



## **TAXFLASH**

**Issue No 05/2023**

### **EXTENDED TAX & LAND RENTAL PAYMENT DEADLINES IN 2023**

On April 14, 2023, in order to support businesses and people, promote production and business, the Government issued Decree No.12/2023/ND-CP (*Decree 12/2023*) extending the deadlines for payment of value-added tax (VAT), corporate income tax (CIT), personal income tax (PIT) and land rent in 2023.

#### **Applicable subjects**

Article 3 of Decree 12/2023 specifies the subjects entitled to the extended deadlines for payments of taxes and land rent.

Kindly note the list of economic sectors is determined according to Decision No.27/2018/QĐ-TTg dated July 06, 2018 of the Prime Minister regarding the system of economic sectors of Vietnam.

#### **Extended payment deadlines**

Decree 12/2023 stipulates the extension of deadlines for payment of VAT, CIT, PIT and land rent as follows:

- ▶ 6-month extension for VAT of March to May 2023 and the first quarter of 2023.
- ▶ 5-month extension for VAT of June 2023 and the second quarter of 2023; a 4-month extension for the VAT of July 2023.
- ▶ 3-month extension for the VAT of August 2023.  
*The above extension period shall be counted from the due date of the value-added tax payment in accordance with the law on tax administration.*

*In case a taxpayer makes a revised tax return of the extended tax payment period, resulting in an increase in the amount of VAT payable and send to the tax authority before the expiry of the extended tax payment period, the tax amount entitled to extended payment deadline includes the additional tax payable as a result of the revision of the tax returns.*

- ▶ 3-month extension for provisional CIT paid in the first and second quarters of the 2023 CIT reporting period
- ▶ Household businesses and individual businesses shall pay VAT and PIT of 2023 no later than December 30,2023
- ▶ 3-month extension for 50% of the land rental payable in 2023

#### **Procedures for extension**

Taxpayers shall submit an application for extension of tax payment and land rent once for the entire amount of tax and land rent incurred in the tax reporting periods entitled to extended payment deadlines at the time of filing monthly (or quarterly) tax returns in accordance with the law on tax administration.

If the application for extension is not filed at the same time as the tax return, the deadline for filing a request for extended payment deadline is **September 30, 2023**.

We ask that the taxpayers should pay attention to the timeframe above in order to file a request for extended payment deadlines in accordance with the regulations.

## CIT INCENTIVES BY AREA FOR ADDITIONAL BUSINESS LINES

According to Official Letter No. 4229/CTBDU-TTHT dated 03/03/2023 of the Binh Duong Province Department of Taxation, enterprises operating and enjoying CIT incentives (*due to satisfying the conditions for geographical area*) will not be entitled to CIT incentives for the additional income from the added business lines without any capital increase, increase in assets through expanded investment.

## VALUE OF RAW MATERIALS AND GOODS EXCEEDING THE LIMIT IS NOT DEDUCTIBLE

In Official Letter No. 4228/CTBDU-TTHT dated 03/03/2023, the Binh Duong Department of Taxation confirms:

- ▶ The excess of the consumption norm of raw materials, materials, fuel, energy and goods according to the State's regulations will not be deductible expenses for CIT purpose.
- ▶ In case through post-clearance inspection at the enterprise and the customs authorities deem the amounts of import tax and import VAT due to difference in the amounts of raw materials in inventory, and those stated in the import and export documents, liquidity records and the accounting books and actual inspection of inventory, the value of raw materials exceeding the enterprise's norm is also not tax deductible.

## RESOLUTION NO 67/NQ-CP OF THE GOVERNMENT PROPOSING THE NATIONAL ASSEMBLY TO CONSIDER VAT REDUCTION ITS MAY 2023 SESSION

On May 2, 2023, the Government issued Resolution 67/NQ-CP on the proposal to the National Assembly for a resolution regarding VAT reduction under shortened and simplified order and procedures for approval in its May 2023 session.

Specifically, Resolution 67/NQ-CP states that the Government approve the proposal for VAT reduction at the proposal of the Ministry of Finance in its submission No 70/BTC-CST in 2023, specifically as follows:

- ▶ Reduce VAT rate for goods and services subject to VAT rate of 10% **until December 31, 2023.**
- ▶ Reduction rate: **2%**

It is however unclear when the VAT rate reduction will be applied. We will continue to provide further update upon availability of further information.

