
TAX BULLETIN May 2023

1. Handling of invoicing issues when implementing the Government's Decree No. 15/2022/ND-CP dated 28th January 2022 (Official letter No. 2121/TCT-CS dated 29th May 2023 of the General Department of Taxation)

➤ Timing for issuance of invoice in some special cases

In this regard, the Ministry of Finance and the General Department of Taxation have provided guidance in their official letters, specifically:

- Official Letter No. 2688/BTC-TCT dated 23rd March 2022 of the Ministry of Finance, and
- Official Letter No. 3522/TCT-CS dated 22nd September 2022 of the General Department of Taxation

➤ Issuance of invoice in some cases

- In case after 31st December 2022, it is discovered that the issued invoice has errors:
 - If errors do not affect the payment amount of goods and VAT payable or cause the adjustment of the taxable price, when issuing an adjusted or replaced invoice, VAT rate of 8% will be applied;
 - If errors in quantity of goods lead to errors in payment amount of goods and VAT payable, when issuing an adjusted or replaced invoice, the VAT rate prescribed at the time of issuing the adjusted or replaced invoice will be applied.
- In case the goods were purchased before 1st January 2023 at the tax rate of 8%, but due to improper specifications and quality, the buyer returns the goods after 31st December 2022, the seller shall issue an invoice for the returned goods to make adjustment or replacement of the invoice already issued with the VAT rate of 8%, and an agreement between the seller and the buyer shall be made to clearly state the return of goods.
- For business establishment applying commercial discount for customers, when the goods which are subject to VAT reduced rate of 8% were sold in 2022, but invoices showing the commercial discount were issued after 1st January 2023:
 - If the discount amount was made on the last purchase or the next purchase period which is after 31st December 2022, the discount amount of the sold goods is adjusted in term of the taxable price, the tax rate will be applied in accordance with the prescribed regulation at the time of issuing invoice.
 - If the discount amount is made at the end of the discount program (period) after 31st December 2022, the seller shall issue an adjusted invoice and apply the VAT rate of 8% at the time of sale.
- The following cases fall into the case of wrong timing of invoices issuance, to which VAT reduction according to Decree No. 15/2022/ND-CP dated 28th January 2022 of the Government are applied but subject to administrative penalties for untimely invoicing:

- The case where after December 31, 2022, business establishments issue invoices for goods and services arising sales from 1st February 2022 to 31st December 2022, and
- Construction and installation activities have the time of acceptance, handover of works, work items, completed construction and installation volumes, regardless of whether money has been collected or not, determined from 1st February 2022 to the end of 31st December 2022, but after 31st December 2022, the business establishments issue invoices for revenue from construction and installation items and volumes that have been accepted and handed over.

2. CIT treatment of support by cash (Official letter No. 786/TCT-CS dated 20th March 2023 of General Department of Taxation)

Chevron Vietnam Ltd., Co. sells goods through channel of distributors (which directly buy the goods from the Company) and dealers (which buy goods through the distributors) instead of selling goods directly to consumers. If the Company provides supports by cash to dealers through distributor when the dealers achieved the sale target set by the Company and give monetary support to salesmen of dealers who are not the Company's employees, there is no valid base to deem these supports as deductible expenses in accordance with CIT regulations.

3. Guiding tax policies applicable to export processing enterprises located in non-tariff areas (Official letter No. 1359/CTBNI-TTHT dated 25th April 2023 of Bac Ninh Tax Department)

If Goertek Smart Technology Vina Ltd., Co. was granted the first Certificate of Investment Registration by Bac Ninh Industrial Park Management Board with the purpose of establishing an export processing enterprise (EPE) inscribed on the Investment Registration Certificate, the Company is entitled to investment and tax incentives applicable to a non-tariff area from the time when the investment project target of establishing an EPE is written on the Investment Registration Certificate. Accordingly, when the Company has been in the process of origin rudimentary construction such as fencing walls, surrounded roads of factories, construction design, and so on, goods and services purchased are subject zero rated VAT provided that conditions as provided for in clauses 1 and 2, Article 9 of Circular No. 219/2013/TT-BTC dated 31st December 2013 of Ministry of Finance are met in full, and that the goods and services purchased do not fall within the cases not qualified for applying the VAT rate of 0% as provided for in clause 1 Article 9 of Circular No. 219/2013/TT-BTC mentioned above.

After completing the construction process, and before being put into operation, the Company must be certified by a competent customs authority that the Company had met in full conditions for customs inspection and supervision in accordance with provisions of law on import duties – export duties. If the Company fails to obtain the certificate of customs inspection and supervision, the Company will not be entitled to tax incentives applicable to a non-tariff area.

4. Guidance on applying 30% CIT reduction when changing financial reporting period (Official letter No. 940/TCT-CS dated 27th March 2023 of the General Department of Taxation)

When a company change the tax period from the calendar year (from 1st January to 31st December) to the fiscal year (from 1st October to 30th September), the CIT amount subject to 30% reduction according to Decree No. 92/2021/ND-CP shall be the CIT incurred for the tax period from 1st January 2021 to 30th September 2021.

5. Defectivities or damaged goods during production is not deductible (Official letter No. 796/TCT-CS dated 20th March 2023 issued by the General Department of Taxation)

Company has destroyed the defective or damaged goods incurred during the production process that could not be recycled, other than the destruction cases prescribed by the Law on CIT, this destruction amount would be treated as non-deductible expenses for CIT purpose.