

NEWSLETTER VIETVALUES-HCMB

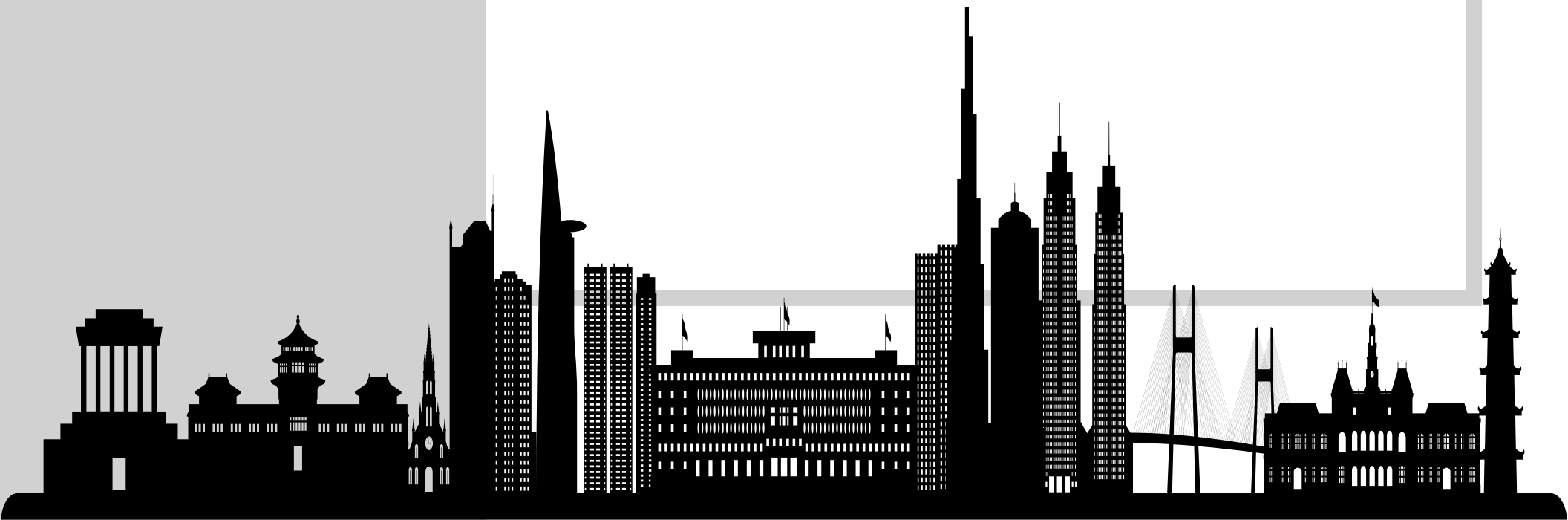
Tax & Legal updates

May – 2024

Accelerate to breakthrough

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I. The draft Law on Value Added Tax (amended) is expected to be submitted to the National Assembly in 2024 to replace Law on Value Added Tax No. 13/2008/QH12, Law No.31/2013/QH13, Law No.71/2014/QH13.	03 – 05
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Why is it necessary to amend the VAT Law?

The draft Law on Value Added Tax (VAT) (amended) has narrowed a number of groups of goods and services that are not subject to tax; At the same time, amend and supplement a number of groups of goods and services to remove difficulties for production and business activities and reform administrative procedures; amend and supplement a number of groups of goods and services to ensure the unity and synchronization of the legal system.

According to general opinion, the VAT Law, after more than 15 years of implementation, has achieved many important results. Although the domestic economy has had periods of difficulties and challenges due to the influence of the world economy and global instability, VAT revenue has remained quite stable and grown steadily over the years. year. However, through the implementation process, the VAT policy has gradually revealed many shortcomings and limitations.

According to experts' opinions, the VAT Law, after being amended and supplemented, will complete the regulations on VAT policy, cover all revenue sources, and expand the collection base; contributing to improving the capacity and efficiency of tax management activities in preventing and combating tax evasion, revenue loss and tax debt; Resolve and remove inadequacies and overlaps in the VAT legal system and ensure consistency and synchronization with relevant laws.



Non- taxable objects

Non – taxable objects to Value Added Tax include:

- Specifying regulations on transactions considered to be capital transfers that are not subject to VAT, in order to distinguish them from the transfer of investment projects and the sale of assets that are subject to VAT;
- Supplementing the regulations that imported goods of financial leasing companies for financial leasing to businesses in the non-tariff zone are not subject to VAT;
- Increase the level of revenue from sales of goods and services not subject to VAT of business households and individuals from 100 million VND/year to 150 million VND/year;
- Supplementing the regulation that "imported goods to support and finance the prevention of natural disasters, epidemics, and wars according to Government regulations" are not subject to VAT;
- Additional software services according to the provisions of law.



