



서우회계법인 베트남

SEOU VIETNAM ACCOUNTING COMPANY LIMITED

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TAX ADMINISTRATION

REGULATIONS UPDATE

Deadline of tax payment and submission of tax returns

The time limits for submission of tax declaration dossiers, time limits for payment of tax, time limits for tax authorities to process applications, effective periods of decisions on enforcing the implementation of tax decisions shall comply with regulations of the Law on Tax Administration and this Decree. In case the expiration date of any of these time limits is a statutory day off, the expiration date will be the working day succeeding the day off.

(Article 1, Decree 91/2022/ND-CP take effective on 30 Oct 2022).

<https://thuvienphapluat.vn/van-ban/Thue-Phi-Le-Phi/Nghi-dinh-91-2022-ND-CP-sua-doi-Nghi-dinh-126-2020-ND-CP-huong-dan-Luat-Quan-ly-thue-516302.aspx>

Decree 12/2023/ND-CP dated 14 April 2023 on the extension of deadline for paying VAT, CIT and PIT, and land rent in 2023.

Time to apply the extension of tax and land rent payment in 2023:

- Extension of the tax payment deadline for the arising VAT payable of the tax period from March to August 2023 and the tax period of the first and second quarter of 2023 of the enterprises and organizations mentioned in Article 3. Decree 12/2023/ND-CP;

The time limit for payment of VAT of the month and quarter is extended as follows:

- + The deadline for VAT payment of the tax period of March 2023 is October 20, 2023.
- + The deadline for VAT payment of the April 2023 tax period is November 20, 2023.
- + The deadline for VAT payment of the tax period of May 2023, June 2023, July 2023, and August 2023 at the latest is December 20, 2023.
- + The deadline for VAT payment of the tax period of the first quarter of 2023 is October 31, 2023.

+ The deadline for VAT payment of the tax period of the second quarter of 2023 is December 31, 2023.

Note: The above regulation does not apply to import VAT.

- Extending the tax payment deadline for temporarily paid CIT amounts of the first quarter and second quarter of the CIT period of 2023 of enterprises and organizations that are the subjects specified in Article 3 of Decree 12/2023/ ND-CP;

The extension period is 3 months from the end of the CIT payment deadline in accordance with the law on tax administration.

- Extension of the deadline for payment of VAT and PIT for payable tax amounts arising in 2023 of business households and individuals operating in the economic sectors and fields mentioned in Clauses 1, 2 and 3 Article 3 Decree 12/2023/ND-CP;

The eligible business households and individuals shall pay the tax amount by December 30, 2023.

- Land rent: Extension of the time limit for paying land rent for 50% of the arising land rent payable in 2023 of enterprises, organizations, households and individuals under Article 3 of this Decree who are leasing land from the Government directly under Decision or Contract of competent authority for annual land rent. The extension time is 06 months from May 31, 2023 to November 30, 2023.

<https://thuvienphapluat.vn/van-ban/Doanh-nghiep/Decree-No-12-2023-ND-CP-extending-the-payment-deadline-of-VAT-corporate-income-tax-564342.aspx?tab=1>

Notice No. 426/TB-TCT of General Department of Taxation on the plan of VAT reduction

On 16 June 2023, General Department of Taxation has issued Notice No. 426/TB-TCT which mentions as below: Following the direction of the National Assembly and the Government on the reduction of VAT in 2023 for goods and services as prescribed in Resolution No. 43/2022/QH15 dated January 11, 2022 of the National Assembly, the Ministry of Finance is presiding over and coordinating with the Ministry of Justice and relevant agencies in formulating a draft Decree guiding the Resolution. on the VAT reduction policy with expected effect from July 1, 2023 to December 31, 2023.

Similarly to Decree 15/2022/ND-CP on VAT reduction from in 2022, in the draft Decree, VAT on goods and services currently subject to 10% VAT shall be reduced to 8%, except the following goods and services:

- a) Telecommunication, financial activities, banking activities, securities, insurance, trading of real estate, metal and precast metal products, mining products (excluding coal mining), coke mining, refined oil, chemical products.
- b) Goods and services subject to excise tax.
- c) Information technology as prescribed in the Law on information technology.

This Decree is likely to be effective from 01 July 2023.

CORPORATE INCOME TAX (“CIT”)

1. REGULATIONS UPDATE

Change in regulation for provisional CIT payment

Point g, Clause 6, Decree 126/2020/ND-CP mentioned that:

The total CIT provisionally paid in the first 03 quarters of the year shall be at least 75% of the total CIT liabilities based on CIT finalization. Otherwise late payment interest shall be charged on the arrears over the period from the deadline for paying CIT of the third quarter to the date of payment of the underpaid CIT.

However, the regulation has been amended by Clause 5, Article 1, Decree 91/2022/ND-CP as below:

The total amount of provisional CIT paid in 04 quarters shall be at least 80% of the CIT payable under the annual tax finalization dossier. If the provisional CIT of 04 quarters is underpaid, late payment interest shall be charged on the tax arrears over the period from the date succeeding the deadline for paying provisional CIT of the fourth quarter to the date preceding the day on which tax arrears are paid to state budget.

This regulation can be applied from the tax year 2021.

<https://thuvienphapluat.vn/van-ban/Thue-Phi-Le-Phi/Nghi-dinh-91-2022-ND-CP-sua-doi-Nghi-dinh-126-2020-ND-CP-huong-dan-Luat-Quan-ly-thue-516302.aspx>

The number of overtime hours exceeding the regulations will be treated as non-deductible expenses

According to Resolution 17/2022/UBTVQH15, which takes effect from 01 April 2022 and expires on 01 January 2023, in case an employer is allowed to use an employee to work overtime for up to 300 hours in 01 year, if the need and consent of the employee is obtained, the employer may use the employee to work overtime for more than 40 hours but not more than 60 hours in a month, except for some special cases.

