



IC&PARTNERS VIETNAM

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Business Worldwide

TAX NEWSLETTER

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Official Letter No. 1140/TCT-CS recommending fixed asset depreciation expenses

On March 22, 2024, the General Department of Taxation issued Official Letter No. 1140/TCT-CS recommending on fixed asset depreciation expenses as follows:

For **new fixed assets (not used)**, the enterprises must **depend on the time frame for depreciation of fixed assets** specified in Appendix 1 Circular No. 45/2013/TT-BTC to determine the depreciation period of fixed assets.

For **fixed assets that are used** and depreciated, **the depreciation period shall be decreased compared to the frame** specified in Appendix 1 Circular No. 45/2013/TT-BTC and determined based on clause 2 Article 10 Circular No. 45/2013/TT-BTC.

For **fixed assets used**, after purchasing, the enterprise has put into operation and has determined the time of depreciation of fixed assets specified in clause 2 Article 10 Circular No. 45/2013/TT-BTC. During the operation, if the enterprises **want to change the determined time of depreciation of fixed assets, they must plan for the change** based on clause 3 Article 10 Circular No. 45/2013/TT-BTC.

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Official Letter No. 1153/TCT-CS on tax policy for foreign-invested export processing enterprises (EPEs)

On March 22, 2024, the General Department of Taxation issued Official Letter No. 1153/TCT-CS on tax policy for foreign-invested EPEs as follows:

According to the law governing the management of industrial parks and economic zones, if **the EPE sells apartments outside of export processing zones** (also known as non-tariff zones), **it is not considered an export processing activity**. As a result, **the apartments sold are subject to Value Added Tax (VAT) at the rate of 10%**.

For **foreign-invested enterprises that lease land, make a lump sum payment for the whole lease period have the right to transfer or sublease land use rights attached to assets on land** in accordance with the provisions of land law. VAT applied in the case of transfer or sublease of land use rights attached to assets on land of enterprises shall comply with the provisions of the Land Law 2013 as follows:

- In case **the EPE subleases land use rights attached to assets on land to another EPE**, it is **not subject to VAT**.
- In case **the EPE subleases land use rights attached to assets on land to an enterprise that is not an EPE**, it is **subject to the 10% VAT rate**.

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Official Letter No. 9817/CTBDU-TTHT on corporate income tax (CIT) incentives for expansion investment projects

On April 03, 2024, Tax Department of Binh Duong province issued Official Letter No. 9817/CTBDU-TTHT on CIT incentives for expansion investment projects as follows:

1. For enterprises that increase capital for investment in development and expansion of production scale of investment projects currently operating in industrial parks that are not located in advantaged areas

If the project of the enterprise meets one of the three criteria for the expansion investment project specified in Clause 4, Article 10, Circular No. 96/2015/TT-BTC, the enterprise will select to apply CIT incentives according to the operating project for the remaining time (including preferential rates, reduction, if any) or apply tax exemption or reduction to the increase in incomes from expansion investment (no preferential tax rates) equal to the tax exemption or reduction period applied to new investment projects in the same area with CIT incentives.

If the enterprise chooses to apply tax exemption or reduction period for the additional incomes from expansion investment equal to the tax exemption or reduction period applied to new investment projects in the same area with CIT incentives, the increase in incomes from expansion investment shall be eligible for tax exemption and reduction as prescribed in clause 4, Article 10 Circular No. 96/2015/TT-BTC, Article 6 Circular No. 151/2014/TT-BTC.

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Official Letter No. 9817/CTBDU-TTHT on corporate income tax (CIT) incentives for expansion investment projects

The duration of tax exemption or reduction begins from the first year in which the expansion project is put into operation, and generates incomes. If taxable income is not earned in the first 03 years from the first year in which the expansion project generates revenues, the period of tax exemption or reduction shall begin from the fourth year in which revenue is generated by the project of investment.

The increase in income from expansion investment must be accounted for separately. If the enterprise is not able to separate the increase in income from expansion investment, the income from expansion investment shall be determined according to the ratio of cost of new fixed assets to total cost of fixed assets of the enterprise.

2. For enterprises that increase capital for investment in development and expansion of production scale of investment projects operating in industrial parks located in advantaged areas

In this case, the enterprise is not eligible for CIT incentives as prescribed in Clause 6, Article 1 of Decree No. 91/2014/ND-CP.

Enterprises themselves determine the conditions for tax incentives and CIT incentives to declare and finalize tax with tax authorities.

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Cases of revocation and the procedure for revising Cooperative Registration Certificate (CRC) from July 1st, 2024

On June 20, 2023, the National Assembly promulgates the Law on Cooperatives effective on July 1, 2024 specifies the cases of revocation and the procedure for changing Cooperative Registration Certificate (CRC) as follows:

1. Cases of revocation of CRC

- The application for cooperative or cooperative union registration is found to contain fraudulent information;
- The cooperative or cooperative union is suspended for more than 12 months without notifying the business registration authority and the tax authority;
- The cooperative or cooperative union fails to send reports on its compliance as prescribed in this Law within 12 months from the receipt of the request from the business registration authority;
- The cooperative or cooperative union fails to maintain the minimum number of members as prescribed for a period of 12 consecutive months; fails to meet the requirement regarding the maximum number of members that are foreign-invested organizations and individuals being foreign investors laid down in this Law for a period of 06 consecutive months;
- The cooperative or cooperative union fails to meet the requirement regarding its members' maximum capital contribution laid down in this Law for a period of 12 consecutive months;
- The cooperative or cooperative union fails to convene the annual General Meeting of Members (GMM) for 18 consecutive months from the date of the latest GMM, except force majeure events;
- The revocation is made according to a Court decision or request of a competent authority as prescribed by relevant laws.

