



# Update new legal documents and some important tax policies

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In this newsletter, Grant Thornton Vietnam would like to update readers the relevant legal policies and guidelines in the field of labor, taxes, and invoices recently issued.

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## 1. Value added tax reduction for the first half of 2024

On October 13, 2023, the Ministry of Finance issued Official Letter 11239/BTC-CST asking for opinions on VAT reduction for the first 6 months of 2024. Accordingly, the implementation of VAT reduction for some groups of goods and services which are applying a 10% VAT rate has been stabilized in 2022 and 2023. Therefore, the Ministry of Finance proposes to reduce the value added tax rate by 2% for some groups of goods and services which are applying a tax rate of 10% (i.e. 8%), except for some other regulated groups of goods and services. The application period for the value added tax reduction policy is from January 1, 2024 to June 30, 2024.

On November 3, 2023, the Government issued Resolution No. 182/NQ-CP on approving the National Assembly Resolution on value added tax reduction as proposed by the Ministry of Finance, assigning the Minister of Finance, authorized by the Prime Minister, on behalf of the Government, to sign a Report to the National Assembly and the Standing Committee of the National Assembly on November 3, 2023 on the National Assembly's Resolution on value added tax reduction according to regulations, ensuring progress and quality; Proactively report and explain to the National Assembly and its agencies according to regulations.

Afterwards, on December 28, 2023, the Government officially issued Decree 94/2023/ND-CP stipulating the VAT reduction policy with the content as proposed above. The content of this decree is similar to previous years.

Although the VAT reduction policy implemented in 2022 and 2023 has had a positive impact on businesses and the economy, many enterprises are still facing many problems when applying the policy. This mainly comes from classifying which goods are subject to 10% tax rate and which goods are subject to a tax reduction of 8%. On June 5, 2023, the Vietnam Supporting Industry Association sent official dispatch No. 21/2023/VASI-CV requesting support in answering and guiding businesses in determining the VAT rate. Although the Government has issued Decree No. 15/2022/ND-CP and Decree No. 44/2023/ND-CP guiding implementation, the classification of goods and services into different tax rates are still facing many difficulties and may lead to tax risks for businesses when applied in reality.

## 2. Decision No. 1388/QD-TCT on applying risk management in classifying value-added tax refund dossiers

On September 18, 2023, the General Tax Department issued Decision No. 1388/QD-TCT on the application of risk management in classifying value-added tax refund dossiers and selecting taxpayers to make plans for checking and inspecting after tax refund as follows:

- Accordingly, the Decision promulgating the Set of Criteria Indexes for classifying VAT refund dossiers and selecting taxpayers with signs of risk to develop post-tax refund inspection and inspection plans includes 03 groups, specifically :
  - ✓ Group I: Group of Criteria index for classifying VAT refund applications subject to inspection before tax refund;
  - ✓ Group II: Criteria index group for classifying VAT refund applications according to the risk marking method;
  - ✓ Group III: Criteria index according to management requirements of tax authorities.
- **VAT refund dossiers will be classified as follows:**
  - ✓ Tax refund dossiers are at high-risk category: Perform inspection before refund.



## 2. Decision No. 1388/QD-TCT on applying risk management in classifying value-added tax refund dossiers (cont.)

For 12 consecutive months from the beginning of the fiscal year, taxpayers have consecutive tax refund records that are assessed as high risk:

- In case the ongoing risk assessment compared to the previous assessment differs in the total number of risk points or the risk score for each criteria or criterion index is different: the tax refund dossier is subject to inspection before refund.
- In case the ongoing risk assessment compared to the previous assessment is the same in terms of total score and number of points for each criterion and index; or the tax refund dossier in progress compared to the previous assessment has a lower risk score for each criteria, resulting in a corresponding lower total risk score:
  - (i) If the results of the previous inspection of tax refund dossier or post-refund inspection do not detect false declarations leading to a lack of tax payable or an increase in the tax refund amount, the next tax refund dossier will not subject to inspection before tax refund.
  - (ii) In case an inspection of the previous tax refund dossier or a post-refund inspection detects an incorrect declaration leading to a lack of tax payable or an increase in the tax refund amount, the next tax refund dossier will subject to inspection before tax refund.
- ✓ Tax refund documents fall into the medium and low risk categories: tax refund first, inspection later.

The notable point of this decision is the criteria related to customs compliance and information from customs in the set of assessment criteria.



### 3. Official Letter 6002/TCT-DNNCN and 684/TCT-DNNCN of the General Tax Department guiding on personal income tax policy for compulsory insurance payments abroad

On December 29, 2023, the General Tax Department issued an official letter to answer taxpayers' concerns about personal income tax (PIT) policy on deductions for compulsory insurance obligations that individuals pay abroad but reimburse by Vietnam Company as follows:

In the case of expatriate being assigned to Vietnam by a company in Japan to work as a labor transfer within the enterprise; the income from salaries and wages paid by the Company in Vietnam and the Company in Japan, in which the income from salaries and wages abroad is paid by the Company in Japan (including the compulsory insurance paid abroad) is fully reimbursed by the Company in Vietnam, such insurance cannot be deducted when calculating personal income tax in Vietnam.

