
TAX BULLETIN November 2022

1. Announcement on the list of foreign vendors having made tax registration in Vietnam (Announcement No. 357/TB-DNL dated 19th November 2022 of the General Department of Taxation)

According to provisions of Article 81, Circular No. 80/2021/TT-BTC, if the foreign vendors have made tax registration, tax declaration and direct tax payment in Vietnam, companies using services of these foreign vendors are not required to declare, withhold and pay tax on behalf of the foreign vendors. In order to search for those the foreign vendors which have made tax registration in Vietnam, companies can refer to the Announcement No. 357/TB-DNL dated 19th November 2022 issued by the General Department of Taxation (GDT). In the Announcement, the GDT provides the list of 39 foreign vendors having made tax registration of which many vendors engage in cross border e-commerce activities.

2. Foreign contractor tax on selling eSIM on technology platform (Official letter No. 42786/CTHN-TTHT dated 30th August 2022 of Hanoi Department)

In case where a foreign contractor without permanent establishment in Vietnam derives income from selling eSIM on technology platform, but does not register, file and pay tax in Vietnam in accordance with provisions as provided for in Articles 76, 77, 78 and 79 of Circular no 80/2011/TT-BTC dated 29th September 2021 of Ministry of Finance, Indochina Telecom Mobile JSC shall be responsible for withholding, filing and paying the tax on behalf of the foreign contractor in accordance with provisions of Circular no 103/2014/TT-BTC as follows:

- Corporate income tax: The income derived by the foreign contractor from licensing the use right of facilities on available technology platform is classified as royalty income in accordance with provisions in Clause 3, Article 7, Circular No. 103/2014/TT-BTC. The applicable CIT rate is 10% on turnover
- Value Added Tax: licensing the use right of facilities on available technology platform is neither treated as software services in accordance with provisions in Decree No. 71/2007/NĐ-CP dated 3rd May 2007 of Government nor technology transfer activities in accordance with provisions of law on technology transfer, it shall be subject to VAT. The applicable VAT rate is 5% on turnover.

3. Treatment of sales discount incurred after finance statement was issued (Official letter No. 14001/CTBDU-TTHT dated 7th September 2022 of Binh Duong Tax Department)

In case where a company incurred sales discount after Company's finance statement was issued, the company shall make decreasing adjustment of the turnover of the incurring period (i.e. the following period) in accordance with the guideline in Article 81, Circular No.

200/2014/TT-BTC dated 22nd December 2014 of Ministry of Finance. At the same time, it is requested that an invoice shall be issued for adjusting the value of goods upon the real situation. In addition, if the company received the turnover in foreign currency, the turnover must be converted into Vietnamese dong with the average exchange rate on interbank market announced by the State Bank of Vietnam at the time when turnover arose for purpose of determination of the tax calculation price.

4. Tax treatment on liquidation of assets (Official letter No. 4067/TCHQ-TXNK dated 29th September 2022 of General Department of Customs)

Pursuant to the current provisions, tax treatment applied to assets liquidated by Samsung Electronics Vietnam Co., Ltd. as follows:

- For goods and equipment purchased in domestic market (which are not subject to customs procedures) or imported goods to which the Company has fulfilled normal tax regulations and procedures rather than those regulations and procedures applied to an export processing enterprise (EPE) at the registration of the first customs declaration, the Company - an EPE - is not required to apply customs procedures upon liquidation of these goods to domestic enterprises.
- For imported goods and equipment to which tax regulations and procedures for an EPE has been applied, the Company is allowed to select to apply either customs procedure for change in use purpose or customs procedure for on-spot export and import when the Company proceeds the liquidation in accordance with Article 79, Circular No. 38/2015/TT-BTC of Ministry of Finance.
If applying the customs procedure for on-spot export and import in accordance with Article 86, Circular No. 38/2015/TT-BTC, the Company will perform the customs procedure for on-spot export and domestic enterprises will perform the customs procedure for on-spot import and pay taxes as provided by the law.
- For assets of a bidding package for office furniture, the Company is required to declare and pay taxes based on designing and engineering documents of contractors and other relating documents. Regarding materials, supplied already used during the construction (paint, glue, tape, and so on), the Company does not have to declare and pay taxes.