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Newsletter
Tax & Customs

September 2024





We are thrilled to announce that Deloitte Vietnam has been crowned the prestigious award of "**Vietnam Tax Firm of the Year**", for the **fourth consecutive year**, at **the ITR Asia Pacific Tax Awards 2024** which took place in London on 18 September 2024. This award is testament to the hard work of our team and their unwavering commitment to excellence.

At Deloitte, we always strive to provide our clients with the highest level of service quality and expertise. The award is a recognition of our consistent dedication to delivering exceptional results and assisting our clients to navigate the increasingly complex tax environment with greater confidence.

We would like to extend our heartfelt gratitude to our clients for the trust and support for our service that has driven us to this remarkable achievement. We are honored and humbled to have been chosen as your trusted tax partner, and we remain committed to exceeding your expectations in the years to come.

We are excited about the future as we continue to raise the bar for excellence in taxation.

For more information about how we can assist you with your tax needs, please visit our website or contact our office directly.

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Contact

Website: deloitte.com/vn

Email: deloittevietnam@deloitte.com

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ITR ASIA-PACIFIC TAX
AWARDS 2024

Vietnam Tax Firm of the Year



Tax Administration

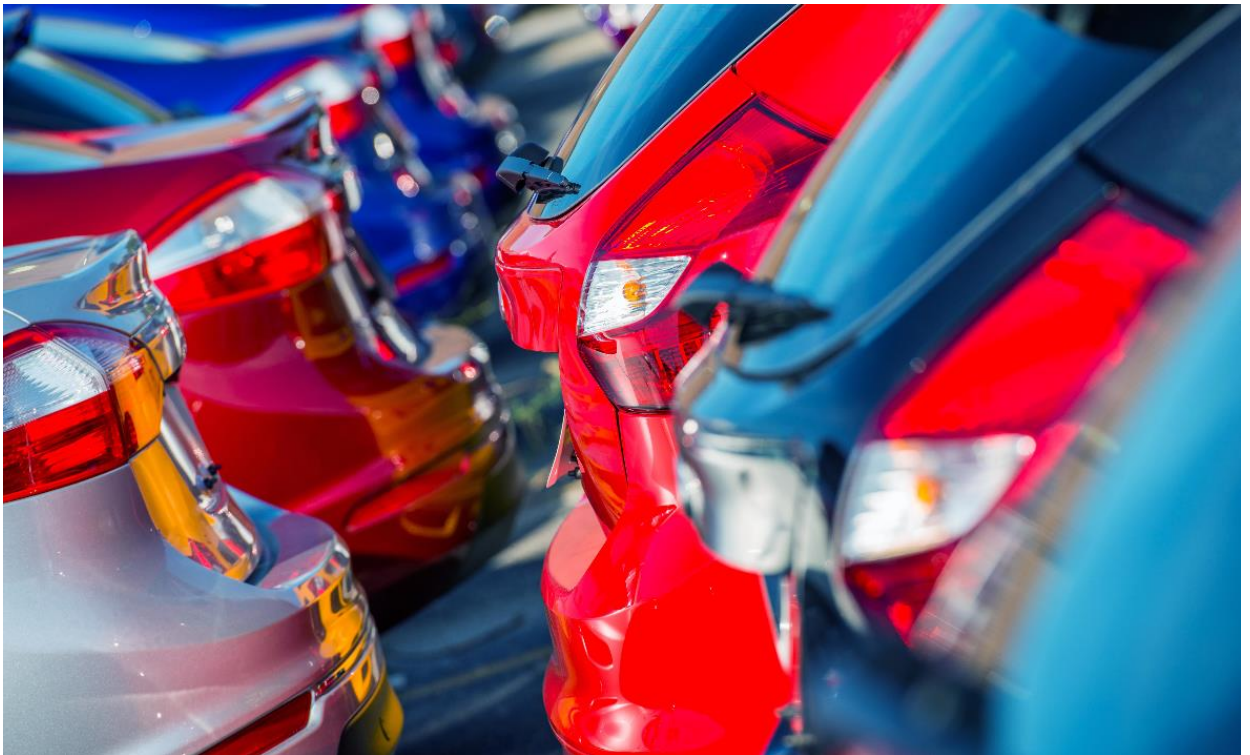
New regulation

50% reduction of registration fees from 01 September 2024 to 30 November 2024

On 29 August 2024, the Government issued Decree No. 109/2024/ND-CP, detailing the registration fee rates for cars, trailers, or semi-trailers towed by cars and similar vehicles manufactured and assembled domestically. Specifically:

- **From 01 September to 30 November 2024:** the registration fees will be reduced to 50% of the rates specified in current regulations;
- **From 01 December 2024 onwards:** the registration fees will revert to the rates specified in the current regulations.