However, afterwards, understanding the problems Companies encountered before this guidance, on February 27, 2024, the General Department of Taxation issued Official Letter 684/TCT-DNNCN to provide further guidance on the answers in the Official Letter 6002/TCT-DNNCN as follows:

In case a foreign individual is a tax resident assigned to Vietnam on an internal transfer, has income from salaries and wages from abroad, and has paid compulsory insurance according to regulations of the expatriates' home country similar to compulsory insurance in Vietnam, such insurance can be deducted when determining taxable income subject to PIT in Vietnam.



## 4. Official Letter 5114/TCT-CS of the General Tax Department guiding corporate income tax policy

After receiving concerns from businesses regarding tax policies on the transfer of capital holding rights between companies in the same group. On November 15, 2023, the General Department of Taxation issued the following guidance document:

In case the Company plans to merge and transfer all assets, legal rights and interests (including the right to hold all capital contributions in the Company) to a Company within the same group, if there is any income, the Company have to declare and pay corporate income tax obligation according to regulations. The company is responsible for declaring and paying corporate income tax obligation on capital transfer activities of foreign organizations according to regulations.



## 5. Official Letter No. 76785/CTHN-TTHT of Hanoi Tax Department guiding the implementation of tax policy for assets transferred when separating a company

On October 27, 2023, the Hanoi Tax Department issued an official letter to clarify taxpayers' concerns about tax policy on assets transferred when separating the company as follows:

Obligation to declare and pay VAT when dividing or splitting an enterprise:

- ✓ In case assets transferred between dependent accounting member units in a business; transferring assets when separating an enterprise, the business has the transferred assets must have an asset transfer order, accompanied by a set of documents on the origin of the assets and it is not necessary to issue an invoice.
- ✓ In case assets transferred between independent accounting units or between member units with full legal status within the same organization or individual. If the fixed assets are being used and depreciated when transferring according to the value recorded in accounting books between the businesses and member units 100% owned by a business that producing and trading goods and services are subjected to VAT, it is not necessary to make invoices, declare and pay VAT; if the fixed asset transferred to a business that producing and trading goods and services are not subject to VAT, they must prepare a VAT invoice, declare and pay VAT according to regulations.



## 6. Official Letter 4955/TCT-KK and 5090/TCT-KK of the General Tax Department guiding the implementation of additional tax declaration dossiers

After receiving concerns from businesses regarding additional tax declaration dossiers, the General Tax Department has issued an official dispatch providing guidance as follows:

- In case the Company discovers that a number of VAT invoices for purchased goods and services have been omitted, after the tax authority has issued a conclusion on pre-refund inspection or a decision on sanctioning violations, tax penalty administration after inspection at the taxpayer's headquarters shall comply with the provisions of Point đ, Clause 6, Article 1 of Law No. 31/2013/QH13 and Clause 3, Article 47 of Law on Tax Administration No. 38/2019/QH14 as follows:
- Input value-added tax arising in any month is declared and deducted when determining the tax amount payable for that month. In case a business discovers that the input value-added tax amount when declaring and deducting is incorrect, it may declare and deduct additional information before the tax authority announces the tax audit or tax inspection decision at the taxpayer's headquarters.

- After the tax authority or the competent authority has issued conclusions and decisions on tax treatment after inspection and examination at the taxpayer's headquarters, the additional declaration of tax declaration dossiers is prescribed as follows:

- a) Taxpayers may declare the supplement tax declaration dossiers in cases of increasing the amount of tax payable, reducing the amount of tax deductible, or reducing the amount of tax exempted, reduced, refunded, and subject to penalties for administrative violations for the actions specified in Article 142 and Article 143 of this Law;
- b) In case the taxpayer discovers that the tax declaration has errors or omissions, if the additional declaration reduces the tax amount payable or increases the tax amount deducted, or increases the tax amount exempted, reduced, or refunded, then comply with regulations on resolving tax complaints.

## 7. Official Letter 5115/TCT-CS of the General Tax Department guiding on tax incentives for expansion investment projects

On October 27, 2023, the Hanoi Tax Department issued an official letter to answer taxpayers' concerns about tax policies for tax incentives of expansion investment projects as follows:

- ✓ In case the Company implements an investment project on the basis of acquiring an investment project that if it meets one of the three criteria specified in Clause 4, Article 10 of Circular No. 96 /2015/TT-BTC dated June 22, 2015 of the Ministry of Finance after conversion of ownership has an expansion investment and the conditions for corporate income tax incentives, the additional income due to expanded investment activities is eligible for incentives according to regulations.
- ✓ Regarding corporate income tax incentives for projects producing goods subject to special consumption tax: In case the Company's expansion investment project has production activities of goods subject to special consumption tax, the investment certificate is issued after the date July 1, 2015 (the effective date of the Investment Law), will not be entitled to corporate income tax incentives for the increased income from expansion investment projects for income from the production of goods subject to special consumption tax.



# 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

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