Technical Update

August 2024

TAX UPDATE FOR AUGUST 2024

1. Corporate Income Tax ("CIT")

(i) Industrial zones are not considered difficult socio-economic areas for the assessment of CIT incentives for expansion investment projects

According to Official Letter No. 2721/TCT-CS dated 25 June 2024, issued by the General Department of Taxation ("GDT"), CIT law clearly distinguishes the CIT incentive schemes, which are granted at different levels, applicable to investment projects located in industrial zones and those in difficult socio-economic areas. Particularly, the currently applicable CIT law does not classify industrial zones and export processing zones as difficult socio-economic areas for CIT incentive assessment. Therefore, expansion investment projects located in industrial zones or export processing zones will not be entitled to CIT incentives as those in difficult socio-economic areas.

(ii) If an enterprise chooses to enjoy CIT incentives applicable to manufacturing of supporting industrial ("SI") products, income from non-qualified SI products will not be eligible for CIT incentives under other conditions

According to Official Letter No. 2326/TCT-CS dated 3 June 2024, issued by the GDT, enterprises that meet different CIT incentive conditions for the same income are allowed to choose the most beneficial incentive package. Accordingly, if an enterprise is enjoying CIT incentives based on the location conditions and is then granted a certificate of incentive for manufacturing SI products, such an enterprise can switch to applying the CIT incentive package based on SI conditions. However, income from other non-qualified SI products shall no longer be entitled to the CIT incentives based on location conditions.

(iii) Income from transfer of Renewable Energy Certificates not eligible for CIT incentives

According to Official Letter No. 2127/TCT-CS dated 20 May 2024 of the GDT, for enterprises operating hydropower plant projects, which are enjoying CIT incentives based on location conditions, income from the transfer of Renewable Energy Certificates (RECs) will not be eligible for CIT incentives as it is not considered as income from the licensed investment project.

(iv) *No tax policy regulating the offset carry-forward of tax losses amongst independent investment projects*

According to Official Letter No. 1792/TCT-CS dated 2 May 2024, the GDT opined that the prevailing CIT regulations do not have any provisions on tax policy with regard to the tax loss offset, carry-forward amongst independent investment projects that are being implemented by the same enterprise. On 9 May 2024, the Department of Tax Policy Management and Supervision of the Ministry of Finance confirmed in the Official Letter No. 867/CST-TN that there are no regulations allowing the tax loss offset between loss-making projects and income of projects enjoying CIT incentives.

(v) *VAT amount paid to overseas suppliers who directly declare and pay taxes in Vietnam is considered a deductible expense*

According to Official Letter No. 3115/TCT-CS dated 19 July 2024 of the GDT, if an overseas supplier has registered to declare and pay taxes directly in Vietnam in accordance with Circular No. 80/2021/TT-BTC, such overseas supplier must directly declare and pay tax via the tax portal of the GDT.

Vietnam buyers are allowed to claim CIT deduction for the costs of goods purchased and service provision, including the VAT portion charged by the overseas supplier.

2. Personal Income Tax ("PIT")

(i) *Strengthening the compliance management with regard to PIT from capital investment for dividend income received in shares and bonus shares for existing shareholders*

According to Official Letter No. 1806/TCT-DNNCN dated 2 May 2024 issued by the GDT, from 1 January 2023, securities companies, commercial banks with securities custody operations, fund management companies, and securities issuing organizations are responsible for withholding, declaring and paying PIT on behalf of individuals who receive dividends in shares and bonus shares at the time when such individuals transfer the shares of the same type.

For shares recorded into securities accounts before 31 December 2022, for which the PIT has not been declared and paid by the individuals or any withholding organization, the individuals must self-declare and pay PIT in accordance with the provision of the Law on Tax Administration.

The provincial tax departments will review and enforce any withholding organizations that fail to declare and pay tax as required.

The GDT would also share the database received from the Vietnam Securities Depository and Clearing Corporation (VSDC) on individuals receiving dividends in shares and bonus shares during the period from 2021 to 2023 so that provincial tax departments can review and manage the compliance status.

3. Invoicing and tax administration

(i) *Expanding the businesses that are required to issue invoices from cash registers in 2024*

According to Official Letter No. 2637/TCT-DNNCN dated 19 June 2024 of the GDT, the tax authorities will continue to review and enforce the implementation of e-invoices issued from cash registers in the retail sectors throughout 2024. This includes businesses with dependent branches, such as retail chains with headquarters in Hanoi and Ho Chi Minh City that are engaging in large-scale retail operations but have not yet applied e-invoices issued from cash registers. These businesses are required to implement e-invoices issued from cash registers by the end of Quarter 3 of 2024.

(ii) *Vietnam implements the Multilateral Convention on Administrative Assistance in Tax Matters (“MAAC”) from 1 January 2024*

According to GDT’s announcement under Official Letter No. 2862/TCT-HTQT dated 4 July 2024, Vietnam signed off the MAAC on 22 March 2023 in France. This Convention will take effect in Vietnam from 1 December 2023, and the application date to exchange information for tax periods will start from 1 January 2024. Official Letter No. 2862 also includes a list of countries/territories that have signed the MAAC and specifies the types of taxes, including VAT, which are covered under the Convention.

(iii) *Strengthening tax compliance management for organizations and individuals in the game sector*

According to Official Letter No. 2631/TCT-TTKT dated 19 June 2024, the General Department of Taxation directs local tax departments to enhance the review and tax compliance management of organizations and individuals involved in game publishing (Game Publishers) and game development (Game Developers).

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