

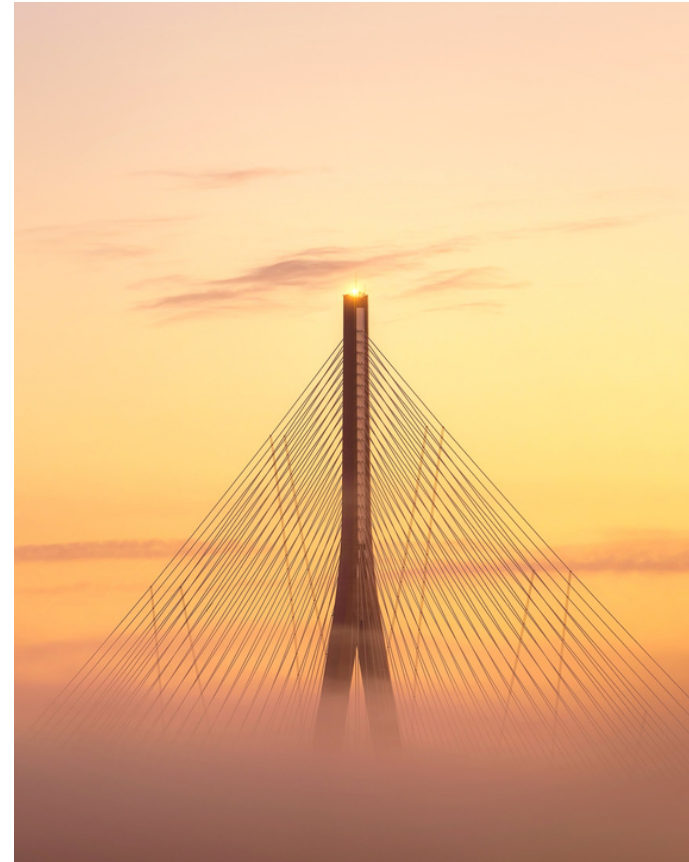


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Newsletter

Regarding Tax - Labor policies effective from 2023

December 2023



1. Decision 970/QD-TCT Promulgating tax audit procedures.

Update some content as follows:

- Selecting taxpayers for Tax audit on tax authorities' premises: Prioritize in order of high risk and combine consideration and selection of Taxpayers that have not been inspected or audited for more than 5 years;
- Selecting taxpayers to include in the Tax audit plan on Taxpayers' premises will be based on the results of the risk ranking from high to low and combined with consideration of selecting taxpayers that has not been inspected or tax inspected for more than 5 years;
- Cases of unexpected Tax audit on Taxpayers' premises without the need for planning (point 1.3, Section III Procedure): Tax audit according to denunciation; Tax audit under the direction of the Head of the tax authority or under the direction of the Head of the superior tax authority; Tax audit at the request of the Taxpayers (divide, split, merge, consolidate, convert business type, dissolve, terminate operations, equitize, invalidate tax code, change business location leads to a change in tax management authority); Tax audit before tax refund; Tax audit as proposed after Tax audit on Tax authorities' premises; Other unexpected Tax audit cases...

Decision 970/QD-TCT replaces the tax inspection process applicable from July 14, 2023, replacing Decision No. 746/QD-TCT dated April 20, 2015; Decision No. 1215/QD-TCT dated September 3, 2020.

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2. On November 29, 2023, the National Assembly finalized a 2% VAT reduction until June 30, 2024.

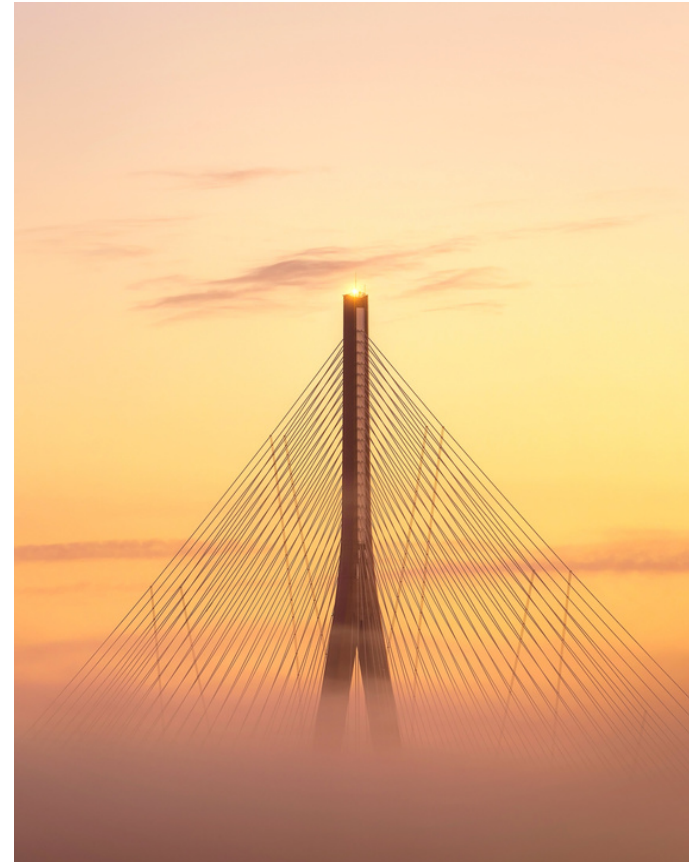
On November 29, 2023, the National Assembly passed the Resolution of the 6th Session of the 15th National Assembly. This resolution includes continuing to apply the 2% VAT reduction for an additional six months, from January 1, 2024 to June 30, 2024.

