
TAX BULLETIN July 2024

1. Foreign contractor withholding tax (“FCWT”) on compensation due to breach of contract (Official letter No. 6067/CTHDU-TTHT dated 9th July 2024 of the Hai Duong Tax Department)

Compensation received by a foreign contractor from a counterpart in Vietnam due to a breach of contract is subject to CIT at the rate of 2% on the taxable income (FCWT) in accordance with Point b.1, Clause 1, Article 13, Circular No. 103/2014/TT-BTC.

2. Foreign contractor withholding tax on salary reimbursement to expatriates (Official letter No. 18135/CTBTR-TTHT dated 4th July 2024 of Binh Duong Tax Department)

In cases where a Vietnamese company makes reimbursement of salaries paid to expatriates working in Vietnam to the parent company under an agreement between the Vietnamese entity and the parent company, the company is not obligated to withhold FCWT provided that the reimbursed amounts are equal to salaries paid by the parent company to the expatriates.

3. Guiding the VAT rate of 0% on land leasing transaction (Official letter no 2452/TCT-CS dated 7th June 2024 of General Department of Taxation)

In case where the transferor which is an enterprise with foreign direct investment capital and had leased land and paid land rental for the whole leasing duration, signs a contract on transfer of the land use right and assets attached on the land to a transferee which is an export processing enterprise (EPE), and the transferee is an EPP eligible for EPE regimes and has met conditions on customs inspection and supervision applicable to non-tariff areas, and the transferred assets are not subject to clear customs procedures, the re-leasing transaction is subject to zero rates VAT provided that:

- the re-leasing transaction of the land use right and assets attached on the land is complied with the provisions as provided for in the Land Code 2013,
- conditions on contract, invoice and via-bank payment receipts are met in accordance with current regulations.

4. Determination of a new investment project for CIT incentive purposes (Official letter No.2327/TCT-CS dated 3rd June 2024 of General Department of Taxation)

In case where an enterprise has an investment project which has been granted an investment registration certificate; however, such investment project inherits assets, business place, business line from and uses machineries and equipment of an operating project to continue production and business activities, this project is not considered as a new investment project in accordance with provisions of tax law.

5. Invoicing for exported goods being returned (Official letter No. 15080/CTBDU-TTHT dated 3rd June 2024 of Binh Duong Tax Department)

In case the Company exported goods which were returned by the client:

- the Company shall issue an e-invoice upon receiving the returned goods; such an electronic invoice will describe the volume of returned goods, total payment amount (in negative number), and the Company shall record the turnover regarding returned goods.
- the Company shall issue an e-invoice in accordance with provisions in Article 10, Decree No. 126/2020/NĐ-CP dated 19th October 2020 of Government on which the VAT rate index shall be inscribed “KCT” (not subject to tax) in accordance with the guideline in the Decision No.1450/QĐ-TCT dated 7th October 2021 of General Department of Taxation when exporting the returned goods after repairing.

6. Tax treatment on payment for transport support (Official letter No. 28812/CTHN-TTHT dated 17th May 2024 of Hanoi Tax Department)

Hanoi Tax Department provides tax guidance in case where the Company support for transportation cost for purchasers for the purpose of promotion of product consumption the as follows:

- Invoicing: Upon receiving the payment for transport support, the purchaser will issue VAT invoice, declare and pay VAT in accordance with current regulation.
- Deductible expenses: The payment for transport support will be deductible for CIT purpose provided that:
 - conditions as provided for in the Article 4, Circular No. 96/2015/TT-BTC dated 22nd June 2015 of Ministry of Finance are met in full.
 - support for transportation costs should be specifically stated in the sales contract or contract’s annex, and supported by a list of support payments certified by the two parties.
 - in case the payment is made under the form of debt offset, a minutes on offsetting debts should be concluded by two parties.