

Technical Update

May 2022



1. Corporate Income Tax (“CIT”)

(i) *Amending guidance on making a provision for the devaluation of investment securities*

On 07 April 2022, the Ministry of Finance (“MOF”) issued Circular No. 24/2022/TT-BTC amending and supplementing a number of articles of Circular No. 48/2019/TT-BTC to provide guidance on the making and handling of provisions in enterprises. Specifically, investment securities for which provision for devaluation can be made will not include Government bonds, Government-guaranteed bonds, and Municipal bonds.

Circular No. 24/2022/TT-BTC will take effect from 25 May 2022. The ending balance of provision for Government bonds, Government-guaranteed bonds, and Municipal bonds that enterprises made before the effective date of this Circular shall be reversed and recorded as a reduction to expenses for fiscal year 2022.

(ii) *Scrutinizing donation and sponsorship expenses in kind for Covid-19 prevention*

On 16 February 2022, the General Department of Taxation (“GDT”) issued Official Letter No. 438/TCT-CS requesting local tax departments to enhance the scrutiny on donation and sponsorship expenses contributed in-kind for Covid-19 prevention activities, especially medical equipment, biological products, and medical supplies in order to detect and strictly handle cases where taxpayers sought to take advantage of the Government’s policies for profiteering purposes.

Tax departments shall coordinate with relevant competent authorities to verify invoices, supporting documents, customs declarations (if any) and make a price comparison with the same type of products in the market; and accordingly, detect cases in which the expenses of donation and sponsorship were not properly declared for CIT purposes.

(iii) *Deferring the CIT incentive scheme for the first year of operation with less than 12 months is only applicable to the CIT exemption and reduction*

According to Official Letter No. 756/TCT-CS dated 16 March 2022 of GDT, in a case where the first year that a taxpayer generates income from a new investment project is less than 12 months, the taxpayer may choose to enjoy the tax exemption or reduction period (where applicable) from that tax year or register with the tax authority to defer the CIT exemption and reduction to the next tax year. This deferral scheme is not applicable to the incentivized tax rate.

(iv) *Support payment from business partner to insurance agency for a specific period may be allocated over the partnership period for tax calculation*

According to Official Letter No. 531/TCT-DNL dated 25 February 2022 of the GDT, if a bank receives a support payment from an insurance company for the bank to perform an insurance exclusive agency contract within a specific period, and the bank has to refund the remaining amount upon the early termination of partnership, the bank will be allowed to allocate such support payment over the term of the partnership for CIT calculation purposes.

2. Value Added Tax (“VAT”) and invoices

(i) *Guidance on certain cases of VAT reduction according to Decree No. 15/2022/ND-CP*

On 23 March 2022, the MOF issued Official Letter No. 2688/BTC-TCT provided some guidance on the VAT reduction as stipulated under Decree No. 15/2022/ND-CP, specifically:

- In case a service provider collects money before or during the service provision and the VAT invoice was issued upon money collection before 01 February 2022 with a 10% VAT rate, but the service is completed within the period from 01 February to 31 December 2022, the amount invoiced before 01 February 2022 is not eligible for the VAT reduction. For the remaining amount which is invoiced during the period from 01 February to 31 December 2022, the VAT reduction shall be applied.
- In case a taxpayer completed the supply of goods or services in January 2022, but the relevant invoices are issued in February 2022, such invoices are not eligible for the VAT reduction.
- For invoices issued before 01 February 2022 with the 10% VAT rate but adjusted in terms of goods value, VAT or sales return after 01 February 2022, the adjustment invoices and invoices for sales return shall be issued with the VAT rate of 10%.
- For some typical businesses such as electricity supply, the taxpayer is allowed to apply VAT reduction for invoices issued during the period from 01 February to 31 December 2022.

(ii) *Application of e-invoices in 57 centrally controlled provinces and cities*

On 24 February 2022, the MOF issued Decision No. 206/QD-BTC on the application of e-invoices to enterprises, economic organizations, business households and business individuals in 57 provinces and cities. The implementation starts from April 2022.

