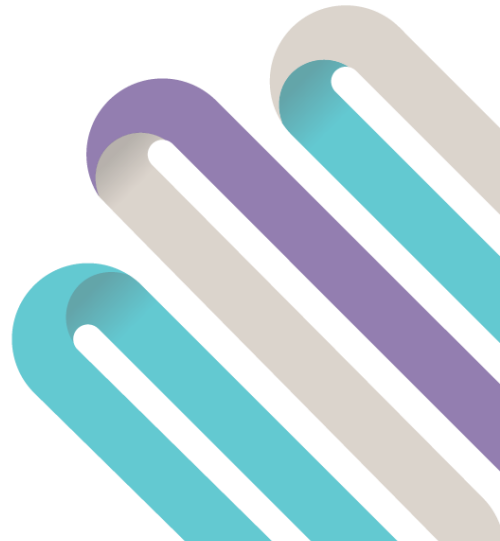




# Update on new regulations and some important policies on Tax and Customs

August 2021





# Contents

- 1 Circular 41/2021/TT-BTC guiding the organization, operation, management, use and compliance with accounting, settlement and financial disclosure requirements of Vietnam Fund for Vaccination Prevention of Covid-19
- 2 Circular 43/2021/TT-BTC amending Clause 11 Article 10 of Circular 219/2013/TT-BTC on Value-Added Tax (VAT)
- 3 Circular 37/2021/TT-BTC superseding Circular 179/2012/TT-BTC stipulating the recording, assessment and settlement of exchange rate differences in enterprises
- 4 Circular 45/2021/TT-BTC introduces new regulations on the Advance Pricing Agreements (“APA”) in Vietnam, replacing Circular 201/2013/TT-BTC (“Circular 201”)
- 5 Circular 02/2021/TT-BCT guiding the implementation of the Rules of Origin in the Free Trade Agreement between Vietnam and the United Kingdom of Great Britain and Northern Ireland issued by the Ministry of Industry and Trade
- 6 Official Letter 2393 / TCT-DNNCN of the General Department of Taxation on Personal Income Tax (PIT) declaration
- 7 Official Letter 1713/TCT-KK on settlement of VAT refund dossiers for investment projects in different Province/City
- 8 Official Letter No. 3261/TCHQ-GSQL on procedures for temporary export and re-import of replacement goods
- 9 Official Letter No. 2687/TCHQ – TXNK on the implementation of Decree No. 18/2021/ND-CP

# 1. Circular 41/2021/TT-BTC guiding the organization, operation, management, use and compliance with accounting, settlement and financial disclosure requirements of Vietnam Fund for Vaccination Prevention of Covid-19

---

On 2 June 2021, the Ministry of Finance issued Circular 41/2021/TT-BTC guiding the organization, operation, management, use and compliance with accounting, settlement and financial disclosure requirements of the Vietnam Fund for Vaccination Prevention of Covid-19, which was established under Decision 779/QD-TTg. The Circular takes effect from the date of signing. Pursuant to Circular 41, organizations and enterprises can treat the grants, support and voluntary contributions to the Fund as deductible expenses when determining income subject to CIT as prescribed in Decree 44/2021/ND-CP dated 31 March 2021 of the Government stipulating guidelines for deductible expenses upon determination of income subject to corporate income tax regarding enterprise/organizations contribution/grants to prevent and control Covid-19 pandemic and other relevant amendments and supplements (if any).





## 2. Circular 43/2021/TT-BTC amending Clause 11 Article 10 of Circular 219/2013/TT-BTC on Value-Added Tax (VAT)

On 11 June 2021, the Minister of Finance issued Circular 43/2021/TT-BTC amending and supplementing Clause 11, Article 10 of Circular 219/2013/TT-BTC dated 31 December 2013 (changed and supplemented by Circular 26/2015/TT-BTC dated 27 February 2015).

Accordingly, the Ministry of Finance has added many imported medical equipment to be eligible for the 5% VAT rate, including: Medical instruments and equipment with an Import license or a Certificate of Free Sale or Receipt of dossiers for publication of standards in accordance with the health law or in accordance with the List of medical equipment subject to the specialized management of the Ministry of Health with product codes according to the List of exported and imported goods of Vietnam attached to Circular No. 14/2018/TT-BYT dated 15 May 2018 of the Minister of Health and other relevant amendments and supplements (if any).

**Circular 43/2021/TT-BTC takes effect from 1 August 2021.**

### **3. Circular 37/2021/TT-BTC superseding Circular 179/2012/TT-BTC stipulating the recording, assessment and settlement of exchange rate differences in enterprises**



On 27 May 2021, the Ministry of Finance issued Circular 37/2021/TT-BTC annulling Circular 179/2012/TT-BTC regulating the recording, assessment and settlement of exchange rate differences in enterprises issued by the Ministry of Finance.

