



Mazars in Vietnam Newsletter

January 2024

Tax & Legal Updates

1. Decree 94/2023/ND-CP stipulating the Value Added Tax reduction policy for the first 06 months of 2024
2. Official Letter 5435/TCT-CS guiding on case where the VAT rate cannot be determined
3. Official Letter 3142/CTTPHCM-TTHT guiding regulations on offsetting overseas profit remittance
4. Official Letter 5081/CTBNI-TTHT guiding on the timing of export revenue recognition
5. Official Letter 5114/TCT-CST guiding on determining the transfer of capital between companies within the same Group
6. Official Letter 5113/TCT-CS guiding on declaring capital transfer tax for foreign enterprises
7. Official Letter 5001/TCT-DNNCN guiding on determining the taxable income for individuals inheriting stocks
8. Official Letter 5046/CTBNI-TTHT guiding on the payment of severance allowances to expatriates leaving Vietnam
9. Official Letter 5026/CTBNI-TTHT guiding on the calculation of SCT for cases involving trade discount

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Operational updates

Decree 94/2023/ND-CP stipulating the Value Added Tax reduction policy for the first 06 months of 2024

On 28 November 2023, the Government of Vietnam issued Decree 94/2023/ND-CP (“Decree 94”) in-line with the National Assembly’s Resolution No. 110/2023/QH15 dated 29 November 2023 effective from 01 January 2024 to 30 June 2024. Some notable points of Decree 94 are as follows:

❖ **Subjects of VAT reduction:** Goods and services eligible for VAT reduction include goods and services currently subject 10% VAT rate, except for goods and services groups specified in Appendices I, II, III issued with Decree 94 such as: Telecommunications, , financial activities, banking, securities, insurance, real estate trading, metals, goods and services subject to Special Consumption Tax (“SCT”), Information Technology, etc.

❖ **VAT reduction**

- For business establishments declaring VAT under credit method: the VAT rate of 10% will be reduced by 2% (to the VAT rate of 8%); and
- For business establishments declaring VAT under direct method: the VAT rate will be reduced by 20% of the percentage rate on sales for VAT calculation.

❖ **Procedure for declaring VAT reduction:** Business establishments declare goods and services entitled to VAT reduction according to Form No. 01 in Appendix IV of Decree 94 together with VAT declaration.

Official Letter 5435/TCT-CS guiding on case where the VAT rate cannot be determined

According to Official Letter 5435/TCT-CS dated 04 December 2023 issued by the General Department of Taxation (“GDT”), in case the Company has multiple types of goods and services which are subject to different VAT rates, separate tax rates must be declared for each type of goods and services. If the Company cannot determine the applicable tax rates, the highest tax rate would be applied to the goods and services produced or traded by the Company. In addition, construction and installation activities with the time of completion and handover within the VAT reduction period (regardless of whether payment has been received or not) would still be eligible for VAT reduction.

Operational updates

Official Letter 3142/CTTPHCM-TTHT guiding regulations on offsetting overseas profit remittance

According to Official Letter 3142/CTTPHCM-TTHT dated 07 April 2022 issued by Ho Chi Minh City Tax Department, in case the Company remits its profits abroad to its parent company by offsetting the outstanding receivables from the parent company, this method is not in compliance with regulations regarding overseas profit remittance.

Simultaneously, the payment for exported goods and services using the offsetting method above is not considered a bank payment, failing the conditions for input VAT deduction and refund as prescribed.

Official Letter 5081/CTBNI-TTHT guiding on the timing of export revenue recognition

According to Official Letter 5081/CTBNI-TTHT dated 06 November 2023 issued by Bac Ninh Tax Department, in case the Company has goods export activities, the timing for determining the export revenue for VAT calculation purposes is the date of customs declaration completion per customs return. In addition, the time for CIT revenue incurrence is the transfer of ownership or the right to use the goods to the buyer.

Official Letter 5114/TCT-CST guiding on determining the transfer of capital between companies within the same Group

According to Official Letter 5114/TCT-CST dated 15 January 2023 issued by the GDT, in case the foreign enterprise planning to merge and transfer all of the assets, rights, and legitimate interests to another company (including the ownership to contributed capital in a Vietnamese company), if there is income generated, CIT declaration and submission would be required. The Vietnamese company whose capital is being transferred would be responsible for the declaration and submission of CIT from the capital transfer activities of the foreign organization per regulation.

Operational updates

Official Letter 5113/TCT-CS guiding on declaring capital transfer tax for foreign enterprises

According to Official Letter 5113/TCT-CS dated 15 November 2023 issued by the GDT, in case the foreign company transferring ordinary shares to Vietnamese individuals, who fall under the capital transfer provisions, the Vietnamese individuals receiving the transfer are responsible for determining, declaring, and paying the substitute tax on behalf of the foreign company for CIT arising from this capital transfer activity.

Official Letter 5001/TCT-DNNCN guiding on determining the taxable income for individuals inheriting stocks

According to Official Letter 5001/TCT-DNNCN issued by GDT, for inherited assets in the form of stocks traded on the Upcom exchange, the stock exchange system for non-public stocks organized and operated by the Vietnam Exchange authority, the value for inherited assets above VND10 million as the basis for PIT taxable income would be based on Point 1, Article 19, Circular 92/2015/TT-BTC, per the reference price from the Vietnam Exchange at the time of stock ownership registration.

