

International Tax, Domestic Tax and Customs

## Tax & Customs Alert

*Highlighting recent tax and customs developments in Vietnam.*

### VAT Refund for Export

Several enterprises have recently encountered difficulties in applying for value-added tax ("VAT") refund on exported goods and services. To help enterprises on this front, we would like to highlight the tax policy on VAT refund for export which was addressed by the General Department of Taxation ("GDT") in its VAT regulations and rulings issued over past years.

The GDT referred to Article 25 of Circular 25/2018/TT-BTC dated 16 March 2018 ("**Circular**") and provided guidelines to many local tax authorities regarding VAT refund for export. The Circular makes reference to the following: (i) ruling number 271/TCT-CS dated 17 January 2018; (ii) ruling number 5255/TCT-CS dated 16 December 2019; (iii) ruling number 734/TCT-CS dated 16 March 2023; (iv) ruling number 989/TCT-CS dated 29 March 2023; and (v) ruling number 1229/TCT-CS dated 27 March 2024.

The first condition for VAT refund on exported goods and services is that enterprises having a remaining balance of monthly/quarterly creditable input VAT of VND300 million and above after netting off against monthly/quarterly output VAT are qualified for VAT refund for export.

In instances where the enterprises have both domestic and export revenues, the creditable input VAT is determined based on specific records by accounting system or an allocated amount with a percentage ratio between export revenue against total revenue over a subsequent period, to the period when enterprises have obtained VAT refund for export.

The second condition is that the creditable input VAT to be refunded is limited to 10% of the export revenue of exported goods and services which is presumably for that month or quarter.

If the enterprises cannot meet the above conditions, the creditable input VAT will be deducted against output VAT for the subsequent month/quarter.

### Personal Income Tax ("PIT") policy on benefits to employees

There have also been queries made by enterprises regarding the PIT policy on benefits given to employees. We highlight below some notes on PIT implications on benefits provided to employees including company retreat trips.

The GDT has provided an opinion regarding the PIT policy on benefits given to employees based on Article 2 of Circular 111/2013/TT-BTC dated 15 August 2013 ("**Circular 111**") via ruling number 1982/TCT-DNNCN dated 10 May 2024 ("**Ruling No. 1982**"). Based on Ruling No. 1982, benefits given

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to employees are excluded from the taxable income of the employees if such benefits cannot be identified as benefits provided to employees individually.

Various local tax authorities, on the other hand, have interpreted PIT implications on benefits to employees based on Article 2 of Circular 111 through ruling numbers 6469/CT-HTr dated 4 February 2016 and 1664/CTQNI-TTHT dated 26 February 2024 regarding company retreat trips. Based on these rulings, the employees' taxable income would include benefits which were paid in cash to employees, as well as the allocated benefit relating to company retreat trips when the employees were listed by the company as participants in the company retreat trips. Presumably, the allocated benefit could be based on the trip costs as against the number of participants in the trips.

With Vietnam's improved tax administrative system, local tax authorities are able to confer with each other and consult the GDT on the application of tax regulations to specific matters and circumstances. The opinion of local tax authorities with regard to the PIT policy on benefits to employees should be consistent across the affected local authorities. It is therefore recommended that enterprises should pay more attention to the applicable tax policies and obtain the views of the GDT on the tax policy with respect to employees' benefits. There will be significant savings from penalty and overdue payments regarding tax collection under tax audits if enterprises declare tax in line with the regulations and rulings by the tax authorities.

The [Tax Practice](#) of [Rajah & Tann LCT Lawyers](#) focuses on advising on tax policy regarding rights, obligations and legal benefits of investors, employers, and employees. We also assist clients in obtaining clearer tax policies from the competent authorities, as well as protect clients against unfair tax treatment by tax audits during tax appeals and litigations.

## Personal Income Tax policy on overseas profit remittance

The GDT has recently provided guidance to a local tax authority regarding the PIT policy on overseas profit remittance via ruling number 2043/TCT-DNNCN dated 14 May 2024.