Thus, the number of overtime hours in 2023 for employees shall not exceed 40 hours/month and no more than 200 hours/year, except for some cases where overtime work may not exceed 300 hours in some of the following occupations:

- Producing, processing and exporting textiles, garments, leather, shoes, electricity, electronics, processing of agriculture, forestry, salt and fishery products;
- Producing, supplying electricity, telecommunications, oil refining; water supply and drainage;
- In case of solving jobs that require highly qualified professional and technical workers but the labor market cannot supply them adequately and promptly;
- In case of having to deal with urgent work that cannot be delayed due to the seasonality and timing of raw materials and products, or to solve problems arising due to unforeseen objective factors or consequences as follows: weather, natural disaster, fire, enemy sabotage, lack of electricity, lack of raw materials, technical problems of the production line;

(Article 107 of the Labor Code 2019).

2. OFFICIAL LETTER

(i) Official Letter No. 6096/CTHN-TTHT dated 16 Feb 2023 issued by Hanoi Tax Department on bank deposit interest which is included in CIT taxable income in the actual incurred period

The CIT law does not stipulate the income, which shall be collected but shall not actually incurred, is included in the taxable income in the current tax period.

In case the Corporation actually generates income from interest on bank deposits, this income shall be included in the taxable income of the tax period when the income is actually generated according to the guidance in Article 7 of Circular No. 78/ 2014/TT-BTC dated June 18, 2014 issued by the Ministry of Finance (amended and supplemented in Clause 1, Article 5 of Circular No. 96/2015/TT-BTC dated June 22, 2015 of the Ministry of Finance).

(<https://thuvienphapluat.vn/cong-van/Thue-Phi-Le-Phi/Cong-van-6096-CTHN-TTHT-2023-thue-thu-nhap-doanh-nghiep-khoan-lai-du-thu-Cuc-Thue-Ha-Noi-555737.aspx>)

(ii) Official Letter No. 156/CCTKV-NV dated 01 March 2023, issued by the Tax Department of Phu Yen province on the change of the depreciation period which must be notified in writing to the tax authority.

Accordingly, the Company is allowed to change the depreciation period once for each asset if the depreciation period is still within the depreciation time frame specified in Circular No. 45/2013/TT-BTC. The company must notify the tax authority in writing when making changes.

In case an enterprise wishes to determine the period of depreciation of used fixed assets different from the time frame of depreciation provided in Appendix I, Circular No. 45/2013/TT-BTC, the Company shall prepare a plan to change the depreciation period of fixed assets and apply for approval according to the provisions of point a, clause 3, article 10, circular No. 45/2013/TT-BTC. Within 20 days from the date of approval of the plan by DoF, the company must notify the tax authority in writing documents.

(iii) Official Letter No. 4229/CTBDU-TTHT dated 03 March 2023 issued by Tax Department of Binh Duong province that the Company supplements more business sectors but no increase charter capital, will be not subject to tax incentive

In case the company is operating and is subject to CIT incentives based on location criteria and adds a new business activity which is factory leasing but the company does not increase the charter capital, does not make expansion investments to increase property, income from factory leasing is not entitled to CIT incentives.

(iv) Official Letter No. 786/TCT-CS dated 20 March 2023 issued by General Tax Department regard to expenses for retailers, distributors

The Company sells its goods through a system of distributors (which directly buy the goods from the company) and retailers (which buy goods from the distributors) instead of selling goods directly to consumers. Via distributors, the Company provides monetary support for the retailers that achieve the sales targets. In addition, the Company also pays bonuses to sale staffs of the distributors who are not employees of the Company. These would be treated as non-deductible expenses for CIT purpose.

(v) Official Letter No. 6738/CTBDU-TTHT dated April 17, 2023 of Binh Duong Tax Department with regard to Interest on term deposits in banks in preferential area

The company is subjected to CIT incentives as meeting the tax incentive conditions in favor of geographical areas, income eligible for CIT incentives is the entire income arising from business and production activities in the preferential areas (including interest on term deposits at banks arising in the preferential areas).

(vi) Official Letter No. 796/TCT-CS dated 20 March 2023 of General Tax Department with regard to CIT expense when destroying defective or damaged finished goods in production

If the company has defective or damaged finished goods in the production process that cannot be recycled and must be destroyed, other than the cases prescribed by the CIT law, the value of the destroyed goods will be treated as non-deductible.

(vii) Official Letter No. 274/CTBNI-TTHT dated 03 February 2023 of the Bac Ninh Tax Department with regard to output VAT for gift

In case the company buys goods to give to employees, and a number of samples for customers, this expense will be included in the deductible expenses when calculating CIT if the conditions specified in Clause 1, Article 4 are met and not in the cases specified in Clause 2, Article 4, Circular No. 96/2015/TT-BTC.

The law on corporate income tax has no provisions on deductible expenses when determining the taxable income of CIT for the uncollectible VAT amount on the invoice for gift expense, thus output VAT invoice of gift would be treated as non-deductible.

