

Update new legal documents and some important tax policies

April 2023



In this newsletter, Grant Thornton Vietnam would like to update to our valued customers the relevant legal policies and guidelines in the field of Tax and Insurance recently issued.

- 1 Document No. 2614/VPCP-KTTH of the Government Office agreeing to propose reduction of VAT
- 2 Decree 12/2023/ND-CP stipulating the extension of tax payment and land rent in 2023
- 3 Decision No. 01/2023/QD-TTg on the reduction of land rent and water surface rent in 2022
- 4 Decision No. 40/QD-BTC on amending a number of administrative procedures in the field of tax and customs
- 5 Decision No. 490/QD-BHXH amending and supplementing a number of articles of the insurance collection process
- 6 Circular 02/2023/TT-BYT amending and supplementing a number of articles of Circular 15/2016/TT-BYT regulating occupational diseases entitled to social insurance
- 7 Circular 13/2023/TT-BTC guiding the implementation, and amending and supplementing a number of articles of the Law on Value-Added Tax
- 8 Circular 18/2023/TT-BTC stipulating the procedures for collecting and paying fines, clearing the difference in fines, receipts for fine collection and funding from the State budget
- 9 Official Letter 3469/CTHN-TTHT of Hanoi Tax Department on personal income tax for gifts and bonuses to employees
- 10 Official Letter 19299/CTHN-TTHT of Tax Department of Hanoi on license fees for business locations other than provinces
- 11 Official Letter 2298/BTC-CST of the Ministry of Finance to collect opinions on the formulation of the proposal for the formulation of the Law on Corporate Income Tax.
- 12 Some notable answers of the General Department of Taxation at the Online Support Program on Personal Income Tax Finalization and Corporate Income Tax Finalization 2022 on the Portal of the General Department of Taxation on March 21, 2023 and March 23, 2023

1. Document No. 2614/VPCP-KTTH of the Government Office agreeing to propose reduction of VAT

On April 17, the Government Office issued Document No. 2614/VPCP-KTTH to the Minister of Finance conveying the opinions of Deputy Prime Minister Le Minh Khai on the plan for tax, fee and fee exemption and reduction for 2023. Accordingly, the Deputy Prime Minister agreed in principle that the Ministry of Finance should report to the Government for submission to the National Assembly, the National Assembly Standing Committee for consideration and approval to formulate and issue a resolution of the National Assembly on VAT reduction according to the order and simplified procedures specified in Clause 1, Article 146 of the Law on Promulgation of Legal Documents. The Ministry of Finance shall coordinate with the Ministry of Justice and relevant ministries and agencies to expeditiously develop a resolution project file for submission to competent authorities to ensure the correct process, order and procedures. The dossier clearly states the basis and necessity to propose the formulation and promulgation of a draft resolution according to the simplified order and procedures, and report to the Government before April 25.



1. Document No. 2614/VPCP-KTTH of the Government Office agreeing to propose reduction of VAT

Previously, on April 14, 2023, the Ministry of Finance had sent a document to the Prime Minister on the plan for tax, fee and fee exemption and reduction for 2023. Specifically, the Ministry of Finance proposed to reduce the VAT rate by 2% for all goods and services subject to the 10% tax rate, which will be reduced to 8%; reduce 20% of the percentage rate to calculate VAT for business establishments (including business households and business individuals) when issuing invoices for all goods and services subject to 10% VAT.

The reduction of VAT for each type of goods and services is proposed to be applied uniformly at the stages of import, production, processing, business and trade. Regarding the application time, the Ministry of Finance proposes that the 2% VAT reduction be implemented from the date of issuance of the policy until the end of December 31, 2023.

Thus, with the above opinion, this is good news for businesses that continue to enjoy the 2% VAT reduction as last year. If detailed guidance documents are issued to apply VAT reduction for all goods and services subject to 10% VAT as initially proposed, the application may be easier than identifying specific subjects like last year. However, businesses need to wait for specific guidelines to be issued before being allowed to apply.



