additives, and food-related packaging and containers not listed or assigned HS codes, the HS code determination will follow customs regulations. After customs clearance, importers must submit a request to the Ministry of Health (Vietnam Food Safety authority) for potential updates to the List.
- Safety inspections for imported items on the List will be conducted in accordance with Article 40 of the Law on Food Safety and Article 16 of Decree No. 15/2018/ND-CP.
- Goods not included in the List but failing to meet requirements during inspections, or those subject to warnings from Vietnamese authorities, foreign authorities, or manufacturers, will undergo tightened inspection procedures as specified in points b and c, clause 3, Article 17 of Decree No. 15/2018/ND-CP.

- Certain imported foods may be exempt from or not subject to food safety inspections under specific conditions.

This Circular is effective from 02 November 2024 and supersedes Circular No. 28/2021/TT-BYT dated 20 December 2021.

(Circular No. 15/2024/TT-BYT dated 19 September 2024 issued by the Ministry of Health)

Issuance of the List of waste, scrap subject to suspension of temporary import, re-export, and transshipment

The Ministry of Industry and Trade has issued the List of waste and scrap that are subject to suspension of temporary import, re-export, and transshipment, effective from 01 January 2025 to 31 December 2029.

This list does not apply to transshipment activities where goods are directly transported from the exporting country to the importing country without passing through a Vietnamese border checkpoint.

(Circular No. 18/2024/TT-BCT dated 08 October 2024 issued by the Ministry of Industry and Trade)

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Trade & Customs

Guidance ruling

Update on the List of countries and territories with most-favored-nation status in trade relations with Vietnam

According to the General Department of Customs, Comoros and Timor-Leste are new members of the World Trade Organization (WTO), having joined on 21 August 2024 and 30 August 2024, respectively.

In accordance with Article 3 of the Law on Import and Export Duties No. 107/2016/QH13, goods imported into Vietnam that originate from Comoros and Timor-Leste will be eligible for the most-favored-nation (MFN) tariff rates starting from 21 August 2024 for Comoros and from 30 August 2024 for Timor-Leste.

The General Department of Customs has also implemented the country codes for these two nations within the VNACCS/VICS system to facilitate the declaration of MFN tariff rates on customs declarations.

(Official Letter No. 4606/TCHQ-TXNK dated 26 September 2024 issued by the General Department of Customs)

Import duties refund for goods imported under import rights of an export processing enterprise (“EPE”) and then re-exported

The General Department of Customs provides guidance on import duty refunds for goods imported under the import, export, and distribution rights of an EPE, which are then sold abroad or to another EPE, as follows:

For Import Duty:

- If an EPE imports goods under its import rights but later re-exports the goods to a foreign country or a non-tariff zone (provided the goods have not been used, processed, or altered), the Customs authority may consider a refund of the import duty, and the goods will not be subject to export duty.
- The procedures and documentation required for the import duty refund are governed by Article 34 of Decree No. 134/2016/ND-CP.

For VAT:

- If the company imports goods under its import rights, pays the applicable import VAT in full, and then re-exports the goods to return them to the original foreign owner, any overpaid VAT will be handled following the instructions in Official Letter No. 1453/TCHQ-TXNK dated 14 March 2019.
- If the goods are exported for sale to a foreign country or to a non-tariff zone under export rights, the company should contact the Tax authority for guidance on handling the previously paid VAT.

(Official Letter No. 4610/TCHQ-TXNK dated 26 September 2024 issued by the General Department of Customs)

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