PERSONAL INCOME TAX (“PIT”)

1. REGULATIONS UPDATE

Additional cases for taxpayer not required to declare tax

Addition of Point e to Clause 3 of Article 7 of Decree 91/2022/ND-CP amending Decree 126/2020/ND-CP, in case the income payer which is declaring PIT on a monthly or quarterly basis but during the month or quarter there is PIT withholding, the income payer is not required to submit PIT return. *(According to Clause 2, Article 1, Decree 91/2022/ND-CP take effective on 30 Oct 2022)*

<https://thuvienphapluat.vn/van-ban/Thue-Phi-Le-Phi/Nghi-dinh-91-2022-ND-CP-sua-doi-Nghi-dinh-126-2020-ND-CP-huong-dan-Luat-Quan-ly-thue-516302.aspx>

Amendment of procedures for registration of dependents

Timing of submission of dependents registration dossiers

The individuals pay tax through income paying organizations: At the latest before the tax declaration deadline (or before the submission of tax finalization dossiers of income-paying organizations or individuals according to the provisions of the Tax Administration Law). Income-paying organizations and individuals keep one (01) dossier and submit one (01) dossier to the Tax Department directly managing at the same time as submitting the PIT return of that tax period (or when submitting the PIT finalization dossier in accordance with the Law on Tax Administration).

The individuals directly declare tax with Tax Department: Submit the application for registration of dependents to the Tax Department directly managing it at the same time as submitting the PIT return of that tax period according to the provisions of the Tax Administration Law or when submitting the tax finalization dossier as prescribed. Particularly for other dependents (for example: brothers, sisters, biological brothers; grandparents, aunts, etc.) according to the instructions in Item d.4, Point d, Clause 1, Article 9 of the Circular No. 111/2013/TT-BTC dated August 15, 2013 of the Ministry of Finance, the deadline for registration of tax allowance is December 31 of the tax year.

Update registration information

During the time of calculation of family deduction, if the taxpayer changes (increase/decrease) in dependents or change the place of work, the taxpayer must re-register for dependents (documentation, deadline, sequence of steps, same as registering for dependents for the first time).

Timing of submission of dossier proving dependents

No later than 03 months from the date of first dependents registration, the individual must prepare a dossier to prove the dependents according to the guidance in Article 1 of Circular No. 79/2022/TT-BTC and send it to the income paying organization or Tax Department (the place where the dependents registration application was submitted for the first time).

(According to Decision No. 40/QĐ-BTC take effective on 13 Jan 2023)

<https://thuvienphapluat.vn/van-ban/Xuat-nhap-khau/Quy-dinh-40-QD-BTC-2023-cong-bo-thu-tuc-hanh-chinh-linh-vuc-Thue-thuoc-Bo-Tai-chinh-552300.aspx>

Statutory minimum wages

The region-based statutory minimum wages per month and per hour paid to employees are provided for as follows:

Region	Statutory minimum wages per month (Unit: VND/month)	Statutory minimum wages per hour (Unit: VND/hour)
Region I	4,680,000	22,500
Region II	4,160,000	20,000
Region III	3,640,000	17,500
Region IV	3,250,000	15,600

(According to Article 3, Decree 38/2022/ND-CP take effective on 12 Jun 2022)

https://thuvienphapluat.vn/van-ban/Lao-dong-Tien-luong/Nghi-dinh-38-2022-ND-CP-muc-luong-toi-thieu-nguoi-lao-dong-lam-viec-theo-hop-dong-515984.aspx?anchor=dieu_1

Salary paid for compulsory social insurance

According to the provisions of Clause 3, Article 89 of the Law on Social Insurance 2014, the monthly salary on which social insurance/health insurance premiums are based is equal to 20 times the base salary.

From 01/01/2023 to 30/06/2023	From 01/07/2023
The current base salary is VND 1,490,000/month (According to Decree 38/2019/ND-CP)	The base salary increased to VND 1,800,000/month (The National Assembly passed Resolution 69/2022/QH15)

<https://thuvienphapluat.vn/van-ban/Lao-dong-Tien-luong/Nghi-dinh-38-2019-ND-CP-muc-luong-co-so-doi-voi-can-bo-cong-chuc-vien-chuc-va-luc-luong-vu-trang-403576.aspx>

<https://thuvienphapluat.vn/van-ban/Tai-chinh-nha-nuoc/Nghi-quyet-69-2022-QH15-du-toan-ngan-sach-nha-nuoc-2023-541860.aspx>

2. OFFICIAL LETTER

(i) Official Letter No. 4985/CTHN-TTHT dated 13 Feb 2023 issued by Hanoi Tax Department regarding PIT deduction for the bonus to an individual

In case companies pay bonuses to an individual, if this bonus is of salary or wage nature and the individual does not have a labor contract or have labor contract less than 3 months, they must withhold PIT at the rate of 10% according to the law.

In case a company gives an irregular cash gift to an individual, the income from the gift in the form of cash is not subject to PIT as prescribed.

Expenses of salaries, wages, gifts in cash to an individual, if they satisfy the conditions specified in Article 4, Circular No. 96/2015/TT-BTC, are accepted for deductible expenses, however, the company can not deduct PIT borne by it on behalf of individuals when determining CITable income

<https://thuvienphapluat.vn/cong-van/Thue-Phi-Le-Phi/Cong-van-4985-CTHN-TTHT-2023-thue-thu-nhap-ca-nhan-Cuc-Thue-Ha-Noi-555056.aspx?ac=emails>

(ii) Official Letter No. 4418/CTHN-TTHT dated 09 Feb 2023 issued by Hanoi Tax Department regarding Declaring & allocating PIT for provinces and cities with branches and business locations

In case a company has a branch or business location in many provinces and cities that conduct centralized accounting, it must declare, calculate and distribute PIT to the provinces and cities with branches and business locations.

