



IC&PARTNERS VIETNAM

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TAX NEWSLETTER

MARCH 2023



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Ministry of Finance (MOF) proposed extension for tax payment time limit in 2023

In order to support enterprises and individuals to overcome difficulties in 2023, maintain production and business for the budget/capital balance, the Ministry of Finance supposed that it is necessary to have extension of tax payment period.

Accordingly, MOF proposes to continue extension of value added tax (VAT), corporate income tax (CIT), personal income tax (PIT) payment period to subjects pursuant to Article 3 Decree 34/2022/ND-CP, except "Credit institutions, foreign bank branches supporting customers who are enterprises, organizations and individuals affected by Covid-19 epidemic according to regulations of the State Bank of Vietnam ".

The deadline for payment of **Value-Added Tax payable from January to May and in the first quarter should be extended by six months, from June and in the Second quarter by five months.** The extension period shall be calculated from end of VAT payment deadline as prescribed by Law.

The Ministry proposed **a three-month extension for payment of Corporate Income Tax (CIT) payable in the first and the second quarter** in 2023 from end of deadline for paying CIT in accordance with the law

For Individual business, households, payment of **Personal Income Tax (PIT) payable in 2023 should be deferred to no later than 30 December 2023.**

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Official Letter No. 3749/CTHDU-TTHT on invoice when liquidating assets of export processing enterprises (EPE)

Hai Duong Tax Department issued Official Letter No. 3749/CTHDU-TTHT on invoice when liquidating the assets of export EPE dated March 13th, 2023 as follows:

❖ **Using invoice of asset liquidation**

The EPE has mean of transport which are bought in country, the Company does not declare customs procedures and is subject to tax for domestic enterprises. In case the Company liquidates this asset into the domestic market, the company **shall carry out customs procedures as prescribed in Circular No. 39/2018/TT-BTC.** The Company **uses sale invoices, and the content:"For organizations and individuals in the non-tariff area"** shall be clearly stated on the invoice.

❖ **For Registration fee**

In case the organization or individual purchases the assets which are subject to registration fee, the registration fee shall be **paid when registering ownership and usage rights to the competent state agencies.**

❖ **Legal basis**

- Article 79 Circular No. 38/2015/TT-BTC amending, supplementing in clause 55 Article 1 Circular No. 39/2018/TT-BTC
- Clause 2 Article 8 Decree No. 123/2020/ND-CP
- Article 4 Decree No. 10/2022/ND-CP

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Official Letter No. 3582/CTHDU-TTHT on tax policies for factory rental expenses

Official Letter No. 3582/CTHDU-TTHT issued by Hai Duong Tax Department dated March 07th 2023 on tax policies for factory rental expenses as follows:

In case the company has signed a factory rental contract (which has been approved by the provincial People's Committee to extend the rental terms for the factory), **the invoicing time for factory leasing activity is the completing providing service time which is not based on whether the payment of the invoiced amount is made or not.**

In case the Lessor received rentals before or during rental period, **invoice date shall be date of money receipt pursuant to Decree No. 123/2020/ND-CP dated on October 19th 2020.**

If the **factory rental expenses** for production and trading of export goods, compliance with the conditions specified in Articles 14, 15, 16 Circular No. 219/2013/TT-BTC and Article 4 of Circular No. 96/2015/TT-BTC shall be **deducted/refunded input VAT for the production and trading of goods for export and is included in deductible expenses for CIT.**



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New guidance on value added tax (VAT) shall be come into force from April 14th, 2023

Circular No. 13/2023/TT-BTC dated on February 28th 2023 shall be come into force from April 14th 2023 guiding on value added tax (VAT) as follow:

1. New guidance on Value added Taxable prices for real estate tranfer activities

Value Added Taxable prices for real estate transfer activities shall be guided as prescribed in Clause 1, Article 1 of Decree No. 49/2022/ND-CP.

2. New guidance on determining objects and cases subject to VAT refund for investment projects

Objects and cases subject to VAT refund for investment projects are **business establishments prescribed in Clause 3, Article 1 of Decree No. 49/2022/ND-CP.**

3. New guidance on tax refund dossiers for investment projects

From April 14th 2023, tax refund dossiers for investment projects of establishments with the conditional business activities during the investment period subject to VAT refund shall include additional document compared with the previous prescribed in Clause 2, Article 28 of Circular No. 80/2021/TT-BTC.



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Official Letter No. 8441/CTHN-TTHT on value added tax (VAT) and corporate income tax (CIT) incentives policies for computer programming activities

Hanoi Tax Department issued Official Letter No. 8441/CTHN-TTHT on preferential policy on value-added tax (VAT) and corporate income (CIT) for computer programming activities on March 1, year 2023 as follows:

1. VAT

In case The Company produces software products and software services, **is not the subject to VAT** as prescribed in Clause 21, Article 4, Circular No. 219/2013/TT-BTC.

2. CIT

In case the Company is compliance with regulations on new investment projects pursuant to Clause 18, Article 1 Decree No. 12/2015/ND-CP and is earning income from software production activities, the CIT incentive of the investment project is determined as follows:

- ***Tax rate preferences: 10% tax rate shall be applied for 15 years*** pursuant to clause 1 Article 15 Decree No. 218/2013/ND-CP
- ***Preferential Time of tax exemption or reduction: CIT shall be exempted for four (4), reduction of 50% of tax payable for the next 9 years*** pursuant to clause 1 Article 16 Decree No. 128/2013/ND-CP.