2. Decree 12/2023/ND-CP stipulating the extension of tax payment and land rent in 2023

On April 14, 2023, the Government issued Decree 12/2023/ND-CP stipulating the extension of tax payment (including VAT, CIT, PIT) and land rent in 2023. This Decree takes effect from the date of signing and promulgation until the end of December 31, 2023. Specifically, the decree has some notable points as follows:

For VAT:

- Extension of the tax payment deadline for the arising value-added tax payable of the tax period from March to August 2023 (for the case of monthly value-added tax declaration) and the tax period of the first quarter, the second quarter of 2023 (for the case of quarterly value-added tax declaration) for a number of businesses and organizations as prescribed.
- Extension time: 06 months for the value added tax amount from March to May 2023 and the first quarter of 2023; 05 months for the value added tax amount of June 2023 and the second quarter of 2023; 04 months for the value added tax amount of July 2023; 03 months for the value added tax amount of August 2023. The extension period at this point is counted from the end of the time limit for paying value added tax in accordance with the law on tax administration. Thus, the deadline for VAT payment is extended as follows:

| VAT payment | Tax payment deadline extended |
|----------------|-------------------------------|
| Mar 2023 | 20/10/2023 |
| Apr 2023 | 20/11/2023 |
| May 2023 | 20/12/2023 |
| Jun 2023 | 20/12/2023 |
| Jul 2023 | 20/12/2023 |
| Aug 2023 | 20/12/2023 |
| Quarter 1/2023 | 31/10/2023 |
| Quarter 2/2023 | 31/12/2023 |

- Enterprises and organizations eligible for the extension still have to declare and submit monthly and quarterly value-added tax declarations in accordance with current law, but may extend the tax payment time limit as prescribed above.

2. Decree 12/2023/ND-CP stipulating the extension of tax payment and land rent in 2023

For CIT:

- Extension of the tax payment deadline for the provisional corporate income tax amount of the first quarter and second quarter of the corporate income tax period of 2023 of some specific enterprises and organizations according to regulations.
- Extension time: 03 months from the end of the deadline for paying corporate income tax in accordance with the law on tax administration.
- The branches and affiliated units make separate corporate income tax declarations with the tax authorities directly managing the branches and affiliated units, the branches and affiliated units are also eligible for extension of CIT payment deadline. In case a branch or affiliated unit of an enterprise or organization does not have production and business activities in an economic sector or field that is extended, the branch or affiliated unit is not eligible for CIT payment extension.



2. Decree 12/2023/ND-CP stipulating the extension of tax payment and land rent in 2023

For VAT and PIT of business households:

- Business households and individuals (operating in the prescribed field) shall pay the extended tax amount specified in this Clause by December 30, 2023.

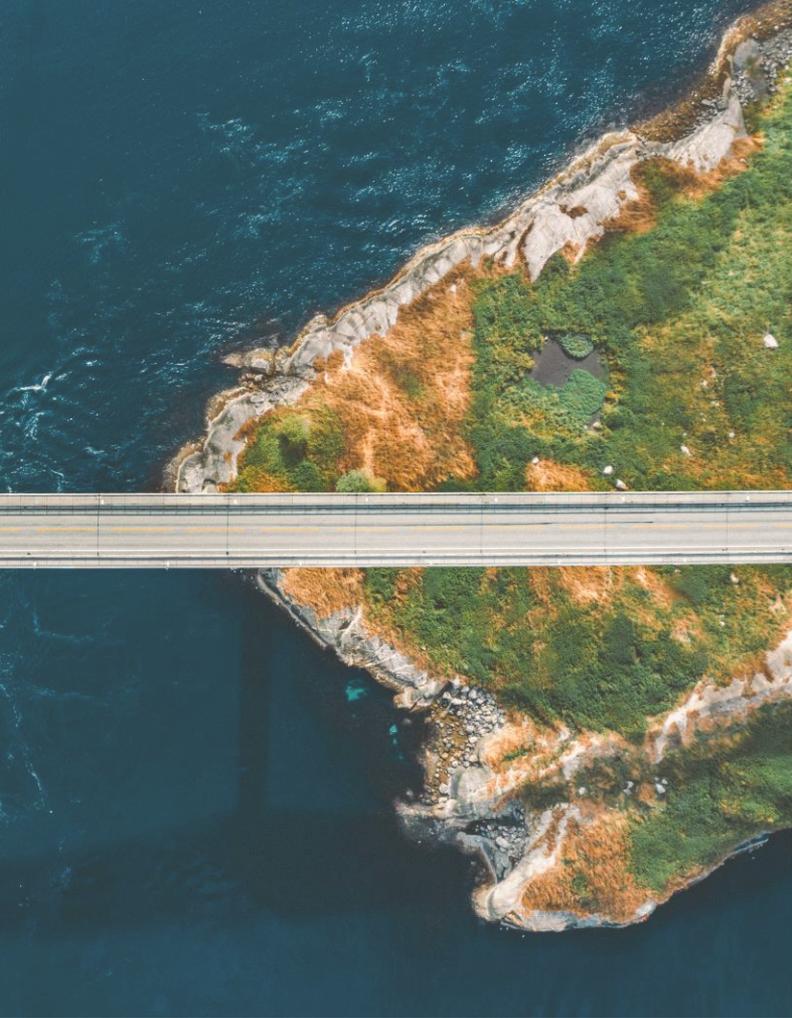
For land rent:

- Extension of the time limit for tax payment for land rent for 50% of the arising land rent payable in 2023 of enterprises, organizations, households and individuals are being directly leased land by the Government under a decision or contract of a competent state agency in the form of annual land rental payment
- Extension period: 06 months from May 31, 2023 to November 30, 2023.

Decree 12/2023/ND-CP takes effect from April 14, 2023.

The order to apply the extension:

- Taxpayers who directly declare and pay tax with tax authorities eligible for the extension shall send an application for extension of tax and land rent payment for the first time or for replacement when detecting errors (by electronic means; send a paper copy directly to the tax office or via postal service) according to the form in the Appendix issued with the Decree.
- If the application for extension is not submitted at the same time as the submission of the monthly (or quarterly) tax return, the deadline for submission is September 30, 2023, and tax authorities still extend tax payment, land rent of the arising period is extended before the time of submitting the application for extension.



3. Decision No. 01/2023/QĐ-TTg on the reduction of land rent and water surface rent in 2022

On January 31, 2023, the Prime Minister issued Decision No. 01/2023/QĐ-TTg on reducing land and water surface rents in 2022 for subjects affected by Covid-19. Decision 01/2023/QĐ-TTg takes effect from the date of issuance. The decision has some notable points as follows:

Reduction of land and water surface rents: 30% reduction of payable land and water surface rents of 2022 in some cases:

- Organizations, units, enterprises, households and individuals are directly leased land or water surface by the State in the form of annual land rent or water surface rent.
- This regulation applies to both land and water surface renters who are not eligible for land rent exemption or reduction and land and water surface renters receiving a reduction in land rent or water surface rent according to regulations of the law on land (Law on Land and documents detailing the Law on Land) and other relevant laws.

Dossier for reduction of land rent or water surface rent, including:

- A written request for reduction of land rent or water surface rent in 2022 of land and water surface renters, made according to the Form in the Appendix issued with this Decision;
- A decision on land lease or water surface lease or a contract for land lease or water surface lease or a certificate of land use rights, ownership of houses and other land-attached assets, issued by a competent state agency (copy).

The decision takes effect from January 31, 2023.

4. Decision No. 40/QD-BTC on amending a number of administrative procedures in the field of tax and customs

On January 13, 2023, the Ministry of Finance issued Decision No. 40/QD-BTC on amending a number of administrative procedures in the field of tax and customs. Decision 40/QD-BTC takes effect from January 1, 2023. The decision has some notable points on the procedure for registration of dependents for family circumstance-based reduction for individuals earning incomes from salaries and wages as follows:



Case (1):

Taxpayer prepares an application for NPT registration for the first time to calculate family circumstance-based deduction during the period of calculation of family circumstance-based deduction, and sends it to an income paying organization or individual (if individuals pay tax through income-paying organizations or individuals) no later than the deadline for tax declaration (or before the submission of tax finalization dossiers of income-paying organizations or individuals in accordance with the Law on Tax Administration). Income-paying organizations and individuals keep one (01) dossier and submit one (01) dossier to the tax agency directly managing at the same time as submitting the personal income tax return of the period (or when submitting the PIT finalization dossier in accordance with the Law on Tax Administration).



