



TAXFLASH

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CORPORATE INCOME TAX (CIT)

Tax incentives regarding income unrelated to the investment project's business activities

According to Official Letter No. 116/TCT-CS of the General Department of Taxation dated 10 January 2024, the income from production and business activities unrelated to the business activities of the investment projects is not entitled to CIT incentives.

Deductibility of accrued expenses

According to Official Letter No. 36102/CTBDU-TTHH of the Binh Duong Tax Department dated 29 December 2023, accrued expenses without invoices will be CIT deductible if at the time of the CIT finalisation, the taxpayers satisfy the conditions for deductibility as specified in Article 6, Circular No. 78/2014 then amended and supplemented in Article 4, Circular No. 96/2015/TT-BTC.

Deductibility of interest expenses due to late payments

Official Letter No. 32079/CTBDU-TTHT of the Binh Duong Tax Department dated 5 December 2023 confirms that interest expenses due to late payment as specified in the contracts for sales of goods or services are deductible for CIT purposes.



CIT incentives

Official Letter No. 5115/TCT-CS dated 15 November 2023 of the General Department of Taxation confirms:

- ▶ Taxpayers are entitled to CIT incentive with respect to the additional income from investment expansion if satisfying the stipulated conditions in case of acquisition of the investment project and after transfer of ownership of the project with the investment expansion.
- ▶ The proportion of additional income from production of goods subject to special consumption tax from business expansion granted with investment registration certificate after the effective date of the Investment Law (*i.e.* 1 July 2015) is not entitled to CIT incentive.

VALUE-ADDED TAX (VAT) & INVOICES

2% VAT rate reduction within the first half of 2024

To implement Resolution No. 110/2023/QH15 of the National Assembly, on 28 December 2023, the Government promulgated Decree No. 94/2023/ND-CP ("Decree 94") prolonging the 2% VAT rate reduction policy from 1 January 2024 to 30 June 2024.

Decree 94 takes effect from 1 January 2024.

Below are some of the salient points of Decree 94 for your information:

- ▶ Reducing the VAT rate for goods and services subject to 10% VAT rate, except for goods and service groups such as telecom; finance, banking, securities, insurance, real estate business activities; metal and prefabricated metallic products, mining products (except coal mining), coke coal, refined petroleum, chemicals (detailed in Appendix I of Decree 94), goods and services subject to SCT (detailed in Appendix II of Decree 94), IT goods and services according to IT laws (detailed in Appendix III of Decree 94).
- ▶ VAT reduction applies consistently at importing, producing, processing and trading stages.
- ▶ VAT reduction applies to business establishments calculating VAT by deduction method and business establishments (*including households and business individuals*) calculating VAT by percentage on revenue method.

Please feel free to contact us for more clarification and/or support.

VAT on leasing land use rights to EPE

According to Dong Nai Tax Department's Official Letter No. 13746/CTDON-TTHT dated 14 December 2023, leasing land use rights to export processing businesses service is entitled to 0% VAT rate if satisfying conditions specified in Point a, Item 1 & 2, Article 9, Circular No. 219/2013/TT-BTC.

Invoices for internally consumed goods

The Binh Duong Tax Department's Official Letter No. 207/CTBDU-TTHT dated 8 January 2024 provides the following guidance:

- ▶ The company issues invoices for goods bought for internal consumption and specifies all norms in the invoice according to the provisions of Article 10, Decree No. 123/2020.
- ▶ The company does not have to issue invoices for internally circulated goods to be used in the production process.

Guidance on electronic invoices

According to Dong Nai Tax Department's Official Letter No. 13822/CTDON-TTHT dated 18 December 2023:

- ▶ If the seller cancels the invoice without informing the buyer thereof or no agreement between two parties exists, the invoice is regarded as invalid. The seller will issue new invoice according to the regulations and all parties are responsible for the legitimacy, accuracy of the newly issued invoice(s) according to the regulations
- ▶ The seller is regarded as issuing invoices not at the right time according to Item 2, Article 9, Decree No. 123/2020 if the service has not arisen and no advance payment has been made. Accordingly, the seller will be fined according to Article 24, Decree No. 125/2020.

FOREIGN CONTRACTOR TAX (FCT)

FCT for on the spot export & import activities

According to Binh Duong Tax Department's Official Letter No. 23679/CTBDU-TTHT dated 10 October 2023, if foreign businesses (without any permanent establishments in Vietnam) buy goods or order processing of goods from onshore businesses then sell same to other businesses in bonded warehouse within Vietnamese territory, the delivery process from the bonded warehouses will not be regarded as an activity supporting international transportation, transit, transshipment, storage or letting other businesses process goods activities. Therefore, the foreign businesses are subject to FCT.

FCT of income from services provided offshore

Long An Tax Department's Official Letter No. 4436/CTLAN-TTHT dated 10 November 2023 confirms that if the company engages an offshore consulting company to provide services offshore, the income from the consulting services provided and consumed outside Vietnam as mentioned above is not subject to FCT.

PERSONAL INCOME TAX (PIT)

PIT treatment of the termination allowance payments to foreign employees

Regarding the payments of the termination allowance to foreign employees after departure, Official Letter No. 5046/CTBNI-TTHT dated 31 October 2023 of the Bac Ninh Tax Department confirms the following:

- ▶ Termination allowance paid in accordance with the provisions of the Labor Code: PIT exempt.
- ▶ The payments in excess of the amounts provided under the Labor Code: 20% PIT withholding on the excess amounts.

Employers pay attention to the above for effective PIT compliance.

PIT treatment of commission payments

The Long An Tax Department guides the PIT treatment of the commission based on the sales income of the sellers being domestic individuals participating in e-commerce trading platforms in Official Letter No. 4346/CTLAN-TTHT dated 3 November 2023 as follows:

- ▶ Business individuals with annual commission income of less than VND100 million in the calendar year, the business individuals must ensure submission of the tax returns by the due date but do not have to pay VAT and PIT.
- ▶ Business individuals with annual commission income from VND100 million or more in the calendar year, the business individuals are required to declare and pay VAT & PIT as legally required.
- ▶ Non business individuals with commission income: The income payer is required to withhold 10% PIT upon payments exceeding VND2 million each payment as required by laws.

- ▶ If the company pays commissions to individuals working under the employment contracts of 3 months or more, the total commission amount is added into the individuals' salaries and wages for PIT calculation purposes. The company must withhold PIT at source according to the laws.

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