The amount of PIT to be allocated to each province is determined according to the actual tax withheld of each individual employee. In case the employee is transferred or seconded,

based on the time of payment of income and the province where the employee is working in, the withheld PIT amount incurred shall be calculated for that province.

<https://thuvienphapluat.vn/cong-van/Thue-Phi-Le-Phi/Cong-van-4418-CTHN-TTHT-2023-ke-khai-thue-thu-nhap-ca-nhan-Cuc-Thue-Ha-Noi-554152.aspx>

(iii) Official Letter No. 6097/CTHN-TTHT dated 16 Feb 2023 issued by Hanoi Tax Department regarding Guidance on PIT finalization

Hanoi Tax Department has issued Official Letter No. 6097/CTHN-TTHT dated 16/02/2023 guiding PIT finalization as follows:

- If the company pays incomes from wages and salaries to employees working at a branch in another province and has paid PIT on income from wages and salaries into the state budget for each province where employees work, when finalizing PIT, the company does not have to redefine the payable tax amount for each province.
- In case an individual makes a tax finalization with the tax authority, if an individual has calculated self-deduction at any income-paying organization, a tax finalization declaration shall be submitted to the Tax Department directly managing such income-paying organization.
- In case a resident earns income from wages or salaries paid from abroad, a resident shall submit a tax return to the Tax Department managing the locality where the works arises in Vietnam. In case the place where the individual's work arises is not in Vietnam, the individual shall submit a tax return to the Tax Department where the individual resides.

<https://thuvienphapluat.vn/cong-van/Thue-Phi-Le-Phi/Cong-van-6097-CTHN-TTHT-2023-quyet-toan-thue-thu-nhap-ca-nhan-Cuc-Thue-Ha-Noi-555667.aspx>

(iv) Official Letter No. 3300/CTHPH-TTHT dated 17 Oct 2022 issued by Hai Phong Tax Department regarding PIT on certain types of income for foreign workers and experts

Lunar New Year gifts given to employees are included in taxable income when calculating PIT. PIT calculation period is the month when employees receive gifts.

The fee for transporting personal items of experts whose labor contracts have ended, and with invoices issued by the carrier after the time the experts terminate the contract, are included in the PIT taxable income of the experts.

https://vinabookkeeping.com/wp-content/uploads/2022/10/20221017_CV3300-Thue-TNCN-doi-voi-qua-tet-van-chuyen-do-dac-ca-nhan.pdf

(v) Official Letter No. 45085/CTHN-TTHT dated 13 Sep 2022 issued by Hanoi Tax Department regarding Register to use self-printed PIT withholding voucher

During the time when electronic PIT withholding vouchers have not yet been deployed, organizations (including Tax Department) can use PIT withholding vouchers in the form of self-issuance. From July 1, 2022, Tax Department will not continue to sell PIT withholding vouchers printed by Tax Department; for the case the company still has PIT withholding vouchers purchased from the Tax Department, they will continue to use them.

<https://thuvienphapluat.vn/cong-van/Thue-Phi-Le-Phi/Cong-van-45085-CTHN-TTHT-2022-dang-ky-su-dung-chung-tu-khau-tru-thue-tu-in-Cuc-Thue-Ha-Noi-531119.aspx>

(vi) Official Letter No. 791/BHXH-CD dated 06 Mar 2023 issued by Social Insurance Department of HCM City regarding Dossier for one-time social insurance benefits in case of critical illness

Dossier of application for one-time social insurance benefits for cases of critical illness specified at Point c, Clause 1, Article 60 of the Law on Social Insurance must submit the following documents:

- For cases of one of the life-threatening diseases such as cancer, polio, cirrhosis of the liver ascites, leprosy, severe tuberculosis, HIV infection that has progressed to AIDS: the application is the original or a valid copy of hospital discharge letter or summary of medical records showing illness mentioned above.
- For cases of other diseases: the dossier is a medical assessment record that clearly concludes the contents of the disease or illness with a decrease in working capacity of 81% or more and that is not self-controlled or uncontrollable perform activities to serve personal living needs that need help and care.

<https://thuvienphapluat.vn/cong-van/Bao-hiem/Cong-van-791-BHXH-CD-2023-ho-so-huong-bao-hiem-xa-hoi-mot-lan-Bao-hiem-xa-hoi-Ho-Chi-Minh-558979.aspx>

VALUE ADDED TAX (“VAT”)

1. REGULATIONS UPDATE

Circular 13/2023/TT-BTC dated 28 February 2023 issued by the Ministry of Finance guiding Decree No 49/2022/ND-CP on VAT.

The Ministry of Finance issued Circular No. 13/2023/TTBTC dated February 28, 2023 (“Circular 13”) guiding the implementation of Decree No. 49/2022/ND-CP dated July 29, 2022 of the Government on VAT.

Circular 13 has 3 articles, bringing the changes mentioned in Decree No. 49/2022/ND-CP into Circular No. 219/2013/TT-BTC (for example, taxable price for electricity production activities of Electricity of Vietnam, tax calculation price of real estate transfer, or regulations on VAT refund for investment projects).

Tax calculation price of real estate transfer

+ According to point 1, article 1, circular 13/2023/TT-BTC: In case the Company receives the transfer of land use rights from organizations or individuals, the deductible land price is the land price at the time of receiving the land use right transfer, excluding the value of infrastructure. Input VAT of the infrastructure part will be declared and credited by the payer of the infrastructure payment(if any).

