



IC&PARTNERS VIETNAM

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Business Worldwide

TAX NEWSLETTER

SEPTEMBER 2022



❖ **Headquarter in Hanoi:**

3rd Floor, TNL Plaza, Gold Season, 47 Nguyen Tuan, Thanh Xuan Trung Ward, Thanh Xuan District, Hanoi

❖ **Hai Phong Office**

No. 55A/69 Cho Con, Trai Cau Ward, Le Chan District, Hai Phong City, Vietnam

❖ **Ho Chi Minh Office**

No. 14 Phan Ton, Da Kao Ward, District 1, Ho Chi Minh City

❖ **Contact IC&Partners**

Vietnam:

Tel: +84 243 2373 793

Mobi: +84 915 432 043

Web: www.icpartners.it

Email:

info@icpartnersvietnam.com

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New points on the value-added taxable price for real estate transfer activities according to Decree No. 49/2022/ND-CP

Decree No. 49/2022/ND-CP issued on July 29, 2022 supplements some new points on value-added taxable price for real estate transfer activities as follows:

- Changing the term of cost for compensation and ground clearance as prescribed by law into compensation and ground clearance in the land price permitted to be deducted for value-added tax (VAT) calculation.
- Supplementing water surface rent to the land price permitted to be deducted for VAT calculation.
- Specifying the amount of compensation and ground clearance at Point a.1 and Point a.3, Clause 1 is the compensation and ground clearance amount according to the plan approved by competent state agencies.
- Supplementing regulations on cases where business establishments receive real estate transfer from organizations and individuals that have determined the land price including the value of infrastructure as prescribed at Point a, Clause 3, Article 4 of Decree No. 209/2013/ND-CP (amended and supplemented in Clause 3, Article 3 of Decree No. 12/2015/ND-CP dated February 12, 2015), the land price permitted to be deducted for VAT calculation is the land price at the time of transfer, excluding infrastructure.

Decree No. 49/2022/ND-CP takes effect from September 12, 2022



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- ❖ *Official Letter No. 5129/CTBGI-TTHT dated August 26, 2022 of the Tax Department of Bac Giang Province guiding the VAT refund documents for exported goods.*

In case the Company prepares VAT refund application for exported goods, satisfying the conditions, procedures and documents cited in Article 19 of Circular No. 219/2013/TT-BTC and Clause 2, Article 28 of Circular No. 219/2013/TT-BTC 80/2021/TT-BTC of the Ministry of Finance. The Company must fully record the contents in Form No. 01-1/HT issued together with Appendix I of Circular No. 80/2021/TT-BTC of the Ministry of Finance, specifically as follows:

- Invoice serial information in column 3 is recorded correctly, cannot be left blank.
 - Names of goods and services according to purchase invoices such as: names of goods, services, units, quantity, and unit prices are fully declared, detailed in columns No. 8, 9, 10 and No. 11.
 - In case the seller is a foreign enterprise without a tax code, the column of the seller's tax code (column 7) should be left blank.
- ❖ *Official Letter No. 2697/CTBNI-TTHT dated September 7, 2022 of the Tax Department of Bac Ninh Province providing guidance on VAT refund for investment projects.*

A company (headquartered in Hanoi) that pays VAT using credit-invoice method has a new investment project in Bac Ninh province shall declare and refund VAT as follows:

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Some issues on Value-added Tax (VAT) refund

The Company established a branch located in Bac Ninh province, but did not hand over the investment project in Bac Ninh province to the branch for direct management. If the dependent accounting branch does not have bank accounts and does not keep accounting books, invoices, and documents of the project, the Company shall submit separate tax returns and VAT refund dossier for the investment project in Bac Ninh province to Tax Department of Bac Ninh province. At the same time, the Company must transfer the input VAT of the investment project to offset the VAT declaration of the production and business activities being carried out, the transferred VAT amount of an investment project is at most equal to the payable VAT amount of production and business activities in the period of the business establishment. After offsetting, if the input VAT amount of the new investment project that has not yet been fully deducted is VND 300 million or more, the VAT will be refunded to the investment project.

In case the Company has a decision to hand over the project to the Branch in Bac Ninh province to directly manage on behalf of the Company, the Branch shall submit their own tax declarations and refund claims to Tax Department of Bac Ninh province with which tax registration is applied provided they have their own legitimate official seals, maintain their own records according to accounting regulations, have bank accounts. When investment project for the incorporation of an enterprise completes the formalities of registration for business and tax, the Company shall summarize the amounts of the projects' VAT incurred, VAT refunded and pending VAT refund to hand over to the new branch to declare and pay tax according to Point b, Clause 3, Article 1 of Circular No. 130/2016/TT-BTC of the Ministry of Finance.

