

NEWSLETTER

August 2024



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I – UPDATES ON ACCOUNTING - TAX

* Official letter 3872/TCT-CS

- **Issued by:** The General Department of Taxation Tổng cục thuế
- **Dated:** 30/8/2024
- **Content:** Tax policy when transferring assets due to business merger

Regarding Value Added Tax, when transferring assets to merge into another enterprise according to the provisions of the Enterprise Law, the enterprise with the transferred assets must have an asset transfer order, accompanied by a set of documents on the origin of the assets and is not required to declare, calculate and pay VAT and does not have to issue VAT invoices.

Regarding Corporate Income Tax, the increase or decrease due to revaluation of assets is the difference between the revaluation value and the remaining value of the assets recorded in the accounting books and is calculated once in other income (for the increase) or deducted from other income (for the decrease) in the tax period when determining taxable income for corporate income at the enterprise with the re-evaluated assets.

The enterprise receiving the transferred assets upon merger is allowed to gradually depreciate or allocate the revaluation price to expenses (except in cases where the value of land use rights is not depreciated or allocated to expenses according to regulations).

* Official letter 44614/CTHN-TTHT

- **Issued by:** The Tax Department of Hanoi
- **Dated:** 05/8/2024
- **Content:** Tax policy on liquidation of fixed assets of export processing enterprises

In case a company which is an export processing enterprise with only export activities liquidates fixed assets for domestic sale according to regulations, it shall use sales invoices according to regulations in Clause 2, Article 8 of Decree 123/2020/ND-CP.

The Company shall declare tax with the direct method on added value according to regulations in Clause 2, Article 13 of Circular No. 219/2013/TT-BTC and submit tax declaration documents according to regulations in Clause 3, Article 44 of the Law on Tax Administration No. 38/2019/QH14 and Clause 4, Article 8 of Decree 126/2020/ND-CP.

* **Official letter 44615/CTHN-TTHT**

- **Issued by:** The Tax Department of Hanoi
- **Dated:** 05/8/2024
- **Content:** Tax policy on housing for employees

In case the company buys an apartment as a guest house and accommodation for employees:

- Regarding corporate income tax: This fixed asset and the equipment and furniture installed in the apartment serving production and business activities are qualified as fixed assets, the depreciation expense of the above fixed assets is included in the deductible expenses when calculating taxable income for corporate income tax.
- Regarding input value added tax deduction: If the company buys an apartment that is not eligible for input VAT deduction according to current regulations, it is not allowed to deduct input VAT.
- Regarding personal income tax: Housing, electricity, water and accompanying services (if any) paid by the company to the individual are taxable income for personal income tax according to regulations.

In case the individual lives at the workplace, the income subject to personal income tax is based on the rent or depreciation expense, electricity, water and other services calculated according to the ratio between the area used by the individual and the area of the workplace.

The amount of house rent, electricity, water and other related services (if any) for housing paid by the employer on behalf of the employees shall be included in the taxable income for personal income tax according to the actual amount paid on behalf of the employees but shall not exceed 15% of the total taxable income generated (excluding house rent, electricity, water and other related services (if any)) at the unit regardless of the place of income payment.

* **Official letter 45796/CTHN-TTHT**

- **Issued by:** The Tax Department of Hanoi
- **Dated:** 12/8/2024
- **Content:** Tax policy on Business Cooperation Contract

In case the Company signs a business cooperation contract with an individual, the Company is responsible for declaring VAT on all revenue from business cooperation activities according to regulations regardless of the form of division of business cooperation results, and at the same time declaring and paying personal income tax on behalf of the individual cooperating in business as prescribed in Point c, Clause 5, Article 7 of Decree No. 126/2020/ND-CP of the Government.

Tax declaration dossiers on behalf of individuals shall be implemented according to the instructions in Clause 1, Article 16 of Circular No. 40/2021/TT-BTC dated June 1, 2021 of the Ministry of Finance.

For individuals' revenue of over VND 100 million/year, the personal income tax rate shall be implemented according to the provisions in Point 2, Appendix I issued with Circular No. 40/2021/TT-BTC.

*** Official letter 47061/CTHN-TTHT**

- **Issued by:** The Tax Department of Hanoi
- **Dated:** 20/8/2024
- **Content:** Guidance on invoices when receiving money of sponsorship

In case the company receives money of sponsorship as prescribed in Clause 1, Article 5 of Circular No. 219/2013/TT-BTC, it is not required to declare and pay VAT, the company shall prepare a receipt according to regulations.