VAT refund for investment projects

- Additional regulations on tax refund for investment projects with multiple stages/items.
- Eliminating the condition that projects with an investment period of 1 year or more are eligible for tax refund

+ According to point 3, article 1, circular 13/2023/TT-BTC:

Companies, declaring value-added tax by the deduction method, have new investment projects (including investment projects divided into several investment stages or more investment items) under the provisions of the Investment Law in the same place or different place from the place where the head office is located. If they have the input value-added tax of goods and services arising in the accumulated investment period not been fully deducted from VND 300 million or more, input VAT shall be refunded value added tax.

Business establishments of conditional business lines shall be eligible for the value-added tax refund for investment projects as prescribed in Point a of this Clause if their investment projects fall into the following cases:

- Investment projects in the investment stage granted licenses to engage in conditional business lines by competent state agencies according to regulations of laws on

investment and specialized laws under one of the following forms: Licenses, certificates, or documents on verification and approval.

- Investment projects in the investment stage that are yet to be required to apply for licenses to engage in conditional business lines issued by competent state agencies according to regulations of laws on investment and specialized laws under one of the following forms: Licenses, certificates, or documents on verification and approval.
- Investment projects that are not subject to licenses to engage in conditional business lines according to laws on investment and specialized laws under one of the following forms: Licenses, certificates, or documents on verification and approval.

(* Note: Regulations on VAT refund for investment projects in conditional business lines will be applied retroactively from the effective date of Decree 100/2016/ND-CP (01 July 2016). In case a business establishment has had its value added tax amount withdrawn from an investment project as prescribed in Point of Decree No. 100/2016/ND-CP, the tax authority adjusts value-added tax, money late payment, fines for tax administrative violations (if any).

<https://thuvienphapluat.vn/van-ban/Thue-Phi-Le-Phi/Circular-13-2023-TT-BTC-guidelines-Decree-49-2022-ND-CP-amendments-Decree-209-2013-ND-CP-561046.aspx>

2. OFFICIAL LETTER

- (i) Official Letter No. 9298/CTHN-TTHT dated 06 March 2023 issued by Tax Department of Hanoi City how to write VAT rate on invoices for goods with different tax rates.**

In case an enterprise operating in the field of construction and installation arises work items with different tax rates, the VAT invoice must clearly state the tax rate of each item as prescribed in Clause 1 of this Article. Article 2, Decree No. 41/2022/ND-CP.

<https://thuvienphapluat.vn/cong-van/Thue-Phi-Le-Phi/Cong-van-9298-CTHN-TTHT-2023-chinh-sach-thue-gia-tri-gia-tang-Cuc-Thue-Ha-Noi-557957.aspx>

- (ii) Official Letter No.7969/CTHN-TTHT dated 27 February 2023 issued by Tax Department of Ha Noi that declare VAT on real estate transfer of infrastructure investment projects in provinces and cities other than the head office location.**

According to Circular No. 80/2021/TT-BTC issued on September 29, 2021 of the Ministry of Finance guiding a number of articles of the Law on Tax Administration and Decree 126/2020/ND-CP as follows:

Enterprises that carry out construction investment projects infrastructure construction in other provinces and cities close the head office, make VAT declaration for with

infrastructure investment projects in provinces and cities the street where the real estate transaction takes place products according to form No. 01/GTGT enclosed herewith Appendix II, Circular 80/2021/TT-BTC.. For normal production and business activities carried out at the head office, the company declares according to form 01/GTGT excluding the transfer of real estate outside the province mentioned above.

<https://thuvienphapluat.vn/cong-van/Thue-Phi-Le-Phi/Cong-van-7969-CTHN-TTHT-2023-khai-thue-gia-tri-gia-tang-chuyen-nhuong-bat-dong-san-Cuc-Thue-Ha-Noi-557000.aspx>

(iii) Official Letter No.55346/CTHN-TTHT dated 15 November 2022 issued by Tax Department of Hanoi City that value added tax on international transportation business.

In case the company has the business of transporting goods by sea on an international journey from Vietnam to abroad or from abroad to Vietnam or both departure and arrival points abroad, regardless of whether there is a direct vehicle or there is no means of transportation, this business activity is entitled to the VAT rate of 0% if it meets the conditions specified in Point c, Clause 2, Article 9. Circular 219/2013/TT-BTC <https://thuvienphapluat.vn/cong-van/Thue-Phi-Le-Phi/Cong-van-55346-CTHN-TTHT-2022-thue-suat-thue-gia-tri-gia-tang-kinh-doanh-van-tai-Cuc-Thue-Ha-Noi-539007.aspx>

(iv) Official Letter No.55897/CTHN-TTHT dated 17 November 2022 issued by Tax Department of Hanoi City that Value Added Tax on electronic components inspection and classification services for export processing enterprises.

The service of inspecting and classifying electronic components under the contract signed with the export processing enterprise is determined as an export service and is subject to the VAT rate of 0% if the specified conditions are satisfied.

<https://thuvienphapluat.vn/cong-van/Thue-Phi-Le-Phi/Cong-van-55897-CTHN-TTHT-2022-thue-suat-dich-vu-cung-cap-doanh-nghiep-che-xuat-Cuc-Thue-Ha-Noi-539568.aspx>

(v) Official Letter No.54502/CTHN-TTHT dated 10 November 2022 by Tax Department of Hanoi City that VAT on construction supervision consulting services of Vietnamese subcontractors for the non-refundable ODA project.

In case the Vietnamese company is a sub-contractor providing project construction supervision consultancy services in Vietnam to the main foreign contractor, the company must issue an invoice with the VAT rate at 10 % to the main contractor when providing services. The content on the invoice must comply with the provisions of Article 10, Decree

No. 123/2020/ND-CP of the Government. Construction supervision consultancy services rendered by a sub-contractor in Vietnam foreign main contractors are not subject to VAT refund according to the provisions of VAT law.

