



**IC&PARTNERS VIETNAM**

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# TAX NEWSLETTER

NOVEMBER 2023



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***The Government approved the National Assembly's Resolution project on reducing Value Added Tax (VAT)***

On November 3, 2023, the Government issued Resolution No. 182/NQ-CP on the National Assembly's Resolution project on VAT reduction.

Accordingly, the Government has approved the National Assembly's Resolution project on VAT reduction as proposed by the Ministry of Finance in Proposal No. 232/TTr-BTC. In the draft Resolution of the National Assembly on VAT reduction, the Ministry of Finance proposed to reduce the VAT rate by 2%, applicable to groups of goods and services currently subject to 10% VAT (to 8%).

Except for some following groups of goods and services: telecommunications, information technology, financial activities, banking, securities, insurance, real estate business, metals, fabricated metal products, mining products (excluding coal mining), coke, refined petroleum, chemical products, goods and services subject to excise duty.

The application period for the VAT reduction policy is from January 1, 2024 to June 30, 2024.

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*The official application of a new set of criteria in classifying documents and preventing VAT refund fraud*

From October 25, 2023, the application of risk management in classifying VAT refund documents will be officially implemented nationwide, an effective tool to prevent tax misappropriation.

Accordingly, the set of criteria indicators and guidelines for applying risk management in classifying VAT refund dossiers and selecting taxpayers to develop post-refund inspection and audit plans are divided into 3 groups:

- **Group I**, group of index criteria for classifying VAT refund applications under the category of inspection before refund.
- **Group II**, group of index criteria for classifying VAT refund applications according to the risk scoring method.
- **Group III**, group of index criteria according to management requirements of tax authorities.

In the first phase of implementation, the General Department of Taxation will run analysis within the set of index criteria including Group I and Group II with the weight of the criteria index being 1 for analysis, classifying risks nationwide.

A number of Group III criteria are considered to classify risks such as: the total number of times an enterprise is sanctioned for tax administrative violations, the registered capital is not enough according to regulations, the enterprise produces but does not have fixed assets, etc.

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*Official Letter No. 4982/CTBNI-TTHT guiding tax policies for real estate transfer and land rental refunds*

On October 26, 2023, the Tax Department of Bac Ninh province issued Official Letter No. 4982/CTBNI-TTHT guiding tax policies for real estate transfer activities and land rental refunds as follows:

VAT rate for transferred assets attached to land is determined according to the current tax rate for each type of goods and services, as prescribed in Article 9 and Article 11 of Circular No. 219/2013/TT-BTC.

In case the Company transfers assets attached to land, it is determined to be a transfer activity of real estate according to the provisions of Clause 2, Article 16 of Circular No. 78/2014/TT-BTC. The Company fulfills its VAT and corporate income tax (CIT) obligations for out-of-province real estate transfer activities as follows:

- **Regarding VAT:** The Company declares and submits VAT returns according to form No. 05/GTGT issued under Circular No. 80/2021/TT-BTC and pays VAT according to VAT-exclusive revenue for real estate transfer multiplied (x) by 1% to the tax authority in the province where the transferred real estate is located according to Clauses 2 and 3, Article 13 of Circular No. 80/2021/TT-BTC. The Company should synthesize VAT-exclusive revenue from real estate transfer into the tax declaration file at the head office to determine the tax payable for all production and business activities at the head office. The VAT payable in the province where the transferred real estate is located is offset against the VAT payable at the head office.

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*Official Letter No. 4982/CTBNI-TTHT guiding tax policies for real estate transfer and land rental refunds*

- **Regarding CIT:** The Company declares and pays CIT for the real estate transfer according to the taxable revenue of the real estate transfer multiplied (x) by 1% to the tax authority in the province where the transferred real estate is located as guided in Clause 2, Article 17 of Circular No. 80/2021/TT-BTC. The Company declares the annual CIT finalization for the entire real estate transfer according to Form No. 03/TNDN, determines the CIT payable in the province where the real estate transfer takes place in Appendix 03-8A/TNDN issued together with Circular No. 80/2021/TT-BTC for the supervisory tax authority as prescribed in Clause 3, Article 17 of Circular No. 80/2021/TT-BTC.

Regarding provisional CIT: The total amount of provisional CIT paid in 04 quarters shall be at least 80% of the CIT payable under the annual tax finalization dossier as prescribed in Clause 3, Article 1 of Decree No. 91/2022/ND-CP.

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***Official Letter No. 15257/CTHDU-TTHT guiding tax policies for dependent production branches***

On November 2, 2023, Tax Department of Hai Duong province issued Official Letter No. 15257/CTHDU-TTHT guiding tax policies for dependent production branches as follows:

**1. For VAT**

In case the branch of the Company is a production facility, the branch performs VAT allocation according to Clause 1, Article 13 of Circular No. 80/2021/TT-BTC. The Company declares, calculates, allocates, and pays VAT as specified in Clause 2, Clause 3, Article 13 of Circular No. 80/2021/TT-BTC.