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Corporate Income Tax (CIT) incentives for projects of manufacturing ancillary products

Official Letter No. 2615/CTBNI-TTHT dated August 24, 2022 of Tax Department of Bac Ninh guides CIT incentives for projects of manufacturing ancillary products as follows:

If the Company has a new investment project to manufacture products on the List of ancillary products given priority, implemented after January 1, 2015, the income from this project is entitled to CIT incentives according to other preferential conditions (besides the ones for projects of manufacturing ancillary products). If the project meets the conditions of the projects of manufacturing ancillary products according to Law No. 71/2014/QH13 and is granted a Certificate of incentives for projects of manufacturing ancillary products by a competent authority, the following preferential policies shall apply:

Preferential tax rates: for new investment projects, a preferential tax rate of 10% for 15 years from the year of being granted the Certificate as mentioned (2022) is applied. The remaining years eligible for the preferential tax rate is equal to the number of years eligible for the preferential tax rate under the conditions of manufacturing ancillary products (-) minus the ones under other conditions.

Tax exemption and reduction period: tax exemption for 4 years and 50% reduction of payable tax amount for 9 subsequent years for income from manufacturing ancillary products. The remaining period of tax exemption/reduction is equal to the period of tax exemption/reduction under the conditions of projects of manufacturing ancillary products (-) minus the ones under other preferential conditions of the project.

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Deduction for dependents

Tax Department of Bac Ninh province issued Official Letter No. 2448/CTBNI-TTHT dated August 12, 2022 on family deduction for dependents.

In case taxpayers are individuals earning incomes from salaries and wages, they register for deduction for dependents who are uncles, aunts, and sisters-in-law, specifically as follows:

In case the taxpayer is a grandchild registering for reduction for his/her aunt who is disabled and his/her uncle who is out of working age as dependents, the dependents must have no income or the average monthly income of the year from all income sources does not exceed VND 1,000,000 and have no relatives who are grandparents, parents, children, siblings or have relatives who are grandparents, parents, children, siblings but cannot afford to take care of them as prescribed by law, the taxpayer may register for reduction for such dependents.

In case the taxpayer being a sister-in-law registers for deduction for her sister-in-law who is a dependent of working age with disabilities, if she is incapable of working, has no income or has average monthly income in the year from all income sources not exceeding VND 1,000,000 and no longer has relatives who are grandparents, parents, children, siblings, grandchildren or has relatives who are grandparents, parents, children, siblings, grandchildren but cannot afford to take care of as prescribed by law, the taxpayer may register for deduction for such dependent.



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- ❖ *Official Letter No. 8059/CTHDU-TTHT dated August 22, 2022 of Tax Department of Hai Duong province on subleasing land in Industrial Parks (IP)*

In case the Company signs a land lease contract in Tan Truong IP, Cam Giang, Hai Duong, but in fact, the Company leases the land to the Company's branch in Hai Duong (an independent accounting branch) to serve the branch's production and business activities. At the same time, the Branch declares their sale every month.

In order to accurately reflect the branch's sales revenue and expense, it is suggested that the Company issue a Value Added Tax (VAT) invoice to the Branch with the value, contents stated on the invoice issued by the land lessor to the branch corresponding to the remaining usage time. Based on this invoice, the branch is entitled to deduct input VAT, rental fee stated on invoice is gradually allocated to deductible expenses when determining Corporate Income Tax at Hai Duong branch.

- ❖ *Official Letter No. 7535/CTHDU-TTHT on August 4, 2022 issued by Tax Department of Hai Duong province guiding on invoicing lent goods.*

In case the Company exports goods to a customer to borrow for trial use and then return them, the Company must issue an invoice with all contents in accordance with Article 10 of Decree No. 123/2020/ND-CP dated October 19, 2020. When returning the borrowed goods, the borrower is obliged to issue a return invoice. The parties are obliged to declare, pay tax and make accounting according to regulations. The VAT refund shall comply with the provisions of the tax law on tax refund.

Official Letter No. 1301/GSQL-GQ1 on air waybill

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To solve problems related to the use of electronic air waybill, Department of Supervision and Administration of Customs - General Department of Customs has issued Official Letter No. 1301/GSQL-GQ1 dated September 8, 2022 as follows:

In case the Company deploys the use of electronic bills of lading, when carrying out the import customs procedures, the customs declarant may use the electronic bills of lading to ensure the integrity and format as prescribed by law on electronic transaction or a photocopy of bill of lading printed out from the Company's system (without warehouse's stamp) and submit to customs authority through the customs electronic data processing system.

