



NEWSLETTER

MAY 2023



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Guiding the determination of tax period for foreigners who first come to Vietnam

Official Dispatch No. 1297/CTBNI-TTHT dated April 19, 2023 of the Tax Department of Bac Ninh province.

Accordingly, the case of Mr. A is a foreigner assigned to work in Vietnam. Mr. A came to Vietnam for the first time on December 4, 2022 for the purpose of medical examination and work permit. After that, he returned home on 10/02/2023 and returned to Vietnam to work and receive salary at the Company.

In principle, to determine that a resident is present in Vietnam for 183 days or more in a calendar year or for 12 consecutive months from the first day of presence in Vietnam, in which arrival and departure date are counted as one (01) day. The presence of an individual in Vietnam is the presence of that individual in the territory of Vietnam.

The time of the first day of arrival in Vietnam is the basis for determining the residence status of the foreign individual. Accordingly, from December 4, 2022, Mr. A comes to Vietnam for the first time for 12 consecutive months, if Mr. A is present in Vietnam for 183 days or more, Mr. A is an individual residing in Vietnam. Mr. A has income from salaries and wages and is responsible for declaring and finalizing personal income tax directly with the Vietnam tax office.

- **Mr. A's first tax period is determined from December 4, 2022 to December 3, 2023; and**
- **Mr. A's second tax period is determined from January 1, 2023 to December 31, 2023.**



Guiding the VAT declaration for e-invoices have issued date different with the signing date

Official Dispatch No. 1586/TCT-CS dated May 4, 2023 of the General Department of Taxation

In case the e-invoice for sale of goods and provision of services has a different time of digital signature on the invoice with the time of invoice issuance, if the time of digital signature on the invoice arises at the same time or after the time of invoice, the e-invoice that has been made will still be considered a **valid invoice**.

- **The seller** declares and pays VAT according to the time of **invoice issuance**;
- **The buyer** declares at the time of **receipt of invoices** to ensure the invoice is correct, complete form and content as prescribed in Article 10 of Decree No. 123/2020/ND-CP of the Government.



Guiding the use list of goods, services when making invoices

Official Dispatch No. 30384/CTHN-TTHT dated 05/05/2023 of Hanoi Tax Department

In principle, specific goods and services such as electricity, water, telecommunications services, information technology services, television services, delivery services, banking, securities, and insurance. If the goods are sold in a certain period, the invoice must specify the period of goods and service provision. For the services produced by period, the list of invoices may be used to list the types of goods and services sold with the invoice; The list is kept together with the invoice to serve the inspection and comparison of the competent authorities as prescribed at point a, Clause 6, Article 10 of Decree No. 123/2020/ND-CP.

Accordingly, in case the Company **does not trade** in specific goods and services such as electricity, water, telecommunications services, information technology services, television services, postal and delivery services, banking, securities, and insurance are sold in a certain period as prescribed at Point a, Clause 6, Article 10 of Decree No. 123/2020/ND-CP, the list **may not be used to list** sold goods and services with the invoice.



Guiding the handling of e-invoices made with errors

Official Dispatch No. 1647/TCT-CS dated May 10, 2023 of the General Department of Taxation

Accordingly, the General Department of Taxation guides the handling of e-invoices made with errors:

Case 1: The seller chooses to process the issued invoice by issuing an **adjusted invoice**.

Treatment: The seller makes a decrease in all information on the wrong line of goods and adjusts the correct line up accordingly (including: name of goods and services, units of measurement, quantity, unit price, tax rate, into the tax-exclusive amount).

Case 2: The seller chooses to process the issued invoice by issuing a replacement invoice.

Treatment: The seller re-issues a new invoice with the invoice number, invoice symbol, invoice template symbol and full contents of the invoice to be replaced.

Note: For both of the above cases, the adjusted or replaced invoice must contain the **following information:** “**Adjustment/replacement for invoice Form No... symbol... number... date... month.....**” and In case the e-invoice has been made with errors and the seller has handled it in the form of adjustment or replacement according to the provisions of point b, clause 2, Article 19 of Decree No. 123/2020/ND-CP, then re-issue If the invoice continues to have errors, the next time the seller handles the error, it will follow the form applied when handling the error for the first time.



