

MINISTRY OF FINANCE
GENERAL DEPARTMENT OF TAXATION

SOCIALIST REPUBLIC OF VIET NAM
Independence – Freedom – Happiness

No.: 3393/TCT-CS
Ref: VAT refund

Hanoi, 09 September 2021

Respectfully to:

- Ha Nam Province Tax Department;
- Dong Nai Province Tax Department.

General Department of Taxation (“GDT”) obtained the Official Letter (“OL”) no. 2378/CT-TTKT1 dated 09 July 2021 issued by Ha Nam Province Tax Department, OL no. 6107/CTDON-TTKT2 dated 24 June 2021 issued by Dong Nai Province Tax Department regarding Value Added Tax (“VAT”) refund for an enterprise converting into an Export Processing Enterprise (“EPE”). In this respect, GDT has the opinions as below:

1. Pursuant to Article 4 and Article 5 of Law on VAT no. 13/2008/QH12 dated 03 June 2008 of the National Assembly regulating the taxpayers and objects not subject to VAT;
2. Pursuant to Clause 3, Article 1 of Law no. 106/2016/QH13 dated 06 April 2016 amending/supplementing some articles of the Law on VAT no. 13/2008/QH12 (which were amended/supplemented under Law No. 31/2013/QH13) regulating VAT refund;
3. Pursuant to Article 2 and Article 9 of Decree no. 209/2013/NĐ-CP dated 18 December 2013 of the Government providing details and guidance on implementation of some articles of the Law on VAT regarding taxpayers and deducting input VAT;
4. Pursuant to Article 3 and Clause 20, Article 4 of Circular no. 219/2013/TT-BTC dated 31 December 2013 of the Ministry of Finance regulating taxpayers and objects not subject to VAT;
5. Pursuant to Clause 3, Article 18 of Circular no. 219/2013/TT-BTC dated 31 December 2013 of the Ministry of Finance (amended/supplemented under Clause 3, Article 1 of Circular no. 130/2016/TT-BTC dated 12 August 2016 of the Ministry of Finance) regulating VAT refund.

In principle, an EPE is not a VAT taxpayer. Thus, at the time of submitting VAT refund application dossier, in case the enterprise converted into an EPE, its investment project is not eligible for VAT refund.

Regarding the enterprise conducting the change of its ownership or legal form (in accordance with Law on Enterprise), it is entitled to VAT refund as regulated in Clause 3, Article 13, Law no. 13/2008/QH12 dated 03 June 2008 (which was amended and/or supplemented in Clause 3, Article 1 of Law no. 106/2016/QH13 dated 06 April 2016) and other guiding documents on implementation. The conversion from a non-EPE into an EPE does not fall under cases of conversion of enterprise as regulated in Law on Enterprise.

Tax Departments are required to inspect, review the practice and coordinate with competent authorities to determine whether the enterprises are EPE(s) or not in order to have a basis for tax treatment on declaration, deducting and refunding of VAT in accordance with regulations.

GDT would like to have the opinions above for Dong Nai and Ha Nam Province Tax Departments' acknowledgement./.

Recipients:

- As above;
- Deputy Director of General Department Vu Xuan Bach (to report);
- Department of PC, KK – TCT
- Archive: VT, CS.

**PP. GENERAL DIRECTOR
HEAD OF POLICY DEPARTMENT**

(signed and sealed)

Luu Duc Huy