



**IC&PARTNERS VIETNAM**

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# TAX NEWSLETTER

## FEBRUARY 2023



### IN THIS ISSUE

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#### ➤ *Taxation*

- Official Letter No. 377/CTHN-TTHT on guidelines on VAT policy and invoices
- Official Letter No. 386/CTHN-TTHT on VAT rate for providing goods in Export Processing Zone
- Official Letter No. 1652/CTH DU-TTHT on VAT rate applied for the trade discount invoices
- Official Letter No. 86/CTBNI-TTHT on deductible expenses when calculating Corporate Income Tax (CIT) and declaring tax on business cooperation contract (BCC)
- Official Letter No. 2752/VTHN-TTHT on allocating input VAT which has been credited or refunded

#### ➤ *Enterprises*

- Procedures for foreign investors who contribute capital, purchase shares and contributed capital into Vietnamese enterprises

#### ➤ *Labor*

- Amendment to register the dependents for family circumstance-based reductions with individuals earning incomes from salary, wage
- New regulation about the one-time social insurance (SI) benefit entitlement in case of suffering diseases

➤ *Taxation*

- VAT policy and invoices
- VAT rate for providing goods in Export Processing Zone
- VAT rate applied for trade discount invoices
- Deductible expenses when calculating CIT and declaring tax on BCC
- Allocating input VAT which has been credited or refunded

➤ *Enterprises*

- Procedures for foreign investors who contribute capital, purchase shares and contributed capital into Vietnamese enterprises

➤ *Labor*

- Register the dependents for family circumstance-based reductions
- One-time social insurance (SI) benefit entitlement

*Official Letter No. 377/CTHN-TTHT on guidelines on VAT policy and invoices*

Hanoi Tax Department issued Official Letter No. 64221/CTHN-TTHT explaining VAT policy and invoices dated January 04th, 2023 as follows:

❖ *About declare additionally the tax declaration dossiers after competent agency issued the tax decisions after tax audit, inspection*

In case Company declares additionally the submitted tax declaration dossiers under tax decisions issued by competent agency after tax audit, inspection at headquarter of tax payer, **the additional declaration shall be declared** according to Clause 3 Article 47 Law on Tax Administration 2019.

❖ *For issuing invoices, tax declaration for monetary compensation received under the Court's decision*

If a Company received a monetary compensation under the Court's Decision pursuant to Clause 1 Article 5 Circular No. 219/2013/TT-BTC, **VAT shall be exempted for declaration and paying. The Company must make a receipt for such revenues (no invoice).**

The Company shall declare, pay CIT on the monetary compensation pursuant to Clause 13 Article 7 Circular No 78/2014/TT-BTC of Ministry of Finance.

➤ *Taxation*

- VAT policy and invoices
- **VAT rate for providing goods in Export Processing Zone**
- VAT rate applied for trade discount invoices
- Deductible expenses when calculating CIT and declaring tax on BCC
- Allocating input VAT which has been credited or refunded

➤ *Enterprises*

- Procedures for foreign investors who contribute capital, purchase shares and contributed capital into Vietnamese enterprises

➤ *Labor*

- Register the dependents for family circumstance-based reductions
- One-time social insurance (SI) benefit entitlement

*Official Letter No. 386/CTHN-TTHT on VAT rate for providing goods in Export Processing Zone*

Hanoi Tax Department issued Official Letter No. 386/CTHN-TTHT on VAT rate for providing goods in Export Processing Zone dated January 04th, 2023 as follows:

A Company providing goods in Non-tariff Zones (Export Processing Zone) shall be applied **VAT 0% if the goods are consumed in Non-tariff Zones** and **not be applied VAT 0%** as prescribed in Clause 2 Article 1 Circular No 130/2016/TT-BTC and **meet the conditions** pursuant to point a Clause 2 Article 9 Circular No 219/2013/TT-BTC, including:

- *A sale contract, export processing contract, or export entrustment contract;*
- *Bank receipts for payment for exported goods and other documents prescribed by law;*
- *A customs declaration prescribed in Clause 2 Article 16 of this Circular.*

After completing the procedures for exported goods, the Company shall **declare, pay VAT followed by deduction (credit) method for exported goods and services**; use Delivery and Internal Transfer Note for circulation of the goods on the market when exporting goods for delivery to border gate or to place of export procedures and then issuing VAT invoices pursuant to point c Clause 3 Article 13 Decree No 123/2020/ND-CP.