## VAT INVOICES IN CASES OF TRADE DISCOUNT, RETURN OF GOODS, SUPPORT

According to Official Letter No. 8202/CTHN-TTHT issued on 06/03/2023 by the Hanoi Department of Taxation:

- ▶ The discount amount of goods sold is adjusted in the invoice for sale of goods or services of the last purchase or subsequent period (s).
- ▶ In case the discount amount is determined at the end of the sale discount program (period), an adjustment invoice shall be made according to the provisions of Article 19 of Decree No. 123/2020/ND-CP
- ▶ Where the return of goods arises in accordance with the provisions of law, when returning goods, the enterprise shall issue VAT invoices according to the provisions of Article 4, Decree No. 123/2020/ND-CP, the VAT rate of the returned goods corresponds to the tax rate of that goods stated on the purchase VAT invoice.
- ▶ Where the support is received to perform services for the supporting entity such as product display support, the support recipient must declare and pay VAT as prescribed in Article 5, Circular No. 219/2013/TT-BTC.

## VAT PAID ABROAD

According to Official Letter No. 1740/CTBDU-TTHT dated 03/02/2023 of the Binh Duong Province Department of Taxation, the amount of VAT payable under the commercial invoice of the foreign partner in accordance with the foreign tax law is deductible for CIT purposes if meeting the conditions specified in Article 4 of Circular No. 96/2015/TT-BTC.

## PIT WITHHOLDING FOR BONUS PAYMENTS

Hanoi Department of Taxation, in Official Letter No. 4985/CTHN-TTHT dated February 13, 2023, confirms:

- ▶ For payment of bonuses to collaborators, if this bonus is in the nature of salary, salary and collaborators do not have or have labor contracts of **less than 3 months**, PIT must be deductible at the **rate of 10%** as prescribed.
- ▶ If cash gifts are given to collaborators, the income from monetary gifts is not subject to PIT as prescribed. Salaries, wages, monetary gifts to collaborators if meeting the conditions specified in Article 4, Circular No. 96/2015/TT-BTC shall be a tax deduction but the enterprise will not be allowed to claim the PIT paid on behalf of collaborators as its tax deduction.

## PIT DECLARATION AND ALLOCATION TO PROVINCES WITH BRANCHES & BUSINESS LOCATIONS

Official Letter No.4418/CTHN-TTHT dated 09/02/2023 of the Hanoi Department of Taxation provides:

- ▶ In case an enterprise with branches or business locations in many provinces and cities performs centralized accounting, it must declare, calculate and allocate PIT to provinces and cities where it maintains its branches and business locations.

- ▶ The amount of PIT to be allocated to each province is determined according to the actual tax withheld by each individual employee.
- ▶ In case the employee is transferred or rotated, based on the time of payment of the income, the employee is working in any province, the amount of PIT withheld shall be calculated for that province.

## FOREIGN CONTRACTOR TAX ON PURCHASE OF ACCOUNT PACKAGES ON FOREIGN TECHNOLOGY PLATFORMS

Official Letter No. 4035/CTHN-TTHT dated 07/02/2023 of the Hanoi Department of Taxation confirms that in case a foreign contractor generates an income from selling utility accounts on available technology platforms, this is regarded as royalty income as prescribed in Clause 3 Article 7 of Circular No. 103/2014/TT-BTC. Accordingly:

- ▶ Rate (%) of CIT on taxable turnover: **10%**.
- ▶ Rate (%) of VAT on sales for services: **5%** (if not software services as prescribed in Decree No. 71/2007/ND-CP and not technology transfer, intellectual property rights transfer).

## PROPOSED AMENDMENTS TO THE LAW ON SOCIAL INSURANCE

The Ministry of Labor, Invalids and Social Affairs has coordinated with ministries and sectors and is currently in the process of seeking comments from agencies, ministries, sectors, localities and people to finalize the revised draft Law on Social Insurance ("**Draft Law**") replacing the Social Insurance Law No. 58/2014/QH13 ("**Law 58/2014**").