Guiding the handling of e-invoices made with errors

Official Dispatch No. 1647/TCT-CS dated May 10, 2023 of the General Department of Taxation

Case 3: In case the enterprise issues an incorrect e-invoice (called F0 invoice), then the enterprise issues an adjustment or replacement invoice (referred to as an adjusted/replaced F1 invoice for F0 invoice.) and found that **invoice F1 is still wrong** then:

- **If the adjustment method is selected:** The enterprise issues the F2 invoice to adjust the F0 invoice (at this time, the F0 invoice has been adjusted by the F1 invoice).
- **If the replace method is selected:** The enterprise issues an invoice F2 to replace invoice F1 (at this time, invoice F0 has been replaced by invoice F1).



Guiding the handling of e-invoices made with errors

Official Dispatch No. 1647/TCT-CS dated May 10, 2023 of the General Department of Taxation

Case 4: For invoices made according to the provisions of Decree No. 51/2010/ND-CP, Decree No. 04/2014/ND-CP of the Government and the guiding documents of the Ministry of Finance have errors (mean: according to the previous regulations), the enterprise shall issue a replacement invoice according to the provisions of Clause 6, Article 12 of Circular No. 78/2021/TT-BTC dated September 17, 2021 of the Ministry of Finance, agreed with the Tax Department's opinion on the fact that enterprises:

- **Do not** have to cancel invoices made under Decree No. 51/2010/ND-CP dated May 14, 2010;
- **Do not** have to send a report on the use of invoices;
- **The seller shall notify the tax authority according to Form 04/SS-HDDT** issued together Decree 132.

Notes on sending Form 04/SS-HDDT:

- In case the enterprise handles invoices with errors as prescribed in Clause 1, Point a, Clause 2, Article 19 of Decree No. 123/2020/ND-CP and Clause 6, Article 12 of Circular No. 78/2021/TT- BTC, the enterprise sends Form 04/SS-HDDT to the tax office.
- In case of handling invoices with errors as prescribed at Point b, Clause 2, Article 19 of Decree No. 123/2020/ND-CP, taxpayers are **not required to send** error notices according to Form No. 04/SS-HDDT to the tax office.



Guiding the implementation of labor reports for the first 6 months of 2023

Official Dispatch No. 10180/SLDTBXH-VLATLD dated May 10, 2023 of the Ho Chi Minh Department of Labour, War Invalids and Social Affairs

Accordingly, in order to implement Article 4 of Decree No. 145/2020/ND-CP of the Ho Chi Minh Department of Labour, War Invalids and Social Affairs guiding the implementation of the report on the use of labor, as follows:

- 1. Subjects of the report:** Enterprises, agencies and organizations that employ employees and have their headquarters and operating locations in Ho Chi Minh City (hereinafter referred to as units).
- 2. Content of the report:** Report on the employment situation of the first 6 months of 2023 according to Form No. 01/PLI Appendix I issued together with Decree No. 145/2020/ND-CP.

3. How to submit report: Can choose one of the following two methods:

3a- Submit at the National Public Service Portal: Make “The procedure for joint registration for adjustment of payment of compulsory social insurance, health insurance, unemployment insurance and report on the employment situation” at the Portal: <https://dichvucong.gov.vn/>

3b- Submit at the Department of Labor - Invalids and Social Affairs: Access the Google Form link or scan the QR code in this attached dispatch.

4. Deadline for report submission: Complete and submit the report on the National Public Service Portal or submit it online to the Department of Labor, War Invalids and Social Affairs before **June 5, 2023.**



Increasing the base salary for cadres, civil servants, public employees, armed forces

Decree No. 24/2023/ND-CP dated May 15, 2023 of the Government

From July 1, 2023, the basic salary applied to state officials and public employees will be increased from 1,490,000 to **1,800,000 VND/month**.

Accordingly, the ceiling for payment of social insurance and health insurance (equal to 20 times the basic monthly salary) will increase from 29,800,000 to **36,000,000 VND/month**.

This Decree takes effect from **July 1, 2023**, replacing Decree No. 38/2019/ND-CP dated May 9, 2019 of the Government.