➤ *Taxation*

- VAT policy and invoices
- VAT rate for providing goods in Export Processing Zone
- **VAT rate applied for trade discount invoices**
- Deductible expenses when calculating CIT and declaring tax on BCC
- Allocating input VAT which has been credited or refunded

➤ *Enterprises*

- Procedures for foreign investors who contribute capital, purchase shares and contributed capital into Vietnamese enterprises

➤ *Labor*

- Register the dependents for family circumstance-based reductions
- One-time social insurance (SI) benefit entitlement

*Official Letter No. 1652/CTHDU-TTHT on VAT rate applied for trade discount invoice*

Official Letter No. 1652/CTHDU-TTHT issued by the Hai Duong Tax Department dated February 01<sup>st</sup> 2023 on VAT rate applied for trade discount invoices as follows:

If a Company offers a discount for buyers and distributors as law regulations, the invoice content must be included:

- **If the unit offers a trade discount for the buyers each time of incurring, the invoice must indicate clearly the trade discount.** If the discount incurring from January 01<sup>st</sup> 2023, VAT 10% shall be applied on invoices.
- **If the trade discount is offered according to quantities, sales,** the discount shall be **included the invoice of last sales or next period.** If the discount is offered after the sales promotion program (period) is over, an adjusted invoice shall be issued together with list of invoice numbers that need to be revised, amount and tax amount. In these cases, the invoices were issued before January 01<sup>st</sup> 2022 shall be subjected to VAT rate of 8%. From January 01<sup>st</sup> 2023, VAT rate has been 10%.

➤ *Taxation*

- VAT policy and invoices
- VAT rate for providing goods in Export Processing Zone
- VAT rate applied for trade discount invoices
- **Deductible expenses when calculating CIT and declaring tax on BCC**
- Allocating input VAT which has been credited or refunded

➤ *Enterprises*

- Procedures for foreign investors who contribute capital, purchase shares and contributed capital into Vietnamese enterprises

➤ *Labor*

- Register the dependents for family circumstance-based reductions
- One-time social insurance (SI) benefit entitlement

*Official Letter No. 86/CTBNI-TTHT on deductible expenses when calculating Corporate Income Tax (CIT) and declaring tax on business cooperation contract (BCC)*

Bac Ninh Tax Department issued Official Letter No. 86/CTBNI-TTHT dated January 06<sup>th</sup>, 2023 on deductible expenses when calculating CIT payable and declaring tax on business cooperation contract (BCC) as follows:

In case of joint venture, leader of joint venture shall manage, operate, do business and make accounting for the entire investment project and divide profit after paying CIT, the Joint Venture Leader shall **have responsibility for tax registration to BCC** pursuant to point b Clause 6 Article 7 Circular No. 105/2020/TT-BTC and **declare and determine their own taxes separately** pursuant to point dd Clause 2 Article 7 Decree No. 126/2020/ND-CP.

During the investment project, if the company has a loan expense, this expense shall be **deductible when calculating CIT** as long as it meets the conditions pursuant to Article 6 Circular No. 78/2014/TT-BTC (amended and supplemented at Article 4 Circular No. 96/2015/TT-BTC).



