



**IC&PARTNERS VIETNAM**

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# TAX NEWSLETTER

JANUARY 2023



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- Increase base salary from 01/07/2023.

➤ *Intellectual Property*

- Law on Intellectual Property (2022)

*Official Letter No. 4368/TCT-CS on processing VAT refund.*

General Department of Taxation issued Official Letter No. 4368/TCT-CS on December 6<sup>th</sup>, 2022 about processing VAT refunds are as follows:

The established company is assigned to be the Employer of a residential construction project. During the implementation, **the Company was refunded VAT by the tax authority** according to decision on tax refund.

After that, due to limited financial capacity to continue the project for sale, **The company applied for dissolution** (no output VAT from the main business activities under the invested project) the **tax authority shall recover refunded VAT of the Company.**

In case of **dissolution, liquidation for project transfer,** the Company **declared and paid output VAT,** the Company **is entitled to deduct the corresponding input VAT.**

*Legal basis:* Clause 5, Article 18 of Circular No. 219/2013/TT-BTC guiding the implementation of the Value-Added Tax Law and Decree No. 209/2013/ND-CP dated December 18<sup>th</sup>, 2013 of the Government regulating detailing and guiding the implementation of a number of articles of the Value-Added Tax Law, amended and supplemented by the Article 1 of Circular No. 26/2015/TT-BTC

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➤ *Intellectual Property*

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*Official Letter No. 4498/TCT-KK on declaring business license tax.*

General Department of Taxation issued Official Letter No. 4498/TCT-KK on December 2<sup>nd</sup>, 2022 to answer about the registration of business license tax as follow:

For a 100% foreign invested Enterprise (FIE – hereinafter referred to as *the Company*) establishes business locations (warehouses) in a provincial –level area other than province or city where the Company’s head office is located.

**When making business license tax declaration, the Company must send the declaration to the Tax Department where the business locations are located.**

After that, **The Departments of provinces/cities are responsible for guiding the Company to declare and receive and process tax declaration dossiers** in accordance with regulations.

Legal basis: Point k, Clause 1, Article 11 of Decree No. 126/2020/ND-CP dated October 19<sup>th</sup>, 2020 of the Government detailing a number of articles of the Tax Administration Law:

*“1. The place to submit tax declaration dossiers for taxpayers having many activities and doing business in many provincial-level areas at Points a and b, Clause 4, Article 45 of Tax Administration Law is **the tax authority in the locality where they operate other than the province or city** where the head office is located in the following cases:*

*...k) **Licensing fees** shall be declared where the dependent units and business locations are located.”*

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*Official Letter No. 64221/CTHN-TTHT on preferential corporate income tax (CIT) policies for science and technology enterprises.*

Official Letter No. 64221/CTHN-TTHT issued by the Hanoi Tax Department on December 26<sup>th</sup>, 2022, explaining the policy as follows:

In case the Company has been granted the Certificate of Science and Technology Enterprise by the Department of Science and Technology; meeting the conditions specified in Article 2, Circular No. 03/2021/TT-BTC dated January 11<sup>th</sup>, 2021 of the Ministry of Finance, are entitled to CIT incentives for science and technology enterprises, in particular: **04 years tax exemption and 50% reduction of payable CIT for the next 9 years** for income from production activities, trading products formed from scientific and technological results as prescribed in Clause 1, Article 3 of Circular No. 03/2021/TT-BTC.

The period of tax exemption and reduction of CIT for science and technology enterprises shall be counted continuously from date of issuance of the Certificate of Science and Technology Enterprise.

Regarding procedures for implementation of CIT incentives: The company determines by itself conditions for tax incentives, preferential tax rates, tax exemption period, tax reduction, loss amount to be deducted (-) from taxable income to declare and finalize tax by themselves with tax authorities according to provisions of Article 22 of Circular No.78/2014/TT-BTC dated June 18<sup>th</sup>, 2014 by the Ministry of Finance.