VAT tax rate

Value-added tax rates are expected to change as follows:

- Narrowing the group of "export services subject to the 0% VAT rate". Only applies to 03 groups of services including: Vehicle rental services used outside the territory of Vietnam; International transportation services; and Services of the aviation and maritime industries.
- Goods sold at duty-free shops are subject to 0% VAT on exported goods;

Converting some goods and services from non-taxable to taxable:

- 5% for: Offshore fishing vessels; Fertilizer; Machinery and equipment for agriculture,...
- 10% for: Postal services, public telecommunications and universal Internet; Maintenance services for zoos, parks,...

Converting some goods and services from 5% to 10% tax:

- Fresh food; Unprocessed forest products; Sugar and by-products in sugar production.
- Cultural, exhibition and sports activities; film production, film import, film distribution and screening.



Conditions for tax deduction and refund

Additional deduction conditions

- Must have non-cash payment documents for payments from 05 million VND, instead of 20 million VND as currently.
- Exported goods and services must have: packing slip, bill of lading, and cargo insurance.

Additional tax refund conditions

Expanding VAT refund subjects to the following cases:

- Business establishments that only produce goods and provide services are subject to a 5% VAT rate and arising non-deducted input VAT amount of VND 300 million or more after 12 months or 4 quarters;
- Business establishments that have registered to pay VAT using the deduction method have investment projects (including new investment projects and expansion investment projects) that are in the investment phase and have input VAT amounts. of an investment project that has not been fully deducted is VND 300 million or more.



Missed tax invoice declaration

Supplementing regulations allowing businesses to declare and deduct missed input VAT amounts in the period when errors are discovered, before the tax authority announces the tax audit or tax inspection decision at the taxpayer's headquarters.



Remove regulations

- Determine the rate of 51% for export products that are natural resources and minerals for VAT refund purposes.
- VAT refund will not be granted for investment projects of business establishments that do not contribute enough charter capital as registered;
- VAT refund for ownership conversion, business conversion, merger, consolidation, division, separation, and termination of operations.

Decree 21/2024/ND-CP amending Decree 51/2016 and Decree 52/2016 (1/3) < >

On February 23, 2024, the Government issued Decree No. 21/2024/ND-CP of the Government amending and supplementing a number of articles of Decree No. 51/2016/ND-CP dated June 13, 2016 regulating regulations on labor management, salaries and bonuses for employees working in limited liability companies with 100% charter capital held by the State and Decree No. 52/2016/ND-CP dated June 13, 2016 regulates salaries, remunerations and bonuses for managers of one-member limited liability companies with 100% charter capital held by the State, which stipulates:

Salary levels in the salary scale and salary table are decided by the company

Decree No. 21/2024/ND-CP amending Article 4 of Decree No. 51/2016/ND-CP on salary scale, salary table, salary allowances for employees working in single-member limited liability company with 100% charter capital held by the State.

Specifically, based on the production organization and labor organization, the company builds and promulgates salary scales, payroll, and salary allowances as a basis for arranging salaries, paying salaries, and implementing other benefits for employees. labor according to the provisions of labor law.

The salary levels in the salary scale, salary table, and salary allowances are decided by the company, but must ensure that the salary fund calculated according to the salary levels in the salary scale, salary table, and salary allowances must not exceed the planned salary fund. of workers according to regulations.

When developing or amending or supplementing salary scales, payroll, and salary allowances, the company must consult with the employee representative organization at the facility and organize dialogue at the workplace according to regulations. Report to the owner's representative agency for comments and publicize it at the company before implementation.

Eliminate objective factors when determining planned salary funds

At the same time, Decree No. 21/2024/ND-CP also amends and supplements points a and b, Clause 3, Article 5 of Decree No. 51/2016/ND-CP on determining the planned salary fund.

Specifically, when determining the planned salary fund, the company excludes objective factors affecting labor productivity and planned profits compared to the performance of the previous year, for example:

The State adjusts prices, production and business limits (for products and services priced by the State or regulates production and business limits), corporate income tax incentives, and increases or decreases in capital. The state requires companies to relocate, narrow production and business locations, adjust mechanisms and policies that directly affect the company's labor productivity and profit targets...

At the same time, implement restructuring projects, supplement or divest investment capital in other enterprises; new investment, expansion of production and business; adjust or create new provisions for financial and credit risks according to the provisions of law;

Providing products and services that are priced by the state and have a price adjustment mechanism, but the price has not been adjusted enough to compensate for reasonable actual production and business costs when factors forming prices change according to regulations of the Government. Price Law; Debt purchase and debt settlement sales have not been recorded in revenue and profits for debt trading companies according to the provisions of law.

Amending regulations on salary rankings for managers and specialized controllers

In addition, Decree No. 21/2024/ND-CP also amends and supplements Decree No. 52/2016/ND-CP regulating salaries, remunerations, and bonuses for managers of limited liability companies. One member has 100% charter capital held by the State.