(Decree No. 109/2024/ND-CP dated 29 August 2024 issued by the Government)



Contact

Website: deloitte.com/vn

Email: deloittevietnam@deloitte.com

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Tax Administration

Guidance ruling

Tax payment extension for organizations, individuals, enterprises affected by storm No. 3 and subsequent floods

On 13 September 2024, the General Department of Taxation issued Official Letter No. 4062/TCT-CS providing guidance to provincial Tax authorities in Northern provinces on supporting organizations, individuals and enterprises affected by storm No.3 and subsequent floods. The following key points are highlighted:

Tax payment extension: Consideration of tax payment extension requests based on taxpayers' applications.

Extension period:

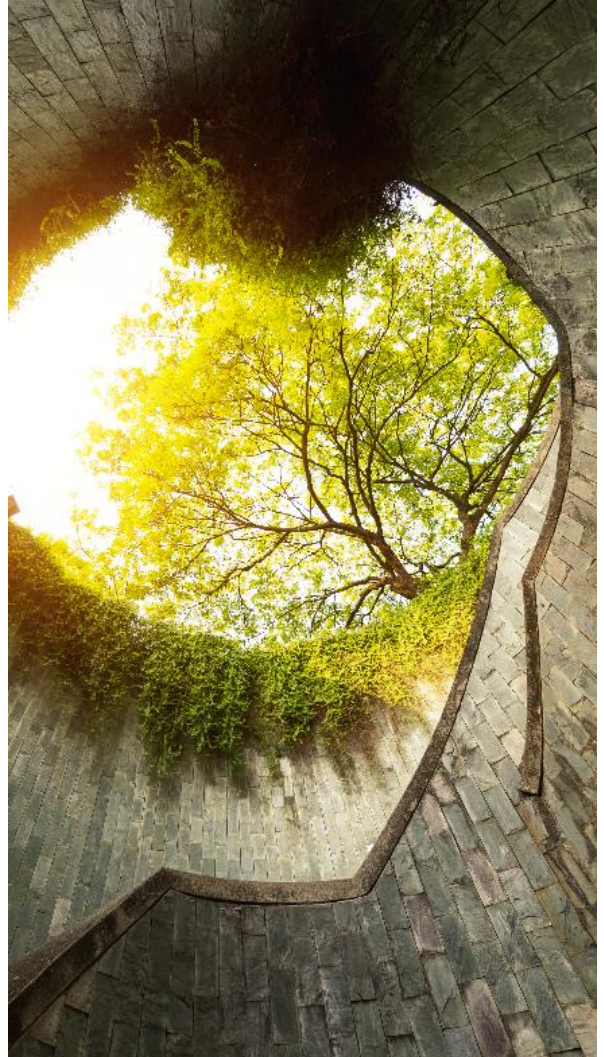
- **Up to 02 years** from the original tax payment deadline for taxpayers suffering material damages directly impacting production and business operations due to force majeure;
- **Up to 01 year** from the original tax payment deadline for taxpayers forced to cease operations due to relocation of production and business establishments as required by competent authorities, impacting production and business results;
- Taxpayers will not be subject to penalties or late payment interests on the tax debt during the extension period.

The head of local Tax authorities will decide the tax amount and extension period based on the tax payment extension dossier.

Tax payment extension dossier:

- A written request for tax payment extension, clearly stating the reason, tax amount, and payment deadline; and
- Documents proving the reason for the tax payment extension.

