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## I. CORPORATE INCOME TAX

### **Official letter No. 10113/CT-TTHT dated 13th September 2019 issued by Ho Chi Minh Tax Department regarding imposing tax for merchandises sold below market price.**

According to Point e, Clause 1, Article 37 of the Law on Tax Administration No. 78/2006 / QH11, in case a company purchases, sells, exchanges and records values of goods or services that are not based on market prices, the tax departments have the right to impose the tax payable.

The imposed tax is conducted based on one or more of the following references:

- Database collected by tax agencies from:
  - + Tax records in the previous period of the business
  - + Organizations and individuals related to taxpayers
  - + Other State agencies
- Information of other departments with same product, business segment and business scale in local areas; Average payable tax business entity with same product or service in the same industries in the area. In case, the localities do not have this information, the tax agencies would obtain information from other areas.
- Valid documents and tax inspection results.

### **Official letter No. 106711/CT-TTHT dated 24th September 2019 issued by Ho Chi Minh Tax Department regarding reasonable expense recognition for given vouchers to employees**

According to the Official Letter, if the Company buys goods vouchers (used for purchasing goods within the printed value on the face vouchers) as gifts for employees for holidays, they are not required to issue VAT invoice.

This payment is considered as the benefit for employees.

- Regarding corporate income tax: Based on the receipts and other payment documents for the issuer of the voucher and the list of awarded employees, the expenses are deductible in CIT finanlization, as long as the total welfare payment for employees in year does not exceed the average of one monthly salary.
  - Regarding PIT: The company calculates the employee taxable income with the printed value on the voucher.
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## II. PERSONAL INCOME TAX

**Official letter No. 4641/TCT-DNNCN dated 12th November 2019 issued by General Department of Taxation regarding PIT treatment for incomes from working overtime in excess of wages.**

Accordingly, total overtime hours for one year is not allowed to exceed 200 hours, except for some special cases which allow for a maximum of 300 hours of overtime working in one year (Article 106, the Labour Code No. 10/2012/QH13 dated 18<sup>th</sup> June 2012).

In case of overtime hours above the permitted level, it is a violation of law.

Hence, income from the additional payment for working at night or working overtime in excess of wages are exempted for PIT.

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## III. VALUE ADDED TAX

**Official letter No. 88339/CT-TTHT dated 25th November 2019 issued by Ha Noi Tax Department regarding VAT treatment for sample and promotion goods.**

Pursuant to Clause 1, Article 17, Decree 81/2018/ND-CP dated 22<sup>th</sup> May 2018, traders have to announce the advertising activities to the Department of Trade and Industry in the location of the advertisement taken place beforehand, except for those circumstances specified in Clause 2, Article 17.

As a result, even the usage of goods for advertising activities is not in compliance with the above-mentioned regulation, the company issuing VAT invoice, declaring and calculating VAT for the sample goods are regulatory compliance.

Besides, it is permissible to deduct input VAT as goods used for manufacturing and business as long as it fulfills the criteria of VAT regulations.

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## IV. FOREIGN CONTRACTOR TAX

**Official letter No. 90747/CT-TTHT dated 04 December 2019 issued by Ha Noi Tax Department regarding FCT treatment for softwares accompanying with imported machinery.**

Pursuant to Article 6, Circular 103/2014/TT-BTC dated 06<sup>th</sup> August 2014, if the imported goods attached with additional services are completed in Vietnam territory such as installation, test-run, maintenance, replacement or other services accompanying with imported goods (including free-of-charge services), regardless of whether the service included or excluded in the value of contract, the value of imported goods are still subjected to FCT.



- Regarding VAT:
  - + Software products and services: not subject to VAT.
  - + Machinery and equipment (not accompanied with services provided in Vietnam): pay VAT at the import stage.
  
- Regarding CIT:
  - + Software copyright: 10% (calculated on assessable revenue).
  - + Machinery and equipment (not accompanied with services provided in Vietnam): 1% (calculated on assessable revenue)

In case the foreign contractor is unable to separate the value of each business activity in the contract, the higher tax rate of VAT and CIT between each business activities will be applied to the whole contract value.

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## V. OTHERS

### **Official letter No. 9942/CT-TTHT dated 10th September 2019 issued by Ho Chi Minh Tax Department about foreign contractors are not fully subjected to auditing Financial Statement**

According to Clause 1, Article 37 of the Law on Auditing No. 67/2011 / QH12, businesses and organizations that are required to audit financial statements include:

- FDI enterprises;
- Credit institutions;
- Financial institutions, insurance firms, insurance brokerage firms;
- Public companies, issuers and securities trading organizations.

Accordingly, foreign contractors who have already registered to mixed tax payment (pay withheld VAT and pay CIT in proportion) are not required to audit financial statements

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**Abbreviation**

CIT	Corporate Income Tax	CTLD	Joint Venture Company
PIT	Personal Income Tax	Ltd.	Limited
VAT	Value-added Tax	PC	People' Committee
FCT	Foreign Contractor Tax	MOF	Ministry of Finance
FA	Fixed Asset	MOT	Ministry of Trade
GTD	General Department of Taxation	MOLISA	Ministry of Labor, Invalid and Social Affairs
EPE	Export Processing Enterprise	DPI	Department of Planning and Investment
EPZ	Export Processing Zone	OL	Official Letter
ALU	Agricultural Land Use	SBV	State Bank of Vietnam
IZ	Industrial Zone	FC	Foreign Contract



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