Subjects eligible for VAT reduction under this newly passed Resolution will comply with Point a, Section 1.1, Clause 1, Article 3 of Resolution No. 43/2022/QH15 passed by the National Assembly on January 11, 2022. Please pay attention, Point a, Section 1.1, Clause 1, Article 3 of Resolution No. 43/2022/QH15 stipulates that the group of goods and services currently subject to a 10% VAT rate will be subject to a 2% reduction, except for goods and services belonging to the following groups:

- Telecommunications and information technology;
- Financial, banking, securities and insurance activities;
- Real estate business;
- Metals and prefabricated metal products;
- Mining products (excluding coal mining), coke, refined petroleum, chemical products; and
- Goods and services subject to special consumption tax.

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3. Circular 13/2023/TT-BTC guiding the implementation of Decree 49/2022/ND-CP about value added tax.

The Ministry of Finance issued Circular No. 13/2023/TTBTC dated February 28, 2023 (“Circular 13”) guiding the implementation of Decree No. 49/2022/ND-CP dated July 29, 2022 of the Government on VAT.

Circular 13 has 3 Articles, bringing the changes mentioned in Decree No. 49/2022/ND-CP into Circular No. 219/2013/TT-BTC (for example, taxable prices for electricity production activities of Vietnam Electricity Group, tax calculation prices for real estate transfer activities, or regulations on VAT refund for investment projects).

Although Circular 13 takes effect from April 14, 2023, the regulations on VAT refund for investment projects, conditional investment and business sectors will apply from July 1, 2016.

Accordingly, the adjustment of VAT, late payment interest, and fines (if any) is done as follows:

- In case a decision has been issued to recover tax refunds, calculate late payment interest and impose penalties (if any), the tax authority will issue an adjustment decision. In case the business establishment has additionally declared the refunded VAT amount, the business establishment and the tax authority will adjust the refunded VAT amount and late payment interest.
- The amount of VAT that has been recovered and refunded (including cases that have not been or have been offset against the amount of VAT payable arising from production and business activities), the amount of late payment, fines (if any) have been paid. Payments are processed and refunded according to regulations on refunding overpayments.

(Circular No. 13/2023/TT-BTC dated February 28, 2023 issued by the Ministry of Finance).

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4. Apply Global minimum tax from 2024.

On November 29, 2023, the National Assembly passed a Resolution on the application of additional corporate income tax (CIT) according to regulations to prevent global tax base erosion. This Resolution will take effect from January 1, 2024, applicable from fiscal year 2024.

The resolution clearly states the formula for determining the standard domestic minimum additional CIT amount:

Standard domestic minimum additional CIT amount = (Additional tax rate x Additional taxable profit) + Additional tax amount adjusted for the current year (if any).

The applicable tax rate is 15% for multinational enterprises with total consolidated revenue of 750 million euros (about 800 million USD) or more in two of the four most consecutive years.

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5. Decree 70/2023/ND-CP regulating foreign workers working in Vietnam.

On September 18, 2023, the Government issued Decree 70/2023/ND-CP amending Decree 152/2020/ND-CP regulating foreign workers (“employees”) working in Vietnam.

Outstanding new points of Decree 70/2023 are as follows:

Change the agency that issues approval documents for the use of foreign workers.

The authority to approve the employment of foreign workers is as follows: The Ministry of Labor, War Invalids and Social Affairs or the Department of Labor, War Invalids and Social Affairs shall issue a written approval or disapproval of the employment of foreign workers for each job position according to Form No. 03/PLI. Appendix I issued with Decree 70/2023/ND-CP within 10 working days from the date of receiving the explanation report or report explaining changes in the need to use foreign workers. (Clause 2, Article 1).

(Previously, the authority to approve or disapprove the employment of foreign workers belonged to the Ministry of Labor, War Invalids and Social Affairs or the People's Committee of the province or centrally run city).