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Cases of revocation and the procedure for revising Cooperative Registration Certificate (CRC) from July 1st, 2024

2. Procedure of revisions to CRC

Case 1: A cooperative or cooperative union shall register the revisions to its CRC if there is any change in the information specified in Clauses 1, 2 and 5 Article 45 of Law on Cooperative 2023 or change at least 5% or at least VND 01 billion in its charter capital or when the cooperative or cooperative union undergoes reorganization. The procedure is as follows:

- Within 10 days from the occurrence of a revision to its CRC, the cooperative or cooperative union shall submit an application for registration of revisions to the business registration authority;
- Within 03 working days from the receipt of the application, the business registration authority shall consider the validity of the application and issue the CRC. In case of invalid application, they shall request the applicant in writing to make necessary modifications. If an application is refused, a written notice indicating reasons for refusal shall be given.

Case 2: Procedure for registering revisions to the CRC under a court decision or arbitration award:

- An application for registration of revisions to the CRC shall be submitted within 10 days from the effective date of the court's decision or judgment or arbitration award;
- Within 03 working days from the receipt of the application, the business registration authority shall consider the validity of the application and issue the CRC under the effective court's decision or judgment or arbitration award. In case of invalid application, they shall request the applicant in writing to make necessary modifications. If an application is refused, a written notice indicating reasons for refusal shall be given.

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Conditions for establishing hi-tech parks from March 25, 2024

On February 01, 2024, the Government issued Decree No. 10/2024/ND-CP effective from March 25, 2024 on general conditions for establishing hi-tech parks as follows:

- Conforming with the regional or provincial planning approved by a competent authority;
- Having appropriate scale of area, land use feasibility, and compatible natural conditions;
- Having infrastructure conditions and favorable traffic locations;
- Being capable of linking with highly qualified research and training facilities;
- Having feasible schemes for personnel and professional managers for hi-tech parks;
- Having feasible schemes to mobilize resources for investment in the development of the system of technical and social infrastructures of hi-tech parks, ensuring the capacity for balancing the state budget (if any);
- Having feasible schemes to construct housing areas and public works adjacent to or surrounding hi-tech parks to serve the life of specialists and employees working in such hi-tech parks according to their needs and construction progress of hi-tech parks;
- Satisfying environmental protection conditions according to environmental protection laws;
- Ensuring national defense and security.

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*Criteria for assessing legal compliance for customs declarants from
March 15, 2024*

On January 29, 2024, Ministry of Finance issued Circular No. 06/2024/TT-BTC amending some articles of Circular No. 81/2019/TT-BTC on risk management in customs operation. Accordingly, the assessment of legal compliance for customs declarants from March 15, 2024 will be based on the following criteria:

- *Criteria of a prioritized enterprise* (first-degree compliance) shall comply with Article 10 of Decree No. 08/2015/ND-CP and Circulars of the Minister of Finance on application of priority policies to in customs procedures, customs inspection and supervision for exports and imports of enterprises.
- *Criteria of a highly compliant declarant* (Second-degree compliance) shall comply with Part I, II, III and IV; criteria of a highly compliant enterprise operating ports, warehouses and yards (Second-degree compliance) shall comply with Part V, Appendix II of this Circular.
- *Criteria of a moderately compliant declarant* (Third-degree compliance) shall comply with Part I, II, III and IV; criteria of a moderately compliant enterprise operating ports, warehouses and yards (Third-degree compliance) shall comply with Part V, Appendix III of this Circular.
- *Criteria of a poorly compliant declarant* (Fourth-degree compliance) shall comply with Part I, II, III and IV; criteria of a poorly compliant enterprise operating ports, warehouses and yards (Fourth-degree compliance) shall comply with Part V, Appendix IV of this Circular.
- *Criteria of an incompliant declarant* (Fifth-degree compliance) shall comply with Part I, II, III and IV; criteria of an incompliant enterprise operating ports, warehouses and yards (Fifth-degree compliance) shall comply with Part V, Appendix V of this Circular.

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- **Amending rules of origin in AKFTA**

Circular No. 04/2024/TT-BCT amending rules of origin in ASEAN - Korea Free Trade Agreement (AKFTA)

On March 27, 2024, the Ministry of Industry and Trade issued Circular No. 04/2024/TT-BCT amending Circular Co. 20/2014/TT-BCT stipulating rules of origin in AKFTA as follows:

1. Amendments to regulations on Not Wholly Obtained or Produced Goods

Adding a formula to calculate the regional value content (RVC) according to the direct formula:

$$RVC = \frac{VOM}{FOB} \times 100\%$$

In which, “VOM” means value of originating materials, including the value of originating materials, direct labour cost, direct overhead cost, transportation cost and profit.

2. Amendments to regulations on procedures for issuance and verification of Certificate of origin (C/O)

C/O according to regulations meets the following conditions:

- in a printed format which is manually or electronically signed, stamped and issued directly by the C/O issuing authorities of the exporting Party
- on A4 size paper;
- in the attached Form in Appendix VI-A enclosed with the Circular No. 20/2014/TT-BCT, which is called as C/O Form AK;
- in the English language.



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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
- VAT, PIT refund
- 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!