

TAX ALERT AND LAW

January 2024

This update highlights the following matters:

1. Official Letter 1196/TCT-PC guiding on handling late payment of VAT submission
2. Official Letter 4666/TCT-CS providing guidance related to the determination of taxable rates for foreign contractors ("FC")
3. Official Letter 4602/TCT-TS guiding the obligation to declare and submit CIT for intra-group restructuring activities

1. Official Letter 1196/TCT-PC guiding the determination of late payment passing the statute of limitations.

Official Letter 1196/TCT-PC dated April 6, 2023 guided by the TCT: Handling of late tax payment

- ☐ Late payment interest rate: equal to 0.03%/day.
- ☐ Time to calculate late payment interest: calculated continuously from the date the late payment interest arises to the day immediately preceding the date of tax debt, tax refund recovery, or tax amount increase, fixed tax, and delayed tax payment have been paid to the State budget.

Penalties for administrative violations of tax administration

- ☐ Past the statute of limitations for sanctioning tax-related administrative violations, the taxpayer will not be punished fined but still have to pay the full amount of back tax (default tax amount, tax amount evasion, tax amount exempted, reduced, refunded higher than prescribed, late payment interest tax) into the state budget within the past **ten years**, from date of discovery of the violation, In case the taxpayer fails to register Tax must be paid in full, the tax deficiency, tax evasion, and late tax payment interest for the entire period retroactively from the date of discovery of the violation.

2. Official Letter 4666/TCT-CS providing guidance related to the determination of taxable rates for foreign contractors ("FC")

According to Official Letter 4666/TCT-CS dated October 23, 2023 guided by the GDT, to serve the purpose of determining the exchange rate for foreign income tax accounting, enterprises must determine the value of contracts signed with water contractors. out - tax included or not, accordingly:

Scope of application ☐ Recording accounting books, preparing and presenting financial statements, businesses need to determine whether or not the contract value includes tax in the case of paying tax on behalf of a foreign contractor to determine the appropriate accounting exchange rate.

Exchange rates

- ☐ In the case of a foreign contractor tax contract being a receivable debt of an enterprise in Vietnam, the actual transaction rate is the buying rate of the commercial bank where the enterprise appoints the customer to pay. transaction time;
- ☐ In cases where according to the contract, foreign contractor tax is included in the value of assets or expenses purchased from foreign contractors that have not been paid immediately, the actual transaction rate is the bank's selling rate. commerce where the enterprise intends to transact at the time of transaction;
- ☐ In cases where according to the contract, foreign contractor tax is included in the asset value or expenses purchased from foreign contractors are paid immediately in foreign currency, the actual transaction rate is the buying rate of the foreign contractor. commercial bank where businesses make payments

3. Official Letter 4602/TCT-TS guiding the obligation to declare and submit CIT for intra-group restructuring activities

Per Official Letter 4602/TCT-TS dated 17 October 2023 instructed by Tax department, any internal restructuring activities that result in a party earning income from capital transfer activities, CIT must be declared and submitted. If, in such capital transfer activity, neither the transferor nor the transferee has a commercial presence in Vietnam; then enterprises established in Vietnam would be obliged to declare and pay CIT from such capital transfer activities.

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