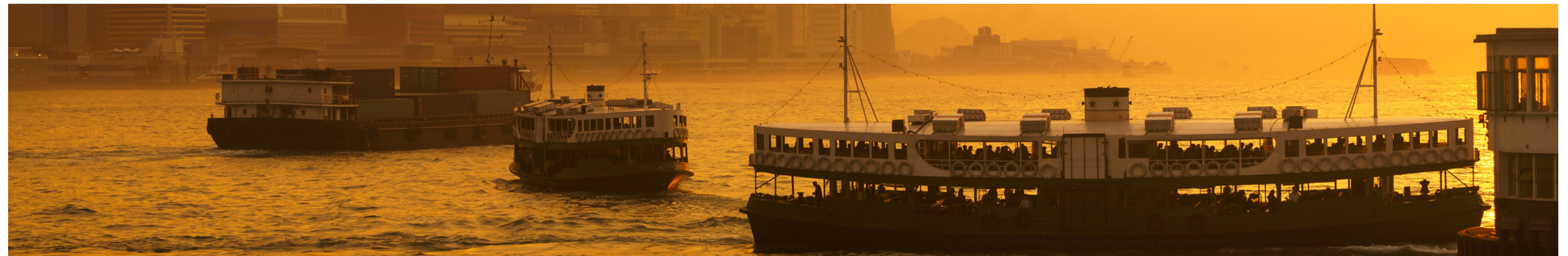
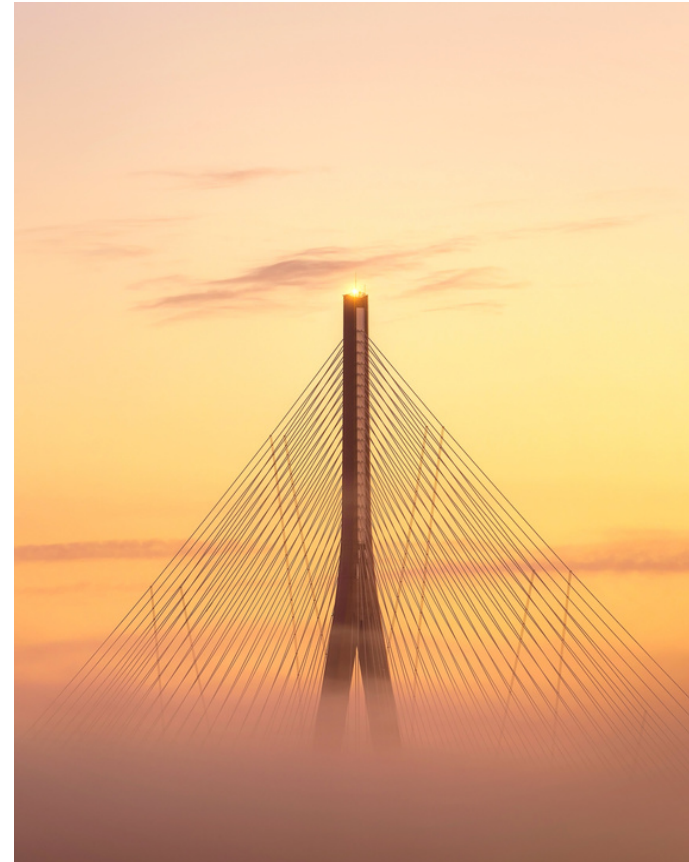
Change in reporting time to explain the need to use foreign workers.

Compared to Decree 152/2020/ND-CP, Decree 70/2023/ND-CP has shortened the reporting and explanation time to at least 15 days from the expected date of employing foreign workers. (Clause 2, Article 1).

At the same time, during the implementation process, if there is a change in the need to use foreign workers in terms of position, job title, form of work, quantity, and location, it must be reported at least 15 days in advance from the date of implementation. Expected date of employing foreign workers. *(Previously it was at least 30 days from the expected date of employing foreign workers).*

Effectiveness: Decree 70/2023/ND-CP takes effect from September 18, 2023.

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Hanoi office

Add: Room 1205, 12th Floor,
IPH Office Tower,
241 Xuan Thuy, Cau Giay
District, Hanoi City, Vietnam

Da Nang office

Add: 906, 9th Floor, Muong
Thanh Song Han Tower,
115 Nguyen Van Linh, Hai Chau
District, Danang City, Vietnam

Ho Chi Minh office 1

Add: 14th Floor, TNR Tower,
180-192 Nguyen Cong Tru,
District 1, Ho Chi Minh City,
Vietnam

Ho Chi Minh office 2

Add: 1st Floor, The Manor 2,
89 Nguyen Huu Canh,
Binh Thanh District,
Ho Chi Minh City, Vietnam