<https://thuvienphapluat.vn/cong-van/Dau-tu/Cong-van-54502-CTHN-TTHT-2022-chinh-sach-thue-dich-vu-tu-van-cua-nha-thau-phu-Cuc-Thue-Ha-Noi-538464.aspx>

E-INVOICE

About deploying e-invoice with tax authority's code generated from cash register

In compliance with the provisions of the Law on Tax Administration No. 38/2019/QH14 dated June 13, 2019, Decree No. 123/2020/ND-CP and Circular No. 78/2021/TT-BTC, the General Department of Taxation has issued Official Dispatch No. 4517/TCT-DNNCN dated December 5, 2022 on the implementation of electronic invoices generated from cash registers. For organizations, enterprises, households and business individuals to capture information about e-invoices generated from cash registers with connection to transfer data to tax authorities (hereinafter referred to as e-invoices generated from cash registers) The Tax Department of Ho Chi Minh City disseminates the following contents:

1. Implementation subjects:

Deployed subjects are businesses, households and individuals that pay tax according to the declaration method (collectively referred to as taxpayers) in Ho Chi Minh City that provide goods and services according to the business model. Direct-to-consumer businesses can choose to use an e-invoice with a tax authority's code generated from a cash register connected to transfer data to the tax authority. Specifically, there are four groups:

- Group 1: Group of catering businesses, restaurants, hotels
- Group 2: Group of retail goods (commercial centers; supermarkets; retail of consumer goods)
- Group 3: Retail group of modern drugs
- Group 4: Other services (entertainment services, road and bridge tickets, bus tickets, sightseeing tickets, tourism and so on)

According to Clause 2, Article 90 of the Law on Tax Administration: "In case the seller uses a cash register, the seller registers the use of an e-invoice created from the cash register with an electronic data transfer connection with tax authorities."

Therefore, for businesses and households trading goods and services directly to consumers that have registered to use e-invoices according to Decree No. 123/2020/ND-CP and use cash registers, the seller registers Sign using the e-invoice generated from the cash register.

2. Implementation Timeline:

Ho Chi Minh City Tax Department will carry out the implementation of the e-invoice with the tax authority's code generated from the cash register, phase I, scheduled from December 15, 2022 to the end of March, 2023, ensuring support and create the most favorable conditions for taxpayers, without disrupting production and business activities of the unit. Phase II is expected to continue from April 1, 2023.

Official Letter from HCMC Tax Department:

<https://thuvienphapluat.vn/cong-van/Thue-Phi-Le-Phi/Cong-van-15461-CTTPHCM-TTHT-2022-hoa-don-dien-tu-khoi-tao-tu-may-tinh-tien-Cuc-Thue-Ho-Chi-Minh-546592.aspx>

Official Letter from General Tax Department:

<https://thuvienphapluat.vn/cong-van/Thue-Phi-Le-Phi/Cong-van-4517-TCT-DNNCN-2022-Hoa-don-dien-tu-co-ma-co-quan-thue-khoi-tao-tu-may-tinh-tien-545564.aspx>

Note about e-invoices from 1/1/2023

Regarding VAT rate: Starting from January 1, 2023, the VAT rate reduction according to Decree 15/2022/ND-CP expires.

Change the symbol of e-invoice: The symbol of an e-invoice is a group of 6 characters including letters and digits representing the symbol of e-invoice to reflect information about the type of e-invoice available code of tax authority or e-invoice without code, year of invoice, type of e-invoice used. In which the 3rd and 4th characters are two (02) Arabic numerals representing the year of chemistry.

Electronic invoices are identified by the last 2 digits of the calendar year. So from 1/1/2023, two characters.

This will be adjusted to the year of electronic invoicing of 2023 - represented as 23.

Change in e-invoice number: Invoice number is the ordinal number shown on the invoice when the customer billed sale. Invoice number in Arabic numerals up to 8 digits, starting from 1 on January 1st or the date of starting to use the invoice and ending on December 31 of each year with a maximum number up to 8 digits. Invoices are made in sequential order from small to large numbers in the same invoice symbol and invoice number symbol. Thus, from January 1, 2023, the invoice number starts back from number 1.

FOREIGN CONTRACTOR TAX (“FCT”) AND OTHER TAXES

1. REGULATIONS UPDATE

Taxing foreign e-commerce businesses

Foreign companies that do not have a permanent establishment in Vietnam are engaged in e-commerce activities, conduct digital-based business and provide other services with organizations and individuals in Vietnam. These companies are required to register a tax code and declare directly tax online at the portal of the General Department of Taxation on a quarterly basis and pay tax.

If such foreign companies do not directly register, declare and pay tax in Vietnam, Vietnamese organizations and parties have to withhold and declare tax on behalf of the foreign companies.

(According to Articles 76, 77, 78, 79 of Circular 80/2021/TT-BTC dated 29 September 2021)

<https://thuvienphapluat.vn/van-ban/Thue-Phi-Le-Phi/Thong-tu-80-2021-TT-BTC-huong-dan-Luat-Quan-ly-thue-Nghi-dinh-126-2020-ND-CP-466716.aspx>

Announcement of the list of registered foreign suppliers in Vietnam

On 19 November 2022, the General Department of Taxation issued a list of foreign suppliers that have registered for tax in Vietnam for the purpose of managing foreign suppliers without a permanent establishment in Vietnam and operating in Vietnam's e-commerce business, digital-based business, and other services with Vietnamese organizations and individuals.