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***Official Letter No. 63653/CTHN-TTHT on issuing invoices for goods given, donated, paid instead of salary***

Hanoi Tax Department issued Official Letter No. 63653/CTHN-TTHT on December 22<sup>nd</sup>, 2022 on issuing invoices for goods given, donated, paid instead of salary as follows:

- Invoices and vouchers on the purchase and sale of accumulated points, as guided in Official Letter No. 4631/TCT-CC dated October 10<sup>th</sup>, 2017 issued by the General Department of Taxation. In case of incurring input VAT invoices for purchase of goods and services, the input VAT amount shall be deducted if it meets the provisions of Clause 10, Article 1 of Circular No. 26/2015/TT-BTC.
- In case of giving gifts to employees, the Company must make an invoice when giving gifts according to the provisions of Article 4 of Decree No. 123/2020/ND-CP of the Government.
- Cash or non-monetary benefits other than salaries and wages paid by the Company to employees belonging to taxable incomes on Personal Income Tax (PIT) guided in Clause 2, Article 2 of Circular No. 111/2013/TT-BTC.
- The determination of deductible and non-deductible expense when determining taxable income of CIT shall comply with the guidance in Article 4, Circular No. 96/2015/TT-BTC.



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➤ *Intellectual Property*

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*Official Letter No. 12668/CTHDU-TTHT on VAT policies*

Hai Duong Provincial Tax Department issued Official Letter No. 12668/CTHDU-TTHT dated December 29<sup>th</sup>, 2022 on VAT policies as follows:

The company importing raw materials aboard for production and business for export has paid VAT at the import stage and was refunded VAT in the case of export of goods by the tax authority, including the VAT amount paid at the import stage. However, in the process of production and business, the Company discovered that some imported materials were defected and agreed to return of the shipment to the seller.

In this case, **the tax obligation on the tax declaration has been changed**, so the Company must make **an additional declaration** according Article 47 of the Tax Administration Law No. 38/2019/QH14.

For the amount of **VAT on imported goods** of the consignment corresponding to the amount of goods already returned and **not serving the production and business activities** of the Company and **not serving the production and trading of exported goods won't be tax deduction/refund**.

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*Official Letter No. 20935/CTBDU-TTHT on VAT reduction according to Decree No. 15/2022/ND-CP*

Binh Duong Provincial Tax Department issued Official Letter No. 20935/CTBDU-TTHT on December 23<sup>rd</sup>, 2022 on VAT reduction according to Decree No. 155/2022/ND-CP as follows:

**Goods, Services subjects to the tax rate of 8%** according to Decree No. 15/2022/ND-CP shall be applied until **the end of December 31<sup>st</sup>, 2022** according to provisions of Article 3 of Decree No. 15/2022/ND-CP mentioned above.

**From January 1<sup>st</sup>, 2023, reduction of 8% VAT will no longer be applied. Goods and services that have received tax reduction will be subject to the 10% VAT rate, including contracts, goods sold in 2022 but invoiced in 2023.**

*Legal basis:* Article 3, Decree No. 15/2022/ND-CP stipulating the tax exemption and reduction policy according to the Nation Assembly's Resolution No. 43/2022/QH15 on fiscal and monetary policies to support the recovery program socio-economic recovery and development stipulated.

*"1. This Decree takes effect from February 1<sup>st</sup>, 2022*

*Article 1: This Decree applies from **February 1<sup>st</sup>, 2022 to the end of December 31<sup>st</sup>, 2022.**"*

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*Official Letter No. 4248/CTBNI-TTHT on contractor tax policies*

Bac Ninh Provincial Tax Department issued Official Letter No. 4248/CTBNI-TTHT on December 27<sup>th</sup>, 2022 on contractor tax policies as follows:

The Parent Company signed a Human Resource Assistance Contract with its subsidiary therefore, the Parent Company sends experts to work in Viet Nam (these experts shan't sign labor contracts with its Subsidiary). According to Circular No.103/2014/TT-BTC guiding the implementation of tax obligations and individuals doing business in Viet Nam or earning incomes in Viet Nam by the Minister of Finance promulgates, **for the expenses paid by the subsidiary during the time the expert come to work in Viet Nam such as airfare, accommodation fee, travel fee, etc., will have to be deducted, declared and paid of contractor tax.**

The Subsidiary **if there is a payment** like airfare **for a service provider that is a foreign company, the income generated in Viet Nam by this foreign company is also subject to contractor tax** in Viet Nam according to Article 1, Circular No. 103/2014/TT-BTC.