Resolution of the National Assembly on value-added tax reduction

Notice No. 2298/TB-TTKQH dated 17/05/2023 conclusion of the National Assembly Standing Committee

Accordingly, the National Assembly Standing Committee **agreed on the scope of application of the VAT reduction policy as stipulated in Resolution No. 43/2022/QH15** dated January 11, 2022 of the National Assembly on fiscal and monetary policies. support the program of socio-economic recovery and development.

According to Resolution 43/2022/QH15: *Reducing the value-added tax rate by 2%, applicable to groups of goods and services currently subject to the 10% value-added tax rate (remaining 8%), **excluding** some of the following groups of goods and services: telecommunications, information technology, financial activities, banking, securities, insurance, real estate trading, metals, prefabricated metal products, mining products (excluding coal mining), coke, refined petroleum, chemical products, goods and services subject to excise tax.*

The application period of the Resolution is from **July 1, 2023 to December 31, 2023.**



Guiding the making of invoices according to Decree No. 15/2022/ND-CP

Official Dispatch No. 2121/TCT-CS dated May 29, 2023 of the General Department of Taxation

Accordingly, the General Department of Taxation guides:

- (i) In case goods and services are eligible for VAT reduction according to Decree 15/2022/ND-CP, after December 31, 2022, if errors are detected must issue an adjustment or replacement invoice and they do not affect the amount of goods and payable VAT or adjustment of the taxable price, the adjusted or replaced invoice shall apply the VAT rate of 8%; Where errors in quantity of goods lead to adjust the amount of goods and VAT, the adjusted or replaced invoice shall apply the VAT rate prescribed at the time of making the adjusted or replaced invoice.
- (ii) In case goods have been purchased before January 1, 2023 at the tax rate of 8%, and after December 31, 2022, the buyer returns the goods due to improper specifications and quality, the seller shall issue an invoice to return the goods to reduce or replace the invoice made with the VAT rate of 8%, the seller and the buyer have an agreement to clearly state the returned goods.



Guiding the making of invoices according to Decree No. 15/2022/ND-CP

Official Dispatch No. 2121/TCT-CS dated May 29, 2023 of the General Department of Taxation

(iii) In case the business establishment applies the form of commercial discount for customers and for the commercial discount of goods eligible for VAT reduction at the rate of 8% sold in 2022 but from 01 January 1, 2023, when an invoice showing the commercial discount content is issued, then:

+ In case the discount amount is made on the last purchase or the next period after December 31, 2022, the discount amount of the sold goods shall be adjusted according to the content of the taxable price, the applicable tax rate in accordance with the applicable law at the time of billing invoice.

+ In case the discount amount is made at the end of the discount program (period) after December 31, 2022, the seller shall issue an adjusted invoice and apply the VAT rate of 8% at the time of sale.



Guiding the making of invoices according to Decree No. 15/2022/ND-CP

Official Dispatch No. 2121/TCT-CS dated May 29, 2023 of the General Department of Taxation

(iv) In case a business establishment sells goods or provides services (subject to VAT reduction according to Decree No. 15/2022/ND-CP) but after December 31, 2022, the new business establishment establishes invoices for sales of goods and services arising from February 1, 2022 to December 31, 2022 and construction and installation activities with the time of acceptance and handover of works or work items, completed construction and installation volume, regardless of whether money has been collected or not, is determined from February 1, 2022 to the end of December 31, 2022 but after December 31, 2022 issuing invoices for revenue from construction and installation that have been tested, accepted, and handed over will fall into the case of making invoices at the wrong time and may be eligible for VAT reduction according to Decree No. 15/2022/ Decree-CP dated January 28, 2022 of the Government and will be administratively handled for the act of making invoices at the wrong time.


ABBREVIATION


CIT	Corporate Income Tax	JVC	Joint Venture Company
PIT	Personal Income Tax	Ltd.	Limited
VAT	Value Added Tax	PC	People's Committee
FCT	Foreign Contractor Tax	MOF	Ministry of Finance
FA	Fixed Asset	MOIT	Ministry of Industry and Trade
GDT	General Department of Taxation	MOLISA	Ministry of Labor, Invalid and Social affairs
EPE	Export Processing Exporting Company	DPI	Department of Planning and Investment
EPZ	Export Processing Zone	OL	Official Letter
UAL	Usage of Agricultural Land	SBV	The State Bank of Vietnam
IZ	Industrial Zone	FC	Foreign Contractor




THANK YOU

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