(According to Notice No. 357/ TB-DNL dated 19 November 2022 issued by the General Department of Taxation)

<https://thuvienphapluat.vn/van-ban/Thue-Phi-Le-Phi/Thong-bao-357-TB-DNL-2022-danh-sach-Nha-cung-cap-nuoc-ngoai-dang-ky-thue-tai-Viet-Nam-559829.aspx>

Confirmation of fulfillment of tax obligations towards taxpayers

Amending the regulations on the case of foreign contractors who do not directly declare and pay taxes to the tax authority but have Vietnamese organizations or individuals on their behalf withholding and paying the FCT and the Vietnamese side has fulfilled the tax obligations on behalf of the foreign contractor: The foreign contractor or the Vietnamese withholding agent shall submit a written request for confirmation of tax obligations to the state budget to the tax authority directly managing the Vietnamese side to confirm the completion of tax obligations for the foreign contractor.

(According to Point a, Clause 1, Article 70 of Circular 80/2021/TT-BTC dated 29 September 2021)

<https://thuvienphapluat.vn/van-ban/Thue-Phi-Le-Phi/Thong-tu-80-2021-TT-BTC-huong-dan-Luat-Quan-ly-thue-Nghi-dinh-126-2020-ND-CP-466716.aspx>

Reducing land rental fees and water surface rental fees for 2022 for subjects affected by the Covid-19 pandemic

Accordingly, the level of reduction in land rental fees and water surface rental fees is specified as follows:

- A 30% reduction in land rental fees and water surface rental fees payable for 2022 is applied to lessees as defined in Article 2 of Decision No. 01/2023/QD-TTg.

Note: The reduction will not be applied to rental fees and water surface rental fees in arrears for years prior to 2022 and late payment fees (if any).

- The reduction level mentioned above is calculated on the amount of land rental fees and water surface rental fees payable for 2022 according to the provisions of the law.

In case the lessee is already enjoying a reduction in land rental fees and water surface rental fees as regulated and/or is entitled to a compensation deduction or land clearance as regulated by the law on land rental fees and water surface rental fees, the 30% reduction will be applied to the amount of land rental fees and water surface rental fees payable (if any) after the deduction and/or reduction as regulated by the law.

(According to Decision 01/2023/QD-TTg dated 31 January 2023)

<https://thuvienphapluat.vn/van-ban/Bat-dong-san/Quyet-dinh-01-2023-QD-TTg-giam-tien-thue-dat-cac-doi-tuong-bi-anh-huong-boi-Covid19-2022-552369.aspx>

Reducing environmental protection tax on petroleum products

On 30 December 2022, the Standing Committee of the National Assembly issued Resolution No. 30/2022/UBTVQH15 on the environmental protection tax rate on gasoline, diesel, lubricants.

According to the regulations in Resolution No. 30/2022/UBTVQH15, the environmental protection tax rate on gasoline, diesel, and lubricants from 1 January 2023 until 31 December 2023 is as follows:

- Gasoline decreased from 4,000 VND/liter to 2,000 VND/liter. Aviation fuel decreased from 3,000 VND/liter to 1,000 VND/liter.
- Diesel oil, mazut oil, lubricants decreased from 2,000 VND/liter to 1,000 VND/liter.
- Fuel oil decreased from 1,000 VND/liter to 600 VND/liter.

- Lubricants decreased from 2,000 VND/kg to 1,000 VND/kg.

The environmental protection tax rate on gasoline, diesel, and lubricants from January 1, 2024 shall be implemented according to the regulations in Section I, Clause 1, Article 1 of Resolution No. 579/2018/UBTVQH14 dated September 26, 2018, of the Standing Committee of the National Assembly on the Environmental Protection Tax Schedule."

(According to Resolution No. 30/2022/UBTVQH15 dated 30 December 2022)

<https://thuvienphapluat.vn/van-ban/Thue-Phi-Le-Phi/Nghi-quyet-30-2022-UBTVQH15-muc-thue-bao-ve-moi-truong-xang-dau-mo-nhon-548478.aspx>

2. OFFICIAL LETTER

(i) Official Letter No. 32111/CTHN-TTHT, 8203/CTHN-TTHT, 4643/CTHN 17832/CTHN-TTHT issued by Ha Noi Tax Department regarding guidance in case the foreign contractors registers for direct tax declaration

In case the foreign suppliers have registered, declared and paid taxes directly with General Department of Taxation in Viet Nam in accordance with Articles 76, 77, 78, and 79 of Circular No. 80/2021/TT-BTC, the Vietnamese customers are not required to declare, deduct, and pay taxes on behalf of foreign suppliers.

<https://thuvienphapluat.vn/cong-van/Thue-Phi-Le-Phi/Cong-van-32111-CTHN-TTHT-2022-ke-khai-thue-nha-thau-Cuc-Thue-Ha-Noi-521240.aspx>

<https://thuvienphapluat.vn/cong-van/Dau-tu/Cong-van-4643-CTHN-TTHT-2023-chinh-sach-thue-nha-thau-nuoc-ngoai-Cuc-Thue-Ha-Noi-554751.aspx>

<https://thuvienphapluat.vn/cong-van/Thue-Phi-Le-Phi/Cong-van-8203-CTHN-TTHT-2023-chinh-sach-thue-nha-thau-nuoc-ngoai-Cuc-Thue-Ha-Noi-556976.aspx>

(ii) Official Letter No. 59940/CTHN-TTHT issued by Ha Noi Tax Department regarding foreign contractor tax on airfares purchased at foreign airlines' websites

In case the company buys round-trip air tickets for the director going on a business trip abroad on the website of the foreign airline, then:

- If a foreign airline issues air tickets through its agents or ticket offices in Vietnam, the company does not have to deduct and pay taxes on behalf of the airline. The airline's agent or ticket office is responsible for declaring and paying foreign income tax on behalf of the airline.