Official Letter 5046/CTBNI-TTHT guiding on the payment of severance allowances to expatriates leaving Vietnam

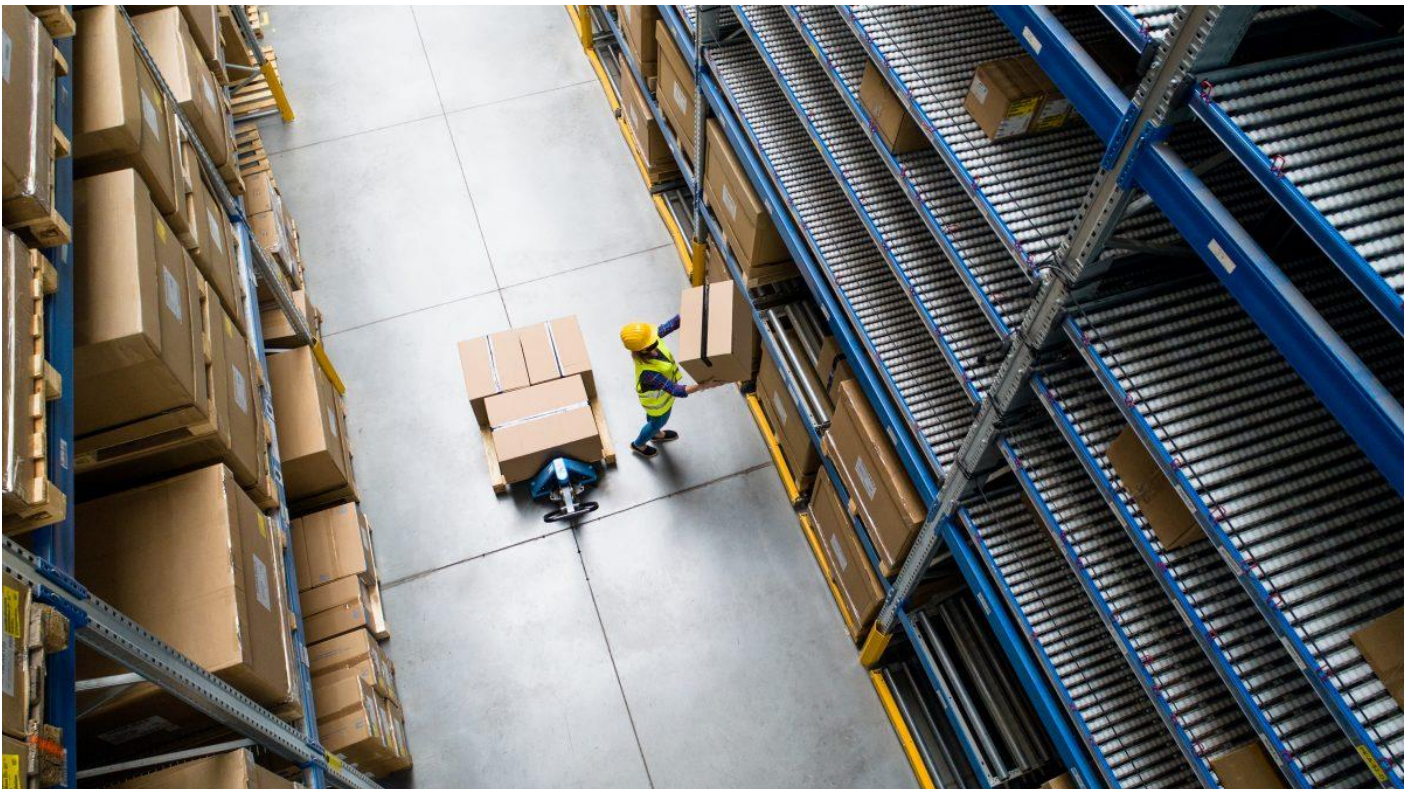
According to Official Letter 5046/CTBNI-TTHT dated 31 October 2023 issued by Bac Ninh Tax Department guiding on the payment of severance allowances to expatriates leaving Vietnam:

- Severance allowances paid in accordance to the Labour Code would not be treated as taxable income from salary and remuneration for the expatriates;
- The portion of severance allowances exceeding the regulations of the Labour Code would be subject to PIT, where the Company should withhold PIT with fixed tax rate applicable to non-residents (PIT rate of 20%) before making the payment to the expatriates.

Operational updates

Official Letter 5026/CTBNI-TTHT guiding on the calculation of Special Consumption Tax (“SCT”) for cases involving trade discount

According to Official Letter 5026/CTBNI-TTHT dated 30 October 2023 issued by Bac Ninh Tax Department, in case the Company engaged in the manufacture and sales of goods subject to SCT and applied trade discount deductions directly on the invoice, SCT taxable price would be based on the sales price before SCT, VAT, and Environmental projection tax (if any). In addition, in case the trade discounts is applied after the buyer satisfied certain conditions, and the Company issued adjustment invoice to reduce the revenue in accordance to the trade discounts applied, the Company would make corresponding SCT payable reduction.



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