
TAX BULLETIN October 2023

1. Treatment of input VAT in case of conversion into an export processing enterprise (EPE)

➤ Official letter No. 21137/CTBDU-TTHT dated 31st August 2023 of Binh Duong Tax Department

In case where the Company incurred input VAT amount which had not been fully credited before being converted into an EPE upon the approval of the competent authority, such input VAT amount is not refundable as provided for in Clause, 3 Article 1, Circular No. 130/2016/TT-BTC dated 12th August 2016 of Ministry of Finance because the conversion into an enterprise operating under the export processing enterprise regulation is not considered as a conversion of business form as provided for in Chapter IX of Law on Enterprises No. 59/2020/QH14 dated 17th June 2020 of National Assembly. However, the Company is entitled to claim the input VAT amount not being credited as deductible expenses for CIT purpose provided that conditions as provided for in Article 4, Circular No. 96/2015/TT-BTC dated 22nd June 2015 of Ministry of Finance are met in full.

➤ Official letter No. 4627/TCT-CS dated 19th October 2023 of the General Department of Taxation

The input VAT amount of exported goods and services arising in the period before the company applies tax policies for EPE will be credited and refunded according to the law on VAT. The deadline for VAT declaration of the last tax period before the company can apply tax policies for EPE shall comply with the provisions of Clause 1, Article 44, Law on Tax Administration.

2. Invoice and determination of turnover for exported goods being returned (Official letter No. 21671/CTBDU-TTHT dated 11th September 2023 of Binh Duong Tax Department)

In case where the Company issued an invoice for goods exported overseas and the buyer received goods, but returned the entire exported goods,

- An invoice for returned goods should be issued by the Company to make a decreasing adjustment for the first issued invoice. In addition, a written agreement which clearly states that goods are returned should be made the Company and the buyer and is attached with the adjusted invoice. Handling of the adjusted invoice is complied with provisions in Article 19, Decree No. 123/2020/NĐ-CPC dated 19th October 2020 of Government and Point e, Clause 1, Article 7, Circular No. 78/2021/TT-BTC dated 17th September 2021 of Ministry of Finance.
- The recognition of turnover after making adjustment of invoice is complied with provisions in Article 81, Circular No. 200/2014/TT-BTC dated 22nd December 2021 of Ministry of Finance. If the Company continues to export the shipment of exported

goods which are returned, the date for recognition of export turnover will be the date of completion of customs procedures inscribed on the customs declaration form upon exporting goods to a new client.

3. Input VAT credit applied for goods imported under DDP term (Official letter No. 68332/CTHN-TTHT dated 21st September 2023 of Hanoi Tax Department)

In case where the Company signs a contract to import goods from a foreign partner under the DDP (Delivered Duty Paid) term, in which the seller will bear costs for payable import duty, VAT on the imported goods (if any), the Company does not incur any costs for import duty, VAT on the imported goods. Therefore, the Company is not able to claim for credit of VAT paid at the import stage.

4. CIT incentives applicable to non-registered business activities (Official letter No. 22005/CTBDU-TTHT dated 18th September 2023 of Binh Duong Tax Department)

The Company was established under the first Investment Registration Certificate issued by Binh Duong Industry Park Management Board on 17th May 2016 with business line of manufacturing assorted auxiliary chemicals in textile dyeing industry. Besides the registered business activities, the company performed processing function additionally. The Company is entitled to CIT incentives in term of CIT rate and exemption and reduction period in accordance with provisions in the Clause 3, Article 16, Decree No. 218/2013/NĐ-CP dated 26th December 2013 of Government, provided that the processing function performed by the Company meets conditions as guided in the Official letter No. 4974/TCT-CS dated 25th December 2008 of General Department of Taxation and that the new investment project is performed in an industry park (except for the industry park with favourable socio-economic conditions).

5. VAT rate for design and quality control services provided for foreign organizations (Official Letter No. 4481/TCT-CS dated 10th October 2023 of the General Department of Taxation)

Pursuant to the provisions in Clause 1 and Clause 2, Article 9, Circular No. 219/2013/TT-BTC dated 31st December 2013 of the Ministry of Finance guiding the implementation of the Law on Value Added Tax and Decree No. 209/ 2013/ND-CP dated 18th December 2013 of the Government detailing and guiding the implementation of a number of articles of the Law on Value Added Tax on the tax rate of 0%, and according to the presentation of Osprey Packs Vietnam Co., Ltd., in case the Company provides design services and quality control services to organizations abroad and these services are performed and consumed at manufacturing plants in Vietnam, these services will not be entitle to zero rate of VAT due to not meeting the conditions of consumption outside Vietnam.

6. Service fees for PIT declaration and calculation on behalf of employees (Official Letter No. 51950/CTHN-TTHT dated 18 July 2023 issued by Hanoi Tax Department)

Service fees, for submitting and calculating employee PIT on their behalf, and purchasing health care membership cards for the foreign employees, that are considered as employment income may be deductible for CIT purposes if the following conditions are met:

- Specifically mentioned in any of the following documents: Labor contract, Collective Labor Agreement or Finance Policy;
- Not listed as non-deductible expenses for CIT calculation;
- Do not exceed one month's average salary and ensure proper payment vouchers are provided as per regulations if these expenses are deemed to be employee benefits.