Case (2):

The taxpayer who directly declares tax with the tax office shall submit the dependent registration dossier to the tax agency directly managing it at the same time as submitting the personal income tax return of that tax period according to provisions of the Law on Tax Administration or when submitting tax finalization dossiers as prescribed. Particularly for other dependents (for example: brothers, sisters, younger siblings; grandparents, aunts, etc.) according to the instructions in Item d.4, Point d, Clause 1, Article 9 of the Circular No. 111/2013/TT-BTC dated August 15, 2013 of the Ministry of Finance, the deadline for registration of family circumstance-based deduction is December 31 of the tax year.

During the time of calculation of family circumstance-based deduction, if the taxpayer changes (increase/decrease) in dependents or change the place of work, the taxpayer must re-register for dependents (documentation, deadline, sequence of steps, same as registering for dependents for the first time).

5. Decision No. 490/QD-BHXH amending and supplementing a number of articles of the insurance collection process

On March 28, 2023, the Vietnam Social Insurance issued Decision No. 490/QD-BHXH amending and supplementing a number of provisions of the Process of collecting social insurance, health insurance, unemployment insurance, occupational accident and occupational disease insurance issued together with the Decision No. 595/QD-BHXH dated April 14, 2017 and Decision No. 505/QD-BHXH dated March 27, 2020. Some notable points are as follows:

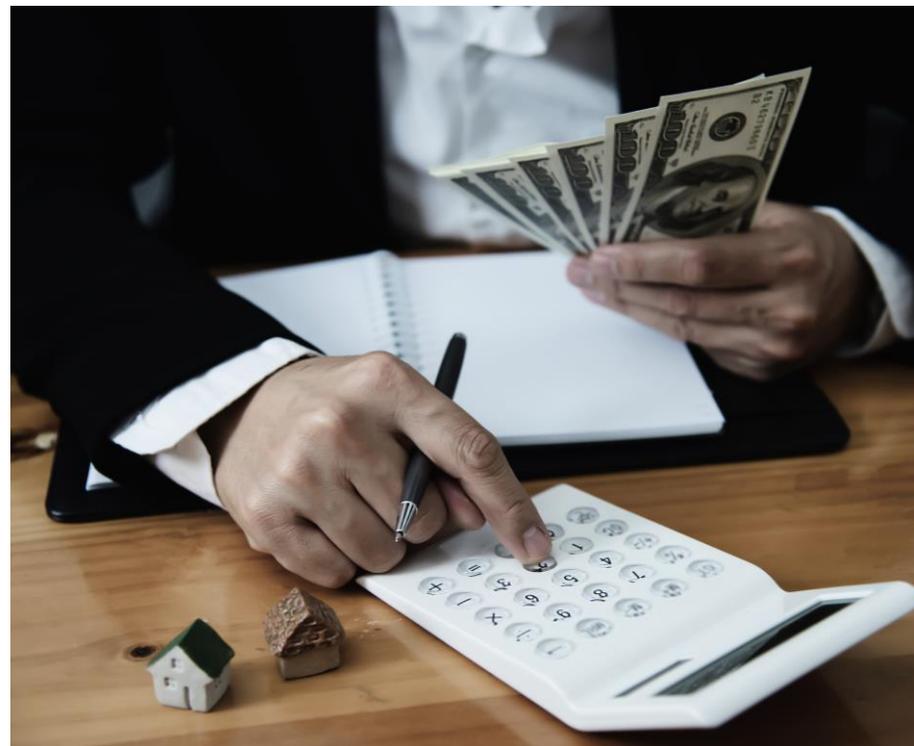
- Regulations that all employers must pay unemployment insurance premiums and deduct the monthly salary of employees to contribute at the same time to the Unemployment Insurance Fund.
- Annulled 20 forms on social insurance, health insurance and unemployment insurance prescribed in Decision No. 595/QD-BHXH and Decision No. 505/QD-BHXH, and added 28 forms on social insurance, health insurance and unemployment insurance.
- Supplementing regulations on insurance records, specifically: after receiving Form TK1-TS from the employee, the enterprise is responsible for making a dossier, including: Form TK3-TS, Form D02-LT; enclosed with a copy of the competent authority's document related to the adjustment of the enterprise's information and the employee's file; send a paper copy to the social insurance agency or send it online no later than 30 days from the date of