➤ *Taxation*

- VAT policy and invoices
- VAT rate for providing goods in Export Processing Zone
- VAT rate applied for trade discount invoices
- Deductible expenses when calculating CIT and declaring tax on BCC
- **Allocating input VAT which has been credited or refunded**

➤ *Enterprises*

- Procedures for foreign investors who contribute capital, purchase shares and contributed capital into Vietnamese enterprises

➤ *Labor*

- Register the dependents for family circumstance-based reductions
- One-time social insurance (SI) benefit entitlement

*Official Letter No. 2752/VTHN-TTHT on allocating input VAT which has been credited or refunded*

Pursuant to point a, Clause 9, Article 1 of Circular No. 26/2015/TT-BTC guiding VAT and tax administration in Decree No. 12/2015/ND-CP detailing the implementation of amendments and supplements of number of articles on tax laws and amendments and supplements of a number of articles of tax decrees and amendments and supplements of a number of articles of Circular No. 39/2014/TT-BTC on invoices of goods sales, service provision, the deductible input VAT allocation is implemented as follows:

The company that sells both goods/services that are subject to VAT and not subject to VAT shall be **only deducted input VAT of goods/services that are subject to VAT.** The Company must **account separately deductible input VAT amount and non-deductible amount or input VAT shall be deducted according to the ratio (%) of VAT revenue, non-value-added taxable revenue to the total revenue from selling goods and services,** including revenue not subject to declare that cannot be separated.

**Monthly/quarterly,** the Company **temporarily allocates input VAT** of purchased goods, services and fixed assets to be deductible in the month/quarter and **the annual deductible input VAT amount shall be allocated at the end of year** to declare and adjust input VAT which has been temporarily deducted in the year.

➤ *Taxation*

- VAT policy and invoices
- VAT rate for providing goods in Export Processing Zone
- VAT rate applied for trade discount invoices
- Deductible expenses when calculating CIT and declaring tax on BCC
- Allocating input VAT which has been credited or refunded

➤ *Enterprises*

- **Procedures for foreign investors who contribute capital, purchase shares and contributed capital into Vietnamese enterprises**

➤ *Labor*

- Register the dependents for family circumstance-based reductions
- One-time social insurance (SI) benefit entitlement

*Procedures for foreign investors who contribute capital, purchase shares or contributed capital into Vietnamese enterprises*

**1. Legal basic**

- Article 24, 26 Law on Investment 2020;
- Article 66 Decree 31/2021/ND-CP;
- Point 3 Section 1 Official Letter 8909/BKHĐT-PC 2020.

**2. Procedures and prepared dossiers**

❖ *Step 1: Apply for registration of capital contribution or purchase of shares or stakes if in one of the cases pursuant to Article 26 Law on Investment 2020*

*a. Composing dossiers*

- A registration form for capital contribution or purchase of shares/stakes;
- A written agreement on the capital contribution or purchase of shares/stakes;
- Power of Attorney (POA) when a third party is authorized to apply for investment registration.

*b. Documents provided by the Investor*

- Consular Authenticated Decision, Establishment Licenses of foreign organizations and businesses;
- Notarized Passport copy of Legal Representative and Representative Manager of contributed capital of foreign investors;
- Notarized Enterprise Registration Certificate (ERC) copy of capital/shares transferer;
- • Notarized Passport copy of Investor.

➤ **Taxation**

- **VAT policy and invoices**
- VAT rate for providing goods in Export Processing Zone
- VAT rate applied for trade discount invoices
- Deductible expenses when calculating CIT and declaring tax on BCC
- Allocating input VAT which has been credited or refunded

➤ **Enterprises**

- **Procedures for foreign investors who contribute capital, purchase shares and contributed capital into Vietnamese enterprises**

➤ **Labor**

- Register the dependents for family circumstance-based reductions
- One-time social insurance (SI) benefit entitlement

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❖ **Step 2: Changing business registration contents**

*a. Drafted dossiers*

- A notification of content changes of ERC;
- The company's charter (in case of conversion of enterprise form);
- Decision of the company's owner (a single-member Limited Liability Company (LLC)), the Minutes of Meeting and Resolution of Member Board (Multi-Member LLC), Minutes of Meeting and Resolution of General Meeting of Shareholders (Joint Stock Company (JSC));
- Decision to acquire the capital contribution and appoint the Representative Manager of contributed capital of foreign investors (in case the investor is an organization);
- List of members (a multi-member LLC) or Shareholders (JSC) are the foreign investors;
- Capital transfer contract or other capital transfer documents;
- POA when authorizing to third parties representing to do enterprise registration procedures.

