

# NEWSLETTER ICL

## Tax & Legal updates

*August - 2024*

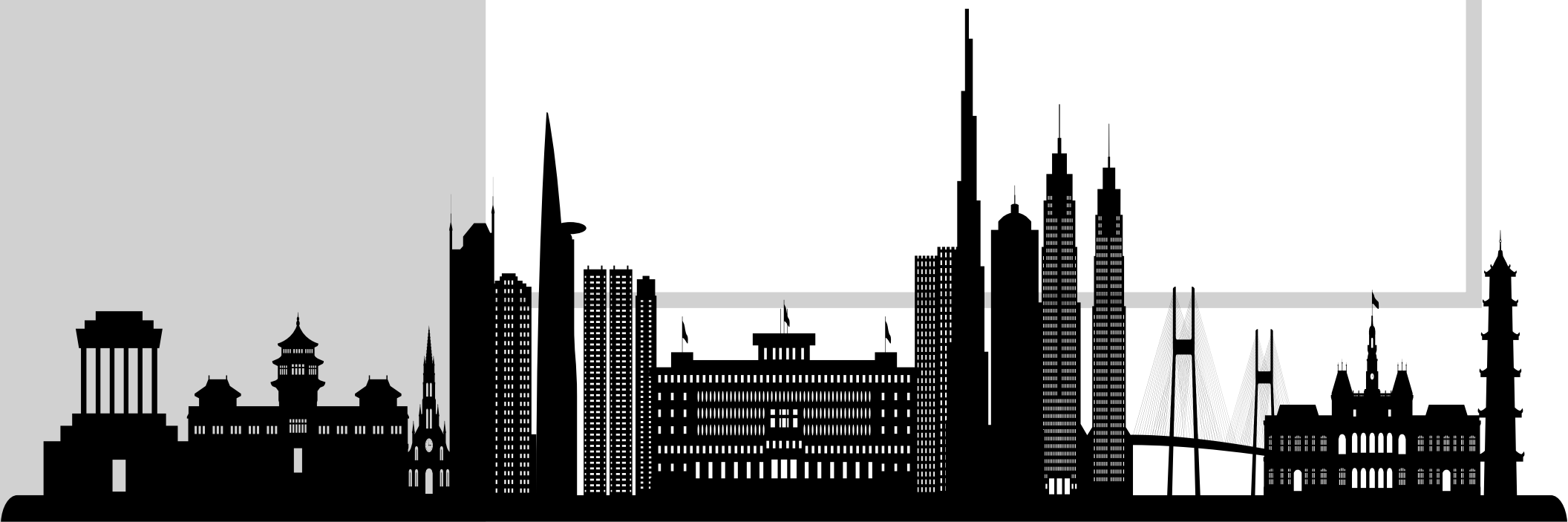
Accelerate to breakthrough





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## Why is it necessary to amend decree 123/2020/ND-CP?

The Ministry of Finance said that, in addition to the results achieved in nearly 3 years of implementing Decree No. 123/2020/ND-CP, some difficulties and problems have arisen as follows:

Some regulations on the application of electronic invoices by sellers have not clearly specified: the time of invoice issuance for exported goods, the time of invoice issuance for some specific industries (such as banking, insurance, etc.); The type of invoice used for export processing enterprises when there are activities other than export processing activities or when selling or liquidating assets has not been regulated: some cases of electronic invoices that have been issued are not incorrect but need to be adjusted/replaced, there must be regulations to distinguish them from cases of adjusting/replacing incorrectly issued invoices...

To be consistent with the Government's Action Program to implement the Resolution of the 13<sup>th</sup> National Party Congress, which emphasized the focus on promoting the construction of e-government, moving towards digital government, digital economy, digital society in a suitable, substantive and effective manner and both meeting practical requirements, promptly removing difficulties and obstacles of taxpayers in the implementation process, the promulgation of a Decree amending and supplementing a number of articles of Decree No. 123/2020/ND-CP is necessary.

The Vietnamese Government has recently proposed to amend and supplement many contents in Decree 123/2020/ND-CP on electronic invoices with some notable points below:



# The proposed amendments and changes to decree 123/2020/ND-CP (2/3)



## Updates on the use of invoice types

- In case an Export Processing Enterprise (“EPE”) engages in activities subject to Value Added Tax (“VAT”) other than export processing activities, VAT invoice or sale invoice must be used.
- Introduction and application of electronic commercial invoices for the sale of goods or services to overseas customers.