5. Decision No. 490/QD-BHXH amending and supplementing a number of articles of the insurance collection process

- In case the enterprise is late in paying social insurance contributions for more than 2 months, the staff of the Collection - Book and Card Management Department/Team will send an urgent notice every 10 days and if after 2 times sending urgent documents, it has not yet paid, the enterprise will be put on the Unscheduled Inspection List (Clause 9, Article 2).
- In case the social insurance agency detects that the enterprise has signs or intentionally commits violations such as evading social insurance contributions, paying incorrect wages, having collected money from employees but not paying, failing to pay timely, making false statements or forging the dossier will also propose an irregular specialized inspection to handle or transfer to the criminal agency.
- Many other amendments related to insurance regulations.

The Decision takes effect from April 1, 2023





6. Circular 02/2023/TT-BYT amending and supplementing a number of articles of Circular 15/2016/TT-BYT regulating occupational diseases entitled to social insurance

On February 9, 2023, the Ministry of Health issued Circular 02/2023/TT-BYT amending and supplementing a number of articles of Circular 15/2016/TT-BYT stipulating occupational diseases entitled to social insurance. Specifically, workers, common jobs and sources of exposure to the specific SARS-CoV-2 virus specified in the Circular are diagnosed with COVID-19 disease due to exposure during the working process from February 1, 2020 to

before the effective date of this Circular, they are entitled to make occupational disease dossiers for examination and assessment and are entitled to occupational disease regimes according to the provisions of this current regulations.

Circular 02/2023/TT-BYT takes effect from April 1st, 2023.

7. Circular 13/2023/TT-BTC guiding the implementation, and amending and supplementing a number of articles of the Law on Value-Added Tax

On February 28, 2023, the Ministry of Finance issued Circular 13/2023/TT-BTC amending, amending and supplementing a number of articles of Circular 219/2013/TT-BTC, in which there are some notable points as follow:



Amending and supplementing Clause 10, Article 7: For real estate transfer, the VAT calculation price shall comply with the provisions of Clause 1, Article 1 of Decree 49/2022/ND-CP.



Amending and supplementing Clause 13, Article 7: Taxable prices for electricity production activities of Vietnam Electricity shall comply with the provisions of Clause 1, Article 1 of Decree 49/2022/ND-CP.



Replace Clauses 2 and 3 of Article 18 with the following content: Business establishments are entitled to VAT refund for investment projects as prescribed in Clause 3, Article 1 of Decree 49/2022/ND-CP.



Amending and supplementing point a.4 Clause 2 Article 28 of Circular 80/2021/TT-BTC: specifically, on documents of application for VAT refund for investment projects, for investment projects investment of business establishments in conditional business lines in the investment stage, in accordance with the provisions of the investment law and specialized laws, which have been granted business licenses by competent state agencies, The conditional business investment profession as prescribed in Clause 3, Article 1 of Decree No. 49/2022/ND-CP needs a copy of one of the forms of a License or a certificate or a written certifications and approvals of conditional business lines and lines of investment.

Circular 13/2023/TT-BTC takes effect from April 14, 2023.

8. Circular 18/2023/TT-BTC stipulating the procedures for collecting and paying fines, clearing the difference in fines, receipts for fine collection and funding from the State budget

On March 21, 2023, the Ministry of Finance issued Circular 18/2023/TT-BTC stipulating the procedures for collecting and paying fines, clearing the difference in fines, receipts for fine collection and funding from the State budget to ensure the operation of the administrative violation sanctioning force, replacing Circular 153/2013/TT-BTC and Circular 105/2014/TT-BTC. According to regulations, enterprises are not charged late payment fines for administrative violations in the following cases:

- During the period of postponement of the execution of the decision on sanctioning of administrative violations;
- During the review period, decide to reduce or waive the remainder or allow the payment of fines many times (new rules).