**2. For CIT**

In case the branch of the Company is a production facility, the branch performs CIT allocation according to Clause 1, Article 17 of Circular No. 80/2021/TT-BTC. The Company declares, calculates, finalizes, allocates, and pays CIT as prescribed in Clause 2, Clause 3, Article 17 of Circular No. 80/2021/TT-BTC and Clause 3, Article 1 of Decree No. 91/2022/ND-CP.

**3. For PIT**

In case the Company pays salaries and remunerations for employees working at dependent units, the Company declares and pays tax according to Article 19 of Circular No. 80/2021/TT-BTC. The Company is responsible for declaring tax finalization on behalf of individuals who authorize the Company, regardless of whether tax deductions arise or not.

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***Official Letter No. 27077/CTBDU-TTHT on monetary policy and Value Added Tax (VAT)***

On November 6, 2023, Tax Department of Binh Duong Province issued Official Letter No. 27077/CTBDU-TTHT on monetary policy and VAT as follows:

In case export processing enterprises selling goods to the domestic market (export or entrusted export to the domestic market) are not allowed to use foreign currency in Vietnam. Therefore, all transactions, payments, quotations, valuations, and prices in contracts of export processing enterprises when selling goods to the domestic market should not be made in foreign currency.

In case the seller of the Company is an export processing enterprise, the seller is allowed to sell goods to domestic enterprises according to regulations, the seller should have a separate accounting book and register with the tax authority to declare and pay VAT for this activity. The seller bases on the actual situation to apply the VAT rate for each type of goods and services sold according to Article 10 and Article 11 of Circular No. 219/2013/TT-BTC.

➤ **Legal basis:**

- Article 22 of the Foreign Exchange Ordinance 2005 amended and supplemented in Clause 13, Article 1 of the Ordinance amending the Foreign Exchange Ordinance 2013 stipulates the restrictions on the use of foreign currency;
- Clause 12 Article 4 Circular No. 32/2013/TT-NHNN;
- Circular No. 219/2013/TT-BTC;
- Article 26 Decree No. 35/2022/ND-CP.

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***Official Letter No. 27076/CTBDU-TTHT on transfer of capital contributions in subsidiaries***

On November 6, 2023, Tax Department of Binh Duong Province issued Official Letter No. 27076/CTBDU-TTHT on the transfer of contributed capital in subsidiaries as follows:

In case the Company paying VAT according to the credit-invoice method transfers capital invested in a subsidiary:

- Capital transfer activities are not subject to VAT according to the provisions of Article 4 of Circular No. 219/2013/TT-BTC. When invoicing, the content of the invoice is implemented according to the provisions of Article 10 of Decree No. 123/2020/ND-CP, the item “tax rate” should be “KCT” (Non-taxable) according to the instructions in Decision No. 1450/QD-TCT.
- In case the Company generates income from the transfer of capital, this income is determined as other income and declared as taxable income when calculating Corporate Income Tax (CIT). The Company is responsible for determining, declaring the CIT amount from the transfer of capital in the annual CIT finalization and paying to the supervisor tax authority as prescribed in Article 14 of Circular No. 78/2014/TT-BTC, Article 8 of Circular No. 96/2015/TT-BTC mentioned above.



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*Official Letter No. 15692/CTHDU-TTHT on tax policies in  
Personal Income Tax (PIT)*

On November 13, 2023, Tax Department of Hai Duong Province issued Official Letter No. 15692/CTHDU-TTHT on Personal Income Tax (PIT) policy as follows:

In case the Company has signed an indefinite-term labor contract in accordance with the provisions of the Labor Code, now both parties agree to terminate the labor contract but the Company completes the procedures for settlement and payment of salaries and remunerations for the employee after the termination date. Based on the time of paying income to the employee, the taxable income is determined as follows:

- For unused annual leave pay and other amounts paid as wages or remunerations, the Company calculates and withholds PIT according to a progressive schedule before paying to the employee;
- Severance pays and other benefits according to the provisions of the Labor Code are not included in taxable income from employees' salaries and wages;
- For the income that the Company pays to the employee (not stated in the Labor Code) after terminating the labor contract, if the amount is from two million (2,000,000) VND or more, the Company shall withhold PIT before paying according to the instructions in Point i, Clause 1, Article 25 of Circular No. 111/2013/TT-BTC.

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***Proposal to subsidize employees with 2 months' salary for each year of social insurance contribution exceeding regulations***

The draft Social Insurance Law (amended) has proposed increasing one-time benefits upon retirement. Accordingly, employees whose time of paying social insurance is higher than the number of years corresponding to the pension entitlement rate of 75% will be entitled to a one-time benefit in addition to their pension upon retirement.

The one-time benefit is calculated according to the number of years of social insurance contribution higher than the number of years corresponding to the 75% pension rate, for each year of social insurance contribution, it is equal to 0.5 times of the average salary as the basis for social insurance contribution.

In the case of an employee who is eligible for pension and continues to pay social insurance, the one-time benefit for each year of social insurance payment after retirement age is higher than the number of years corresponding to the pension rate of 75. %, is calculated as 2 times the average salary as the basis for social insurance payment.



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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!*