
TAX BULLETIN December 2023

1. Declaration of missing payment voucher of VAT at the import stage (Official Letter No. 5847/TCT-KK dated 21st December 2023 of the General Department of Taxation)

In 2019, the company had payment voucher of VAT at the import stage but did not declare it on the VAT return. After that, the company submitted a VAT refund application for the tax period from January 2018 to March 2021. If the tax authority has performed a pre-refund inspection and issued a tax refund decision, the company is not allowed to submit a supplementary tax declaration. The company complies with the provisions in Point dd, Clause 6, Article 1, Tax Law No. 31/2013/QH13 and Clause 3, Article 47, Tax Administration Law No. 38/2019/QH14.

2. E-invoice issuance for exported goods (Official letter No. 4890/TCT-KK dated 02nd November 2023 of General Department of Taxation and Official letter No. 79873/CTHN-TTHT dated 13th November 2023 of Hanoi Tax Department)

Companies are required to issue VAT e-invoices when exporting goods and services to foreign entities. The VAT e-invoices must be issued after the export goods clearance procedure is completed.

Companies can use the goods delivery note as the document to circulate goods in a market for transportation of goods to the border gate or to the place where export procedures are carried out. After the completion of good clearance procedure, the VAT e-invoice must be issued in accordance with Point c, Clause 3, Article 13, Decree No. 123/2020/NĐ-CP.

3. Supplementary declaration of missing VAT invoices of the tax period having been audited (Official Letter No. 4955/TCT-KK dated 6th November 2023 of the General Department of Taxation)

If a company missed to declare VAT invoices, for goods or services purchased in the period after the Tax Authority has issued their conclusion of the pre-refund tax inspection, the company is allowed to file a supplementary tax declaration, and:

- In case where that supplementary declaration increases the tax payable or reduces the creditable tax or tax exempted amount the company could be sanctioned for violating tax administration regulations.
- In case where that supplementary declaration reduces the tax payable or increase the creditable tax or increases the tax exempted amount, the company should follow the provisions for tax appeal settlement.

4. Tax treatment applied to capital transfer by foreign investor (Official letter no 5567/TCT-CS dated 11th December 2023 of General Department of Taxation)

In case where an investor named as Dae Myung Chemical Co., LTD (an enterprise located in South Korea) who wholly owns charter capital in Dae Myung Paper Vietnam transfers all of its contributed capital in Dae Myung Paper Vietnam to Nam Kim Steel Joint Stock Company, VAT will be applied as follows:

- Capital transfer transaction complied with provisions of Law on Enterprises and Law on Investment is not subject to VAT.
- If Nam Kim Steel Joint Stock Company, after receiving contributed capital at the Dae Myung Paper Vietnam, changes the operating target of investment project but still continues to manufacture and perform goods and services subject to VAT, VAT amount already refunded for the investment project which is used by the Nam Kim Steel Joint Stock Company to manufacture and perform goods and services subject to VAT will not be recovered; provided that the change in the operating target of investment project is in accordance with provisions of Law on Enterprises and Law on Investment.
- If Nam Kim Steel Joint Stock Company does not continue to perform the investment project to manufacture and perform goods and services subject to VAT, refunded VAT amount mentioned above will be recovered; and in case of selling assets subject to VAT it is not necessary to adjust corresponding input VAT of sold assets.

5. Forgiveness of tax debts that have been overdue for over 10 years (Official Letter No. 4517/TCT-QLN dated 12th October 2023 of the General Department of Taxation)

According to Clause 3, Article 85, Tax Administration Law No. 38/2019/QH14 dated 13th June 2019, tax debts that have been overdue for more than 10 years from the statutory deadline and have been subject to coercive measures by the Tax Authority but are unable to be recovered, may be considered for cancellation of the debt. To apply for cancellation of tax debts over 10 years, the enterprise must submit the following documents:

- A written request in Form No. 01/XOANO, which must be accompanied by Annex I, Circular No. 80/2021/TT-BTC dated 29 September 2021, issued by the Ministry of Finance.
- A written request from the direct managing Tax Authority to the business registration agency or a competent state agency to revoke the enterprise registration certificate, the business registration or investment registration certificate.
- A copy of decision to revoke the enterprise registration certificate, business registration or investment registration certificate.
- A copy of the notice of tax owed at the time of application for debt forgiveness.
- Copies of enforcement decisions on administrative decisions on tax administration or records proving the implementation of enforcement measures against taxpayers.
- A document certified by the commune-level People's Committee stating that the taxpayer no longer has assets or business activities in the area.

6. PIT on remuneration from the trade union fund (Official Letter No. 3010/CTHNA-TTHT dated 16th October 2023 of Ha Nam Tax Department)

Payments made to employees (for Mid-Autumn Festival, International Women's Day, etc.) by the trade union fund and meet the specified tasks provided in Article 27 of Laws on Trade Union dated 20 June 2012, are not taxable employment income. Payments that do not meet the abovementioned conditions are subject to taxable income for PIT purpose.