In addition, the Circular also guides the determination of the date of performance of the obligation to pay fines as follows:

- In case of direct cash payment: is the date the State Treasury or the commercial bank where the State Treasury opens an account or the public postal service provider or the person competent to collect the fine confirms on vouchers for collection and payment of fines;
- In case of fine payment by bank transfer: is the date the fine payer receives the notice of successful receipt of the fine payment.

Circular 18/2023/TT-BTC takes effect from May 5, 2023.

9. Official Letter 3469/CTHN-TTHT of Hanoi Tax Department on personal income tax for gifts and bonuses to employees

On February 1, 2023, Hanoi Tax Department issued Official Letter 3469/CTHN-TTHT guiding the PIT for gifts and bonuses for employees. In which, the official letter made a number of notable points as follows:

- In case the Company pays on behalf of employees for training to improve their qualifications and skills in accordance with their professional and professional work, this training support expense is not included in the employee's taxable income.
- In case the Company organizes contests for employees and employees' relatives, if the prize value exceeds 10 million VND received by the winning individual, the Company will deduct PIT according to the instructions in item g, Clause 1, Article 25 of Circular No. 111/2013/TT-BTC as mentioned above.
- In case the Company provides employees with monetary or non-cash benefits other than salary and wages, the Company is responsible for withholding PIT as guided in Item b, Clause 1, Article 25 of Circular No. 111/2013. /TT-BTC
- In case the employee is given a gift in kind by the Company, which is “Gift by purchase card (voucher, giftcard) or in kind (confectionery gift basket, mug, shirt,...” if this gift giving is not in the form of salary or wages and does not fall under the provisions of Clause 10, Article 2 of Circular No. 111/2013/TT-BTC dated August 15, 2013 of the Ministry of Finance, individuals The recipient of the gift mentioned above is not required to declare and pay PIT for this gift.





10. Official Letter 19299/CTHN-TTHT of Tax Department of Hanoi on license fees for business locations other than provinces

On April 6, 2023, the Tax Department of Hanoi issued 19299/CTHN-TTHT on license fees for business locations other than the province. Accordingly, for business locations outside the province, if there are activities of production and trading of goods and services, license fees must be paid; business locations outside the province are only exempted from paying license fees if there are no

production and trading activities of goods and services. Regarding the location, the deadline for submitting the declaration, and the deadline for paying the license fee, comply with the provisions of Clause 1, Article 10, Clause 1, Article 11 and Clause 9 Article 18 of Decree 126/2020/ND-CP.

11. Official Letter 2298/BTC-CST of the Ministry of Finance to collect opinions on the formulation of the proposal for the formulation of the Law on Corporate Income Tax



On March 13, 2023, the Ministry of Finance issued Official Letter 2298/BTC-CST to collect opinions on the formulation of a proposal for the development of the Law on Corporate Income Tax. Accordingly, the Official Dispatch proposes a number of major policy groups as follows:

- Expanding the tax base according to the guidelines of the Party and State and in line with international practices by adjusting the scope and subjects, reviewing the tax exemption and reduction policies;
- Amending and supplementing contents of the Law on CIT;
- Amending and supplementing contents to ensure the consistency of the legal system;
- Amending and supplementing contents to ensure the goal of international economic integration, in line with development trends.

11. Official Letter 2298/BTC-CST of the Ministry of Finance to collect opinions on the formulation of the proposal for the formulation of the Law on Corporate Income Tax



At the same time, the estimated time for submission to the Standing Committee of the National Assembly and the National Assembly according to the Official Dispatch is expected as follows:

- The Government prepares a proposal for the formulation of a draft Law on Corporate Income Tax (amended), submits it to the National Assembly Standing Committee for the National Assembly Standing Committee to report to the National Assembly for approval in the 2024 Law and Ordinance Development Program in Vietnam. 7th session of the 15th National Assembly (May 2024).
- The Government submits to the National Assembly for comments on the draft PIT Law (amended) at the 8th session of the XV National Assembly (October 2024).
- The Government submits to the National Assembly for approval the draft CIT Law (amended) at the 9th session of the 15th National Assembly (May 2025).

