
TAX BULLETIN January 2023

1. General Department of Customs' s guidance on customs duties and procedures applied to exported goods which were completed customs procedures and stored in a bonded warehouse then being imported to domestic market (Official letter No. 4826/TCHQ-GSQL dated 14th November 2022 of General Department of Customs)

➤ *Customs procedures*

For exported goods of which the customs procedure was cleared and which are being stored in a bonded warehouse, the owner of such goods is allowed to transfer the ownership of the good; therefore, in case where the owner of such goods decides to re-import them into the domestic market, it is required to prepare custom declaration upon equivalent form of importation and perform import procedures in accordance with provisions of Article 91, Circular No. 38/2015/TT-BTC dated 25th March 2015 which was supplemented, amended in the Clause 59, Article 1, Circular No. 39/2018/TT-BTC dated 20th April 2018 of Ministry of Finance.

➤ *Customs duties*

According to the current provisions on non-taxable goods, when importing goods being the exported goods to which the customs procedure was cleared and are being stored in a bonded warehouse, enterprises should comply with the customs procedure and policy applicable to the equivalent form of importation. Goods being imported from bonded warehouses to the domestic market in order to manufacture goods for export will be exempt from import duty and will not be subject to VAT provided that conditions as provided for in the Article 12, Decree No. 134/2016/NĐ-CP dated 1st September 2016 which was supplemented, amended in the Clause 6, Article 1, Decree No. 18/2021/NĐ-CP dated 11th March 2021 of Government are met in full.

2. Tax treatment to the capital contribution by assets (Official letter No. 3821/CTHN-TTHT dated 7th November 2022 of Hai Phong Tax Department)

In case where Chouqin Packaging Production Vietnam Co., Ltd. (paying VAT under credit method) purchases machineries and equipment to use as capital contributed to establish a new company named as Jex Vietnam Co., Ltd,

- the Company is entitled to claim for input VAT credit regarding these machineries and equipment if conditions on input VAT credit are fully met and capital contribution dossier is prepared sufficiently and properly.
- the Company is not required to issue VAT invoice to Jex Vietnam Co., Ltd., to declare or pay VAT provided that capital contribution dossier is prepared sufficiently in accordance with Point e, Clause2, Article 13, Decree No. 123/2020/NĐ-CP dated 19th October 2020 of Government.
- the Company has to declare and pay CIT if deriving income from using these assets to contribute capital.

3. CIT finalization of a branch with CIT incentives being located in another province (Official letter No. 3776/CTBNI-TTHT dated 17th November 2022 of Bac Ninh Tax Department)

In case the Company is located in Binh Duong Province and has a Branch which is a dependent unit of the Company and being given the CIT incentive for income derived from activities of a new investment project located in Bac Ninh Province, the Company is required to prepare CIT finalisation by using the Form No. 03/TNDN issued together with the Annex II of Circular No. 80/2021/TT-BTC dated 29th September 2021 of Ministry of Finance and submit it to Binh Duong Tax Department, at the same time, the Company will determine the CIT amount payable derived from the activities given the CIT incentive by using the Form No. 03-3A/TNDN issued together with the Annex II of Circular No. 80/2021/TT-BTC dated 29th September 2021 of Ministry of Finance and submit it to both Binh Duong Tax Department and Bac Ninh Tax Department.

Currently, the integrated tax management system (TMS) of the tax authorities has supported the transmission and receipt of information of the Annex 03-3A/TNDN. When filing the CIT finalization return by using the Form No. 03/TNDN with the attachment of the Annex 03-3A/TNDN with Binh Duong Tax Department, the system will automatically transmit the data to the tax authority where the Branch is located. Therefore, the Company is not required to submit Annex 03-3A/TNDN to the Bac Ninh Tax Department anymore.

4. Tax treatment of air ticket payment for foreign expatriates when terminating the labour contract (Official letter No. 4387/CTHPH-TTHT dated 19th December 2022 of Hai Phong Tax Department)

In case where a Company makes air ticket payment for foreign expatriates to return their home country upon termination of the labour contract rather than for annual leave, these payments are considered as a benefit in kind derived by employees and are taxable income for PIT purpose. These air tickets payments will be deductible for CIT purpose if being clearly stipulated in the labour contract, collective labour agreement, or financial regulation of the Company and with legitimate invoices and receipts.