In case the company receives money from organizations or individuals to provide supporting services to those organizations or individuals such as repair, warranty, promotion, advertising, it must issue an invoice, fully recording the content of the service performed and must declare and pay tax according to regulations.

II – UPDATES ON INVESTMENT - ENTERPRISES

Principles for converting state-owned enterprises (SOEs) into single-member limited liability companies (single-member LLCs)

On July 16, 2024, the Government issued Decree No. 89/2024/ND-CP regarding the conversion of SOEs established and operating under the Law on State-Owned Enterprises into single-member LLCs under the Law on Enterprises 2020. The principles for conversion are as follows:

- The single-member LLC will inherit all legitimate rights and benefits, and obligations of the SOE or its subsidiaries that have not yet been converted;
- Branches, representative offices, and business locations of the single-member LLC will inherit all rights and obligations of the branches, representative offices, and business locations of the SOE or its subsidiaries that have not yet been converted.

Decree No. 89/2024/ND-CP shall take effect on September 1, 2024.

Amendment of regulations on foreign currency transactions between official foreign exchange reserves and the state budget

On August 9, 2024, the State Bank of Vietnam (SBV) issued Circular No. 43/2024/TT-NHNN, amending and supplementing several provisions of Circular No. 01/2014/TT-NHNN dated December 10, 2014, which provides guidelines on managing State foreign exchange reserves. In which, the regulations regarding the purchase and sale of foreign currency between official foreign exchange reserves and the state budget are amended and supplemented.

This Circular shall take effect on September 23, 2024.

Amendments of the Circular on issuing State Bank of Vietnam (SBV) bills

On August 30, 2024, the Governor of the State Bank of Vietnam issued Circular No. 44/2024/TT-NHNN, amending Clause 2, Article 2 of Circular No. 16/2019/TT-NHNN, which regulates the issuance of SBV bills.

Accordingly, the following entities can issue SBV bills by auction or mandatory method starting from October 23, 2024:

- The State Bank of Vietnam;
- Commercial banks, branches of foreign banks, general financial companies, specialized financial companies, cooperative banks, banks for social policies;
- Deposit Insurance of Vietnam.

The Circular shall take effect on October 23, 2024.

Prohibition on officials from establishing enterprises in 15 information and communications (ICT) fields after leaving office

On August 30, 2024, the Ministry of Information and Communications (MIC) issued Circular No. 09/2024/TT-BTTTT, specifying the list and time limits during which retired officials in the ICT sector are prohibited from establishing, managing, or operating private enterprises, LLCs, joint-stock companies, partnerships, or cooperatives in fields such as: Journalism, Publishing, Broadcasting, Television, Electronic Information, Postal Services, Telecommunications, Information Technology Industry, Cybersecurity, E-commerce, etc. The time limit is 12 months for those who do not hold leadership or management positions and 24 months for those who do hold such positions, starting from the date they retire as decided by competent authorities.

The Circular shall take effect on October 15, 2024.

Amendments and supplements to certain construction norms in Circular No. 12/2021/ TT-BXD

On August 30, 2024, the Minister of Construction issued Circular No. 09/2024/TT-BXD, amending construction norms under Circular No. 12/2021/TT-BXD, including:

- Estimate indicator for construction works;
- Estimate indicator for installing machinery and technological equipment;
- Estimate indicator for repairing and maintaining construction works;
- Norms on use of materials;
- Cost norm for project management and construction investment consultancy fees.

The Circular shall take effect on October 15, 2024.

III – UPDATES ON LABOR - INSURANCE

Informing, propagandizing regulations for organizing overtime from over 200 hours to 300 hours per year

On August 28, 2024, the Ho Chi Minh City Department of Labor, War Invalids, and Social Affairs issued Official Letter No. 21388/SLDTBXH-VLATLD regarding informing and propagandizing regulations for organizing overtime work from over 200 hours to 300 hours per year.

Accordingly, when organizing overtime work from over 200 to 300 hours per year, employers must notify the Department of Labor, War Invalids, and Social Affairs in accordance with Article 62 of Decree No. 145/2020/ND-CP dated December 14, 2020. The Department shall compile a list of entities to comply with the above regulations. For any non-compliant cases, the Department shall notify the relevant entities to review and adjust according to the regulations.

The Official Letter shall be effective from the date of issuing.

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