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Official Letter No. 3566/CTHDU-TTHT on tax policies in case of discount of the list price to customers

Hai Duong Tax Department dated Official Letter No. 3566/CTHDU-TTHT on tax policies in case of discount of list price to customers on March 06th 2023 as follow:

If the Company **discounts the list price to customer** when the Customer pay before contractual payment term, **this is not trade discount pursuant to Standard No. 14.**

If the Company **applies trade discount for customer** in which the Company **has discounts to the Customer**, because when the Customer pay before contractual payment term, this is **the financial expenses of the Company to Customers**. Therefore, the Company does not have to make an adjustment invoice; but **shall make payment bill** as prescribed in Clause 1, Article 5 of Circular No. 219/2013/TT-BTC of the Ministry of Finance.

➤ **Legal basis**

- Standard No. 14 issued together with Decision No. 149/2001/QD-BTC dated December 31, 2001 of the Ministry of Finance on the promulgation and announcement of four (4) accounting Standards of Vietnam (phase 1)
- Decree No. 209/2013/ND-CP
- Circular No. 219/2013/TT-BTC

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Official Letter No. 9301/ CTHN-TTHT on the value added tax (VAT) rate

Hanoi Tax Department issued Official Letter No. 9301/CTH DU-TTHT on the value added tax (VAT) rate on March 06th 2023 as follow:

In case the Company completes service provisions and issuance of corresponding invoices after December 31st, 2022, it is not in the case of a VAT reduction under Decree No. 15/2022/ND-CP dated January 28th 2022 of the Government.

In case the **Company issued invoices from February 01st, 2022 to December 31st, 2022 with 8% of VAT rate** pursuant to clause 2 Article 1 Decree No. 15/2022/ND-CP, when any error is found, the Company **shall adjust the error incurred invoice in accordance with Article 19, Decree No. 123/2020/ND-CP dated October 19th, 2020 of Government.**

In case **the Company is paying VAT by deduction method, with goods return under law regulation**, the taxpayers shall issue **VAT invoices as prescribed in Article 4, Decree No. 123/2020/ND-CP dated October 19, 2020 of the Government,** VAT rate of returned goods is corresponding to VAT rate of the goods showing on VAT purchase invoice.

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Official Letter No. 9302/ CTHN-TTHT on declaration of foreign contractor tax

Hanoi Tax Department issued Official Letter No. 9302/CTHN-TTHT on declaration for foreign contractor tax on March 06th 2023 as follow:

In case of foreign organizations, not based in Vietnam (foreign contractor) has income in Vietnam from **securities transfer transactions** (corresponding to shares at joint stock companies) in Hanoi Stock Exchange as prescribed in the Law on Securities shall be the applicable subjects pursuant to Circular No. 103/2014/TT-BTC, specifically:

- VAT: **Securities transferring activities are not the subject to VAT tax** pursuant to point d clause 8 Article 4 Circular No. 219/2013/TT-BTC.
- CIT: Income from securities transferring shall be **complied with instructions in Article 4, 13 Circular No. 103/2014/TT-BTC.**

In case a foreign contractor doesn't meet one of the conditions mentioned in Article 8 of Circular No. 103/2014/TT-BTC, the Vietnam based Party (Securities company, securities issuing organization or place of foreign organization having securities accounts) shall pay FCT on behalf of as prescribed in Circular No. 103/2024/TT-BTC.

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Update Citizen Identity card with chips of taxpayers

After a long time of encouragement and not handling administrative violations for delaying change of Citizen Identity, the Tax Departments have issued a written notice compelling taxpayer to change information according a new Citizen Identity with chip.

➤ **Legal basis:**

- Law on Tax Administration 2019
- Decree No. 125/2020/ND-CP regulating administrative penalties for tax or invoice-related violations
- Circular No. 105/2020/TT-BTC on guidelines for tax registration

In case a taxpayer changes any information in the taxpayer registration form (included information of Citizen Identity Number) must **notify to change the information with direct supervisory tax authorities** pursuant to Article 36 Law on Tax Administration.

In case taxpayer delays to do the notification procedure, they shall be handled as prescribed in Decree No 125/2020/ND-CP.

At present, taxpayers can make a notice of changing tax registration information according to new Citizen Identity with chip by online public service portal page of supervisory tax authorities.

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The prominent contents of limit of the industrial property rights in 2023

Law on Intellectual Property (IP) 2005 amended in 2022 came into force from January 01st, 2023 has new regulations, especially limits of the industrial property rights as followed:

1. What factors are industrial property rights limited?

Pursuant to Article 132 Law on IP, industrial property rights are limited by these factors:

- Right of prior users to inventions or industrial designs.
- Obligations of owners, including:
 - To pay remuneration to the authors of inventions, industrial designs, layout designs;
 - To use inventions or trademarks.
- Transfer of patent using right pursuant to decisions of competent State bodies.

2. Outstanding contents of industrial property rights limit in 2023

In 2023, the outstanding contents of industrial property rights limit specified from Article 133 to 137 Law on IP as follow:

- Right to use inventions in the name of the State
- State's rights for invention, industrial designs, designs of semi-conducting closed circuits are the result of scientific and technological tasks using the state budget
- Right of prior use of inventions and industrial designs
- Obligation to pay remuneration to authors of inventions, industrial designs and layout designs
- Obligation to use inventions and trademarks
- Obligations of the hosting organization with inventions, industrial designs and layout designs, are the result of scientific and technological tasks using the state budget
- Obligation to authorize basic inventions for using dependent inventions



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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!