Regarding the fact that customs officers at some Customs Departments of provinces and cities require enterprise to submit paper documents in customs dossiers when carrying out customs procedures for import and export goods, while they have already submitted electronic documents through the customs electronic data processing system at the time of registration of declarations in accordance with regulation, the General Department of Customs issued Official Letter No. 4428/TCHQ-GSQL dated July 1, 2020 about submitting document in customs dossiers. In case of discovering that customs officers require the submission of documents with signatures and company seals inconsistent with clause 2 Article 3, point a clause 1 Article 18 Circular No. 38/2015/TT-BTC amended and supplemented in clause 2, clause 7 Article 1 Circular No. 39/2018/TT-BTC, the Company shall report to General Department of Customs (through the Customs Control and Supervision Department) for timely handling.

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Official Letter No. 3585/TCHQ-GSQL on customs procedure codes

Official Letter No. 3585/TCHQ-GSQL issued by the General Department of Customs on August 30, 2022, guiding the customs procedure codes as follows:

General Department of Customs receives reports from a number of Customs Departments of provinces and cities related to tax declaration and calculation for raw material and supplies constituting on processed, manufactured, exported and re-imported products according to code G13 but switched to domestic consumption under code A21. Because the VNACCS/VCIS system only allows the use of the correct goods line of the temporary import declaration when the customs declarant declares the corresponding A21 declaration.

Therefore, to solve this problem while the VNACCS/VCIS system has not been upgraded, General Department of Customs guides as follows:

- When carrying out customs procedures *for domestic consumption of processed and manufactured products for export originating from temporarily imported goods* (G13), the Customs Departments of provinces and cities shall guide the customs declarants to **use the code A42**.
- After completing the procedure for transferring domestic consumption, the customs officer uses TIA/TIB to adjust the indicators “Quantity re-exported/re-imported” and “remaining quantity” on the G13 declaration. Using CTI to record the reason for adjusting the quantity and approving to update quantity on the System

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Guidance on using invoices for on-spot import and export goods

Implementing Decree No. 123/2020/NDD-CP dated October 19, 2020 on invoices and receipts; regarding the customs dossiers to be submitted for on-spot exports and imports according to Clause 3, Article 86 of Circular No. 38/2015/TT-BTC amended and supplemented at Clause 58, Article 1 of Circular No. 39/2015/TT-BTC dated April 20, 2018, Ministry of Finance issued **Official Letter No. 8042/BTC-TCHQ** dated August 12, 2022 guiding the submission of invoices when carrying out on-spot export and import procedures in case that domestic enterprises declaring and paying Value-added tax (VAT) according to credit-invoice method sell to export processing enterprises and enterprises in non-tariff zones (including export processors) as follows:

- (1) *When carrying out on-spot export procedures*, customs declarants carry out customs procedures as prescribed in Clause 58, Article 1 of Circular No. 39/2018/TT-BTC dated April 20, 2018 and submit delivery and internal transfer notes (copies) instead of VAT invoices through the customs electronic data processing system for the customs authority according to Point c, Clause 3, Article 13 of Decree No. 123/2020/ND-CP.
- (2) *When carrying out on-spot import procedures*, customs declarants carry out customs procedures as prescribed in clause 58 Article 1 of Circular No. 39/2018/TT-BTC dated April 20, 2018 and submit VAT invoices (copies) enclosed with customs dossiers through the customs electronic data processing system for the customs authority.



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❖ **Ho Chi Minh Office**

No. 14 Phan Ton, Da Kao Ward, District 1, Ho Chi Minh City

❖ **Contact IC&Partners**

Vietnam:

Tel: +84 243 2373 793

Mobi: +84 915 432 043

Web: www.icpartners.it

Email:

info@icpartnersvietnam.com

INTRODUCTION

IC&Partners Vietnam Co., Ltd. is a member of IC&Partners S.p.A in Italy, specializing in providing services on Tax Agent, Tax Consulting, Transfer Price Documentation Consulting, Corporate Consulting, and other support related to the day-to-day operations of the business. We have many years of experience in providing services for the field of consulting in general and tax consulting in particular for multinational corporations of different nationalities such as Korea, Japan, Italy, Germany, Singapore ... not only in Vietnam but also in many other countries around the world.

Currently, the regulations and policies of the Tax Department are increasingly strict while businesses cannot anticipate the risks that may occur due to the lack of grasp of current legal regulations.

We are pleased to serve you with the following services:

- Tax Agent (Quarterly Tax Report, Annual Tax Finality)
- Tax risk review
- Supporting the procedures for establishing, closing the Company
- Refund of VAT and PIT
- Consultancy on preparing transfer pricing documentation
- Procedures for dealing with tax problems (exemption, reduction, tax penalty, etc.)
- Consulting services, support on management and other administration.

With the strength of quality and prestige, IC&Partners Vietnam is confident to bring the most satisfaction to customers when coming to us.

Sincerely thank you!