
TAX BULLETIN June 2023

1. VAT reduction upon Decree No. 44/2023/ND-CP dated 30 June 2023 of the Government

On 30 June 2023, the Government issued Decree No. 44/2023/ND-CP on VAT reduction in accordance with the Resolution No. 101/2023/QH15 dated 24 June 2023 of the National Assembly. Below is the summary of the guidance on VAT reduction applied in 2023 upon Decree No. 44/2023/ND-CP in comparison with Decree No. 15/2022/ND-CP applied in 2022.

- The scope of VAT reduction in 2023 is as the same as 2022. However, in the notes at the end of the List of Goods in Appendix I and Appendix III, there is an amendment in which HS codes of goods are shown in column (10) for the purpose of searching and defining HS codes for imported goods based on the classification of goods stipulated by the Customs Law and sub-law regulations. In addition, in the Appendix of goods not eligible for VAT reduction, some HS codes have been revised.
- VAT rate reduction is not changed in comparison with the Decree No. 15/2022/ND-CP, specifically: goods and services which are currently subject to 10% VAT shall be entitled to a reduced VAT rate of 8%, except for certain types of goods and services.\
- VAT reduction will be applied for the period from 1st July to 31st December 2023.
- Regulations on VAT invoice issuance and adjustment in the tax reduction period:
According to Decree 15/2022/ND-CP, the seller and the buyer are required to make a record and a written agreement in which it is clearly stated the error, and at the same time, the seller issues an invoice to correct the error and delivers the adjusted invoice to the buyer while it is stipulated in Decree 44/2023/ND-CP that the seller and the buyer should handle the issued invoices in accordance with the law, invoices and documents. By checking the provisions at point b, Clause 2, Article 19 of Decree 123/2020/ND-CP, the seller and the buyer agree on two alternative forms to apply: Making an adjusted invoice or making a replacement invoice.

2. CIT incentive with respect to a written-off loan (Official letter No. 2091/CTHPH-TTHT dated 25th April 2023 of Hai Phong Tax Department)

The Company carrying on the investment project incurred a loan from a foreign lender. If being written off by such a foreign lender in 2023, the loan will be treated as other income and the company is not eligible for CIT incentive regarding the written-off loan.

3. CIT treatment of an invoice not timely issued (Official letter No. 9342/CTBDU-TTHT dated 29th May 2023 of Binh Duong Tax Department)

- In case where the Company purchases goods and the seller fails to timely issue an invoice in the required time according to the Decree No. 123/2020/NĐ-CP dated 19th October 2020 of Government, the Company is allowed to claim for deductible expenses of purchased goods provided that the purchased goods are used for production and business activities and supported in full by invoice and receipts (including non-cash payment receipt in case where the value of purchased goods is from 20 million dong and more).
- If being verified by the tax office and found that the conditions mentioned above are not met, expenses related to this invoice will not be deductible expenses upon determining the CIT.

4. VAT applied in case of conversion of an export processing enterprise (EPE) into a normal enterprise (Official letter No. 9734/CTBDU-TTHT dated 16th June 2023 of Binh Duong Tax Department)

During the conversion of business type from EPE into non-EPE, the Company had determined inventories, which are properties, materials, goods of imported origin, and paid VAT on the imported properties, materials, goods at request of the customs office (the VAT payment is supported by required VAT payment receipt). If the properties, materials, goods of imported origin are continued to be used for manufacturing of, trading in taxable goods and services after the conversion, the Company will be allowed to declared and claim for credit of input VAT paid at the import stage corresponding to the remaining value of the properties, materials, goods mentioned above in accordance with legal provisions.

5. The expenses of purchasing goods from domestic enterprises without customs declaration (Official letter No. 1454/TCT-CS dated 21st April 2023 of the General Department of Taxation)

When an export processing enterprise (EPE) purchases goods from domestic enterprises without carrying out any customs procedures and the domestic enterprise issues VAT invoices with VAT rate of 8% or 10%:

- In case goods and services are subject to customs procedures as stipulated in clause 50, Article 1, Circular No. 39/2018/TT-BTC dated 20th April 2018: expense might be treated as non-deductible as it fails conditions of having legitimate invoices and documents as prescribed by regulations.
- In case customs procedures are not compulsory: if the expenses satisfy the condition that they are actual expenses incurred in connection with production and business activities of the enterprise and have sufficient invoices and documents as prescribed by law, they shall be deductible for CIT purpose.