Specifically, the phrase "manager" in the name and the phrases "manager" or "company manager" in the articles, clauses, and appendices of Decree 52/2016/ND-CP are replaced. replaced by the phrase "manager, controller".

Regarding salary rankings for managers and full-time Controllers, according to the new regulations in Decree No. 21/2024/ND-CP, based on the management organizational structure, Board of members or Chairman of the company. Develop and issue salary tables and salary rankings for managers and full-time Controllers as a basis for implementing social insurance, health insurance, unemployment insurance and other regimes according to regulations. provisions of labor law.

The salary levels in the salary table are decided by the Board of Members or the President of the company, but must ensure that the salary fund calculated according to the salary levels in the salary table does not exceed the planned salary fund of the manager or controller. specialized staff according to regulations.

When developing or amending or supplementing the salary schedule of managers, controllers, Board of members or company President, it is necessary to consult with the representative organization of workers at the facility or dialogue organization. at the workplace according to regulations, report to the owner's representative agency for approval and publicize at the company before implementation.

Decree No. 21/2024/ND-CP also **adds regulations:** In cases where **the Company's Supervisory Board has only 01 Controller** as prescribed in Article 103 of the Law on Enterprises, the Controller is entitled to a salary, remuneration and bonus for the position of Head of the Supervisory Board.

Below are some notable contents of this Decree:

1. Companies whose labor productivity does not decrease and whose planned profits are higher than those realized in the immediately preceding year will **be applied with an additional coefficient** as follows:

(*)	Group 1	Group 2	Group 3
The increase factor is 0.5	< 500 billion VND	< 300 billion VND	< 200 billion VND
The increase factor is 1,0	500 – 1.500 billion VND	300 – 1.000 billion VND	200 – 700 billion VND
The increase factor is 1,5	1.500 – 2.000 billion VND	1.000 – 1.500 billion VND	700 – 1.000 billion VND
The increase factor is 2,0	2.000 – 3.000 billion VND	1.500 – 2.000 billion VND	1.000 – 1.500 billion VND
The increase factor is 2,5	> 3.000 billion VND	> 2.000 billion VND	> 1.500 billion VND

In there:

- **Group 1:** Banking, finance (excluding stock exchange market organizations, securities depository), telecommunications
- **Group 2:** Exploitation and processing of oil and gas, minerals, electricity, trade and services
- **Group 3:** Organization of stock trading market, securities depository and remaining fields

2. If the company is **not profitable**, the **planned average salary** must be lower than the basic salary, but **not lower than 50%** of the basic salary. In case of loss, the planned average salary is equal to 50% of the basic salary.

Enforcement

1. This Decree takes effect from April 10, 2024;
2. **The regimes on salary funds, salary payments, remunerations and bonuses** specified in Clause 2, Article 1, Clauses 3, 4, 6, 7 and 10, Article 2 of Decree 21/2024/NĐ-CP are implemented **from January 1, 2024**.

On March 29, 2024, Vietnam Social Insurance issued Official Dispatch No. 862/BHXXH-TST guiding a number of contents on implementing the Agreement on Social Insurance (Social Insurance) between Vietnam and Korea with Noteworthy content.

Accordingly, Social Insurance guides a number of contents on granting and receiving Social Insurance and temporarily suspending the payment of compulsory Social Insurance for Vietnamese workers working in Korea to implement the Agreement between the Government and the Social Security Administration. Government of the Socialist Republic of Vietnam and the Government of Korea on Social Insurance.

Identifying Vietnamese and Korean workers who are exempt from participating in social insurance twice:

❖ For dispatched workers

- Only the law of the first Contracting State (the country in which the employee worked before being sent to work, on behalf of the employer) is in **force for the first 60 months**. Applicable also in cases where employees are transferred to work at subsidiaries or partners of the employer in the territory of the other signatory country to the Agreement.
- If the dispatch period lasts more than 60 months, an **additional 36 months will apply** provided the employee has a labor contract with the same employer.

❖ For on-site recruitment workers

- Only the law of the country signing the Agreement (the country where the employee comes to work) is valid.
- Except, Korean citizens are recruited by an employer in Vietnam and work for this employer in Vietnam, only Korean law applies to this employee during the working period. That is, on the condition that this employee is governed by Korean law and the working period does **not last more than 60 months**.
- Persons working in diplomatic missions, consular missions and state officials of one Contracting Party who are sent to work in the territory of the other Contracting Party shall be governed by law. of the first contracting party (the country where the employee worked before being sent to work).

In addition, the official dispatch has specific instructions on the process, procedures for issuance and sample documents of the Certificate of Social Insurance Subjects for Vietnamese and Korean workers; and processes and procedures for stopping compulsory social insurance payments for Vietnamese workers working in Korea under contracts.

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