(iii) *Enhancing the tax inspection against VAT refund fraud*

On 11 February 2022, the GDT issued Notice No. 43/TB-TCT instructing local tax departments and relevant departments to enhance inspections of VAT refunds for anti-fraud, as follows:

- Enforce the scrutiny and detection of suspicious signs of taxpayers claiming VAT refunds; inspect and verify invoices and origin of goods from the first to the last stage of the supply chain to prevent violations in VAT refund and promptly report to the GDT complicated cases and cases involving various localities or having a systematic violation.
- Strengthen VAT refund inspections, scrutinize and verify taxpayers with high risk of VAT refund for exported goods, with a special focus on typical products such as tapioca starch, cashew nuts, rubber, wood chips, agricultural products, etc.
- Study the possible amendment of tax refund policies and dossiers, including regulations on the non-cash payment requirement, the legal basis to delay VAT refunds for further investigation, and the legal basis to claw back the refunded tax in case taxpayers purchase goods and services from intermediary suppliers (at the commercial stage) who are determined as run-away taxpayers.
- Propose solutions to enhance information exchange with tax authorities of importing countries to verify the business partners of taxpayers displaying signs of high risks with respect to VAT refunds.

(iv) *Guidance of the General Department of Customs (“GDC”) on determination of import goods subject to VAT reduction according to Decree No. 15/2022/ND-CP*

The GDC has recently issued some guidance on the application of VAT reduction at the import stage under Official Letters No. 370/TCHQ-TXNK dated 28 January 2022, Official Letter 642/TCHQ-TXNK dated 25 February 2022 and Official Letter No. 521/TCHQ-TXNK dated 18 February 2022 with notable points as follows:

- The reduction of VAT rate from 10% to 8% only applies to customs declarations registered from 0:00 am 01 February 2022;
- The determination of HS code for goods not eligible for VAT reduction according to Appendix I, Appendix II and Appendix III of Decree 15/2022/ND-CP is detailed at Official Letter No. 521/TCHQ-TXNK and Official Letter 642/TCHQ-TXNK.

3. Other taxes and fees

(i) *Reducing the Special Consumption Tax (“SCT”) rate for battery-powered electric cars*

On 11 January 2022, the National Assembly passed the Law No. 03/2022/QH15 amending and supplementing a number of Laws, including the Law on Special Consumption Tax, particularly on the SCT rates for battery-powered electric cars. Accordingly, within the first 5 years from 01 March 2022 to 28 February 2027, battery-powered electric cars will be subject to SCT rates from 1% to 3%. Previously, the SCT rates for electric cars varied from 5% to 15%.

(ii) *Reducing the Environmental Protection Tax (“EPT”) rate for gasoline, oil and grease until 31 December 2022*

On 23 March 2022, the National Assembly’s Standing Committee passed Resolution No. 18/2022/UBTVQH15 on the EPT rate for gasoline, oil and grease. Accordingly, from 01 April 2022 to 31 December 2022, 50% EPT reduction for gasoline (except ethanol), diesel oil, fuel oil, lubricants, grease and 70% EPT reduction for kerosene shall be applied.

4. Continuous support measures to enterprises and employees due to the impact of Covid-19 pandemic

(i) *Increasing overtime (“OT”) working hours in a year and a month for employees*

On 23 March 2022, the National Assembly’s Standing Committee passed Resolution No. 17/2022/UBTVQH15 increasing OT working hours of employees in the context of Covid-19 prevention and socio-economic recovery and development, accordingly:

- For OT working hours in a year: the employee can work overtime for more than 200 hours, but not exceed 300 hours in a year, with some exceptional cases specified under the Resolution.
- For OT working hours in a month: an increase from the current 40 hours to 60 hours.

Resolution No. 17/2022/UBTVQH15 takes effect from 01 April 2022 to 31 December 2022, unless the National Assembly decides to extend it further. Particularly, the regulations regarding OT working hours in a year takes retrospective effect from 01 January 2022.

(ii) *Housing rental support policy for employees*

On 28 March 2022, the Prime Minister issued Decision No. 08/2022/QD-TTg (taking effect from the signing date) stipulating detailed conditions and procedures for housing rental support policies to employees currently working and employees returning to the labor market.

Of note, eligible employees who are in need of housing rental support shall submit a written request to their employers, who subsequently would summarize and submit an application form to the district-level People's Committee where the head office or branch of employers are located by 15 August 2022 at the latest.

Please contact KPMG if you need further consultancy on the matters of concern.

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