The abolition of aforementioned Circular 179 is an effort to consolidate regulations related to the evaluation of foreign currency accounting ending balance at the date of Financial Statements preparation (i.e. using actual exchange rates) and regulations on splitting profit for non-monetary items in profit after tax (such as revaluation of monetary items, etc.). After Circular 179 was superseded, the above-mentioned regulations are consistently implemented in accordance with the guidelines in Circular 200/2014/TT-BTC guiding the corporate accounting policies.



**This Circular takes effect from  
11 July 2021.**

## 4. Circular 45/2021/TT-BTC introduces new regulations on the Advance Pricing Agreements (“APA”) in Vietnam, replacing Circular 201/2013/TT-BTC (“Circular 201”)

On 18 June 2021, the Ministry of Finance issued Circular 45/2021/TT-BTC (“Circular 45”) guiding the application of the Advance Pricing Agreements (APA) to enterprises having related-party transactions. Some new points in the regulations on APA implementation are guided in Circular 45 and previously specified in Decree 126/2020/ND-CP and the Law on Tax Administration 2019 as compared to Circular 201 include:

- The specified consultation step is optional.
- The Ministry of Finance is the approval authority.
- The maximum validity of a signed APA is 03 years (compared to 5 years as prescribed in Circular 201) but does not exceed the actual number of years the taxpayer having business activities, and declared, paid corporate income tax in Vietnam.
- Transition rules:

With request for the application of APA submitted before the effective date of Circular 45 but has not been signed and the period of request for the application of APA has not ended up to the effective date of Circular 45, shall continue to be handled according to regulations in Circular 45.



# 5. Circular 02/2021/TT-BCT guiding the implementation of the Rules of Origin in the Free Trade Agreement between Vietnam and the United Kingdom of Great Britain and Northern Ireland issued by the Ministry of Industry and Trade

On 11 June 2021, the Ministry of Industry and Trade issued Circular 02/2021/TT-BCT stipulating the rules of origin in the UKVFTA. This Circular consists of 5 Chapters, 40 Articles and 8 Appendixes attached. Some main contents of Circular 02/2021/TT-BCT are as follows:

- In order to enjoy the preferential tariffs under UKVFTA, proof of origin must be submitted to the Vietnamese customs authority within 2 years from the time of import. The Customs authority may require a translation if the certificate of origin is not in English;
- The self-certification mechanism in the UKVFTA is implemented as follows:
  - For Vietnamese exports:
    - For shipments with a value of not exceeding 6,000 EUR, the exporter is allowed to self-certify the origin of shipments;
    - For shipments with a value of over 6,000 EUR, the C/O mechanism shall be applied by agencies and organizations authorized by the Ministry of Industry and Trade.
  - For imports into Vietnam:
    - For shipments with a value of not exceeding 6,000 EUR, the exporter is allowed to self-certify the origin of shipments;
    - For shipments with a value of over 6,000 EUR, only exporters which are eligible under UK regulations can self-certify the origin of shipments.

Certificates of origin are valid for **12 months** from the date of issuance at the Exporting member country and must be submitted to the customs authorities of the Importing member country within the validity period.

**The Circular takes effect from 27 June 2021.**



## 6. Official Letter 2393 / TCT-DNNCN of the General Department of Taxation on Personal Income Tax (PIT) declaration



On 1 July 2021, the General Department of Taxation issued Official Letter No. 2393/TCT-DNNCN responding on some issues on PIT declaration based on the newly issued Tax Administration Law No. 38/2019/QH14 and Decree No. 126/ 2020/ND-CP dated 19/10/2020. Accordingly, two points worth noting are answered as follows:

- In the case where state administrative agencies, businesses and administrative agencies, Party agencies, union organizations, socio-political organizations, etc. have generated income from salaries or wages but have not generated any revenue from the sale of goods and services are subject to quarterly PIT declaration.
- Only in cases where organizations and individuals pay income subject to PIT, they will be required to declare PIT. Therefore, in case organizations and individuals do not generate and pay taxable income for PIT purpose, they are not subject to the provisions of the Law on PIT. Accordingly, organizations and individuals that do not incur income subject to PIT in any month/quarter are not required to declare PIT for that month/quarter.