## Updates on invoice issuance and administrative procedure (1/2)


- For promotional items and gifts, a consolidated invoice with an accompanying list can be issued unless customers request a separate invoice.
- In the case where the buyer returns all or part of the goods, the seller will issue an adjustment invoice, unless both parties agree that buyer will issue invoice in accordance with relevant regulations. The buyer will issue are turn invoice when returning the property which is subject to registering of usage rights or ownership.



## Updates on invoice issuance and administrative procedure (2/2)

- The procedures for registering the use of invoices are being tightened. Accordingly, the tax system will automatically verify
  - ThôThe information of the legal representative's details with data from the Vietnam Electronic Identification system (VneID) and;*
  - TThe tax compliance status of all enterprises for which the legal representative is/was the legal representative before accepting the registration. “The verification is conducted via the registered phone or email as per the enterprise or tax code registration dossier.*
    - Enterprise may be blocked from using invoices if classified as high-risk enterprises and fail to provide reasonable explanations within the statutory timeline.*
    - If multiple e-invoices with incorrect information for the same buyer occur within a month, the seller may issue an adjustment invoice to correct or replace these errors, accompanied by a list of the incorrect e-invoices.*
    - Any replacement or adjustment of incorrect invoices must be agreed upon by both parties. If the buyer is an individual, the seller is responsible for notifying each buyer or doing so via the seller’s website (if any).*



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## Change on the issuance date of invoice and date that the invoice must be electronically signed, specifically
- For the case of exports, invoices must be issued no later than the end of the next working day following the date that customs clearance procedures are completed.
  - In cases where medical facilities generate revenue from social insurance agencies, the invoice shall be issued when the social insurance agencies settle, finalize the receivable amount.
  - Electronic invoices must be signed no later than the end of the next working day following the issuance date.
  - The draft Decree allows the Ministry of Finance to issue separate instructions for VAT invoices cum VAT refund declaration. It is expected that there will be a further Circular from the Ministry of Finance providing guidance on this.



## The expected effective date the Amended Decree

To be determined, but according to the draft Decree, effective date of implementation is still set for the year 2024.



*On 7 June 2024, the Ministry of Finance submitted to the Government the Draft Amendment to the Corporate Income Tax Law with the following fundamental amendments and additions:*

- Amend and supplement the provisions of 19 Articles of the current CIT Law.
- Remove Article 12 of the current CIT Law regarding tax payment location.
- Add 6 Articles stipulating the principles and subjects eligible for CIT incentives (Article 12); and additional CIT provisions in accordance with the global tax base erosion and profit shifting regulations (from Article 19 to Article 23).

For the revised and added sections, the draft law closely follows the 7 primary policy categories in the project proposal for the CIT Law, which have received approval from the Government, the National Assembly Standing Committee, and the National Assembly including:

- (1) Refining regulations related to taxpayers and income subject to CIT.
- (2) Refining regulations on income exempt from CIT.
- (3) Refining regulations related to determining taxable income and tax calculation methods.
- (4) Refining regulations on determining deductible and non-deductible expenses when determining taxable income.
- (5) Adjusting corporate income tax rates for certain taxpayer groups to align with new requirements and contexts.
- (6) Refining regulations on CIT incentives.
- (7) Applying additional CIT according to the global tax base erosion and profit shifting regulations.

The amended Corporate Income Tax Law is expected to take effect from 1 January 2026.

The proposed amendments in Corporate Income Tax Law will bring clarity and improve compliance by refining regulations, exempting certain income, and introducing new CIT incentives, and aligning with global tax standards.



# Official Letter No. 2155/TCT-CS dated 21 May 2024 from the General Department of Taxation (1/1) < >

Official Letter No. 2155/TCT-CS dated 21 May 2024 from the General Department of Taxation regarding VAT policy for repair services if performed outside of Export processing zone. to address the query "Are repair services performed outside of the export processing zone eligible for a 0% VAT rate?" as follows:

Theo quy định tại Điều 9 Thông tư 219/2013/TT-BTC, thuế suất 0% áp dụng đối với hàng hóa, dịch vụ xuất khẩu; hoạt động xây dựng, lắp đặt công trình ở nước ngoài và ở trong khu phi thuế quan; vận tải quốc tế; hàng hóa, dịch vụ thuộc diện không chịu thuế GTGT khi xuất khẩu. Do vậy, trường hợp Công ty cung cấp dịch vụ sửa chữa cho doanh nghiệp chế xuất nhưng dịch vụ được thực hiện và tiêu dùng tại Công ty sửa chữa (nằm ngoài khu phi thuế quan) thì không đáp ứng điều kiện hưởng thuế GTGT 0%.





