

# Technical Update

June 2024

## 1. Value Added Value (“VAT”)

- (i) *Abolishment of Circular No. 83/2014/TT-BTC on import VAT corresponding to Vietnam’s nomenclature of imports*

For consistency and unification in the application of the system of legal documents on VAT, on 23 April 2024, the Ministry of Finance (“MoF”) issued Circular No. 25 /2024/TT- BTC abolishing Circular No. 83/2014/TT-BTC dated 26 June 2014 guiding the application of VAT corresponding to Vietnam’s nomenclature of imports. The application of VAT rates, as well as the determination of goods not subject to VAT for imports, follow the provisions in the Law on VAT and Government decrees and circulars of the Ministry of Finance guiding the implementation of the Law on VAT.

Circular 25 /2024/TT-BTC takes effect **from 8 June 2024**.

- (ii) *Continuous enforcement measures towards VAT refund management and handling in 2024*

On 28 March 2024, the General Department of Taxation (“GDT”) issued Official Letter No. 1253/TCT-KK 2024 requesting tax departments to urgently carry out a number of tasks to enhance the management and handling of VAT refunds in 2024 with some notable measures as follows:

- Tax departments review and gather information on taxpayers who have already received VAT refund disbursement in order to develop a database of taxpayers applying for VAT refunds and the relevant parties. The database will be used to support the risk analysis and assessment with regard to taxpayers.
- With regard to any parties found to be goods or service suppliers of high-risk businesses who applied for VAT refund, tax departments are allowed to extend the tax audit and tax inspection plan to cover those suppliers.
- Tax departments should actively coordinate with other competent authorities to prevent any acts of VAT refund policy abuse for the appropriation of the State Budget. For any acts or signs of VAT refund fraud detected, the tax departments transfer the cases to the police for investigation and handling.

## 2. Personal Income Tax (“PIT”)

- (i) *PIT obligations in connection with the transfer of capital contributed to real estate*

According to Official Letter No. 1504/TCT-DNNCN dated 11 April 2020 of the GDT, in case of capital contribution in real estate made by an individual, the individual shareholder is not required to declare and pay PIT on real estate transfer upon the capital contribution. When the individual transfers or withdraws his/her capital share or upon the dissolution of the investee company, the individual must declare and pay PIT on (i) income from real estate transfer at the capital contribution stage and (ii) income from the capital transfer at the capital transfer stage.

## 3. Invoices, supporting documents and tax administration

- (i) *Enforcement of tax management toward purchase transactions using Form 01/TNDN*

In accordance with the provisions of Article 6, Circular 78/2014/TT-BTC (which was amended by Article 4, Circular 96/2015/TT/BTC) on CIT, enterprises purchasing goods and services from certain specific sellers who do not use invoices are allowed to use Form 01/TNDN – List of goods or services purchase as valid supporting documents for CIT deduction.

However, in a recent tax inspection, the GDT identified the case whereby enterprises used Form 01/TNDN to claim CIT deduction costs, but there was no real purchase transaction. Therefore, on 2 April 2024, the GDT issued OL No. 1336/TCT-TTKT, requesting local tax departments to strictly verify purchase transactions using Form 01/TNDN and determine the legitimacy of related costs for CIT calculation and impose aggressive treatments on any tax violation found, including the transfer serious violation cases to the police for investigation and handling.

(ii) *Invoices and supporting documents required for compensation made by an insurance company to an insured party*

According to OL No. 1326/TCT-CS 2024 dated 1 April 2024 of the GDT, invoices and supporting documents required for compensation made by an insurance company to the insured shall be as follows:

- In case the insured party provides invoices of goods purchased or repair services (i.e. the invoices issued under the name of the insurance company or under the name of the policyholder if authorized by the insurance company, or the invoices issued by the policyholder to the insurance company), the insurance company settles compensation payment to the insured party in accordance with the insurance; policy, then the insurance company is allowed to declare input VAT corresponding to the compensated amount paid as per those invoices. The compensation amount of VND20 million or more must be settled via bank transfer.
- In the case of co-insurance, the insurance company, having settled the compensation to the insured party, is required to issue an invoice to the co-insurance company in accordance with the provisions of Decree No. 123/2020/ND-CP.

(iii) *Guidance on exit ban to legal representatives of businesses recorded with tax debt*

According to OL No. 1457/TCT-QLN dated 10 April 2024 of the GDT, if an enterprise is under the enforcement to execute an administrative decision on tax management due to non-fulfilment of tax obligations, the legal representative of that enterprise may be subject to an exit ban. However, if there is sufficient ground to determine that such an individual is no longer the legal representative of the enforced enterprise, that individual shall not be subject to the exit ban.

(iv) *Vietnam ratified the Protocol amending the Vietnam – Luxembourg Double Tax Treaty (“DTT”)*

On 4 May 2023, the representatives of the Governments of Vietnam and Luxembourg signed the second Protocol to Vietnam – Luxembourg DTT to amend Article 27 - Exchange of Information for tax purposes. Subsequently, on 21 March 2024, the Government of Vietnam issued Resolution 33/NQ-CP, ratifying the Protocol. The Ministry of Foreign Affairs will complete the foreign affairs procedures as prescribed and announce the date when the Protocol takes effect.

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