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NEWSLETTER

JUNE 2019

UPDATING NEW REGULATIONS

- **Official Letter No.2069/TCT-CS dated 23 May 2019 by the GDT providing guidance on additional land rental payment for the delay of project implementation progress**
- **Official Letter No. 1788/TCT-DNL dated 7 May 2019 issued by the GDT providing guidance on VAT of returned sale goods**
- **Official Letter No. 5000/TCT-DNL dated 12 December 2018 by the GDT providing guidance on issuing VAT invoice for marketing services**
- **Official Letter No. 1851/TCT-CS dated 9 May 2019 by the GDT providing guidance on VAT rate of 10% shall be applied for advertising services provided in Vietnam to overseas organisations and individuals**
- **Decree No. 38/2019/ND-CP dated 9 May 2019 by the Government providing guidance on increasing base salary from 1 July 2019**



UPDATING NEW REGULATIONS

- **Official Letter No.5438/BTC-CST dated 14 May 2019 by the Ministry of Finance prescribing on VAT refund for imported goods then exported**
- **Official Letter No.2936/TCHQ-TXNK dated 14 May 2019 by the GDC providing guidance on import duty refund**
- **Official Letter No. 1744/TCT-KK dated 03 May 2019 by the GDT on declaration of overpaid VAT for imported goods**
- **Official Letter No.79/TCHQ-TXNK dated 3 January 2019 by the GDC regarding tax policy for goods imported for export production.**
- **Official Letter No. 1815/TCT-CS dated 8 May 2019 by the GDT providing guidance on VAT for goods imported for construction and installation of works of Export Processing Enterprises (EPEs)**



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- **Official Letter No.2069/TCT-CS dated 23 May 2019 by the GDT providing guidance on additional land rental payment for the delay of project 1 implementation progress**
 - In the case the land is leased by the Government to implement an investment project whereby the investor is granted an extension period prior to putting the land in use as stipulated in **Point I, Clause 1, Article 64 of the 2013 Law on land**, the additional Land rental fee must be paid for the delay period of project implementation during the extension time line with **Clause 3, Article 2 of Circular No. 333/2016/TT-BTC** dated 26 December 2016 of the Ministry of Finance.
- **Official Letter No. 1788/TCT-DNL dated 7 May 2019 issued by the GDT providing guidance on VAT of returned sale goods**
 - Accordingly, where a buyer is temporarily suspended for a definite period of time, there's no invoice of returned goods to be issued, but the goods return transaction was already confirmed by the 3 parties, including the setter, the buyer and the guarantee bank, then the buyer could declare a reduction in the input VAT, and the seller is allowed to declare a respective reduction in the output VAT.
- **Official Letter No. 5000/TCT-DNL dated 12 December 2018 by the GDT providing guidance on issuing VAT invoice for marketing services**
 - In the case of a payment agreement between a local enterprise and other business establishments acting as its agencies to carry out marketing activities and brand advertising for such an enterprise, then these organisations are requested to issue VAT invoices, declare and make payment for VAT as per current regulations. In addition, if these expenses qualify the conditions stated in **Article 4 of Circular No.96/2015/TT-BTC** dated 22 June 2015 by the Ministry of Finance, they shall be treated as deductible expenses upon calculating the taxable income for CIT purpose.
- **Official Letter No. 1851/TCT-CS dated 9 May 2019 by the GDT providing guidance on Value Added Tax (VAT) rate of 10% shall be applied for advertising services provided in Vietnam to overseas organisations and individuals**
 - Accordingly, the advertising services provided in Vietnam to overseas organisations and individuals shall not be applied VAT rate of 0%; the advertising services provided in Vietnam shall be applied VAT rate of 10%.

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- ***On 9th May 2019, the Government has promulgated Decree 38/2019/ND-CP providing adjustment of basic salary for officials, public servants and armed forces. According to this Decree, the monthly basic salary (also known as general minimum salary) will be increased from VND1,390,000 to VND1,490,000 from 1st July 2019***
 - Following the increase in base salary, the maximum cap used for SI and HI contribution purposes shall be raised from VND27.8 million to VND29.8 million (i.e. 20 times of the base salary).
- ***Official Letter No. 1744/TCT-KK dated 03 May 2019 by the GDT on declaration of overpaid VAT for imported goods***
 - Accordingly, the taxpayer's overpaid VAT on imported goods is processed in accordance with **Article 47 of the Law on Tax Administration**. In the case of a tax refund already made by the tax authority, the taxpayer shall return the refund of the excess tax according to the revised declaration as well as the late interest penalty counting from the date of receiving the refund to the date of returning to the State Budget.
- ***Official Letter No.2936/TCHQ-TXNK dated 14 May 2019 by the GDC providing guidance on import duty refund***
 - Given the rental/borrowing fee as specified in the rental/borrowing contract's payment term is free, a trading relationship isn't considered established. Simultaneously, if there is a lack of a designation from a foreign trader whereby goods delivery/reception arrangement with another Vietnamese enterprise is formed, this fails to fall under cases subjected to on-the-spot import and export procedures as listed in **Clause 1, Article 35 of Decree No.08/2015/ND-CP**. Therefore, there is not sufficient basis for an import tax refund as prescribed in **Point đ, Clause 1, Article 19 of the Law on Export and Import Duties No.107/2016/QH13**.
- ***Official Letter No.5438/BTC-CST dated 14 May 2019 by the Ministry of Finance prescribing on VAT refund for imported goods then exported***
 - From 1 July 2016 to 1 February 2018, tax refund for imported goods and then exported is not applicable. From 1 February 2018 onwards, the enterprises must follow the guidance regulated in **Clause 2, Article 1 of Decree No.146/2017/ND-CP** dated 15 December 2017 by the Government.

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- ***Official Letter No.79/TCHQ-TXNK dated 3 January 2019 by the GDC regarding tax policy for goods imported for export production***
 - The enterprise, after registering for change in the usage purpose, had paid import duty for the imported goods, then appointed another organisation or individual to process or perform certain stages of the production procedure, and then took back the goods to continue to manufacture and export the goods, is not eligible for an import tax refund on the raw materials and supplies provided to other organisations or individuals to process or perform certain stages of the production procedure.
- ***Official Letter No. 1815/TCT-CS dated 8 May 2019 by the GDT providing guidance on VAT for goods imported for construction and installation of works of Export Processing Enterprises (EPEs)***
 - Accordingly, the domestic enterprises importing goods for construction and installation of works for the EPEs are required to pay VAT at the import stage. The construction and installation activities for the EPEs shall be subjected to the VAT rate of 0% if they satisfy the conditions prescribed in **Circular No.219/2013/TT-BTC** dated 31 December 2013 by the Ministry of Finance.

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