



IC&PARTNERS VIETNAM

Supporting

Business Worldwide

TAX NEWSLETTER

OCTOBER 2021



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➤ *Taxation - Customs*

- **No VAT refund when converting from an ordinary enterprise to an EPE**
- Tax treatment for goods imported to manufacture for on-spot export

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No Value-added tax (VAT) refund when converting from an ordinary enterprise to an Export Processing Enterprise (EPE)

On September 9, 2021, the General Department of Taxation issued Official Letter No. 3393/TCT-CS guiding the issue of VAT refund for enterprises when transformed into EPEs. Specific content as follows:

In principle, EPEs are not VAT payers so that their investment projects are not eligible for VAT refund.

For enterprises carrying out ownership transformation or enterprise transformation (conversion according to Law on Enterprises), the VAT refund shall comply with Clause 3, Article 13 of Law No. 13/2008/QH12 dated June 3, 2008 (amended and supplemented according to Clause 3, Article 1 of Law No. 106/2016/QH13 dated April 6, 2021) and guiding documents.

The conversion from an ordinary enterprise to an EPE is not under the conversion cases specified in the Law on Enterprises.

Conclusion: *At the time of submitting the application for VAT refund, if the enterprise has turned into an EPE, its investment project is not eligible for VAT refund.*

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Tax treatment for goods imported to manufacture for on-spot export

Official Letter No. 4396/TCHQ-TXNK of the General Department of Customs, issued on September 13, 2021, providing for tax treatment for on-spot imported and exported goods and recommendations for cases of late declaration due to the impact of the Covid-19 pandemic. Specific content as follows:

Principles:

One of the bases for determining that goods imported for processing or production for export are exempt from import duty is that the on-spot exporter must inform the customs authority about the customs declarations of the corresponding on-spot imported goods whose import procedures have been completed within 15 days, from the date of customs clearance for on-spot exported products.

In case of exceeding the above time limit, if the on-spot exporter fails to notify the customs authority on the information of the customs declarations of the corresponding on-spot imported products which have been completed the import procedures, the on-spot exporter must register new customs declarations, declare, and pay tax on imported raw materials and supplies used for production for on-spot export.

In case the enterprise fails to declare and pay tax, the customs authority shall base on the dossier of the specific case to set the tax rate on imported raw materials and supplies used for the production for on-spot export without notifying the information of customs declarations.

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Tax treatment for goods imported to manufacture for on-spot export

Recommendations in the case of late declaration due to the impact of the Covid-19 pandemic

(1) Recommendation for not imposing tax

Recommendation for not imposing tax on on-spot export declarations without corresponding on-spot import declarations beyond the prescribed time limit for enterprises in the isolation period to prevent and control the Covid-19 pandemic is not approved.

For cases of enterprises affected by the Covid-19 pandemic, the processing of tax payment extension shall comply with Article 62 of Law on Tax Administration No. 38/2019/QH14.

(2) Recommendation for not imposing administrative sanctions

The proposal not to impose administrative sanctions for on-spot export declarations without corresponding on-spot import declarations beyond the prescribed time limit for enterprises in the isolation period to prevent and control the Covid-19 pandemic is implemented according to the decision of the competent authority (instructions in Official Letter No. 3569/TCHQ-PC of the General Department of Customs issued on June 3, 2020).



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BUSINESS

New regulations on on-lending of the Government's ODA loans and foreign concessional loans

Decree No. 79/2021/ND-CP of the Government issued on August 16, 2021 amending and supplementing some articles of Decree No. 97/2018/ND-CP dated June 30, 2018 on on-lending of the Government's ODA loans, foreign concessional loans.

According to Clause 3, Article 16 of Decree No. 97/2018/ND-CP on loan security: *"The value of the collateral shall be equal to a minimum of 120% (one hundred and twenty percent) of the original value of an on-lent loan. If the value of the collateral is reduced to be lower than 120 % of the remaining value of the loan, the end borrower shall add another collateral to ensure the above percentage."*

According to Clause 1, Article 1 of Decree No. 79/2021/ND-CP, amending and supplementing Clause 3, Article 16 of Decree No. 97/2018/ND-CP: *"3. The value of the collateral shall be equal to a minimum of 120% (one hundred and twenty percent) of loan balance applied to the enterprises and equal to 100% (one hundred percent) of loan balance applied to the public sector entities. During the implementation of the on-lending, if the value of the collateral decreases lower than the specified level above, the end borrower is responsible for supplementing the collateral to ensure the minimal."*

Thus, the basis for calculating the minimum value of the collateral has been amended from *"the original value of an on-lent loan"* to *"loan balance"*. At the same time, the percentage to calculate the minimum value of the collateral is applied separately for each specific object.

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- **Policies of supporting employees and employers from UI Fund**

Policies of supporting employees and employers from Unemployment Insurance (UI) Fund

On September 24, 2021, the Government issued Resolution No. 116/NQ-CP on policies to support employees and employers affected by the Covid-19 pandemic from the Unemployment Insurance (UI) Fund. Accordingly, the specific contents are as follows:

1. Financial aid for employees paying UI contributions to ease Covid-19 impact from the surplus of UI Fund

❖ *Regulated entities*

- Employees participating in UI till September 30, 2021.
- Employees who have stopped paying UI contributions since their employment contracts have already been terminated within the period from January 1, 2020 to end of September 30, 2021, and whose UI contribution periods are reserved in accordance with the employment law.

❖ *Financial aid amounts*

UI contribution period	Amount (VND/person)
Less than 12 months	1,800,000
From 12 months to less than 60 months	2,100,000
From 60 months to less than 84 months	2,400,000
From 84 months to less than 108 months	2,650,000
From 108 months to less than 132 months	2,900,000
At least 132 months	3,300,000

❖ *Implementation period*

Financial aid is commencing on October 1, 2021 and completed by December 31, 2021 at the latest

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Policies of supporting employees and employers from Unemployment Insurance (UI) fund

2. Reduction in contribution rates to the UI Fund made by employers affected by the COVID-19 pandemic

❖ Regulated entities

Employers prescribed in Article 43 of the Employment listed as those participating in Unemployment Insurance until October 1, 2021

Including: Foreign agencies and organizations and international organizations operating in the Vietnamese territory; enterprises, cooperatives, households, business households, cooperative groups, other organizations, and individuals that hire or employ workers under the labor contracts or working contracts.

❖ Reduction

The employer's contribution rate has been reduced from 1% to 0% of the monthly wage fund for employees who have participated in Unemployment Insurance.

❖ Reduction period

12 months, from October 1, 2021 to September 30, 2022 inclusive.

Resolution No. 116/NQ-CP takes effect from September 24, 2021



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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, the regulations and policies of the Tax Department are increasingly strict while businesses cannot anticipate the risks that may occur due to the lack of grasp of 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
- Consultancy on making transfer price dossiers
- Procedures for dealing with tax problems (exemption, reduction, tax 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!