



Newsflash

Notable points that Enterprises should be aware about VAT refund

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In this newsletter, Grant Thornton (Vietnam) would like to summarise Value Added Tax (“VAT”) refund procedure, outlines risks and suggests recommendations for Enterprises (including those established in Vietnam and foreign contractors) applying VAT deduction method for reference as follows:

1. A number of popular objects and common cases of VAT refund

Applicable for enterprises having creditable input VAT for at least 12 consecutive months or 04 consecutive quarters. In addition, this also includes programs, projects of non-refundable ODA capital or non-refundable aids.

Foreigners, Vietnamese residing abroad shall also be entitled to VAT refund for goods purchased in Vietnam which are allowable to be carried out upon exiting Vietnam.

2. What steps must the Enterprises take to be entitled to VAT refund?

This procedure includes some basic steps as follows:

2.1. Enterprise to determine by themselves if they satisfy the VAT refund conditions in accordance to the existing regulations on VAT and tax administration.

2.2. Enterprise needs to check by themselves the invoices, contracts, supporting documents to ensure the presentation and explanation to local tax authorities in the VAT refund examination. In this step, Enterprise can self-adjust the VAT inputs to determine the proposed VAT amount for refund prior to the preparation of VAT refund request to be submitted to the tax authority.

2.3. Enterprise submits the dossier for VAT refund to the local tax authority.

2.4. Tax authority checks the completeness of the dossier and issues an appointment for result delivery.

- Within 2 days from the date the tax authority receives a valid dossier, the department in charge will check the tax refund dossier, and set up the examination plan.
- In the case if the dossier is invalid, the tax authority will inform the specific reasons to Enterprise.

2.5. The tax authority issues examination decision and carries out the tax examination at Enterprise 's head office (for cases that require the examination prior to the refund) or makes the refund to the Enterprise (for cases that are entitle to the refund prior to the examination).

- For cases that have yet to be VAT refunded by the tax authorities, an examination must be conducted prior to the decision of VAT refund.
- **Please take special note that, when the tax authority has issued an tax examination decision, Enterprise is not allow to adjust the information of tax obligations which have already been declared.**

2.6. When the tax authority conducts the examination at the Enterprise's head office, the Enterprise is required to present the original documents and explain their business activities to substantial for the requested VAT refund amount.

- In this tax examination, other than focusing on VAT, the inspection team could propose to other tax departments or the Police in the case that the Enterprise has problems and other tax obligations that the inspection team believes that Enterprise has not declared in accordance with the regulations (i.e. Transfer pricing, Personal Income Tax of expatriates, Foreign Contractor Tax liabilities on payments made to foreign parties...) or having signs of tax evasion.



2.7. Concluding the tax examination at the Enterprise's Head office, both parties upon agreement on the figures, shall sign on the minutes of tax examination, in which specifically stating the compliance with the accounting requirements, VAT, the decreasing adjustments (if any) and the amount of VAT to be refunded as per the Enterprise 's request, or requests the Enterprise to pay the additional VAT liability due to the identified output VAT is greater than requested VAT refund amount.

2.8. Enterprise receives the refund amount.

2.9. Depending on each refund dossier and specific period, Enterprises could be required to be audited again by a higher-level of tax authority or by the request of the State Auditor (through the coordination with the local tax authority) for the dossier which have already been refunded.

3. **What are the Enterprise's rights and obligations when lodging for VAT refund?**

3.1. Rights to receive interest when being delayed for the refund:

In the case that the settlement of tax refund dossier is delayed due to the tax authority's lapse, in addition to the amount of tax to be refunded in accordance with the regulations, the Enterprise will also be paid interest calculated based on the refund amount and the delayed period.

- **Interest rate used for the calculation is the basic rate announced by the State Bank at the time when the tax authority issues the decision of tax refund.**

3.2. Rights to appeal:

Enterprise has the rights to appeal against the Administrative Decision of the tax authority, including the Decision on tax refund, Decision on administrative penalties due to tax violations pertaining to the tax laws, tax inspection conclusions.

- **Enterprise may refer to the procedure of lodging complaints in Grant Thornton Vietnam's newsletter released on 19 August 2015.**

3.3. Obligation to keep and provide dossier to Tax authority:

Enterprise must keep the dossier, original documents in relation to the tax refund and provide such documents sufficiently upon the request from the tax authority.

4. **Some risks that Enterprises should be aware prior to the submission of the tax refund dossier**

4.1. Enterprise has to implement the tax declaration in accordance to the tax administrative procedures as prescribed by legal documents on tax administration.

4.2. Enterprise may not be able to provide invoices/ contracts/ original documents as required by the tax authority or illegal documents due to the presentation in foreign languages.

4.3. When the tax authority requests explanations, different departments of the Enterprises provide information inconsistently to the Tax authority or the provided information was not supported with documents.

• **Verification procedures regularly conducted by the tax authority may include:**

- Verification on goods: Purchase and sales contracts; method of goods delivery and receipt; place of goods of delivery and receipt; transportation means of goods; transportation costs; ownership of goods and the origin of goods (prior to the time of goods delivery).
- Verification on payments: Bank transactions; persons remitting the money to the account for making payment for the transactions; number of transactions; payment methods; payment vouchers. Checking on the minutes of netting-off the payables.
- Tax authority will check with the customs records based on the database provided by the Customs in accordance to the regulations of information exchange and coordination between the Customs and Tax authorities for comparison to ensure that the declarations match with those on the database of information exchange. If there is insufficient information as required, the refund of VAT will not be granted.

4.4. The Tax authority may request the Enterprise to adjust the tax obligations detected during the inspection or transfer to the relevant departments of the tax authority or the Police, for example: under declaration or inaccurately declaration of the PIT liabilities of the expatriates, foreign contractor tax liabilities on payments to foreign parties, or lack of supporting dossiers on the transferred price which could be suspected to be manipulating the transfer price, etc.

• **Recently, during the tax examination, there have been cases where the Inspection team recommended the General Department of Taxation to implement a comprehensive inspection on transfer pricing matters towards Enterprises having signals of transfer pricing issues.**

4.5. The Tax authority can impose penalties for violation of administrative procedures, and 10% to 20% on the required refund amount not in compliance with the regulations, and late interest of 0.05% per day (approximately 18%/year).

• **Enterprise should note that those penalties are not deductible for CIT calculation purposes.**

5. **What Grant Thornton (Vietnam) can support when Enterprises need to claim for VAT refund?**

5.1. Support Enterprises to determine the conditions for VAT refund and review the contents of the draft VAT refund dossier prior to the submission to local Tax authority.

5.2. Support Enterprises to implement the review of documents, invoices, contracts and supporting documents to ensure that potential risks have been detected and the measures of risk management are implemented properly in compliance with the regulations and laws.

5.3. Support Enterprises to present to the Tax authorities in respect to the Enterprise 's tax obligations during tax examination conducted at the Enterprise 's head office.

5.4. Support Enterprises to build and implement procedures to control the VAT risks, invoices and business processes for ease of management of tax risks, simplify the process for other upcoming VAT refund.

Please contact with Grant Thornton Vietnam professional tax advisors if Enterprises need further assistance.



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