*b. Documents provided by Investor*

- Notice of Agreement to acquire contributed capital (step 1);
- Consular authenticated of ERC (if the Investor is an organization) or Passport (if the Investor is an individual);
- Notarized copy of Remittance to buy contributed capital (of the Investor buying the capital contribution);
- Notarized Passport copy of the Legal Representative under POA of investor buying capital contribution (in case of an organization).



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- Deductible expenses when calculating CIT and declaring tax on BCC
- Allocating input VAT which has been credited or refunded

➤ **Enterprises**

- Procedures for foreign investors who contribute capital, purchase shares and contributed capital into Vietnamese enterprises

➤ **Labor**

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- One-time social insurance (SI) benefit entitlement

***Amendment to register the dependents for family circumstance-based reductions with individuals earning incomes from salary, wage***

On January 13<sup>rd</sup> 2023, Ministry of Finance issued Decision No. 40/QD-BTC announcing administrative procedures amended and supplemented in tax and customs under management function of the Ministry of Finance, including the dependent registration procedure for family circumstance-based reductions with individuals earning incomes from salary, wage.

**1. The procedure**

❖ ***Step 1: Register, submit dependant supporting document***

- Tax payer prepares the dossiers and submits them to organization or individual paying income or direct Tax Management Department.
- Submit dependent supporting document no later than 03 months from the first registration of dependants.

❖ ***Step 2: Tax Authority shall receive, address the document directly or via electronic data processing system***

**2. The dossiers**

- Dependant Register Application form 07/DK-NPT-TNCN according to Annex I Decree No. 126/2020/ND-CP;
- Annex II – Tax declaration forms attached with Circular No. 80/2021/TT-BTC;
- Annex of list of dependents who are directly fostered under form 07/XN-NPT-TNCN of Annex I Decree No. 126/2020/ND-CP;
- Annex of list of dependents for family circumstance-based reductions (with organizations, individuals pay salary,wages registers all dependents for employees) under form 07/THDK-NPT-TNCN Annex I Decree số 126/2020/ND-CP.

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- VAT policy and invoices
- VAT rate for providing goods in Export Processing Zone
- VAT rate applied for trade discount invoices
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*New regulation about the one-time social insurance (SI) benefit entitlement in case of suffering diseases*

Circular No. 18/2022/TT-BYT dated February 15<sup>th</sup> 2023 amended instructions on one-time social insurance (SI) benefit entitlement in case of suffering diseases pursuant to Circular No. 56/2017/TT-BYT as followed:

Employees suffering from serious diseases or diseases that reduce the working capacity shall be eligible for lump-sum social insurance payout in one of the following two cases:

- ❖ Cancer, polio, cirrhosis of the liver, leprosy, severe tuberculosis, HIV/AIDS

*(Formerly, employees have to lose of their functions, self-control or he/she is unable to complete everyday tasks without other people watching, helping and taking care of him/her).*

This amendment is suitable because the treatment cost of these diseases is very expensive, if employees are only eligible for lump-sum social insurance payout when being unable to move, it will be difficult for them.

- ❖ Diseases that result in at least 81% of work capacity reduction and total loss of self-control or he/she is unable to complete everyday tasks without other people watching, helping and taking care of him/her

Therefore, the conditions of the one-time social insurance (SI) was easier, facilitating for employees to be eligible for the benefits of social insurance.



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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
- Refund of VAT and PIT
- 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!*

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