# Decree No. 64/2024/ND-CP on extension of deadlines for Value Added Tax, Corporate Income Tax, Personal Income Tax, and land rental payments in 2024 (1/1)



On June 17, 2024, the Government issued Decree No. 64/2024/ND-CP regarding the extension of deadlines for Value Added Tax, Corporate Income Tax, Personal Income Tax, and land rental payments in 2024, is as follows:

Extension of VAT (excluding VAT on Import) payment deadlines:

- Deadline for May 2024 VAT payment: no later than 20 November 2024.
- Deadline for June 2024 VAT payment: no later than 20 December 2024.
- Deadline for July 2024 VAT payment: no later than 20 December 2024.
- Deadline for August 2024 VAT payment: no later than 20 December 2024.
- Deadline for September 2024 VAT payment: no later than 20 December 2024.
- Deadline for the second quarter of 2024 VAT payment: no later than 31 December 2024.
- Deadline for the third quarter of 2024 VAT payment: no later than 31 December 2024.

Extension of CIT provisional payment deadline in 2024: extension of 03 months from the end date of the CIT payment deadline.

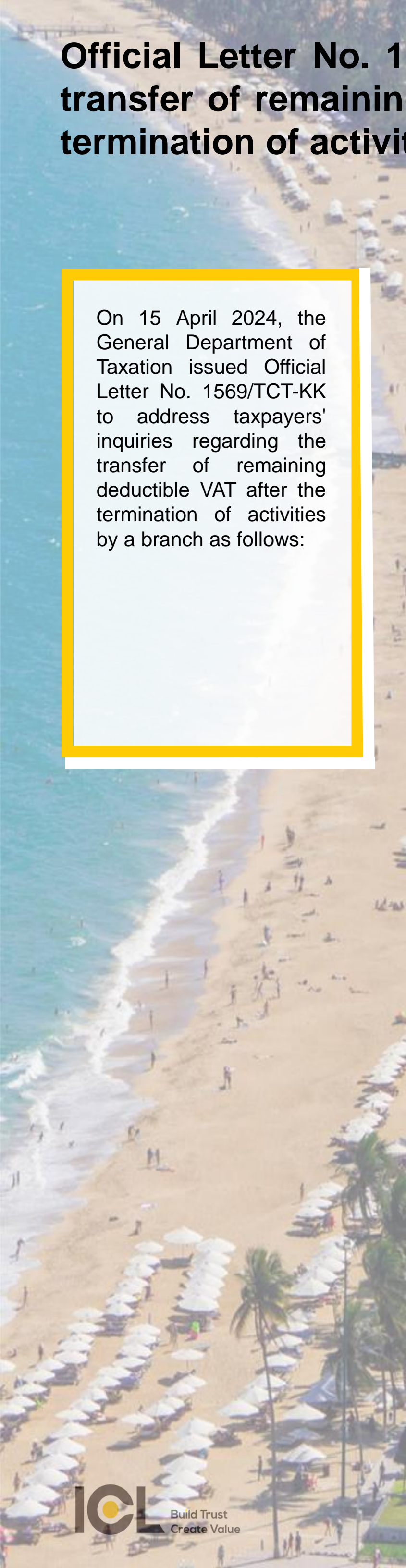
Extension of VAT and PIT payment deadlines for business households and individual businesses with tax liabilities arising in 2024: no later than 30 December 2024.

Extension of land rental payment deadlines:

- Extension of the deadline for 50% of the land rental amount due in 2024 for entities granted an extension directly by the State for land rental under Decision or Contract of competent state agencies in the form of annual land rental payment.
- Extension period: 02 months from 31 October 2024.

Subjects to which the regulations on extending the tax and land rent payment deadline in 2024 are similar to the old regulations in 2023.





# Official Letter No. 1569/TCT-KK regarding the transfer of remaining deductible VAT after the termination of activities by a branch (1/1)

On 15 April 2024, the General Department of Taxation issued Official Letter No. 1569/TCT-KK to address taxpayers' inquiries regarding the transfer of remaining deductible VAT after the termination of activities by a branch as follows:

In the case where the branch is a dependent unit of the parent company, with a different provincial location from the parent company, and terminates its activities along with the expiration of its tax identification number, but still has input value-added tax that has not been fully deducted until the termination date, if it meets all the conditions for tax deduction as prescribed by the law on value-added tax, then the branch is allowed to transfer the remaining input value-added tax to the parent company for the parent company to continue declaring and deducting according to regulations.



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