
TAX BULLETIN October 2024

1. Guidance on adjustment of capital contributed in foreign currency (Official letter No. 25970/CTBDU-TTHT dated 26th September 2024 of Binh Duong Tax Department)

Pursuant to the provisions stipulated in the Circular No. 200/2014/TT-BTC dated 22nd December 2014 of Ministry of Finance, in case where the Company amends or/and supplements the its Certificate of Business Registration and at the same time, reduces the capital in foreign currency, it is required to use the actual exchange rate at each time when the capital was contributed in order to convert from foreign currency into VND for accounting purpose.

2. Guidance on customs procedures and tax policy applicable to export processing enterprises (Official letter No. 4218/TCHQ-CCHĐH dated 4th September 2024 of the General Department of Customs)

General Department of Customs provide guidance on customs procedures and tax policy applicable to export processing enterprises (EPE) to Korean Chamber of Commerce in Vietnam as follows:

- In case where components, accessories, materials are purchased by an EPE to repair, upgrade, and replace those machineries, equipment and molds which are leased or lent to domestic enterprises by the EPE

Pursuant to the official letter No. 300/TCHQ-GSQL dated 17th January of the General Department of Customs, if an EPE leases, lends machineries, equipment and molds to a domestic enterprise in service of their export processing activities in accordance with the target inscribed on Certificate of Investment Registration or similar documents certified by the investment registration competent authority, the EPE will register a temporarily export declaration and the domestic enterprise will perform the temporarily import procedure; after the leasing or lending contract is terminated, the domestic enterprises will perform the re-export procedure and the EPE will perform the re-import procedure for leased, lent goods. Accordingly, re-imported machineries, equipment and molds must be the same ones temporarily exported. Because machineries, equipment and molds after being used to perform activities mentioned above have changes and are not the same ones temporarily exported, Korean Chamber of Commerce is requested to instruct its members which are EPE engaging in these activities to re-import machineries, equipment and molds for repairing, upgrading, and replacing and then to resume the leasing or lending.

- Customs procedures, tax policies applicable to indirect materials, consumption goods used for operating, managing activities transferred to domestic enterprises by EPEs in service of processing contracts

Pursuant to provisions stipulated in Clause 6, Article 16, Law on Import Duties – Export Duties No. 107/2016/QH13, Clause 1, Article 10, Decree No. 134/2016/NĐ-CP dated 1st

September 2016 which were supplemented, amended in Clause 4, Article 1, Decree no 18/2021/NĐ-CP dated 11th March 2021 of Government, in case where a domestic enterprise (processing side) imports indirect materials, consumption goods used for operating, managing activities, these goods are not directly incorporated in exported processed products or directly used for the processing process, thereby they are not subject to tax exemption.

3. CIT incentives applicable when a branch is converted into a subsidiary (Official letter No. 23846/CTBDU-TTHT dated 22nd August 2024 of Binh Duong Tax Department)

In case where Company has an plan on restructuring activities and operations of an project (which is a branch located in Binh Duong Province) under which the branch located in Binh Duong Province shall be converted into a subsidiary to continue performing business lines and carrying activities at the address which were registered by the branch, the subsidiary will be allowed to inherit CIT incentives given to the branch for the remaining time in accordance with the provisions in Clause 3, Article 10, Circular no 96/2015/TT-BTC dated 22nd June 2015 of Ministry of Finance which supplements, amends the Clause 5 Article 18 of Circular no 78/2014/TT-BTC dated 18th June 2014 of Ministry of Finance (which was supplemented, amended in Article 5, Circular No. 151/2014/TT-BTC dated 10th October 2014 of Ministry of Finance) provided that conditions for CIT incentives as provided are fully met.

4. Tax treatment in case of merge and acquisition (Official Letter No. 3872/TCT-CS dated 30th August 2024 of the General Department of Taxation)

A company is fully acquired by another company, and subsequently the parent company is merged into that company. If the merging procedures are complied with legal regulations, tax treatment will be applied as follows:

➤ Value added tax (VAT):

When transferring assets to merge into another company according to the provisions of the Enterprise Law, the company with transferred assets must have an asset transfer order, supported by a set of documents on the origin of the assets and is not required to declare, calculate and pay VAT and is not required to issue VAT invoices.

➤ Corporate income tax (CIT):

- The difference due to revaluation of assets (if any) according to the provisions of law when transferring merged assets is determined according to the provisions in Point m, Clause 2, Article 3, Decree No. 218/2013/ND-CP dated 26th December 2013 of the Government (amended and supplemented by Clause 1, Article 1, Decree No. 91/2014/ND-CP dated 1st October 2014) and Clause 14, Article 7, Circular No. 78/2014/TT-BTC dated 18th June 2014 (amended and supplemented by Article 2, Circular 151/2014/TT-BTC dated 10th October 2014).

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- The difference between the transfer price for the acquisition and the revalued assets value of the acquired company upon the merger is considered as other income for CIT calculation purpose.
 - The Company is allowed to depreciate or allocate to deductible expenses regarding assets at the revaluation price (except in cases where the value of land use rights is not depreciated or allocated to expenses according to legal regulations) for CIT purpose.