(Official Letter No. 4062/TCT-CS dated 13 September 2024 issued by the General Department of Taxation)



Contact

Website: deloitte.com/vn

Email: deloittevietnam@deloitte.com

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Corporate Income Tax Guidance ruling

Building construction expenses on the repossessed land

According to Official Letter No. 2636/CTHPH-TTHT issued by the Hai Phong Tax Department on 08 July 2024, a company that is in the investment phase of a project; not yet commenced business operations; but is required to terminate activities following a decision from the Department of Planning and Investment and return the land due to non-utilization or delays in land use; is not permitted to declare input Value-Added Tax ("VAT") related to the project. Additionally, construction expenses are not deductible for Corporate Income Tax ("CIT") calculation purpose.

(Official Letter No. 2636/CTHPH-TTHT dated 08 July 2024 issued by the Hai Phong City Tax Department)

Difference between the capital transfer price and the revalued asset value of the company upon merger

When a company is fully acquired by another company, and subsequently the parent company is merged into that company, the difference between the transfer price for the acquisition and the revalued assets value of the acquired company upon the merger is considered as other income for CIT calculation purpose.

(Official Letter No. 3872/TCT-CS dated 30 August 2024 issued by the General Department of Taxation)

CIT incentive for the income earned from importing machinery from an affiliate with the non-payment term

Income derived from importing a batch of machinery and equipment from an affiliated company under a non-payment term and generated within an incentivized location due to the establishment of a new investment project, may be eligible for CIT incentive.

(Official Letter No. 6187/CTBGI-TTHT dated 30 August 2024 issued by the Bac Giang Province Tax Department)



Contact

Website: deloitte.com/vn

Email: deloittevietnam@deloitte.com

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Indirect Tax

Guidance ruling

Missing input invoices for the tax refund period audited by Tax authorities

If a company identifies input invoices that were missing during a tax refund period that has already been audited by the Tax authorities, the following points should be noted:

- In principle, missing input invoices must not be declared in the tax period when issues were identified; instead, they should be declared in the period when the invoices were originally incurred. Additionally, the amendment must not increase the creditable tax amount after the audit conclusion at the company's head office.
- Therefore, missing input invoices of the tax period that has been audited for the refund must not be declared in subsequent periods, nor in the amended tax declaration of the audited period for the refund.

(Official Letter No. 3026/CTBDI-TTHT dated 19 August 2024 issued by the Binh Dinh Province Tax Department)

VAT refund for expansion investment projects

If a company has received a VAT refund for an expansion investment project that was not in accordance with regulations, but continues to meet the criteria for VAT creditability, it is required to file a supplementary tax declaration to reflect the creditable tax amount in Item No. 38 of the VAT declaration form No. 01/GTGT for the tax period corresponding to the receipt of the Tax authorities' decision on the withdrawal of the tax refund.

(Official Letter No. 7693/CTHDU-TTHT dated 06 September 2024 issued by the Hai Duong Province Tax Department)

VAT for business activities of commission agents

A company acting as an intermediary for the provision of extended warranty service packages related to terminal equipment must issue invoices at a VAT rate of 10%, declare and pay tax as regulated.

The company shall declare input VAT for goods received from the principal, where the invoice is issued under the company's name. Upon selling goods to customers, the company must issue invoices and declare output VAT accordingly.

(Official Letter No. 2863/CTBPH-TTHT dated 19 August 2024 issued by the Binh Phuoc Province Tax Department)

Contact

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

Email: deloittevietnam@deloitte.com

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Indirect Tax

Guidance ruling

Payment vouchers not accepted after tax audit conclusion

A company that supplements payment vouchers after undergoing a tax inspection, in which the Tax authority concluded that input VAT related to export revenue without supporting payment vouchers was deemed non-creditable (or non-refundable), is not allowed to make any amendments that would increase the amount of creditable and refundable VAT previously determined as ineligible by the Tax authority.

(Official Letter No. 3244/CTBDI-TTHT dated 09 September 2024 issued by the Binh Dinh Province Tax Department)

VAT of dependent accounting branches and investment projects

For dependent accounting branch located in the same province as the head office, VAT must be centrally declared at the company's head office.

