
TAX BULLETIN August 2022

1. Amendment of VAT refund for investment projects (Decree 49/2022/ND-CP dated 29 July 2022 of the Government)

On 29 July 2022, the Government issued Decree 49/2022/ND-CP on the amendment of Decree 209/2013/ND-CP regarding VAT. One of key changes of Decree 49/2022/ND-CP is relating to VAT refund for investment projects, specified as follows:

- According to the Decree 49/2022/ND-CP, the requirement of the construction period to last more than one year to get VAT refund on an annual basis was removed. Furthermore, the Decree 49/2022/ND-CP provides guidance for the case of new investment projects having many investment phases or having investment items.
- An investment project which conducts conditional business activities is entitled to VAT refund during the investment period if such investment project, as regulated by the investment and governing law, has not been required to obtain a license, confirmation or certification issued by the competent authorities to carry out the conditional businesses.

Decree 49/2022/ND-CP will take effect from 12th September 2022; however, the provision on VAT refund for investment projects of conditional business activities as regulated in Point 3, Article 1, Decree 49/2022/ND-CP is applied from the effective date of the Decree 100/2016 (i.e. 1 July 2016). In case where the VAT refund of the taxpayers of conditional businesses have been recovered under previous regulations, VAT amount, penalty and late payment interest will be adjusted by the tax office.

2. Allocation of CIT payment on income derived by a dependent branch (Official letter No. 25019/CTHPH-TTHT dated 1st June 2022 of Hanoi Tax Department)

In case FUJIKIN Vietnam Co., Ltd. has two dependent accounting branches located in Hanoi (Ha Noi Branch) and Bac Ninh (Bac Ninh Branch):

- Hanoi Branch is a dependent accounting branch located in the same province-level locality of its headquarter; therefore, the Company shall be responsible to declare the part of income derived by the Hanoi Branch in the CIT return of the Company at the tax office managing the Company's headquarter;
- Bac Ninh Branch is a manufacturing establishment located in a province-level locality different from the locality of its headquarter; therefore, the Company shall be responsible to allocate the CIT payment in accordance with provisions in point c, clause 2, Article 17, Circular No. 80/2021/TT-BTC dated 27th September 2021 of Ministry of Finance as follows: CIT payable amount in Bac Ninh equals (=) CIT payable of business activities multiplied by (x) the ratio (%) of cost of Bac Ninh Branch to total cost of the Company (excluding costs of business activity eligible for CIT incentives. In which:
 - CIT payable of business activities does not include CIT payable of business activities being eligible for CIT incentives. CIT payable of business activities eligible for CIT

incentives shall be determined based on the business performance of these activities and the incentives for which they are eligible.

- The ratio for allocation shall be based on actual costs incurred in the tax period.

3. Foreign contractor tax on services performed outside Vietnam (Official letter No. 4827/TCT-CS dated 12th November 2020 of General Department of Taxation)

In case where OTO Vina Co., Ltd. signs a contract with a law firm having its headquarter located in South Korea to be provide with legal service as well as services of drafting and preparing documents in relation to foreign loan at request by a bank located in South Korea, the law firm has to pay foreign contractor tax with respect to income derived from providing services to the OTO Vina Co., Ltd. in accordance with provisions of the Circular no 103/2014/TT-BTC dated 6th August 2014 of Ministry of Finance.

4. VAT rate on serviced provided for EPEs (Official letter No. 2120/CTBNI-TTHT dated 11th July 2022 of Bac Ninh Tax Department)

In case where Woori Tech Vina Ltd. Company - a domestic enterprise - dispatches its employees to an export processing enterprise (EPE) to perform services of testing, classifying and packaging goods for the EPE, the services provided by the Company are subject to zero rated VAT provided that the Company meets in full conditions as provided for in Clause 2, Article 9, Circular No. 219/2013/TT-BTC dated 31st December 2013 of Ministry of Finance.

5. VAT refund for the expansion investment project (The Official Letter No. 11749/CTBDUTTHT dated 7th July 2022 of Binh Duong Tax Department)

The prevailing VAT regulation does not provide any guidance on VAT refund for expansion investment projects. For business establishment applying VAT refund for "expansion investment projects", the Ministry of Finance will report to competent authorities for their consideration and handling according to regulations. In the meantime, the amounts of input VAT incurred for the expansion investment projects are not refundable according to the conditions of expansion investment projects. The Company declares such input VAT on the VAT return Form 01/GTGT together with the VAT arising from goods and services bought in the period.