## 7. Official Letter 1713/TCT-KK on settlement of VAT refund dossiers for investment projects in different Province/City



On 26 May 2021, the General Department of Taxation responded to the official letter of the tax department of Yen Bai province and provided guidance on processing VAT refund dossiers with investment projects in other provinces/cities in the transition period of the law. According to this official letter, in the case a business establishment has an investment project in a province or city that is different from the province or city where its head office is located, which is in the investment stage and has not yet been put into operation, has not registered for business yet, and has not registered for tax return, the business establishment will make a separate tax return for the investment project. If the enterprise requests a tax refund on tax declaration 02/GTGT for the tax period of the fourth quarter of 2020 and sends a request for refund of State budget revenues according to form 01/DNHT issued together with Circular No. 156/2013/TT-BTC on 6 November 2013, by the Ministry of Finance, the Tax Department of Yen Bai province checked the enterprise's dossier, based on the provisions of the law on investment, tax law, and the actual situation at the enterprise to handle the tax refund in accordance with regulations. However, from the tax period January 2021 or the first quarter of 2021 onwards, taxpayers need to declare, pay tax, and refund tax according to the provisions of Decree 126/2020/ND-CP dated 19 October 2020 and guiding documents.

## 8. Official Letter No. 3261/TCHQ-GSQL on procedures for temporary export and re-import of replacement goods

Official letter No. 3261/TCHQ-GSQL dated 29 June 2021 of the General Department of Customs guiding procedures and tax policies for goods temporarily exported for repair but not re-imported, and foreign suppliers provide the Company with new products.

- For goods that have been temporarily exported but not re-imported: Carry out procedures for exporting goods (type code B12 – Export after being temporarily exported) at the Branch department of Customs where the temporary export is declared. If the declaration is classified into the red line, the Director of the Branch-department of Customs will decide not to carry out physical inspection of goods.
- For new imported goods for replacement: Carry out import procedures (not re-import) of normal goods.
- Tax policies comply with regulations for each type of export and import respectively in the Law on Import and Export Tax, Decree No. 134/2016/ND-CP amending and supplementing Decree No. 18/2021/ND-CP.





# 9. Official Letter No. 2687/TCHQ – TXNK on the implementation of Decree No. 18/2021/ND-CP

Official Letter No. 2687/TCHQ – TXNK dated 1 June 2021 issued by the General Department of Customs on the implementation of Decree 18/2021/ND-CP has some important points as follows:

- Within 15 days from the date of customs clearance of products for export on the spot, the exporter must notify the customs authority of the customs declaration of the corresponding on spot imported product. In case of failure to notify on time, the exporter must register A42 declaration to declare and pay tax on self-imported raw materials used to produce this export product. When exporting on the spot, the exporter must submit an additional designation of goods delivery in Vietnam from a foreign organization/ enterprise.
- Specify the details of cases that need to satisfy the conditions for customs inspection and supervision as prescribed within a maximum period of no more than 1 year from the effective date of Decree 18/2021/ND-CP
- Explain in detail the inspection and supervision conditions for export of processing enterprises, especially the conditions for having a CCTV system. Specifically, Official Letter 2687 lists areas at the export of processing enterprises that need CCTV, including entrance, warehouses, and storage of raw materials, semi-finished products, finished products, machinery, equipment, and other non-taxable goods. Other areas arranged for the production and use of goods such as factories, offices, canteens, etc., do not need to apply this requirement.



# Contact

Please contact our professional advisors at Grant Thornton Vietnam for assistance with taxation, accounting, transfer pricing, labour, investment and customs as well as other legal issues you may have during your business operation.

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

## Head Office in Hanoi

18<sup>th</sup> 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

### Hoang Khoi

National Head of Tax Services  
**D** +84 24 3850 1618  
**E** [khoi.hoang@vn.gt.com](mailto:khoi.hoang@vn.gt.com)

### Vishwa Sharan

Director – Transfer Pricing  
**D** +84 327 345 053  
**E** [Vishwa.Sharan@vn.gt.com](mailto: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](mailto:dung.hoang@vn.gt.com)

### Nguyen Dinh Du

Tax Partner  
**D** +84 24 3850 1620  
**E** [du.nguyen@vn.gt.com](mailto:du.nguyen@vn.gt.com)

### Bui Kim Ngan

Tax Director  
**D** +84 24 3850 1716  
**E** [ngan.bui@vn.gt.com](mailto:ngan.bui@vn.gt.com)

## Ho Chi Minh City Office

14<sup>th</sup> 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](mailto:valerie.teo@vn.gt.com)

### Tran Nguyen Mong Van

Tax Director  
**D** +84 28 3910 9233  
**E** [mongvan.tran@vn.gt.com](mailto:mongvan.tran@vn.gt.com)

### Nguyen Thu Phuong

Tax Director  
**D** +84 28 3910 9237  
**E** [thuphuong.nguyen@vn.gt.com](mailto:thuphuong.nguyen@vn.gt.com)

### Lac Boi Tho

Tax Director  
**D** +84 28 3910 9240  
**E** [tho.lac@vn.gt.com](mailto:tho.lac@vn.gt.com)

