



**IC&PARTNERS VIETNAM**

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# TAX NEWSLETTER

MARCH, 2024



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***Official Letter No. 485/TCT-KK regarding the cessation of additional declarations and adjustments for taxpayers as per the request of the investigative agency***

On February 6<sup>th</sup>, 2024, the General Department of Taxation issued Official Letter No. 485/TCT-KK regarding the suspension of additional declarations and adjustments for taxpayers based on the request of the investigating agency, specifically as follows:

When receiving written requests from security/law enforcement agencies, the Tax authorities will promptly update the centralized tax management application according to the upgrade notice of TMS application version 6.25 issued by the General Department of Taxation.

In cases the content of the written requests from the security/law enforcement agency is insufficient or the document form does not comply with the format specified, the Tax authorities will discuss, coordinate, and send a document to the security/law enforcement agency to request clarification for proper implementation.

In cases the deadline for temporarily suspending additional declarations or adjustments by taxpayers in the written requests from the Tax authority and the security/law enforcement agency has not been determined, the Tax authorities will discuss, coordinate, and send a document to the security/law enforcement agency to request clarification when the request is completed or when the criminal case is concluded or when there is a change in the relevant professional task related to the case.

After the investigation conclusion, the Tax authorities will coordinate with the security/law enforcement agency to transfer information on violations and handling related to tax sector to the Tax authority for timely guidance and correction of enterprises (*if any*).

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*Official Letter No. 8973/CTHN-TTHT regarding the refund of Corporate Income Tax (CIT) paid on behalf of foreign contractors*

On February 23<sup>rd</sup>, 2024, Hanoi Tax Department issued Official Letter No. 8973/CTHN-TTHT regarding the refund of Corporate Income Tax (CIT) paid on behalf of foreign contractors in accordance with the Agreement of Double Taxation Avoidance (DTA) between Vietnam and South Korea:

In cases where Korean contractors have income generated in Vietnam, the Vietnamese side is responsible **for withholding Value Added Tax (VAT) and CIT before making payments to the foreign contractors**

In cases **where Korean companies meet the conditions of not having a regular establishment** in Vietnam as stipulated in Article 11 Circular No. 205/2013/TT-BTC, they are **exempt from CIT according to the DTA between Vietnam and South Korea.** The procedures for tax exemption and reduction under the DTA are carried out in accordance with the guidelines specified in Article 62 of Circular No. 80/2021/TT-BTC.

In cases where a Vietnamese company signs a contract with a partner that is a business in South Korea and acts on behalf of that partner, and the Vietnamese company has completed the tax declaration and payment on behalf of foreign contractors for this contract, if **the tax amount has been incurred for more than three years from the date of signing the contract, the Vietnamese Tax authority will reject the request to apply the agreement** as stipulated in Article 6, Section 1 of Circular No. 205/2013/TT-BTC.

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*Official Letter No. 1719/CTBGI-TTHT regarding Corporate Income Tax (CIT) incentives for income from expanded investment projects and interest on savings deposits*

On March 15<sup>th</sup>, 2024, Bac Giang Tax Department issued Official Letter No. 1719/CTBGI-TTHT on CIT incentives for income from expanded investment projects and interest on savings deposits:

**1. CIT incentives for income from expanded investment projects**

In cases where the company has an expanded investment project, additional investment in workshops, machinery, and equipment that meets the conditions for recognition as fixed assets of the company, and the proportion of the original cost of fixed assets increases by at least 20% compared to the total original cost of fixed assets before the investment, and there is income from the implementing the expanded investment project, while also meeting the conditions specified in Article 18 of Circular No. 78/2014/TT-BTC, as amended and supplemented in Article 10 of Circular No. 96/2015/TT-BTC, they are entitled to CIT incentives.

**2. CIT incentives for income from interest on savings deposit**

In cases the company is implementing an investment project in an area eligible for investment incentives and has income from interest on savings deposits arising in the same eligible investment area and also meeting the conditions specified in Article 18 of Circular No. 78/2014/TT-BTC, as amended and supplemented in Article 10 of Circular No. 96/2015/TT-BTC, they are entitled to CIT incentives based on the geographical conditions.



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***Tax authority's separate provision of authenticated e-invoices in case taxpayers are compelled to cease using invoices***

On February 26, 2024, the General Department of Taxation issued Official Letter No. 672/TCT-QLN on providing separately authenticated e-invoices in the case of taxpayers being compelled to cease using invoices:

If the taxpayer being compelled by the tax authority to cease using invoices submits a written request for using invoices to have a source payment of employees' salaries and expenses to ensure continuous production and business, the tax authority will provide separately authenticated e-invoices. The condition for provision of authenticated e-invoices is that the taxpayer must immediately remit at least 18% of the revenue stated on the invoice to the state budget.

The separate provision of authenticated e-invoices is carried out according to Decree No. 123/2020/ND-CP and instructions in the Electronic Invoice Management Process. Accordingly, the taxpayer submits a request for provision of authenticated e-invoices to the tax authority and accesses the tax authority's e-invoice system to create the e-invoice. The data reception department may cross-check additional records from the debt management and tax enforcement department, including: the decision on enforcement by suspending the invoice usage, payment slip with at least 18% of the revenue stated on the invoice, and other relevant documents (if any). Form No. 04-2/CC attached in Appendix III of Decree No. 126/2020/ND-CP does not apply to the case of providing separately authenticated e-invoices to taxpayers who are being compelled to cease using invoices.