- If a foreign airline sells electronic air tickets directly to the company through its website, not through its agent or ticket office in Vietnam, and does not register and declare it, and pay tax as prescribed in Articles 76, 77, 78, 79 of Circular No. 80/2021/TT-BTC, the company is responsible for withholding and paying tax on its behalf.

<https://thuvienphapluat.vn/cong-van/Thue-Phi-Le-Phi/Cong-van-59940-CTHN-TTHT-2022-chinh-sach-thue-doi-voi-nha-thau-nuoc-ngoai-Cuc-Thue-Ha-Noi-545107.aspx>

(iii) Official Letter No. 4035/CTHN-TTHT dated 07 February 2023 issued by Hanoi Tax Department regarding foreign contractor tax when purchasing an account package on a technology platform

In case the foreign contractors generate income from selling utility accounts on an available technology platform, this is considered income from copyright according to the provisions of Clause 3, Article 7 of Circular No. 103/2014/TT-BTC.

- For CIT: the tax rate (%) on taxable revenue is 10%.
- For VAT: if this is not software services as stipulated in Decree No. 71/2007/NĐ-CP and not the transfer of technology or transfer of intellectual property rights, the tax rate (%) to calculate VAT on revenue for this service is 5%.

<https://thuvienphapluat.vn/cong-van/Thue-Phi-Le-Phi/Cong-van-4035-CTHN-TTHT-2023-nghia-vu-thue-cua-nha-thau-nuoc-ngoai-Cuc-Thue-Ha-Noi-554608.aspx>

(iv) Official Letter No. 32/TCT-KK dated 06 January 2023, issued by General Department of Taxation regarding Responsibility to declare tax for capital transfer activities between two foreign contractors without legal presence in Vietnam

According to point c, clause 2, Article 14 of Circular No. 78/2014/TT-BTC, in case both the transferor and transferee are foreign contractors, the enterprise where the foreign contractor invests capital will be responsible for declaring and paying corporate income tax.

Foreign contractors are not subject to tax registration according to the provisions of Circular No. 105/2020/TT-BTC for capital transfer activities.

<https://thuvienphapluat.vn/cong-van/Thue-Phi-Le-Phi/Cong-van-32-TCT-KK-2023-dang-ky-thue-559724.aspx>

(v) Official Letter No. 9302/CTHN-TTHT dated 6 March 2023, issued by the Hanoi Tax Department regarding Foreign Contractor tax on securities transfer

In case a foreign organization without a presence in Vietnam (foreign contractor) earns income in Vietnam from securities transfers on the stock exchange that complies with the securities law, the foreign contractor will incur foreign contractor tax obligations and be subject to the provisions of Circular No. 103/2014/TT-BTC, specifically:

- For VAT: Securities transfer activities are not subject to VAT.
- For CIT: Income from securities transfers is subject to a tax rate of 0.1%.

If the foreign contractor cannot meet any of the conditions stipulated in Article 8 of Circular No. 103/2014/TT-BTC, the Vietnamese party (securities company, securities issuing organization, or foreign organization with a securities account) shall pay substitute tax for the foreign contractor as prescribed in Circular No. 103/2014/TT-BTC.

<https://thuvienphapluat.vn/cong-van/Thue-Phi-Le-Phi/Cong-van-9302-CTHN-TTHT-2023-ke-khai-thue-doi-voi-nha-thau-nuoc-ngoai-Cuc-Thue-Ha-Noi-557962.aspx>

(vi) Official Letter No. 18224/CTBDU-TTHT dated 02 December 2022 issued by Binh Duong Tax Department regarding License fees apply to representative offices

In case the representative office of the company has no production and business activities of goods and services, it is not required to declare and pay license fees.

https://cdn.thuvienphapluat.vn/phap-luat/2022-2/KL/20221202_CV18224_Huong-dan-le-phi-mon-bai-voi-VPDD.pdf

(vii) Official Letter No. 4498/TCT-KK dated 2 December 2022 issued by the General Department of Taxation regarding Declaring license fees

In case the company is a foreign-invested enterprise with 100% foreign capital, and its direct tax management authority is the Ho Chi Minh Tax Department, it establishes business locations (warehouses) in provinces other than the province/city where the company is headquartered, then the company shall submit the declaration of license tax to the Tax Department where the business locations are located.

<https://thuvienphapluat.vn/cong-van/Thue-Phi-Le-Phi/Cong-van-4498-TCT-KK-2022-khai-le-phi-mon-bai-543879.aspx>

(viii) Official Letter No. 933/BTC-CST dated 02 February 2023 Environmental protection tax policy for oil products

Based on the provisions of tax laws on environmental protection tax as mentioned above, gasoline, oil, and lubricants listed in clause 1, Article 3 of the Environmental Protection Tax Law are subject to environmental protection tax. Goods not specified in clause 1, Article 3 of the Environmental Protection Tax Law are not subject to environmental protection tax.

The classification of imported goods based on HS code must be based on the customs documents and technical characteristics of the imported goods of the enterprise.

<https://thuvienphapluat.vn/cong-van/Thue-Phi-Le-Phi/Cong-van-933-BTC-CST-2023-chinh-sach-thue-bao-ve-moi-truong-doi-voi-san-pham-dau-553823.aspx>