



WINWIN AUDIT

Newsletter 12/2023



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1. National Assembly Resolution No. 110/2023/QH15 of 29 November 2023

The VAT rate is reduced by 2% for the period from January 1, 2024 to June 30, 2024, in accordance with Article 3, paragraph 1, of Congress Resolution No. 43/2022/QH15 on fiscal and monetary policies to support socio-economic recovery and development plans. The group of goods and services specified in point a of Section 1.1

This resolution was adopted by the Sixth Session of the 15th National Assembly of the Socialist Republic of Vietnam on November 29, 2023.

2. Decision No. 11/2023/QĐ-TTg of the Prime Minister of April 27, 2023 on the mandatory reporting of transactions of high value

Accordingly, financial institutions, organizations and individuals operating in the following non-financial industries with a transaction volume of VND 400 million or more must report to the National Bank:

Financial institutions are allowed to engage in one or more activities: accepting deposits; lending; financial leasing; payment services; intermediary payment services; issuing transfer instruments, bank cards, remittance orders; bank guarantees, financial commitments; providing foreign exchange services in the money market and monetary instruments; stock brokerage; securities investment consulting, securities underwriting; securities investment fund management; securities investment project management; life insurance business; money change.

Organizations and individuals engaged in business activities in relevant non-financial industries in accordance with the law, conduct one or more activities, including: Prize game business, including: prize electronic games; Games on telecommunications networks and the Internet; Casinos; Lottery; Placement of bets; Real estate business, except real estate leasing and subleasing activities and real estate consulting services; Trading in precious metals and gemstones; Accounting services; Provision of notary services; Provision of legal services by attorneys and practices; Provision of services for the establishment, management and operation of businesses; Providing managerial and secretarial services to third parties; providing legal agreement services.

This decision will take effect from December 1, 2023.

3. Official Document No. 5435/TCT-CS on December 4, 2023 regarding value-added tax

Pursuant to Article 1 of the Government's Agreement No. 44/2023/ND-CP of June 30, 2023 on VAT exemption;

In accordance with Article 2, paragraph 1, of Government Agreement No. 44/2023/ND-CP of June 30, 2023, regarding the effectiveness and organization of implementation;

The appendix list of goods and services not eligible for VAT reduction, issued together with the Government's Agreement No. 44/2023/ND-CP of June 30, 2023;

In accordance with the guidance of Article 7, paragraph 9, Article 8, paragraph 5 and Article 11 of the Ministry of Finance Notice No. 219/2013/TT-BTC of December 31, 2013 and the Government's December 28, 2013 Agree No. 209/2013/NĐ-CP.

If a company produces and sells goods and services with multiple VAT rates, it must declare VAT according to the tax rate specified for each product and service; if the company cannot determine the tax rate, it must calculate tax based on the highest tax rate for the goods and services produced and sold by the company.

4. The Ministry of Finance's official document No. 12094/BTC-TCT dated November 23, 2023 solicits opinions on amending and supplementing the agreed provisions on tax management of enterprises with related-party transactions, and the government's document No. 132/2020 dated November 5, 2020 on the need to amend and supplement /ND-CP No. Draft proposal stipulating the tax administration of enterprises with related party transactions.

The Ministry of Finance has synthesized the issues and suggestions received during the implementation of Agreement No. 132/2020/ND-CP. The most common issue reported and suggested by enterprises and voters in various provinces, cities, associations, ministries and committees to the government and the Ministry of Finance is the issue of determining related relationships based on loan funds in accordance with Article 5, Paragraph 2, point d (including the issue of banks transferring 25% of the owner's capital to enterprises). In the case of the above loans and accounting for more than 50% of the total medium and long-term debt of the borrowing enterprise) and the situation where there is only a loan relationship with the bank, the loan interest expense of the borrowing enterprise shall be applied according to the control level.