When the parent company and foreign company providing air ticket services satisfy the conditions specified in Article 8, Article 14 of Circular No. 103/2014/TT-BTC, they shall register, declare and pay Value Added tax (VAT), Corporate Income Tax (CIT) directly with the Tax Authority. If the above conditions are not satisfied, the Company is responsible for registering, declaring and paying VAT and CIT on behalf of according to the guidance in Articles 12 and 13 of Circular No. 103/2014/TT-BTC.1



*Increase base salary from July 1<sup>st</sup>, 2023*

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➤ *Intellectual Property*

- Law on Intellectual Property (2022)

On the afternoon of November 11<sup>th</sup>, 2022, the National Assembly voted for Resolution No. 69/2022/QH15 on the State budget estimate on 2023 with approval of nearly 91% delegates. Accordingly, the National Assembly **agreed to increase the base salary for civil servants and public employees to VND 1.800.000/month from July 1<sup>st</sup>, 2023**, an increase of 20,8% compared to the current base salary.

Social insurance benefits allowances calculated according to the base salary from July 1<sup>st</sup>, 2023 as follows:

Benefits and allowances calculated according to the base salary	Basic salary month	From 01/07/2023
The level of convalescence and health recovery after being sick for a day	0,3	540.000
One-time child birth or adoption allowance for each child	2	3.600.000
The level of benefits for convalescence and health recovery after one day of maternity	0,3	540.000
One-time allowance when reducing 5% of working capacity;	5	9.000.000
Monthly allowance for 31% working capacity decrease;	0,3	540.000
Service allowance	1	1.800.000
One-time allowance for death due to occupational accident or occupational disease	36	64.800.000
The level of enjoyment for one day of convalescence and health rehabilitation after treatment for an injury or illness at home	0,25	450.000
The level of enjoyment for one day of convalescence and health rehabilitation after treatment for an injury or illness at a specialized facility	0,4	720.000
The lowest monthly pension of employees participating in compulsory social insurance who are eligible for pension	1	1.800.000
Funeral allowance (mandatory social insurance)	10	18.000.000
Monthly survivorship allowance for each relative;	0,5	900.000
Funeral allowance (voluntary social insurance)	10	18.000.000

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- **Law on Intellectual Property (2022)**

*Law on Intellectual Property 2022 is officially effective from January 1, 2023 with many new points*

The revised Law on Intellectual Property 2022 (IP Law) officially took effect from January 1<sup>st</sup>, 2023 with many new points:

- ❖ Amending and supplementing a number of terms in the Law on Intellectual Property:
  - Change some terminology about derivative works; works, phonograms and video recordings; copying; industrial designs; famous brands.
  - Adding a number of new terms about: royalties, technological measures to protect rights, effective technological measures, information on rights management, communication to the public, confidential inventions, homonymous geographical indications.
- ❖ Additional content about the author, co-author, moral rights of the author
- ❖ Additional exceptions for non-infringement of copyrights
- ❖ Changes in copyright and related rights registration procedures
  - Request additional content on completion time: re-issue
  - Additional declarations made by the author; the owner of the copyright or related right signs or points in the application for registration of copyright or related rights.
  - Adding the form of submitting documents through the online public service portal.
- ❖ Supplementing the right to register as a result of scientific and technological tasks using the state budget.



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## INTRODUCTION

IC&Partners Vietnam Co., Ltd. is a member of IC&Partners S.p.A in Italy, specializing in providing services on Tax Agent, Tax Consulting, Transfer Price Documentation Consulting, Corporate Consulting, and other support related to the day-to-day operations of the business. We have many years of experience in providing services for the field of consulting in general and tax consulting in particular for multinational corporations of different nationalities such as Korea, Japan, Italy, Germany, Singapore ... not only in Vietnam but also in many other countries around the world.

Currently, regulations and policies of the Tax Authority are increasingly strict while the Enterprises cannot anticipate possible risks because they have not yet grasped the current legal regulations.

We are pleased to serve you with the following services:

- Tax Agent (Quarterly Tax Report, Annual Tax Finality)
- Tax risk review
- Supporting the procedures for establishing, closing the Company
- Refund of VAT and PIT
- Consulting on preparing transfer pricing documentation
- Procedures for dealing with tax problems (tax exemption, reduction, penalty, etc.)
- Consulting services, support on management and other administration

With the strength of quality and prestige, IC&Partners Vietnam is confident to bring the most satisfaction to customers when coming to us.

*Sincerely thank you!*

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