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TAX NEWSLETTER

OCTOBER 2022



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IN THIS ISSUE

➤ *Taxation*

- Official Letter No. 38604/CTHN-TTHT on Value Added Tax (VAT) refund for projects using grant aid capital
- Official Letter No. 9690/CTH DU-TTHT on tax policy for commercial activities of Export Processing Enterprises (EPEs)
- Official Letter No. 5472/CTBGI-TTHT on the use of delivery and internal transfer note for Export Processing Enterprises (EPEs)
- Official Letter No. 45095/CTHN-TTHT on expenses before business establishment
- Official Letter No. 9260/CTH DU-TTHT on invoicing for internal use

➤ *Customs*

- Official Letter No. 4067/TCHQ-TXNK on liquidation of goods of Export Processing Enterprises (EPEs)

➤ *Taxation*

- **VAT refund for projects using grant aid capital**
- Tax policy for commercial activities of EPEs
- The use of delivery and internal transfer note for EPEs
- Expenses before business establishment
- Invoicing for internal use

➤ *Customs*

- Liquidation of goods of EPEs

*Official Letter No. 38604/CTHN-TTHT on Value Added Tax (VAT)
refund for projects using grant aid capital*

Hanoi Tax Department issued Official Letter No. 38604/CTHN-TTHT dated August 8, 2022 guiding the Value-Added Tax (VAT) refund policy for projects using grant aid as following:

In case the project implemented in Vietnam is a humanitarian aid or grant aid project for Vietnam, the goods and services sold to international organizations for humanitarian aid or grant aid to Vietnam are not subject to VAT under the guidance at Point e, Clause 19, Article 4 of Circular No. 219/2013/TT-BTC of the Ministry of Finance. In case international organizations purchase goods and services in Vietnam for grant aid or humanitarian aid with VAT, they are eligible for VAT refund under the guidance in Clause 6, Article 18 of Circular No. 219/2013/TT-BTC (amended and supplemented in Clause 3, Article 1 of Circular No. 130/2016/TT-BTC of the Ministry of Finance)

In case the project implemented in Vietnam is a project using grant ODA, the program or project owner or the main contractor or organization appointed by the foreign sponsor to manage the program or project being refunded VAT of goods and services purchased in Vietnam to use for the program or project under the guidance in Clause 6, Article 18 of Circular No. 219/2013/TT-BTC (amended and supplemented in Clause 3, Article 1 of Circular No. 130/2016/TT-BTC dated August 12, 2016 of the Ministry of Finance).



IC&PARTNERS VIETNAM

Supporting

Business Worldwide

TAX NEWSLETTER

OCTOBER 2022

TAXATION

Official Letter No. 38604/CTHN-TTHT on Value Added Tax (VAT) refund for projects using grant aid capital

➤ *Taxation*

- **VAT refund for projects using grant aid capital**
- Tax policy for commercial activities of EPEs
- The use of delivery and internal transfer note for EPEs
- Expenses before business establishment
- Invoicing for internal use

➤ *Customs*

- Liquidation of goods of EPEs

In case goods and services are purchased by the Project Office in Vietnam to serve its operations, not for humanitarian aid, grant aid to Vietnam, not used for the program or project using official development assistance (ODA) funds, the paid VAT on such goods and services is not eligible for VAT refund specified in Clause 6, Article 18 of Circular No. 219/2013/TT-BTC (amended and supplemented in Clause 3, Article 1 of Circular No. 130/2016/TT-BTC dated August 12, 2016 of the Ministry of Finance).



IC&PARTNERS VIETNAM

Supporting

Business Worldwide

➤ *Taxation*

- VAT refund for projects using grant aid capital
- **Tax policy for commercial activities of EPEs**
- The use of delivery and internal transfer note for EPEs
- Expenses before business establishment
- Invoicing for internal use

➤ *Customs*

- Liquidation of goods of EPEs

TAX NEWSLETTER

OCTOBER 2022

TAXATION

Official Letter No. 9690/CTHDU-TTHT on tax policy for commercial activities of Export Processing Enterprises (EPEs)

Official Letter No. 9690/CTHDU-TTHT dated October 7, 2022 provides guidance on tax policies for commercial activities of export processing enterprises (EPEs).

