
TAX BULLETIN April 2022

1. Opening the Portal of tax code registration, tax declaration and tax payment for foreign suppliers

On 21 March 2022, the General Department of Taxation announced to launch the Portal for foreign suppliers. Accordingly, from 21 March 2022, foreign suppliers conducting e-commerce business, business on digital platforms and other services without a permanent establishment in Vietnam can directly register Tax identification number (TIN), declare and pay tax in Vietnam according to the provisions of Chapter IX, Circular No. 80/2021/TT-BTC by online method at the General Department of Taxation's website: <https://etaxvn.gdt.gov.vn>.

2. Guiding the labelling goods in accordance with Decree No. 111/2021/NĐ-CP dated 9th December 2021 of Government (Official letter No. 408/TCHQ-GSQL dated 10th February 2022 of General Department of Customs)

The General Department of Customs has recently received official letters of enterprises on difficulties in labelling goods in accordance with Decree No. 111/2021/ND-CP dated 9th December 2021 on supplementing, amending the Decree No. 43/2017/ND-CP dated 14th April 2017. In this regards, the General Department of Customs provides guidance as follows:

➤ Regarding imported goods being materials and supplies used to manufacture goods for export and not for domestic consumption, and being gifts

Pursuant to Clause 1 Article 1, Decree No. 111/2021/ND-CP dated 9th December 2021 on supplementing, amending the Decree No. 43/2017/ND-CP dated 14th April 2017 of the Government, imported goods which are materials and supplies used to manufacture goods for export and not intended for domestic consumption, and imported goods which are gifts are regulated by this Decree. Accordingly, the imported goods mentioned above must be labeled in accordance with provisions as provided for in this Decree.

➤ Regarding imported goods being spare parts and components

In case where the imported goods are spare parts and components on which mandatory information cannot be fully displayed, labels which contain mandatory information mentioned in Section 2 Clause 5 Article 1, Decree No. 111/2021/ND-CP dated 9th December 2021 are required to be present on commercial packages of the imported goods.

3. Guidance on capital contribution and costs for newly established enterprise (Official letter No. 158/CTBNI-TTHT dated 24th January 2022 Bac Ninh Tax Department)

Regarding the issue, Bac Ninh Tax Department provides guidance to Hanoi SJ Corporation Co., Ltd. as follows:

➤ Capital contribution for establishing a new enterprise

- Hanoi SJ Corporation Co., Ltd is an foreign invested enterprise; therefore, when the company establishes a new enterprise in Vietnam named as Seo Jung Tech Co., Ltd. – a sole member limited company, assets used to contribute capital and the establishment of a new enterprise shall be complied with guidelines in Article 14, Article 74 and Article 75, Law on Enterprises No. 59/2020/QH14 dated 17th June 2020 of National Assembly.
- If Hanoi SJ Corporation Co., Ltd registers for contributing capital in cash, the Corporation will be responsible for paying in full the amount committed upon registering for establishing the enterprise within ninety (90) days from the issuing date of Certificate of business registration. If the Hanoi SJ Corporation Co., Ltd fails to pay in full charter capital within the time as provided for above, Hanoi SJ Corporation Co., Ltd must register for adjusting the charter capital equal to the value of the actually contributed capital within thirty (30) days from the last day on which the charter capital must be fully contributed. In this case, Hanoi SJ Corporation Co., Ltd shall be responsible for the financial obligations corresponding to the portion of capital contribution as undertaken, which arose before registering for adjustment of the charter capital in accordance with legal provisions.

➤ *Conversion of payments in advance for suppliers into charter capital of newly established enterprise*

Hanoi SJ Corporation Co., Ltd is a foreign invested enterprise, but not a foreign investor as defined in Article 3, Circular No. 06/2019/TT-BTC dated 26th June 2019 of Ministry of Finance. If the Hanoi SJ Corporation Co., Ltd has made payments for some expenditures before investment period to establish the Seo Jung Tech Ltd. Company, such payments could not be converted into the charter capital.

➤ *Input VAT credit and deductibility of expenses paid on behalf in pre-establishment period*

Hanoi SJ Corporation Co., Ltd signed sale contracts with some suppliers and made payments in advance to the supplier before the Seo Jung Tech Co., Ltd. is established and the suppliers have not yet issued invoices to Seo Jung Tech Co., Ltd.). According, after Seo Jung Tech Co., Ltd. was granted the Enterprise Registration Certificate, three-party agreements shall be signed by Hanoi SJ Corporation Co., Ltd, Seo Jung Tech Co., Ltd. and suppliers to transfer rights and obligations to Seo Jung Tech Co., Ltd. so that Seo Jung Tech Co., Ltd. can continue exercising the signed sale contracts. After delivering goods and/or services to Seo Jung Tech Co., Ltd., supplier shall issue invoices under the name of the Seo Jung Tech Co., Ltd. In order to claim input VAT claim and deductible expenses for CIT purpose with respect to expenses in relation to such payments, apart from VAT invoices, Seo Jung Tech Co., Ltd. must have non-cash payment receipts supported for the amount with value above VND 20 million inscribed on VAT invoices, including the amount was paid by Hanoi SJ Corporation Co., Ltd before.

4. CIT applied to expenses for preproduction trial (Official letter no 199/CTBNI-TTHT dated 27th January 2022 Bac Ninh Tax Department)

In case where MOTUS VINA Co., Ltd. incurs expenses for preproduction trial of a new product, such expenses are deductible for CIT purpose provided that conditions as provided for in clause 1, Article 6, Circular No. 78/2014/TT-BTC dated 18th June 2014 of Ministry of Finance (which was supplemented, amended in Article 4, Circular No. 96/2015/TT-BTC dated 22nd June 2015 of Ministry of Finance) are met in full. The Company is required to keep in full dossiers and documents evidencing the process of preproduction trial which includes but not limited to:

- a plan or a decision on preproduction trial,
- document relating to purchasing and putting materials, supplies into production, storing products of preproduction trial, estimating products of preproduction trial, disposing (selling) products of preproduction trial,
- dossiers and documents evidencing the destroying products of preproduction trial because they are inappropriate and unable to sell.

The Company must take responsibilities before law for accuracy and fidelity of these dossiers and documents. Also, the Company shall be responsible for presenting these dossiers and documents to tax authorities and/or state management agencies whenever being requested.