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*New regulations on the calculation of Personal Income Tax (PIT) when transferring real estate from January 1, 2025*

On January 18, 2024, the Land Law was passed by the National Assembly during the 5th extraordinary session and officially takes effect from January 1, 2025. According to this law, the income subject to PIT from real estate transfers is determined as follows:

- The taxable income from real estate transfer is determined as the transfer price each time; in case of the transferring land use rights, the taxable income is calculated according to the land price specified in the land price table.
- If the purchase price and related costs associated with real estate transfer cannot be determined, the taxable income is defined as the real estate transfer price.
- The government stipulates the principles and methods for determining the transfer price of real estate in cases where the transfer price cannot be determined or the transfer price of land use rights stated in the contract is lower than the one prescribed by the provincial People's Committee effective at the time of transfer.
- The time to calculate taxable income from real estate transfer is the time the transfer contract takes effect according to the provisions of law.

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*Circumstances where the period of unemployment insurance (UI) payment is preserved from February 15, 2024*

On December 29, 2023, the Ministry of Labor - Invalids and Social Affairs issued Circular No. 15/2023/TT-BLDTBXH amending and supplementing certain provisions of Circular No. 28/2015/TT-BLDTBXH guiding the implementation of Article 52 of the 2013 Labor Code and certain provisions of Decree No. 28/2015/ND-CP detailing the implementation of certain provisions of the 2013 Labor Code regarding unemployment insurance (UI). Accordingly, the cases where UI payment period is preserved include:

- Preserved payment period upon availability of remaining payment period;
- Preserved payment period upon benefit cancellation decision;
- Preserved payment period upon benefit cutting decision;
- Preserved payment period upon employee's failure to receive benefit;
- Preserved payment period when an employee's additional payment period is confirmed by the social security agency after the benefit cutting decision.

*New regulations on labor reporting for enterprises in hi-tech parks*

On March 25, 2024, the Government issued Decree No. 10/2024/ND-CP regulating hi-tech parks, which amends and supplements three provisions of Decree No. 145/2020/ND-CP guiding the Labor Code, specifically as follows:

- **The additional regulation regarding labor usage reporting in hi-tech parks:** the employer shall submit a report on labor changes through the National Public Service Portal. In case of inability to submit the report on labor changes through the portal, the employer shall submit a written report to the Management Board of the hi-tech park. The Management Board is responsible for updating complete information and reporting to the Ministry of Labor, Invalids, and Social Affairs regarding labor usage within the area, following the specified timeline and form.
- **The additional provision regarding the responsibilities of dispatching enterprises:** if dispatching enterprises are headquartered at or have labor dispatch operations in a hi-tech park, when submitting reports, they shall submit 1 report to the Management Board of the hi-tech park.
- **The additional provision regarding notification of overtime work:** From March 25, 2024, If the employer is headquartered or organizes the overtime work (exceeding 200 hours and up to 300 hours in a year) in a hi-tech park, notify the Management Board of the hi-tech park of overtime work, following the specified timeline and form.

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- **Policy on incentives and support for industrial cluster development**

*Policies on incentives and support for industrial cluster development  
from May 1, 2024*

On March 15, 2024, the Government issued Decree No. 32/2024/ND-CP regarding the management and development of industrial clusters. Some new preferential policies for industrial clusters are prescribed as follows:

**1. The business lines and business establishments encouraged to invest in industrial clusters**

- Processing and manufacturing industries supporting agriculture; mechanical industry (such as: automobiles, agricultural machines, construction equipment, industrial equipment, electrical equipment, medical equipment, etc.); supporting industry; textile and apparel and footwear industry;
- Information technology and communications, electronics industry; smart energy; digital technology, automation, high-end equipment, new materials, biotechnology;
- Local industries and cottage industries to be preserved and developed; warehousing services, packaging, transport of goods, repair and maintenance of machinery, industrial equipment and other services directly serving local industrial and cottage-industrial production with a total area not exceeding 10% of the industrial cluster area;
- Other industries employing high, clean and energy-efficient technologies resulting in high value and sustainable development;
- Industrial and cottage-industrial production establishments which cause pollution or are likely to cause pollution in craft villages and populated areas are encouraged relocated to industrial clusters.

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- **Policy on incentives and support for industrial cluster development**

*Policies on incentives and support for industrial cluster development from May 1, 2024*

**2. Incentives and support for industrial cluster development**

*2.1. Investment incentives for industrial cluster infrastructure construction projects and production and business investment projects in industrial clusters*

The application of incentives to industrial cluster infrastructure construction projects and production and business investment projects in an industrial cluster shall comply with regulations of law on land, law on taxation, law on credit and other relevant regulations of law. In case the law stipulates different incentives, the incentive that is most beneficial shall apply

*2.2. Assistance in investment in construction of industrial cluster infrastructure*

- The local government budget shall provide financial assistance in investment and development of technical infrastructure systems inside and outside industrial clusters in the locality according to the Law on Public Investment and the Law on State Budget..
- The financial assistance provided by the State does not exceed 30% of the total investment capital of the industrial cluster infrastructure construction project. The financial assistance shall be excluded from the total investment of the project to determine the rents for subleased land and infrastructure regarding investment projects in the industrial cluster. The technical infrastructure investor shall manage, repair and regularly operate technical infrastructural constructions provided with financial assistance to serve common activities of the industrial cluster.



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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
- VAT, PIT refund
- 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!*