In case the Company is entitled to apply regulations that export processing enterprises exercise the right to export, import, and distribute wholesale and retail according to the investment law and other relevant laws:

The Company sets up the storage area for goods serving export processing activities separate from the storage area for other production and business activities and must separately account for revenue and expenses related to export processing activities and other business activities as well.

- In case the Company buys goods from abroad or from other export processing enterprises according to the right to import, the Company shall open customs declarations and pay taxes (if any) according to regulations as for other domestic businesses. In case the Company buys goods from the domestic market to exercise the right to export, the Company does not have to go through customs procedures, the domestic enterprise issues a VAT invoice to the Company, clearly stating the VAT rate on the invoice.
- When the Company exports goods under the right to export, the Company carries out customs procedures as for business export goods and is entitled to the 0% VAT rate as prescribed.



IC&PARTNERS VIETNAM

Supporting

Business Worldwide

TAX NEWSLETTER

OCTOBER 2022

TAXATION

➤ *Taxation*

- VAT refund for projects using grant aid capital
- **Tax policy for commercial activities of EPEs**
- The use of delivery and internal transfer note for EPEs
- Expenses before business establishment
- Invoicing for internal use

➤ *Customs*

- Liquidation of goods of EPEs

Official Letter No. 9690/CTH DU-TTHT on tax policy for commercial activities of Export Processing Enterprises (EPEs)

- In case the Company exercises the right of wholesale and retail distribution of goods in Vietnam, the Company uses invoices, declares taxes, pays taxes and applies the same VAT rates as other domestic enterprises in Vietnam.
- In case the Company buys goods from domestic enterprises to sell to other domestic enterprises in Vietnam, it is not in the case of trading goods under the export right.

➤ *Taxation*

- VAT refund for projects using grant aid capital
- Tax policy for commercial activities of EPEs
- **The use of delivery and internal transfer note for EPEs**
- Expenses before business establishment
- Invoicing for internal use

➤ *Customs*

Liquidation of goods of EPEs

Official Letter No. 5472/CTBGI-TTHT on the use of delivery and internal transfer note for Export Processing Enterprises (EPEs)

According to Official Letter No. 5472/CTBGI-TTHT dated September 13, 2022, the Tax Department of Bac Giang province on the use of delivery and internal transfer note for Export Processing Enterprises (EPEs).

In case the export processing enterprise exports goods to a foreign country and transports the goods to the border gate or to the place where the export procedures are carried out, a delivery and internal transfer note shall be used. After completing the procedures for exported goods, the enterprise shall issue a VAT invoice for the exported goods. In case the export processing enterprise exports goods on the spot, after completing the procedures for exported goods, the enterprise shall issue a VAT invoice for the exported goods.

An export processing enterprise that sells waste products and surplus materials to the domestic market must open a separate accounting book to record revenue and expenses related to this activity according to Clause 1, Article 4, Point a Clause 1 Article 8 of Decree No. 123/2020/ND-CP of the Government above.



IC&PARTNERS VIETNAM

*Supporting
Business Worldwide*

➤ *Taxation*

- VAT refund for projects using grant aid capital
- Tax policy for commercial activities of EPEs
- The use of delivery and internal transfer note for EPEs
- **Expenses before business establishment**
- Invoicing for internal use

➤ *Customs*

- Liquidation of goods of EPEs

TAX NEWSLETTER

OCTOBER 2022

TAXATION

Official Letter No. 45095/CTHN-TTHT on expenses before business establishment

Official Letter No. 45095/CTHN-TTHT dated September 13, 2022 issued by Hanoi Tax Department provides guidance on expenses before business establishment.

In case the project enterprise, before being granted the establishment license, authorizes the Company to pay expenses related to the business establishment on behalf of the project enterprise, the invoices and documents bearing the Company's name (the authorized) are considered reasonable and valid documents to account into the deductible reasonable expenses of the project enterprise when determining the taxable income to calculate Corporate Income Tax if they meets the conditions specified as prescribed in Article 4 of Circular No. 96/2015/TT-BTC dated June 22, 2015 of the Ministry of Finance.