Upon completion of the investment project, the company is permitted to transfer the input VAT related to the investment project from Form No. 02/GTGT to the VAT declaration for production and business activities in form No. 01/GTGT. It should not be transferred to Form No. 01/GTGT of the dependent accounting branch in the same province as the head office. The transferred VAT can be credited in the next period, provided it meets the prescribed creditable conditions.

(Official Letter No. 6816/CTQNA-TTHT dated 19 August 2024 issued by the Quang Nam Province Tax Department)

Invoice issuance to the bank for term deposit interest

A company depositing cash in a term deposit at a bank and receiving quarterly interest is required to issue an invoice to the bank for the term-deposit service. The invoice must be issued at the time when the bank pays the interest to the company, as specified in the contract.

(Official Letter No. 3332/CTBDI-TTHT dated 13 September 2024 issued by the Binh Dinh Province Tax Department)

Contact

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

Email: deloittevietnam@deloitte.com

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Personal Income Tax

Guidance ruling

Personal Income Tax (“PIT”) on vacation expense for employees

Vacation expenses for employees, where the conditions and levels of entitlement are specifically stated in CIT-regulated documents and the beneficiaries' names are specified, are subject to PIT.

If the vacation expenses are paid collectively for employees without specifying the beneficiaries' names, these expenses are exempt from PIT.

(Official Letter No. 24530/CTBDU-TTHT dated 04 September 2024 issued by the Binh Duong Province Tax Department)

PIT on work permit, temporary residency card and visa fees for foreign employees

Expenses related to the application of work permits for foreign employees, which are necessary for their qualification to work in Vietnam and are considered the company's responsibility (not the employee's benefit), are not subject to PIT.

However, expenses related to the preparation of temporary residence cards and visas for foreign employees, if paid by the company on behalf of the employee, are subject to PIT as regulated.

(Official Letter No. 6121/CTBGI-TTHT dated 28 August 2024 issued by the Bac Giang Province Tax Department)

PIT on insurance expenses for employees who are not subject to compulsory insurance

Additional compulsory social insurance and health insurance expenses, paid for employees who are not subject to contribute to compulsory social insurance and health insurance, as stipulated in the signed labor contract, are taxable for PIT calculation purposes in the period they are paid.

The company must amend PIT payable for any incorrect declarations related to tax periods in which the company has withheld social insurance for foreign employees who have reached retirement age.

(Official Letter No. 3813/CTLAN-TTHT dated 26 August 2024 issued by the Long An Province Tax Department)

Contact

Website: deloitte.com/vn

Email: deloittevietnam@deloitte.com

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Foreign Contractor Withholding Tax

Guidance ruling

Tax code registration for foreign contractors with a project management office in Vietnam

The project management office, established by a foreign contractor who is licensed to perform construction activities under a contractor agreement, is required to register a tax code for the foreign contractor in Vietnam. This tax code must be used to declare and pay the foreign contractor withholding tax in accordance with regulations.

(Official Letter No. 8196/CT-TTHT dated 11 September 2024 issued by the Thanh Hoa Tax Department)



Contact

Website: deloitte.com/vn

Email: deloittevietnam@deloitte.com

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Trade & Customs

Guidance ruling

Difference in HS codes declared in import customs declaration due to changes in HS version

Regarding differences in HS codes between those declared in the Certificate of Origin (“C/O”) issued by Japan and those in the import customs declaration, the General Department of Customs provides the following guidance:

- If the difference in HS code arises because the HS code stated in the C/O uses an older version (HS 2007, HS 2012, or HS 2017), while the HS codes declared in the import customs declaration use HS 2022: Provincial customs departments may consider accepting the C/O, provided there are no suspicions about the validity of the C/O.
- Otherwise: provincial customs departments should follow the guidance provided in Article 16 of Circular No. 33/2023/TT-BTC dated 31 May 2023 and Official Letter No. 2011/TCHQ-GSQL dated 09 May 2024.

(Official Letter No. 3808/TCHQ-TXNK dated 09 August 2024 issued by the General Department of Customs)

Supplementation of the Compendium of Classification Opinions of World Customs Organization (“WCO”)

The General Department of Customs announced that certain goods, classified by the WCO and are expected to be included in the 2028 edition of the Compendium of Classification Opinions, will serve as a reference for the classification of goods exported and imported in accordance with the Vietnam Nomenclature of Exported and Imported Goods.

