

LEGAL UPDATES

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Tax incentives for projects of manufacturing supporting industry products

The Ministry of Finance issued Circular No. 21/2016/TT-BTC guiding declaration of value added tax (VAT) and corporate income tax (CIT) incentives for projects of manufacturing supporting industry products on the list of products of supporting industries prioritized for development as stipulated at Decree No. 111/2015/ND-CP on developing supporting industry.

Accordingly, the CIT incentives are applied to corporate income from performing the project of manufacturing supporting industry products from January 01, 2015 satisfying conditions regulated at Law No. 71/2014/QH13 and written documents guiding on the implementation, the incentives confirmation Certificate of manufacturing supporting industry products ("the incentives certificate").

Sequence, procedures of incentives confirmation and incentives post-inspection for projects of manufacturing supporting industry products on the list of products of supporting industries prioritized for development performing as specified at Circular No. 55/2015/TT-BCT of the Ministry of Industry and Trade.

The incentives certificate of manufacturing supporting industry products on the list of products of supporting industries prioritized for development is the basis to apply the CIT incentives. About incentive rate, time to start the application of incentives, transitional incentives shall be performed under the provisions of the Law on Corporate income tax.

During the time of being entitled to CIT incentives, if the enterprise performs many business and production activities, the enterprise shall determine privately the income from the project of manufacturing supporting industry products on the list of products of supporting industries prioritized for development in order to be entitled for the CIT incentives under the regulation.

The Circular takes into effect since April 01, 2016. The CIT incentives stipulated at this Circular are applied for the taxable periods as from the year 2015.

TAX INCENTIVES

Circular No. 21/2016/TT-BTC
which becomes effective from
01/Apr/2016 onwards

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TAX DECLARATION

2

FINALIZATION OF MATERIALS

2

OL No. 1501/TCHQ-GSQL of
General Department of Customs

FOREIGN LOANS

3

Circular No. 03/2016/TT-NHNN
which becomes effective from
15/Apr/2016 onwards

REFUND OF VALUE ADDED TAX

4

OL No. 3357/BTC-TCT of
the Ministry of Finance

Upgrading the tax declaration supporting applications iHTKK 3.1.8, HTKK 3.3.7 and QTTNCN 3.2.4

On March 16, 2016, the General Department of Taxation announced the upgrade of application iHTKK 3.1.8, HTKK 3.3.7, QTTNCN 3.2.4 with some updates supplementing some of the following functions:

Upgrading the functions of preparing financial statements in accordance with Circular No. 200/2014/TT-BTC on the applications HTKK, iHTKK to:

- Satisfy the needs of newly established enterprises;
- Satisfy some requirements arising from the users on the allowance for declaring some items of financial statements as integer value (positive or negative).

Upgrading the function of declaring the declaration 05/KK-TNCN on the applications: HTKK, iHTKK, QTTNCN satisfying the practice requirement of PIT finalization in 2015 in accordance with Official letter No. 1002/TCT-TNCN dated March 15, 2016 of the General Department of Taxation.

Starting on March 17, 2016, when preparing the financial statements, the declaration of PIT finalization Form 05/KK-TNCN related to the upgrading content mentioned above, the tax payers will use the forms declared in the applications HTKK 3.3.7, iHTKK 3.1.8, QTTNCN 3.2.4 instead of the previous versions.

promulgated in Article 60 of Circular No. 38/2015/TT-BTC, this official letter will draw the attention and specify some contents as follows:

With respect to the business types subject to submission of the finalization report of materials, finished goods, it is inclusive of processing, manufacturing for export, export processing enterprises.

With respect to the figures stated in the finalization report (form No. 15/BCQT-NVL/GSQL), they shall be complied with the regulations in Article 60 Circular No.38/2015/TT-BTC, Point 7 Official Letter No.18195/BTC-TCHQ dated December 08, 2015, Point 1.b of Official Letter No. 1171/TCHQ-GSQL dated February 17, 2016 and the following noticeable points:

- For processing entities:

- The enterprise shall prepare the tracking books of materials and finished goods of the accounts No. 152, 155 as prescribed in Circular No. 200/2014/TT-BTC, Decision No. 48/2006/QĐ-BTC. If the enterprise tracks materials and finished goods by value, the report shall be prepared in accordance with guidelines in Point 2.2 of this letter.

- If the enterprise's accounting system tracks the processing products by quantity, the figures of the report shall be finalized by quantity instead of value. The finalization report shall be prepared in the form No. 15/BCQT-NVL/GSQL, in which the amount of money will be replaced with the quantity.

