



IC&PARTNERS VIETNAM

Supporting

Business Worldwide

TAX NEWSLETTER

NOVEMBER 2021



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Some new tax points according to Circular No. 80/2021/TT-BTC

Circular No. 80/2021/TT-BTC dated September 29, 2021 issued by the Ministry of Finance guiding the implementation of the Law on Tax Administration and Decree No. 126/2020/ND-CP. Accordingly, some regulations on tax administration are changed as follows:

1. Value-added tax (VAT)

Pursuant to Clause 1, Article 12 of Circular No. 80/2021/TT-BTC on obligations of taxpayers that do accounting at the headquarter with dependent units and business locations in other provinces different from the headquarters' location: *"Taxpayers operating and doing business in many other province-level areas where taxpayers are headquartered conduct centralized accounting at the headquarter according to Clause 2, Clause 4, Article 11 of Decree No. 126/2020/ND-CP. Taxpayers declare, calculate tax and submit tax declaration dossiers to **directly managing tax authorities** and allocate the payable tax amounts to each province where they have business activities."*

Pursuant to Clause 3, Article 42 of the Law on Tax Administration No. 38/2019/QH14 dated June 13, 2019 on tax declaration and calculation: *"A taxpayer that does accounting mainly at the headquarters and has dependent units in other provinces shall declare tax **in the province in which the headquarters are based** and distribute tax incurred in each province."*

Thus, when allocating tax obligations to dependent units in other provinces, enterprises shall submit tax declaration dossiers to tax authorities directly managing the allocated revenues instead of tax agencies managing head offices.

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2. Corporate Income Tax (CIT)

Pursuant to Section c Clause 2 Article 17 of Circular No. 80/2021/TT-BTC on the allocation of CIT to taxpayers whose dependent units and business locations are production establishments as follows: *“The payable CIT amount in each province where the production establishment is located is equal to (=) the payable CIT amount of production and business activities multiplied by (x) **the ratio (%) of the cost of each production establishment to the total expenses of the taxpayer (excluding expenses of activities entitled to CIT incentives). The cost to determine the allocation rate is the actual cost incurred in the tax period.”***

Pursuant to Article 13 of Circular No. 78/2014/TT-BTC dated June 18, 2014 on the determination of payable tax amounts: *“An CIT amount calculated and paid in a province or centrally run city where a dependent cost-accounting production establishment is based is the payable CIT amount in a period multiplied by (x) **the ratio between expenses incurred by such production establishment and total expenses incurred by the business. The ratio of expenses shall be determined based on the enterprise’s income tax finalization data in the year preceding the tax year...”***

Thus, the cost of determining the allocation rate is amended from *“CIT finalization figures of the year preceding the tax year”* to *“actual expenses incurred of the tax period”*.

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3. Offsetting the refundable tax amount

Clause 2, Article 34 of Circular No. 80/2021/TT-BTC supplements some provisions for determining tax amount, late payment, fines, and other payables owed to the State budget to be offset against the refundable tax amount.

- Tax debts (excluding fees, customs fees) provided by customs authorities under the Regulation on information exchange and cooperation between customs and tax authorities (*Section b Clause 2 Article 34*)
- In case taxpayers have remaining tax amounts refundable at the headquarter but dependent units have tax debts on the tax administration system, tax authorities must keep offsetting. (*Section d Clause 2 Article 34*)
 - If many dependent units have tax debts, the order of offsetting takes precedence for the farthest due debt of the dependent units.
 - If the dependent unit has remaining tax amount, it must offset the tax debt of the taxpayer at the headquarter.
- In case the taxpayer (having remaining tax amount to be refunded) requests the tax authority to deduct the refundable tax amount to pay tax debts on behalf of another taxpayer, the tax authority shall determine the refundable tax amount and offset against tax debts of the other taxpayer after offsetting tax debts of the taxpayer according to the order at points a, b, c, d of this clause. (*Section Clause 2 Article 34*)

Circular 80/2021/TT-BTC takes effect from January 1, 2022

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Measures for supporting enterprises affected by Covid-19 pandemic

Resolution No. 406/NQ-UBTVQH15 of the Standing Committee of National Assembly issued on October 19, 2021 on some solutions to support enterprises and residents affected by the Covid-19 pandemic.

1. Reduction of Corporate Income Tax (CIT) (Clause 1, Article 1 of Resolution 406/NQ-UBTVQH15 and Article 1 of Decree No. 92/2021/ND-CP)

❖ ***Eligibility***

The provisions on CIT reduction under the Resolution apply to CIT payers that are organizations earning taxable income from manufacturing and/or selling goods and/or services, including:

- Enterprises established in accordance with Vietnam's law.
- Organizations established under the Law on Cooperatives.
- Public service providers established under Vietnam's law.
- Other organizations established in accordance with Vietnam's law and earning income from business operation.

❖ ***Applicable principles***

- 30% reduction in the payable CIT amount of 2021 will be given to taxpayers under the Law on CIT having a turnover of no more than VND 200 billion in 2021 and a decrease in revenue in 2021 compared to revenues in 2019.
- The criterion of the decrease in revenue in 2021 compared to the 2019 one is not applied to newly established, consolidated, merged, divided and separated taxpayers in the tax period of 2020 or 2021.

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2. Exemption from late payment (*Clause 4, Article 1 of Resolution No. 406/NQ-UBTVQH15 and Article 4 of Decree No. 92/2021/ND-CP*)

❖ *Applicable principles*

Granting exemption of late payment interest incurred in 2020 and 2021 on debts of taxes, land use levies, and land rents to enterprises and organizations (including affiliated entities, places of business) that incur losses in 2020.

❖ *Procedures and application for exemption of late payment interest*

- Taxpayers shall complete an application form, specify the loss incurred in 2020 and send it to the supervisory tax authority.

In case the taxpayer has undergone an inspection or audit, the inspection record, decision, verdict, or result notification (original copies or copies certified by the taxpayer) shall be included.

- Within 15 working days from the receipt of the taxpayer's application form, the tax authority shall issue the notice of rejection or issue the decision on exemption of late payment interest.

Resolution No. 406/NQ-UBTVQH15 takes effect on October 19, 2021



RELATED-PARTY TRANSACTION

Transfer Pricing Documentation

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- **Transfer Pricing Documentation**

According to Article 18, Decree No. 132/2020/ND-CP (taken effect from December 20, 2020), taxpayers with related-party transactions within the scope of this Decree are obliged to declare, prepare and retain transfer pricing files, including information and documents as follows:

❖ *Transfer Pricing Documentation (“TP documentation”)*

- Appendix I - Interrelationship and related-party transaction information
- Local files according to the directory of information and documents prescribed in Appendix II enclosed with the Decree.
- Master files according to the directory of information and documents prescribed in Appendix III enclosed with the Decree
- Country-by-Country reports of profits of ultimate parent companies and Appendix IV issued together with the Decree.

❖ *Time limit for preparing and submitting TP documentation*

- Taxpayers declare interrelationship and related-party transaction information under Appendix I, II, and III and submit them together with the CIT Finalization returns
- The TP documentation must be compiled before the time of filing CIT finalization returns
- When requested by the Tax Authority during the pre-inspection or pre-audit consultation procedures, the time limit for providing the TP documentation as follows:
 - No more than 30 working days the date of receipt of the tax authority’s request
 - Extended once, not exceeding 15 working days from the expiration date with legitimate reason from taxpayers.



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INTRODUCE

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!