



# **TAX ALERT AND LAW**

**March 2024**

## **This update highlights the following matters:**

1. Official dispatch No. 6002/TCT-DNNCN dated 29<sup>th</sup> December 2023 on personal income tax policy for compulsory insurance payments abroad.
2. Official dispatch 32079/CTBDU-TTHT deductible expenses when calculating corporate income tax.
3. Official Dispatch 3782/TCT-CS dated 25<sup>th</sup> August 2023 on tax policy for income from loan interest.

# **1. Official dispatch No. 6002/TCT-DNNCN dated 29th December 2023 on personal income tax policy for compulsory insurance payments abroad.**

Official dispatch 6002/TCT-DNNCN dated 29th December 2023 guided by the General Department of Taxation

Clause 1, Article 6, Decree No. 65/2013/ND-CP dated 27/06/2013 stipulates

Article 6. Taxable income for income from business, income from salaries and wages

1. Taxable income for income from business, income from salaries and wages is determined by taxable income from business, from salaries and wages specified in Article 7 and Article 11 of the Decree This subtracts (-) the following amounts:

a) Social insurance, health insurance, unemployment insurance, professional liability insurance for some industries and occupations requiring compulsory insurance, Voluntary pension fund.

The amount of contribution to the Voluntary Retirement Fund that is deducted from taxable income specified in this Clause must not exceed one million VND/month (12 million VND/year) according to the guidance of the Ministry of Finance;

## **1. Official dispatch No. 6002/TCT-DNNCN dated 29th December 2023 on personal income tax policy for compulsory insurance payments abroad.**

In case an individual resides in Vietnam but works abroad and has income from business, wages, and salaries abroad and has paid compulsory insurance according to the regulations of the country where the individual resides, If you pay these types of insurance such as social insurance, health insurance, unemployment insurance, and professional liability insurance for some industries and occupations that require compulsory insurance, your insurance fees will be deducted. Included in taxable income when determining taxable income from business, salaries, wages...

Clause 2, Article 9 of Circular No. 111/2013/TT-BTC dated 15/08/2013 of the Ministry of Finance stipulates:

Article 9. Deductions

2. Deductions for insurance contributions and voluntary retirement funds

a) Insurance contributions include: social insurance, health insurance, unemployment insurance, professional liability insurance for some occupations that require compulsory insurance

## 1. **Official dispatch No. 6002/TCT-DNNCN dated 29th December 2023 on personal income tax policy for compulsory insurance payments abroad.**

c) Foreigners are individuals residing in Vietnam, Vietnamese are individuals residing but working abroad and have income from business, salaries and wages abroad and have contributed to insurance payments. Compulsory according to the regulations of the country where the individual resides, holds citizenship or works, similar to the provisions of Vietnamese law such as social insurance, health insurance, unemployment insurance, professional liability insurance Compulsory insurance premiums and other mandatory insurance premiums (if any) can be deducted from taxable income from business, salaries and wages when calculating personal income tax.

Foreign individuals and Vietnamese individuals who participate in the above-mentioned insurance payments abroad will have their income temporarily deducted for tax deduction during the year (if there are documents) and calculated according to the official number if Individuals carry out tax finalization according to regulations. In case there are no documents to temporarily reduce the deduction during the year, a one-time deduction will be made when finalizing the tax.

# **1. Official dispatch No. 6002/TCT-DNNCN dated 29th December 2023 on personal income tax policy for compulsory insurance payments abroad.**

Pursuant to the above regulations, in the case of workers sent to Vietnam by a company abroad to work as a labor transfer within the enterprise; income from salaries and wages paid by companies in Vietnam and companies abroad, in which the income from salaries and wages abroad is paid by companies abroad (including Compulsory insurance paid abroad) is fully reimbursed by the Company in Vietnam, such insurance cannot be deducted when calculating personal income tax in Vietnam.