According to point d of Article 5, Paragraph 2, if an enterprise borrows money from a bank and the loan capital accounts for more than 25% of the owner's capital contribution and accounts for more than 50% of the total medium and long-term debt, the enterprise and the bank shall be deemed to be related transactions. At this time, the transactions between the enterprise and the bank are related transactions. At the same time, loan interest payments are deductible when determining corporate income tax taxable income under the control of Article 16, paragraph 3, of Decree No. 132/2020/ND-CP.

4. The Ministry of Finance's official document No. 12094/BTC-TCT dated November 23, 2023 solicits opinions on amending and supplementing the agreed provisions on tax management of enterprises with related-party transactions, and the government's document No. 132/2020 dated November 5, 2020 on the need to amend and supplement /ND-CP No. Draft proposal stipulating the tax administration of enterprises with related party transactions.

Recommendation: Therefore, in order to ensure that the detailed provisions of paragraph 2 are consistent with paragraph 1 of Article 5 and in line with the actual situation of Vietnamese enterprises having strong loan needs for production and operation activities, the Ministry of Finance submits a report to the government on Article 132/2020/ Point d of Article 5, Paragraph 2 of the ND-CP Agreement is modified and supplemented to exclude related relationships and determine that credit institutions and other institutions with banking functions (that do not participate in the operation, control, capital contribution or investment in borrowing enterprises or are not managed or controlled by another party) , enterprises with banking functions, credit organizations or other organizations that contribute or invest) provide guarantees or lend funds to other enterprises in any form (including third-party loans originally guaranteed by funds from related parties and financial transactions of a similar nature) and conditions The borrowing capital shall not be less than 25% of the capital contributed by the owner of the borrowing enterprise, and account for more than 50% of the total medium and long-term debt of the borrowing enterprise.

5. Official Document No. 5477/TCT-QLN on December 6, 2023 regarding the exemption of late payment fees

In Article 1, paragraph 4, of Resolution No. 406/NQ-UBTVQH15 of October 19, 2021, the Standing Committee of the National Assembly promulgated a number of solutions to support businesses and people affected by the Covid-19 epidemic:

Enterprises and organizations that incurred losses during the 2020 tax period are exempt from late payment fees for tax arrears, land use fees, and land rent in 2020 and 2021 (including affiliated units and business locations). "

The provisions of this article shall not apply to those who have paid late fees.

Article 4, paragraph 1, of Government Resolution No. 92/2021/ND-CP of October 27, 2021 stipulates that regarding the exemption of late payment fees:


Taxpayers of enterprises and organizations that incurred losses during the 2020 tax period are exempt from late payment fees for tax arrears, land use fees, and land rent in 2020 and 2021 (including affiliated units and business locations). "

Article 4, paragraph 4, of Agreement No. 92/2021/ND-CP of October 27, 2021

Procedures, procedures and documents for late payment fee exemption

The taxpayer prepares a written request for exemption from late payment fees, which clearly states the amount of losses incurred during the 2020 tax period in accordance with Form No. 01/MTCN in Appendix 2 issued with this agreement, and provides it electronically or directly or sends it through the postal service to the direct Provided by tax authorities that administer taxes, collect land use fees and land rents.

5. Official Document No. 5477/TCT-QLN on December 6, 2023 regarding the exemption of late payment fees



The tax authorities that manage taxes, collect land use amounts and land rents are responsible for coordinating with the tax authorities under direct management to determine the conditions for losses during the 2020 tax period as a basis for considering exemption from late payment fees.

If the taxpayer has been subject to an inspection, inventory, or audit, attach the conclusion, notice, decision, or record of the inspection, inventory, and audit results (either the original or a taxpayer-certified copy).

Losses incurred in the 2020 tax year will be determined in accordance with the provisions of the Enterprise Income Tax Law."

If it is an independent accounting unit that incurred losses in the 2020 tax year, in accordance with the above regulations, it may be considered to be exempt from late payment fees for tax arrears, land use fees, and land rent in 2020 and 2021.

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The information in the Newsletter is for general and summary purposes. Therefore, you should contact us directly for advice on a case-by-case basis.

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