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## TAX BULLETIN May 2024

### 1. Government agrees to continue VAT cut for second half of 2024

On 28<sup>th</sup> May 2024, the Government issued Resolution No. 81/NQ-CP regarding the proposal on development of a Resolution on value-added tax (VAT) reduction. Accordingly, the Government has agreed to approve the proposal on 2% VAT reduction under a Resolution of the National Assembly be extended in the last 6 months of 2024 made by the Ministry of Finance in Report No. 116/TTr-BTC dated 27<sup>th</sup> May 2024 and to authorise the Minister of Justice, on behalf of the Government, to sign the Government's Proposal on 28<sup>th</sup> May 2024 to report the National Assembly and the National Assembly Standing Committee in order to supplement the Resolution project on reducing VAT for the last 6 months of 2024 into the Program for developing Laws and Ordinances in 2024 and allow the development of the Resolution project according to simplified order and procedures and submit the Resolution to the National Assembly for approval at the 7th Session of the 15th National Assembly in June 2024.

### 2. Tax policy applicable to new investment projects in the field of software product manufacturing (Official letter No. 1741/TCT-CS dated 25<sup>th</sup> April 2024 of the General Department of Taxation)

➤ **Value Added Tax (VAT):** Software product and software service production activities are not subject to VAT according to the provisions of Clause 21, Article 4, Circular No. 219/2013/TT-BTC.

Software products which are produced for foreign organizations and individuals and consumed outside of Vietnam; supplied to organizations and individuals in the non-tariff area and consumed in the non-tariff area according to the provisions of law are subject to the VAT rate of 0% if conditions prescribed in Article 9 and Clause 2, Article 16, Circular No. 219/2013/TT-BTC are fully met.

➤ **Corporate income tax (CIT) incentives:** being implemented according to the provisions of legal documents on Taxation (Corporate Income Tax Law No. 32/2013/QH13 dated 19<sup>th</sup> June 2013, Decree No. 218/2013/ND-CP dated 26<sup>th</sup> December 2013, Decree No. 12/2015/ND-CP dated 12<sup>th</sup> February 2015, Circular No. 78/2014/TT-BTC dated 18<sup>th</sup> June 2014, Circular No. 96/2015/TT-BTC dated 22<sup>nd</sup> June 2015).

Accordingly, the Provincial Tax Department shall determine and check the business activities of enterprises to apply tax incentives if these business activities belong to software production projects and meet the conditions for CIT incentives.

➤ **Software product manufacture:** to be determined according to the instructions in legal documents issued by the Ministry of Information and Communications (Circular No. 13/2020/TT-BTTTT dated 3<sup>rd</sup> July 2020, Circular No. 09/2013/TT-BTTTT dated 8<sup>th</sup> April 2013, Circular No. 20/2021/TT-BTTTT dated 3<sup>rd</sup> December 2021).

If facing difficulties in verifying whether the Company's products meet the conditions required for software or software product manufacturing or not, the Provincial Tax Department needs to coordinate with the Company in sending request to the Ministry of Information and Communications to seek for its opinions in order to apply tax policy properly.

**3. Guidance on depreciation of used fixed assets (Official letter No. 1140/TCT-CS dated 22<sup>nd</sup> March 2024 of General Department of Taxation)**

- For the used fixed asset which has been amortized and of which the depreciation has been established, the depreciation time will be reduced in comparison to that provided for in the depreciation timeframe of fixed assets as provided for in the Appendix 1 issued together with the Circular No. 45/2013/TT-BTC and determined in accordance with provisions in the Clause 2, Article 10, Circular No. 45/2013/TT-BTC.
- For the used fixed assets which was put into use for business operation purpose after being purchased by the company and of which the depreciation time was determined in accordance with provisions in the Clause 2, Article 10, Circular No. 45/2013/TT-BTC, if during operation, the company wants to change their depreciation time already determined in accordance with provisions in Clause 2, Article 10, Circular No. 45/2013/TT-BTC, the company has to set up a changing plan in accordance with provisions in Clause 3, Article 10, Circular No. 45/2013/TT-BTC.

**4. Tax treatment to trade discount received from foreign suppliers (Official letter No. 3951/CTBDU-TTHT dated 6<sup>th</sup> March 2024 of Binh Duong Tax Department)**

Pursuant to the current provisions, in case where the company receives trade discount in cash from a supplier located overseas, the company will not be required to calculate, declare and pay VAT; however, the company has to record it as other income to declare and pay CIT.

**5. Guidance on principles of CIT incentives applied to a chain of investment projects (Official letter No. 1555/TCT-CS dated 15<sup>th</sup> April 2024 of General Department of Taxation)**

Regarding the issue, General Department of Taxation provide instruction to Hai Phong Tax Department as follows:

According to the current provisions, in principle, a new investment project is an investment project to be performed for the first time or an investment project independent from an operating investment project; and an expanding investment project is an investment project to be performed to further develop an operating investment project by expanding the scale, enhancing the capacity, renewing the technology, reducing the pollution, or improving the environment. Both the new investment project and expanding investment project are entitled to enjoy CIT incentives if they meet conditions for CIT incentives in accordance with legal provisions. Accordingly, in case where Deep C Green Energy (Vietnam) Company Limited has four (04) investment projects, the CIT incentives will be determined as follows:

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- If investment projects No. 2, 3 and 4 are new investment projects and independent from each other and from the investment project No. 1, and meet conditions for business sectors, localities given CIT incentives, they will be entitled to CIT incentives given to a new investment project.
  - If investment projects No. 2, 3 and 4 are investment projects to further develop an operating investment project in business sectors, localities given CIT incentives and meet one among three criteria of expanding investment as provided for, they will be entitled to CIT incentives given to an expanding investment project.

In case where the investment projects are invested in the sector of generating electricity from wind energy or from solar energy which are subject to special provisions and/or requirements of the sector or industry, these investment projects are required to meet such special provisions and/or requirements.