



IC&PARTNERS VIETNAM

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Business Worldwide

TAX NEWSLETTER

AUGUST 2022



❖ **Headquarter in Hanoi:**

3rd Floor, TNL Plaza, Gold Season, 47 Nguyen Tuan, Thanh Xuan Trung Ward, Thanh Xuan District, Hanoi

❖ **Hai Phong Office**

No. 55A/69 Cho Con, Trai Cau Ward, Le Chan District, Hai Phong City, Vietnam

❖ **Ho Chi Minh Office**

No. 14 Phan Ton, Da Kao Ward, District 1, Ho Chi Minh City

❖ **Contact IC&Partners**

Vietnam:

Tel: +84 243 2373 793

Mobi: +84 915 432 043

Web: www.icpartners.it

Email:

info@icpartnersvietnam.com

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TAXATION

Some new regulations on Value-Added Tax (VAT) refund for investment projects of business establishments

On 29 July 2022, the Government issued Decree No. 49/2022/ND-CP (“Decree 49”) amending a number of articles of Decree No. 209/2013/ND-CP. In particular, Value-added Tax (VAT) refund for investment projects of business establishments is one of the most notable amendments.

❖ **Amending and supplementing conditions for VAT refund for investment projects of business establishments** (*Clause 3, Article 1 of Decree No. 49/2022/ND-CP*)

- Business establishments that have registered their business, registered to pay VAT by the credit method (including new business establishments derived from investment projects);
- Having a new investment project (including an investment project divided into several phases or items) in the same province, city or different province, city where the head office is located (except for investment projects that are not eligible for tax refund but carry forward the deductible tax amount to the next period and investment projects whose purpose is to build houses for sale, investment projects that do not form fixed assets) in the investment stage or oil and gas field-prospecting, exploring and developing projects in the investment stage;
- Having the accumulated amount of value-added tax on goods or services purchased in the investment stage that has not yet been fully deducted reaches VND 300 million or more, VAT will be refunded.

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Some new regulations on Value-Added Tax (VAT) refund for investment projects of business establishments

❖ **Additional cases where a business establishment in a conditional business line has an investment project eligible for VAT refund, include:**

- An investment project in the investment stage, according to the investment law, specialized laws, which have been granted business license for the investment under conditional business lines by competent state agencies under one of the following forms: license or certificate or written confirmation and approval.
- An investment project in the investment stage, according to the investment law, specialized laws, which is not required to request a granted business license by competent state agencies for the investment under conditional business lines under one of the following forms: license or certificate or written confirmation and approval.
- An investment project in the investment stage, according to the investment law, specialized laws, which is not required to have a granted business license by competent state agencies for the investment under conditional business lines under one of the following forms: license or certificate or written confirmation and approval.

Decree No. 49/2022/ND-CP takes effect from September 12, 2022

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Official Letter No. 37372/CTHN-TTHT on tax declaration for foreign contractors

On August 01, 2022, the Hanoi Tax Department issued Official Letter No. 37372/CTHN-TTHT, answering on tax declaration for foreign contractors with the following contents:

In case a foreign contractor (an overseas organization, not headquartered in Vietnam, not operating under Vietnamese law) having income in Vietnam under a contract signed with the Company to transfer shares of Company A in Vietnam is subject to the application of Circular No. 103/2014/TT-BTC.

If the foreign contractor fails to meet one of the conditions that mentioned in Article 8 of Circular No. 103/2014/TT-BTC, the Vietnamese party has responsibilities for paying tax on behalf of the foreign contractor, specifically, tax calculation and declaration are prepared as follows:

- If it is determined to be the transfer of investment capital in Company A (Vietnam) by a foreign investor:
 - Value-Added Tax (VAT): Capital transfer is not subject to VAT according to item d, Clause 8, Article 4 of Circular No. 219/2013/TT-BTC mentioned above.
 - Corporate Income Tax (CIT): The determination of CIT for capital transfer of foreign contractors is specified according to Article 14 of Circular No. 78/2014/TT-BTC (amended in Article 8 Circular No. 96/2015/TT-BTC). The CIT declaration for the capital transfer is specified according to Article 8, Article 11 of Decree No. 126/2020/ND-CP. The time at which income arises from capital transfer is the time when capital ownership is transferred.



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- If it is determined to be a securities transfer:
 - VAT: Securities transfer is not subject to VAT according to item d, Clause 8, Article 4 of Circular No. 219/2013/TT-BTC mentioned above.
 - CIT: The determination of CIT for securitized transfer of foreign contractors is specified according to Article 4, Article 13 of Circular No. 103/2014/TT-BTC. The CIT declaration for securities transfer of foreign contractors is specified according to Article 8, Article 11 of Decree No. 126/2020/ND-CP.

In case the Company transfers all shares (received from a foreign contractor), the Company must declare, pay VAT and CIT for this transfer, in accordance with the Law in VAT and the Law on CIT in the time of transferring.

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Amending regulations on reporting employee changes

Decree No. 35/2022/ND-CP stipulating the management of industrial parks and economic zones amends regulations on reporting employee changes in Decree No. 145/2020/ND-CP as follow:

- ❖ Reporting duration: Periodically on a six-month (by June 5) and annual (by December 12) basis.
- ❖ Report form:
 - Employers shall update the Department of Labor, War Invalids and Social Affairs on employee changes via the National Service Portal according to the Form No. 01/PLI of Appendix I hereto and notify these changes to the social insurance agency of the district where their main offices, branches or representative offices are located.
 - If it is not possible to update via the National Service Portal, a paper report must be sent by using the Form mentioned above to the Department of Labor, War Invalids and Social Affairs and such changes must be informed to the social insurance agency of the district where its main office, branch or representative office is located.
 - If there are any changes in employees working at industrial parks and economic zones, employers shall be required to report on such changes to Departments of Labor, War Invalids and Social Affairs, social insurance agencies of the districts where their main offices or branches are located, and industrial park and economic zone authorities, for monitoring purposes. (*New regulations*)

*Decree No. 35/2022/ND-CP comes into force from July 15, 2022,
replacing Decree No. 82/2018/ND-CP*



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Official Letter No. 2455/TCT-DNNCN on deploying electronic records

On July 12, 2022, the General Department of Taxation guides a number of contents on deploying electronic invoices and electronic vouchers deduction according to Official Letter No. 2455/TCT-DNNCN as follows:

❖ *Electronic receipts:*

From July 1, 2022, organizations can use electronic receipts according to Decree No. 123/2020/ND-CP. However, the General Department of Taxation is developing a standard format for data of electronic receipt and the implementation process, organizations will continue to use paper receipts ordered, self-printed, purchased from tax authorities or electronic receipts according to Circular No. 32/2011/TT-BTC.

❖ *Electronic Personal Income Tax (PIT) deduction statement*

Organizations are not required to register, notify the issuance, transmit electronic data to tax authorities, according to Article 33 of Decree No. 123/2020/ND-CP. Organizations build a software system to use electronic vouchers by themselves, ensuring the mandatory contents as prescribed in Clause 1, Article 32 of Decree No. 123/2020/ND-CP.

During the time when electronic PIT deduction statement has not yet been deployed, organizations (including tax agencies) can use PIT deduction statement in the form of self-issuance.

From July 1, 2022, tax authorities will no longer sell PIT deduction statement printed by Tax authorities; in case there are still existing deduction statements purchased from tax authorities, continuing to use them.



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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 preparing transfer pricing documentation
- 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!