During application, in cases of inconsistency between the Vietnamese and English descriptions of goods, the English description will prevail.

(Official Letter No. 3828/TCHQ-TXNK dated 12 August 2024 issued by the General Department of Customs)

Contact

Website: deloitte.com/vn

Email: deloittevietnam@deloitte.com

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Trade & Customs

Guidance ruling

Notification on the upgrade of the C/O Issuance system operated by the China Council for Promotion of International Trade (“CCPIT”)

Key points from a notification issued by the competent C/O issuing authority of China, regarding the C/O Issuance system by the CCPIT are as follows:

- The reference number of C/O issued by CCPIT will continue to follow the old format of 16 digits.
- From 01 September 2024, CCPIT will issue C/O under the new version, with the reference number being modified to 17 digits. The authenticity of C/O issued under the new version can be verified through the website: <http://check.ecoccpit.net>.

During the transition period, Vietnam Customs authorities will accept C/O with reference numbers issued under both the old and new versions.

This guidance replaces the instructions provided in Official Letter No. 3336/TCHQ-GSQL dated 09 July 2024.

(Official Letter No. 3853/TCHQ-GSQL dated 14 August 2024 issued by the General Department of Customs)

Guidance on outsourced-processing of export processing enterprise (“EPE”) by domestic enterprises

Regarding customs procedures: A domestic enterprise hired by an EPE to process and recycle scrap obtained during production for reuse purposes must follow customs procedures in accordance with regulations on processing for foreign traders. The EPE is not required to follow customs procedures but must maintain and provide documents related to the processing and production of exported goods.

Regarding customs duties: When a domestic enterprise (not located in a free trade zone) exports goods from the domestic market to an EPE, the goods are subject to export duty.

When a domestic enterprise (not located in a free trade zone) imports goods from an EPE into the domestic market, the goods are subject to import duty.

(Official Letter No. 3946/TCHQ-TXNK dated 19 August 2024 issued by the General Department of Customs)



Contact

Website: deloitte.com/vn

Email: deloittevietnam@deloitte.com

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Trade & Customs

Guidance ruling

Handling import duty-exempted goods when there is a change of usage purpose

Regarding customs procedures to transfer investment projects with import duty-exempted goods: If an enterprise fails to notify Customs authorities prior to transferring goods and the transferee does not register a new customs declaration with the Customs authorities, the transferred goods are not eligible for continued import duty exemption as regulated.

Regarding the obligation of import duty payment for re-purposed goods: An enterprise that imports goods exempt from duties and subsequently changes their intended use must register a new customs declaration and ensure full duty payment to the Customs authorities. If the customs duties cannot be collected, the Customs authority may consider imposing administrative penalties or recommend that relevant authorities pursue criminal prosecution if there is evidence of criminal activity.

(Official Letter No. 3931/TCHQ-TXNK dated 19 August 2024 issued by the General Department of Customs)

C/O form E issued by the competent authority in China

Regarding C/O Form E issued by the competent authority in China, the General Department of Customs provides the following guidance:

- China Customs and CCPIT will issue self-printed C/O Form E with electronic signatures and seals for exporters shipping goods to Vietnam and Malaysia, effective from 01 September 2024. Simultaneously, China will continue to issue C/O Form E in the traditional format, with a handwritten signature and ink stamp.
- For verifying the information on C/O Form E, Customs authorities should inspect the details on the electronic C/O Form E by scanning the QR code located at the top right corner of the C/O or by accessing the electronic information website of China Customs or CCPIT.

(Official Letter No. 4082/TCHQ-GSQL dated 26 August 2024 issued by the General Department of Customs)

Contact

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

Email: deloittevietnam@deloitte.com

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Trade & Customs

Guidance ruling

Declaration of special relationships and determination of customs valuation

Determination of special relationship: The enterprise must rely on actual documentation (e.g., master agreements, sales contracts outlining the rights, obligations, and sales conditions between the two parties) to comply with the provisions of Circular No. 39/2015/TT-BTC dated 25 March 2015. If one party serves as the exclusive agent, distributor, or transferee of the other, and this relationship aligns with any of the points from a to h, Clause 1, Article 7 of Circular No. 39/2015/TT-BTC, it is considered a special relationship.

