
TAX BULLETIN April 2024

1. Temporary suspension of exiting from the country for legal representatives of taxpayers being under tax enforcement and having not fulfilled their tax payment obligations (Official Letter No. 1457/TCT-QLN dated 10th April 2024 of the General Department of Taxation)

If an individual is the legal representative of a taxpayer, and the taxpayer is subject to enforced execution of administrative decisions regarding tax management and has not fulfilled their tax obligations, that individual may be subject to temporary suspension of exiting. The head of the direct tax management authority shall base on the actual situation and tax management activities to determine whether to impose temporary suspension of exiting.

2. Tax treatment applied to branch terminating operation (Official Letter No. 1569/TCT-KK dated 15th April 2024 of the General Department of Taxation and (The Official Letter No. 9579/CTHN-TTHT dated 28th February 2024 of Hanoi Tax Department)

- When the branch terminates its operations and invalidates its tax code but still has input VAT that has not been fully creditable at the time of operation termination, while all the regulatory conditions for input VAT creditability are met, the input VAT amount balance is allowed to transfer from branch to the head office for further credit.
- Loss from independent branch after dissolution can be utilized by head office if:
 - the branch is an independent accounting unit, declares CIT separately;
 - the company inherits all the obligations and rights of the branch upon dissolution;
 - the tax authority has audited the tax finalization at the Branch and determined the loss of each year.

Then such loss per year can be offset against head office's taxable income when determining CIT and the loss carry forward period according to regulations is 5 years.

3. Strengthen tax administration for goods purchased using Form 01/TNDN (Official Letter No. 1336/TCT-TTKT dated 02 April 2024 of General Department of Taxation)

The General Department of Taxation requests that during tax inspection and audit, provincial tax authorities should strengthen the verification of goods and services purchase using Form 01/TNDN (without invoice) as allowed to determine deductible expenses when calculating corporate income tax in accordance with regulations.

4. Declaration of input VAT invoices on form 01-1/HT (Official letter No. 9580/CTHN-TTHT dated 28th February 2024 of Hanoi Tax Department)

Pursuant to the current provisions, in case where a company claims VAT refund for exported goods and services, VAT refund dossiers and documents are provided in the Article 28 of Circular No. 80/2021/TT-BTC dated 29th September 2021 of Ministry of Finance. If invoices of purchased goods and services are e-invoices of which data were sent to the Tax authority by the seller (regardless of e-invoices with or without authentic code of the Tax authority) in accordance with provisions as provided for in the Decree NO. 123/2020/NĐ-CP dated 19th October 2020 of Government, the Company will not be requested to provide a Detailed Statement of invoices and receipts of purchased goods and services by using Form 01-1/HD issued together with the Annex 1 of the Circular No. 80/2021/TT-BTC mentioned.

5. Tax policy applicable to foreign traders which do have a presence in Vietnam (Official letter No. 558/TCT-CS dated 20th February 2024 of General Department of Taxation)

On 12th July 2023 General Department of Customs issued the Official letter No. 3622/TCHQ-GSQL to respond to questions about foreign traders without a presence in Vietnam. Accordingly, pursuant to Clause 2, Article 3, Decree No. 90/2007/NĐ-CP dated 31st May 2007 of Government on the export right of foreign traders which do not have a presence in Vietnam and Clause 5, Article 8, Law on Foreign Trade Management No. 05/2017/QH14 dated 12th June 2017, if it is determined that a foreign trader has performed investment, business activities in Vietnam under forms provided for in laws on trade, enterprises, or established a representative office or branch in Vietnam in accordance with provisions as provided for in laws on trade, enterprises, such a foreign trader will not be considered as being a foreign trader without a presence in Vietnam.

- In case of foreign trader without a presence in Vietnam, and goods traded between local enterprises and such a foreign trader are delivered in Vietnam by other enterprises under the designation of such a foreign trader, it will not be considered as on-spot export and import as provided in Point c, Clause 1, Article 86, Circular No. 38/2015/TT-BTC dated 25th March 2015 of Ministry of Finance.
- If it is determined by the Customs authority that on-spot export declaration is not complied with provisions in Point c, Clause 1, Article 35, Decree No. 08/2015/NĐ-CP of Government, the tax authority will deny tax refund claim because of failing to meet the condition on the customs declaration form.

6. Invoice issuance for imported goods by foreign contractor (Official letter No. 561/CTBNI-TTHT dated 6th February 2024 of Bac Ninh Tax Department)

JFE Engineering Corporation located in Japan (JFE Corporation) had signed a contract with Green Energy Company Limited located in Vietnam (Investment Owner) for performing working items of designing, procuring and managing a Project on household solid waste treatment plant located in Bac Ninh Province, under which value of each working item was

separated and the Investment Owner is responsible for directly importing machineries and equipment from overseas. JFE Corporation established a Project Office to manage and operate activities and register tax identification for purposes of tax filing and payment at the tax authority directly in charge of managing the project office. When the Investment Owner imports machineries and equipment from overseas of which the import dossier includes trade invoice and other import documents used for clearing the import procedure and paying VAT at the import stage in accordance with legal provisions, the Project Office is not required to issue VAT invoice for imported machineries and equipment to the Investment Owner.