## 2. Official dispatch 32079/CTBDU-TTHT deductible expenses when calculating corporate income tax

Pursuant to Clause 13, Article 7, Circular No. 78/2014/TT-BTC dated 18/06/2014 of the Ministry of Finance guiding the implementation of Decree No. 218/2013/ND-CP dated 26/12/2013 of the Government regulating define and guide the implementation of the Law on Corporate Income Tax

- ☐ In case the enterprise has revenue from fines and compensation due to the partner violating the contract or bonuses due to good performance of contractual commitments that are higher than the amount of fines and compensation due to the violation. contract (these fines do not belong to fines for administrative violations according to the provisions of the law on handling administrative violations), after compensation, the remaining difference is calculated into other income.
- ☐ In case the enterprise has revenue from fines or compensation due to the partner violating the contract or bonuses due to good performance of contractual commitments arising lower than the amount of fines and compensation due to the violation contract (these fines do not belong to fines for administrative violations according to the provisions of the law on handling administrative violations), after compensation, the remaining difference is calculated as deduction from other income. . In case the unit does not generate other income during the year, it will be deducted from income from production and business activities.
- ☐ The above revenues from fines and compensation do not include fines and compensation recorded as a decrease in the value of the project during the investment phase.

## **2. Official dispatch 32079/CTBDU-TTHT deductible expenses when calculating corporate income tax**

Fines for administrative violations include: violations of traffic laws, violations of business registration regimes, violations of statistical accounting regimes, violations of tax laws including late payment of taxes according to the law. provisions of the Law on Tax Administration and fines for other administrative violations according to the provisions of law.

In case the Company incurs interest expenses due to late payment as prescribed in the goods purchase and sale contract, it will be included in deductible expenses when determining income subject to corporate income tax, and at the same time the party receiving the interest From this late payment, taxable income must be declared when calculating corporate income tax.



### **3. Official Dispatch 3782/TCT-CS dated 25th August 2023 on tax policy for income from loan interest**

Article 50. Tax assessment for taxpayers in case of tax law violations:

1. Taxpayers are subject to tax assessment when they fall into one of the following tax law violations:

- ☐ Buy, sell, exchange and account for the value of goods and services not according to the normal transaction value on the market.

In Clause 1, Article 8, Decree No. 218/2013/ND-CP dated 26/12/2013 of the Government regulating and guiding the implementation of the Law on Corporate Income Tax stipulates:

1. Revenue to calculate taxable income is all sales, processing, and service provision fees, including subsidies, surcharges, and extras that the enterprise is entitled to, regardless of whether the money has been collected or not.

### **3. Official Dispatch 3782/TCT-CS dated 25th August 2023 on tax policy for income from loan interest**

In Clause 7, Article 7, Circular No. 78/2014/TT-BTC dated 18/06/2014 of the Ministry of Finance guiding the implementation of Decree No. 218/2013/ND-CP dated 26/12/2013 of the Government stipulates:

7. Income from deposit interest, loan interest including late payment interest, installment interest, credit guarantee fee and other fees in the loan contract.

- ☐ In case the income from deposit interest or capital loan interest arises higher than the loan interest payments according to regulations, after clearing, the remaining difference is included in other income when determining taxable income.
- ☐ In case the income from deposit interest or capital loan interest arises is lower than the loan interest payments according to regulations, after compensation, the remaining difference is deducted from the main production and business income when determine taxable income.

### **3. Official Dispatch 3782/TCT-CS dated 25th August 2023 on tax policy for income from loan interest**


Pursuant to the above regulations, in cases where an enterprise is not an organization operating under the Law on Credit Institutions with irregular lending activities, if it lends to other organizations (including branches of the enterprise that This branch pays its own corporate income tax) without interest or with an interest rate lower than the normal interest rate of the same term and size in the market, it is subject to tax assessment according to the provisions of tax administration law.


In the case of loans with a specific interest payment period according to the loan contract, the enterprise must record in financial revenue the period in which interest receivable arises, regardless of whether the lending enterprise has collected the money not.


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