

Newbrief

August 2020

Regulations in the Real Estate Industry

We would like to update you on the following tax regulations in the real estate industry:

1. Official Letter (“OL”) No.2835/TCT-TTKT dated 14 July 2020 guiding the implementation of Decree No.68/2020/ND-CP (“Decree 68”)
2. Official Letter No.60992/CT-TTHT dated 2 July 2020 providing guidance on Value Added Tax (“VAT”) implications on project transfers
3. Official Letter No.1316/TCT-CS dated 30 March 2020 providing guidance on the VAT treatment on the transfer of a part of the project.
4. Official Letter No.1971/CT-TTHT dated 15 January 2020 providing guidance on revaluation of real estate

1. Official Letter (“OL”) No.2835/TCT-TTKT dated 14 July 2020 guiding the implementation of Decree No.68/2020/ND-CP (“Decree 68”)

Per OL 2835/T-TTKT issued by the General Department of Taxation, guidance on the content of Decree 68 is as follows:

- Regarding the tax period of 2019: If enterprises submitted their finalisation return for 2019 with a due date before 31 March 2020, the enterprises should submit revised Corporate Income Tax (“CIT”) returns. If the finalisation deadline for 2019 has been not reached, the enterprises should follow the guidance in Decree 68.
- Retrospective application for 2017 and 2018 only applies to the increase of the interest expense cap from 20% to 30% and the computation of net interest expenses. The provision amended and supplemented at point (b) (carried forward of expenses) and (c) (extension of objects subject to exemption) in Decree 68 is not applied retrospectively.
- Offsetting the CIT amount paid in 2017 and 2018 in each case is as follows:
 - o *If tax examination/inspection has not yet been carried out:* Offsetting against the CIT payable in 2020, the remaining amount after offsetting can be carried forward up to five consecutive years (5) from 2020. After that period, the remaining amount which has not yet been offset will be forfeited.
 - o *If tax examination/inspection were carried out with the results concluded/decision implemented:* Taxpayers can request the direct managing Tax Department or Tax Sub-Department to re-determine the CIT payables to offset the difference against the CIT payable in 2020. The remaining amount after offsetting can be carried forward up to five consecutive years (5) from 2020. After that period, the remaining amount which has not yet been offset will be forfeited.

2. Official Letter No.60992/CT-TTHT dated 2 July 2020 providing guidance on Value Added Tax (“VAT”) implications on project transfers

Per OL No. 60992/CT-TTHT issued by the Hanoi Tax Department (“HN TD”), if the enterprise transfers its investment project that manufactures or trades VAT exempt goods or services to nother entity to continue the implementation of the project in accordance with regulations, such transfer activity will not fall into the cases specified in Clause 4, Article 5 of Circular 219/2013/TT-BTC, and the enterprise will issue VAT invoices and declare VAT in accordance with the relevant regulations.

3. Official Letter No.1316/TCT-CS dated 30 March 2020 providing guidance on the VAT treatment on the transfer of a part of the project

Per OL No.1316/TCT-CS issued by the GDT, if the transfer of a part of a project satisfies the conditions of project transfer as per Article 49 of the Law on Real Estate Trading in 2014, VAT policy for project transfer or real estate transfer will apply, when receiving payment from the transferee, the transferor is required to issue VAT invoices.

If the transfer of a part of a project has not yet met the conditions for transferring a part of or the entire real estate project, the transferor does not have to issue VAT invoices when receiving payment.

4. Official Letter No.1971/CT-TTHT dated 15 January 2020 providing guidance on revaluation of real estate

Per OL No.1971/CT-TTHT issued by HN TD, if an enterprise purchases immovable properties (land use rights and houses) for trading and, at the end of the year, the value of those properties has decreased in comparison with the original cost, then the enterprise is not allowed to make provision for such a devaluation for CIT deduction purposes as this does not fall under the cases allowed for making provision per Clause 1, Article 1, Circular 48/2019/TTBTC dated 8 September 2020.

Contact us

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