Declaration of customs valuation: Under the "Valuation Classification Code" field in the import declaration, the enterprise must enter:

- Code "6" – Applying the transaction value method where no special relationship exists.
- Code "7" – Applying the transaction value method where a special relationship exists, if it does not affect the declared transaction values.

Inspection and determination of customs value:

- **Customs declarant's responsibility:** The customs declarant is responsible for self-declaring and determining the customs value based on the principles and methods set out for customs valuation. The declarant must ensure the accuracy and truthfulness of the customs value declared and determined and submit/present the required supporting documents as regulated.
- **Customs authority's Role:** If the Customs authority suspects discrepancies, it will inform the customs declarant to prepare the necessary customs documentation, records, and supporting documents for a price consultation. The Customs authority reserves the right to reject or re-evaluate the customs values if sufficient evidence is available.

(Official Letter No. 4088/TCHQ-TXNK dated 26 August 2024 issued by the General Department of Customs)

Contact

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

Email: deloittevietnam@deloitte.com

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Trade & Customs

Guidance ruling

Warehouses, facilities, and EPEs with non-compliant camera systems for customs inspection and supervision requirements

According to a review conducted by the General Department of Customs, the online surveillance camera systems at several warehouses and gathering locations are currently inaccessible for inspection, supervision, and control as required by customs regulations.

For warehouses and gathering locations: The General Department of Customs requests that provincial Customs authorities inspect all camera systems at warehouses and locations with the provided access addresses. If the camera systems are inaccessible, the managing customs sub-department must instruct the warehouse operators not to allow goods to enter those warehouses and to take corrective measures.

If the operators fail to rectify the issues and ensure that the camera systems meet the customs requirements for inspection and supervision—such as connectivity, accessibility, and data retention time—within 15 days from the notification date, the provincial Customs authorities will report and propose to the General Department of Customs to initiate suspension or termination procedures for the warehouse or location as regulated.

For EPEs: provincial Customs authorities are required to review and notify EPEs with non-compliant camera systems and instruct them to implement surveillance systems that meet the requirements for online connectivity with the Customs authority and data retention time. During the period when the camera systems do not comply with regulations, Customs authorities must strengthen inspection and supervision, increase the level of inspection, and assess risks for subsequent shipments of these enterprises.

Customs authorities should refer to Clauses 3, 4, 5, 6, and 7 of Article 28a of Decree No. 134/2016/ND-CP dated 01 September 2016, as amended by Decree No. 18/2021/ND-CP dated 11 March 2021, to consider applying tax policies for specific cases where an EPE does not meet customs inspection and supervision conditions.

(Official Letter No. 4111/TCHQ-GSQL dated 27 August 2024 issued by the General Department of Customs)



Contact

Website: deloitte.com/vn

Email: deloittevietnam@deloitte.com

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Contact us



Bui Tuan Minh
National Tax Leader
+84 24 7105 0022
mbui@deloitte.com



Thomas McClelland
Tax Partner
+84 28 7101 4333
tmcclelland@deloitte.com



Bui Ngoc Tuan
Tax Partner
+84 24 7105 0021
tbui@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



Tat Hong Quan
Tax Partner
+84 28 7101 4341
quantat@deloitte.com



Vu Thu Ha
Tax Partner
+84 24 710 50024
hatvu@deloitte.com



Dang Mai Kim Ngan
Tax Partner
+84 28 710 14351
ngandang@deloitte.com



Tran Quoc Thang
Tax Partner
+84 28 710 14323
qthang@deloitte.com



Pham Quynh Ngoc
Legal Partner
+84 24 710 50070
ngocpham@deloitte.com

Office

Hanoi Office

15th Floor, Vinaconex Building,
34 Lang Ha Street, Dong Da District,
Hanoi, Vietnam
Tel: +84 24 7105 0000
Fax: +84 24 6288 5678

Ho Chi Minh City Office

18th 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

Contact

Website: deloitte.com/vn

Email: deloittevietnam@deloitte.com

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