The GDT referred to Article 4 of Circular 186/2010/TT-BTC dated 18 November 2010, and Article 2 of Cir 111 as amended and supplemented by Circular 92/2015/TT-BTC dated 16 May 2015. The GDT has confirmed that dividends from investments by an individual owner in a limited liability company ("LLC") with a sole individual investor are exempted from PIT upon overseas remittance after complete payment by that LLC of corporate income tax liabilities in the relevant year. The policy of exempting these dividends from PIT took effect from 1 January 2015.

Against the backdrop of conflicted opinions by various local tax authorities regarding the PIT policy on overseas profit remittance by LLCs with sole individual investors, this ruling aims to provide definitive guidance on the subject matter.

If you have any queries on the above, please feel free to contact [Nguyen Hung Du](#), Partner, Tax at [du.nguyen@rajahtann.com](mailto:du.nguyen@rajahtann.com) or any of our team members below.

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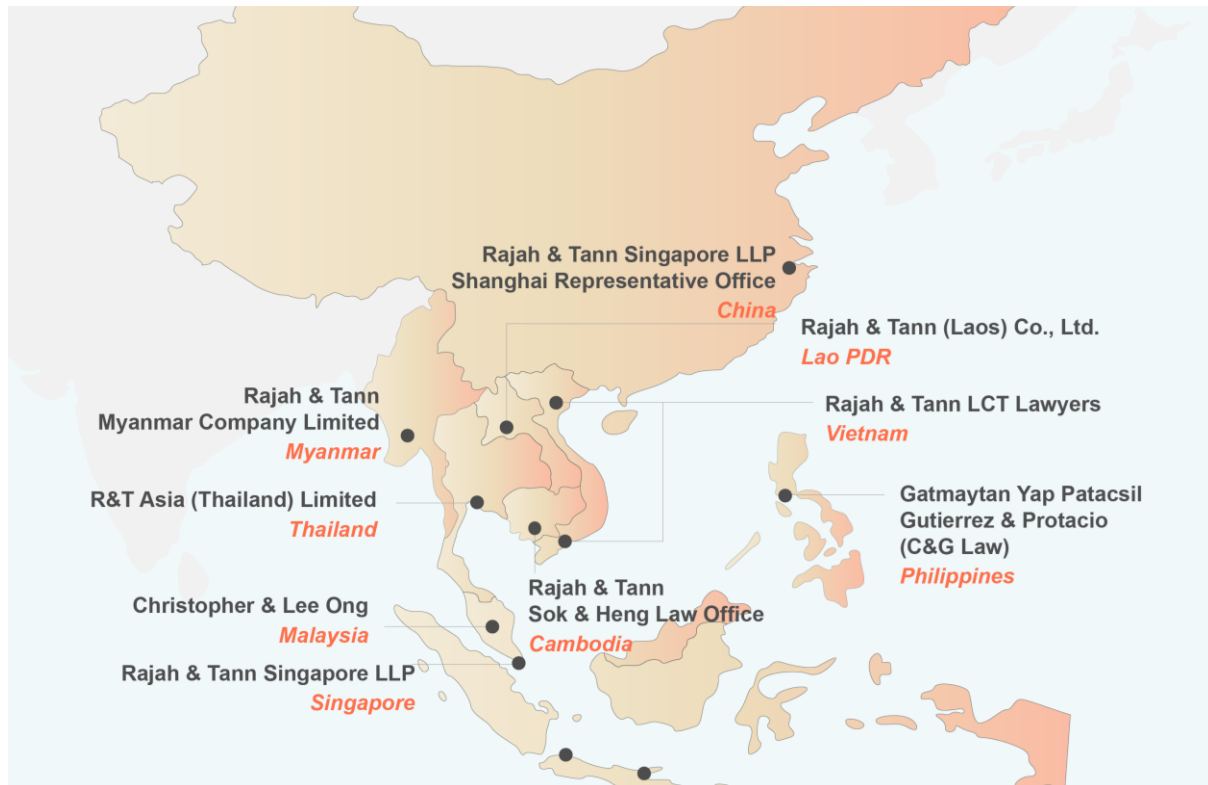
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# Client Update: Vietnam

2024 JUNE

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