12. Some notable answers of the General Department of Taxation at the Online Support Program on Personal Income Tax Finalization and Corporate Income Tax Finalization 2022 on the Portal of the General Department of Taxation on March 21, 2023 and March 23, 2023

On March 21, 2023 and March 23, 2023, the General Department of Taxation held a Conference to Support Tax Finalization in 2022. Accordingly, the Conference gave some notable answers as follows:



Solution 1:

In case the enterprise has just signed a probationary contract and an official labor contract with the employee during the year, and during the probationary period, the enterprise does not deduct 10% of personal income tax, when finalizing at the end of the year: Pursuant to Article 25 of Circular No. 111/2013/TT-BTC, if an employee signs a labor contract of 3 months or more, the income payer shall deduct PIT by using the progressive tax rate. For individuals who do not sign a labor contract or sign a labor contract of less than 3 months with a total income of 2 million VND/time or more, they must deduct 10% of their income before paying them to the individual.

Thus, for the case that the employee in the year has both the PIT deducted at the rate of 10% and the PIT amount deducted with the progressive tax rate:

- If the employee has authorized finalization for the Company, the Company shall summarize the individual's income and withheld tax amount and declare it in the List 05-1/BK-QTT-TNCN for the entire taxable income for the year (including income deductible under the progressive tax rate and at the tax rate of 10%).
- If the employee does not authorize the Company to finalize the income, the Company declares the individual's income and withheld tax in both statements 05-1/BK-QTT-TNCN (income taxable income is deducted according to the progressive schedule) and 05-2/BK-QTT-TNCN (income is deducted at the tax rate of 10%).

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Solution 2:

In case the expert comes to Vietnam before the time of starting work to present his/her identity document to carry out work permit procedures as prescribed. The time spent in Vietnam during this trip was only about 10 days and then returned home, the company did not pay any income and expenses during this period for the expert, except for the cost of visa and work permit. Until the work permit is issued, the expert will officially come to Vietnam for long-term residence and work.

In this case:

- The time of the first day of arrival in Vietnam is the basis for determining the residence status of the expert.
- Time to determine taxable income for income from salary and wages is the time when the Organization pays income to employees. The company declares personal income tax for the expert at the time of paying the expert's income.

12. Some notable answers of the General Department of Taxation at the Online Support Program on Personal Income Tax Finalization and Corporate Income Tax Finalization 2022 on the Portal of the General Department of Taxation on March 21, 2023 and March 23, 2023



Solution 3:

In case, during the investment process, the enterprise adds additional lines of business compared to the first investment certificate and this additional industry meets the conditions for enjoying preferential corporate income tax by region. In addition, enterprises that are engaged in production and business activities and supplementing their lines of business while enjoying corporate income tax incentives, the Tax Department has the following answers about tax incentives for enterprises:

- From 2014, CIT incentives apply to investment projects (not applicable to legal entities – enterprises). Accordingly, CIT incentives apply to income arising from new investment projects or income from expansion investment projects.
- Point 5c, Clause 4, Article 10 of Circular No. 96/2015/TT-BTC applies to cases where the enterprise adjusts or supplements the investment license of the project that has been put into operation without changing the conditions being eligible for tax incentives.
- Therefore, the determination of CIT incentives for the addition of business activities during the investment and operation process should be based on the actual situation of operations, the addition of this business line within the scope of the investment project, new business or expansion investment project, from which there is a basis for determining appropriate CIT incentives according to regulations.
- Therefore, the Enterprise needs to provide specific documents to the tax authority directly managing it for specific instructions based on the actual situation of the Company

12. Some notable answers of the General Department of Taxation at the Online Support Program on Personal Income Tax Finalization and Corporate Income Tax Finalization 2022 on the Portal of the General Department of Taxation on March 21, 2023 and March 23, 2023



Solution 4:

Where an enterprise borrows from a bank or is guaranteed a loan by the bank in any form with the loan amount equal to at least 25% of the contributed capital of the owner of the borrowing enterprise and accounts for more than 50% of the total value of medium and long-term debts of the borrowing enterprise, they are identified as related parties. At that time, transactions arising between the enterprise and the bank are identified as related transactions.