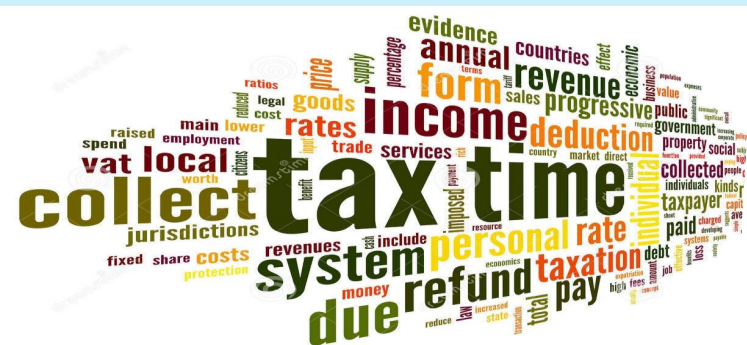
- **For entities manufacturing for export:**

- The figures for finalization are those stated in the accounts 152, 155 of the accounting books; the other accounts will be presented when required.

- The value of materials stated in the finalization report is the historical cost of materials, including: buying price as recorded in the invoice, tax payable, freight charges, loading, and other expenses directly related to the purchases of materials.

- The finalization report of semi-finished goods is not required.

For the way of submission of the finalization report, the enterprise temporarily submits manually (has yet to submit online) and must not additionally submit any documents other than the form No.15/BCQT-NVL/GSQL.



Noticeable points on finalization of materials by each fiscal year

On February 29, 2016, the General Department of Customs issued the Official Letter No. 1501/TCHQ-GSQL providing guidance on the finalization report of materials, finished goods by the fiscal year.

Since there still remain some difficulties relating to regulations on the materials finalization by the fiscal year as

On February 26, 2016, the State Bank issued Circular No. 03/2016/TT-NHNN guiding on some contents of foreign exchange management regarding to the foreign loan and foreign loan repayment of the enterprise.

Accordingly, this Circular regulates the registration sequence and procedure for the enterprise's foreign loans which having no guarantee from the Government; procedures for opening and using the account for foreign loan and foreign loan repayment; procedures for withdrawal and repayment of the foreign loans.

The loans subject to registration with the State Bank include:

- Foreign long-term, medium-term loans.
- Short-term loans which are extended and of which the total loan term is over 1 (one) year.
- Short-term loans which are not engaged by any extension contract but still having principal loan balance at the time of a full year since the first withdrawal date, unless the borrower finishes the



loan repayment within 10 (ten) days since the time of a full year from the first withdrawal date.

In addition, the Circular also regulates that the foreign loans in the form of imported goods with deferred payment are not subject to registration under this Circular.

Regarding to the foreign loan repayment, the Circular also specifies clearly the repayment cases which are not through the



account of foreign loan and foreign loan repayment:

- Loan repayment by providing goods, services to the lender.
- Loan repayment by shares or contributed capital of the borrower in accordance with the legal regulations.
- Repaying long-term,

medium-term foreign loans by offsetting the receivable from the lender directly.

- Repaying through the account of the borrower opened overseas (for the case that the borrower is allowed



to open the account overseas to perform the foreign loan).

Registration of the foreign loan can be performed online through the websites: <http://www.sbv.gov.vn> or <http://www qlnh-sbv.cic.org.vn> The borrower chooses the online registration and it is applicable since the second quarter report of the year 2016.

Before this period, the mentioned borrowers perform the reports complying with the written documentation system under Article No. 40 of Circular No. 03/2016/TT-NHNN.

The Circular takes into effect since April 15, 2016, excepting for the regulation at Clause No. 3 of this Article, and replaces Circular No. 09/2004/TT-NHNN dated December 21, 2004 and Circular No. 25/2014/TT-NHNN dated September 15, 2014.

On March 14, 2016, the Ministry of Finance issued Official letter No. 357/BTC-TCT guiding the management of VAT refund in accordance with the legal regulations.

Being unable to explain the tax mounts applied for refund, the valued added tax (VAT) refund application shall be classified as “verify first, refund later”.



Accordingly, this Official letter requests the provincial departments of taxation to settle the VAT refund tightly and in accordance with the regulations, especially implement the instructions of the Ministry of Finance strictly.

In case, in the process of settling the tax refund applications, the taxpayer is detected to have the sign of violations of tax law, customs law or in case that the taxpayer can not explain, supplement the tax refund dossiers, or can explain and supplement but cannot prove that the declared tax is correct, the dossiers then shall be classified as “verify first, refund later” instead of “refund first and verify later”.

Point No. 5 of this Official letter repeals the regulations stated in Point No. 1, 2, 4 and 5 of Official letter No. 18832/BTC-TCT dated December 17, 2015 and the regulations stated in Point 3 (the second paragraph) , 4, 5, 6 of Official letter No. 13822/BTC-TCT dated October 02, 2015.

Note:

“The purpose of this news is to provide the clients with further information. Although we have focused much on the ensure of accuracy, the information that is given on this news is not absolutely thorough and the clients would better consult professional opinions before application”.