Transactions on collection and payment on behalf are not included in related transactions within the scope of regulation of Decree No. 132/2020/ND-CP.



IC&PARTNERS VIETNAM

Supporting

Business Worldwide

➤ *Taxation*

- VAT refund for projects using grant aid capital
- Tax policy for commercial activities of EPEs
- The use of delivery and internal transfer note for EPEs
- Expenses before business establishment
- **Invoicing for internal use**

➤ *Customs*

- Liquidation of goods of EPEs

TAX NEWSLETTER

OCTOBER 2022

TAXATION

Official Letter No. 9260/CTHDU-TTHT on invoicing for internal use

To solve the problem of issuing invoices for internal use, the Tax Department of Hai Duong province issued Official Letter No. 9260/CTHDU-TTHT dated September 27, 2022 with the following content:

- In case the Company has purchased raw materials and supplies for self-improvement and repair of factories or offices (self-made fixed assets) to serve the production and business of goods and services subject to Value Added Tax (VAT), upon completion, acceptance and handover, the Company does not have to issue an invoice. Input VAT that forms self-made fixed assets shall be declared and deducted according to regulations.
- In case the Company uses raw materials to produce finished products, and then uses such finished products to upgrade the factory or office, the Company must issue invoices according to regulations, the price stated on the invoice is the price without VAT, not having to calculate and pay VAT.

➤ *Taxation*

- VAT refund for projects using grant aid capital
- Tax policy for commercial activities of EPEs
- The use of delivery and internal transfer note for EPEs
- Expenses before business establishment
- Invoicing for internal use

➤ *Customs*

- **Liquidation of goods of EPEs**

Official Letter No. 4067/TCHQ-TXNK on liquidation of goods of Export Processing Enterprises (EPEs)

Official Letter No. 4067/TCHQ-TXNK dated September 29, 2022 issued by the General Department of Customs guides the liquidation of goods of export processing enterprises (EPEs) as follows:

- For goods and equipment purchased from the domestic market (without going through customs procedures) or imported goods that fully implemented tax policies and import goods management policies as prescribed, just like imported goods are not entitled to regimes and policies applied to EPEs at the initial time of declaration registration: When buying, selling and liquidating these goods with domestic enterprises, EPEs do not have to go through customs procedures.
- For imported goods and equipment for which tax policies and goods management policies are applied to EPEs: Carrying out liquidation procedures as prescribed in Article 79 of Circular No. 38/2015/TT-BTC, EPEs may choose to change the use purpose or carry out on-site import and export procedures when liquidating goods. In case the EPEs choose to carry out on-spot import-export procedures as prescribed in Article 86 of Circular No. 38/2015/TT-BTC, the EPEs shall carry out on-spot export procedures; domestic enterprises shall carry out on-spot import procedures and pay taxes as prescribed. At the time of carrying out on-spot export and import procedures, no policy on management of exported or imported goods shall be applied, except for cases where goods are subject to management under conditions, standards, and specialized inspection that has not yet been carried out upon initial importation; goods under the management of a license must be approved in writing by the import licensing agency.



IC&PARTNERS VIETNAM

Supporting

Business Worldwide

TAX NEWSLETTER

OCTOBER 2022

CUSTOMS

Official Letter No. 4067/TCHQ-TXNK on liquidation of goods of Export Processing Enterprises (EPEs)

➤ *Taxation*

- VAT refund for projects using grant aid capital
- Tax policy for commercial activities of EPEs
- The use of delivery and internal transfer note for EPEs
- Expenses before business establishment
- Invoicing for internal use

➤ *Customs*

- **Liquidation of goods of EPEs**

- For the assets in the bidding package for office furniture construction: It is recommended that the Company base on the technical design documents of the contractors and relevant documents to declare and pay taxes. Particularly for consumable materials in the construction process (paint, glue, adhesive tape, etc.), tax declaration and payment are not required.



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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!