In case the company has no medium and long-term debts, it is not classified as related parties according to Point d, Clause 2, Article 5 of Decree No. 132/2020/ND-CP.



Solution 5:

In case the Company has its head office in one province and has a dependent accounting branch in another province, which is enjoying tax incentives. During the period, the branch suffered a loss in business results, and the head office gained a profit. In this case:

CIT:

- When finalizing CIT in 2022, the enterprise shall make a tax declaration file including: a finalization declaration according to form No. 03/TNDN, Appendix 03-3A/TNDN identifying the payable CIT amount of the activities entitled to tax incentives. The company submits the CIT finalization dossiers to the tax office managing the head office and is not required to submit the tax return and Appendix 03-3A to the tax office where the unit is entitled to incentives.
- Losses from production and business activities at the branch shall be carried forward into taxable income of the following years at the branch (The time for carrying forward the total and continuous loss shall not exceed 05 years from the year following the year following in which loss occurs).

Financial Statements: The dependent accounting branch is not required to prepare separate financial statements.

12. Some notable answers of the General Department of Taxation at the Online Support Program on Personal Income Tax Finalization and Corporate Income Tax Finalization 2022 on the Portal of the General Department of Taxation on March 21, 2023 and March 23, 2023



Solution 6: EBITDA

- The income from sales interest on deferred payment or installment payment is not deductible when determining taxable income for enterprises having associated transactions specified at Point a, Clause 3, Article 16 of Decree No. 132/2020/ND-CP.
- Pursuant to the provisions of Circular No. 45/2013/TT-BTC, if the taxpayer has an annual payment for the allocation of land rent, which is not the depreciation expense of fixed assets, the cost of distribution This addition is not included in depreciation when determining EBITDA.



Solution 7:

The case of foreign contractor tax for a company that uses Facebook and Google's advertising services and has been invoiced by these 2 companies:

- From March 2022, the General Department of Taxation has opened the Electronic Portal for foreign suppliers (E-Gateway for Foreigners). Currently, the list of foreign public servants who have registered to declare and pay tax directly with tax authorities is published on the e-commerce portal for foreign suppliers, including Meta and Google that have registered to declare and pay taxes directly on the Portal.

→ Therefore, if the company has used advertising services of Facebook and Google and has been invoiced by 2 units, it is not required to declare, deduct, and pay contractor tax for these 2 units.

Contact

Please study the newly issued regulations and review the internal compliance procedures in order to comply with the regulations on customs tax as well as reduce errors in the process of filing and preparing documents that could lead to additional tax obligations or administrative penalty.

Please contact the experts of Grant Thornton Vietnam for in-depth advice if you have any inquiries during the implementation of tax and customs compliance.

Please visit our [Tax Hub](#) to view more information

Head Office in Hanoi

18th Floor, Hoa Binh International Office Building
106 Hoang Quoc Viet Street, Cau Giay District, Hanoi, Vietnam
T + 84 24 3850 1686
F + 84 24 3850 1688

grantthornton.com.vn

Hoang Khoi

National Head of Tax Services
D +84 24 3850 1618
E khoi.hoang@vn.gt.com

Vishwa Sharan

Director – Transfer Pricing
D +84 327 345 053
E vishwa.sharan@vn.gt.com

Hoang Viet Dung

Director - Tax and
Transfer Pricing Services
D +84 24 3850 1687
E dung.hoang@vn.gt.com

Bui Kim Ngan

Tax Director
D +84 24 3850 1716
E ngan.bui@vn.gt.com

Ho Chi Minh City Office

14th Floor, Pearl Plaza, 561A Dien Bien Phu Street
Binh Thanh District, Ho Chi Minh City, Vietnam
T + 84 28 3910 9100
F + 84 28 3910 9101

Valerie – Teo Liang Tuan

Tax Partner
D +84 28 3910 9235
E valerie.teo@vn.gt.com

Nguyen Thu Phuong

Tax Director
D +84 28 3910 9237
E thuphuong.nguyen@vn.gt.com

Dang Hai Ha My

Tax Director
D +84 28 3910 9241
E my.dang@vn.gt.com

Lac Boi Tho

Tax Director
D +84 28 3910 9240
E tho.lac@vn.gt.com

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