We provide below a summary of the more salient points of the Draft Law:

- ▶ The draft Law adds 03 groups of Vietnamese employees to the list of those subject to compulsory social insurance, including (i) Business household owners; (ii) Enterprise managers, nonpaid cooperative executive managers; and (iii) Employees working part-time.
- ▶ Regarding salary as a basis for compulsory social insurance contribution, the Draft Law proposes 02 options:

**Option 1**

The salary used as the basis for paying social insurance is a monthly salary including salary and salary allowances, other additional amounts determined by a specific amount stated in the labor contract in accordance with the labor law

**Option 2**

The salary used as the basis for paying social insurance is a monthly salary including salary and salary allowances, other additional amounts as prescribed by labor law.

- ▶ The draft Law proposes that the electronic social insurance book will replace the paper social insurance book and social insurance card to monitor the contribution and entitlements, which is the basis for solving compulsory social insurance regimes and voluntary social insurance by electronic transaction method.
- ▶ The draft Law specifies the acts of evading compulsory social insurance payment and adds measures to deal with compulsory social insurance payment evasion, including: (i) must pay an amount equal to **0.03%/day** on the evasion amount; (ii) decide to stop using invoices in case the Employer evades payment for 06 months or more and (iii) postpone exit in case the Employer evades payment for 12 months or more.

However, the Draft Law does not specify whether the above provisions apply to individual employers or even to legal representatives of employers being legal entities.

- ▶ The draft Law The draft Law adds a chapter on social pension benefits. Accordingly, individuals who are full 80 years old or older and do not have a pension or other monthly social insurance allowance will be entitled to social pension benefits.
- ▶ According to the Draft Law, the minimum social insurance contribution to enjoy the pension scheme is **reduced from 20 years to 15 years**. Accordingly, employees are eligible for pension benefits when they have paid full 15 years of social insurance and reached the retirement age. However, the retirement age under the Draft Law has increased according to the roadmap to be consistent with the 2019 Labor Code. Specifically, the retirement age for men is full 61 years and 3 months and for women is full 56 years and 8 months; Each year thereafter, the pension age increases by 3 months for men until they reach 62 years old in 2028 and an additional 4 months for women until they reach 60 years old in 2035.





- For employees who stop paying social insurance from 12 months, the Draft Law proposes 02 options to enjoy one off social insurance allowance, as follows:

**Option 1**

Maintain the current regulations, according to which employees are entitled to social insurance once after 12 months are not eligible for compulsory social insurance, do not participate in voluntary social insurance and have a social insurance contribution period of less than 20 years.

**Option 2**

The maximum entitlement must not exceed 50% of the total time of contribution to the pension or death fund. The remaining time to pay social insurance is reserved for the employee to enjoy the social insurance regime later when he or she reaches full retirement age.

The draft Social Insurance supplemented Plan 02, which stipulates that in case an employee is eligible for a pension but continues to pay social insurance, each year of social insurance contribution after the retirement age is higher than the number of years corresponding for paying social insurance.

**Under the Draft Law, if approved the Law is expected to take effect from January 1, 2025.**

**CONTACT**

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**UHY Auditing and Consulting Company Limited**

**Mr. Thanh Nguyen** - Partner  
E: thanhnt@uhyvietnam.com.vn

**Mrs. Thao Pham** - Partner  
E: thaopt@uhyvietnam.com.vn

**Mrs. Bo Tran** - Director  
E: bott@uhyvietnam.com.vn

**Mrs. Oanh Phung** - Director  
E: oanhpt@uhyvietnam.com.vn

**Hanoi Head Office**

5th floor, B2 building, Roman Plaza, To Huu Street,  
Nam Tu Liem District, Ha Noi City  
ĐT: +84 245 678 3999  
Fax: +84 243 755 7448

**Ho Chi Minh Office**

4th floor, 63B Calmette, Nguyen Thai Binh Ward,  
District 1, Ho Chi Minh City  
ĐT: +84 283 820 4899  
Fax: +84 283 820 4909  
Website: [www.uhy.vn](http://www.uhy.vn)  
Facebook: UHY Tax Centre  
UHY Training Centre

