

Customs & Global Trade Updates

June 2024

This update highlights the following matters:

- ▶ Implementation of EU Import Control System 2 (ICS2) Release 3.
- ▶ Updates on the Value-Added Tax (VAT) rate reduction for the last six months of 2024.
- ▶ Updates on the accession of the United Kingdom (UK) to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (the CPTPP).
- ▶ Decree on an extension of the deadline of VAT, Corporate Income Tax (CIT), Personal Income Tax (PIT) and land rent payments in 2024.
- ▶ Official Letters (OLs) providing guidance on the following matters:
 - ▶ Differences on the consumption rate and loss ratio affecting the origin of goods declared in Certificate of Origin (C/O)
 - ▶ Tax policy for goods imported by Export Processing Enterprises (EPE) for which the usage purpose changes
 - ▶ Classification and duty rate application of automotive parts in complete knock-down sets (CKD)
 - ▶ Customs procedure for scraps returned after exportation
 - ▶ Difference on HS codes declared in the C/O and customs declaration
 - ▶ Determining whether an entity is a foreign trader without a presence in Vietnam

For other Updates, visit [here](#).

Implementation of EU ICS2 Release 3

The mainstream media has recently provided coverage that from 3 June 2024 onwards the EU will implement Release 3 of the ICS2. Accordingly, businesses transporting imported goods into, or transiting through the EU, must declare information prior to the arrival of the goods through the ICS2 of EU Customs Union via Entry Summary Declaration (ENS).

Key information of the ENS includes a 6-digit HS code for each line item listed in the commercial invoice, a detailed description of the goods, the Economic Operators Registration and Identification (EORI) number of the EU-based consignee, seller and buyer information among other things.

Pre-arrival information and risk analysis will enable EU customs authorities to detect security threats and appropriately intervene in the supply chain to protect the commercial security of the EU and its citizens.

EU member states will grant access to ICS2 to relevant stakeholders. Accordingly, businesses included in Release 3 should be aware of the deployment timeline to provide the required information:

- ▶ From 3 June 2024 to 4 December 2024: maritime and inland waterway carriers.
- ▶ From 4 December 2024 to 1 April 2025: secondary maritime and inland waterway filer.
- ▶ From 1 April 2025 to 1 September 2025: road and railway carriers.

Therefore, all logistics enterprises, express couriers, delivery, ocean, railway, aviation and road transportation companies related to goods exported from Vietnam to the EU must declare data on the ICS2 before the goods arrival. If Vietnamese companies are not aware of such regulations, they may face consequences, such as: containers and shipments being halted at the EU border, goods not getting customs clearance by the EU Customs. Incomplete or rejected declarations will be subject to sanctions due to non-compliance with the EU regulations.

Updates on the VAT rate reduction for the last six months of 2024

On 23 May 2024, the Ministry of Finance (MoF) submitted Proposal No. 110/TTr-BTC to the Government on preparing the draft Resolution of the National Assembly on the VAT reduction for the last six months of 2024. The draft Resolution proposes:

Three releases of ICS2:

- ▶ **Release 1:** Starting from 15 March 2021. Applicable to three parties, including express couriers, post office, and postal authorities outside the EU.
- ▶ **Release 2:** Starting from 1 March 2023. Applicable to five parties, including the three parties in Release 1, and freight forwarders, and air carriers.
- ▶ **Release 3:** Starting from 3 June 2024. Applicable to all parties, including the five entities from the previous two releases, and ocean, railway, aviation and road transportation companies, along with the EU importers.

- ▶ To continue the policy of reducing the VAT rate for certain groups of goods and services currently subject to the 10% VAT rate (now reduced to 8%), except for the following goods and services:
 - ▶ Tele-communications, information technology; financial, banking, securities and insurance activities, real estate business, metals and products of prefabricated metal production, mining activities (exclusive of coal mining activities), coke production, refined petroleum, Production of chemicals and chemical products, Goods and services subject to special consumption tax.
- ▶ Application timeline is from 1 July 2024 to 31 December 2024.

On 28 May 2024, the Government issued Resolution No. 81/NQ-CP approving the proposal of the MoF to develop a National Assembly Resolution on the VAT cut by 2% for the last six months of 2024. The Government will report to the National Assembly and the Standing Committee of the National Assembly for their consideration and approval at the 7th plenary session of the 15th National Assembly.

Updates on the accession of the UK to the CPTPP

On 8 June 2024, at the 7th plenary session of National Assembly, the Ministry of Industry and Trade (MoIT) presented the explanatory report regarding the UK and North Ireland joining the CPTPP (the CPTPP document). According to the explanatory report of the MoIT and the Vietnam President's proposal to ratify the CPTPP document, the accession of the UK to the CPTPP is expected to bring economic advantages to Vietnam.

Some significant impacts on the accession of the UK to the CPTPP presented at the plenary session including:

- ▶ From a bilateral perspective, Vietnam has achieved its goal to request the UK to commit to opening their market at a high level according to the standards of the CPTPP Agreement. This commitment of the UK for Vietnam, in some areas, is at higher level compared to other member countries, and higher than the commitments in the Free Trade Agreement between Vietnam and the United Kingdom and Northern Ireland (the UKVFTA). Specifically, as follows:
 - ▶ The UK commits to eliminate 94.4 percent of tariff lines for Vietnam as soon as the CPTPP takes effect.
 - ▶ Some agricultural and seafood products of Vietnam shall be entitled to enjoy quota and import duty removal or subject to higher tariff quotas compared to the tariff quotas applied for other member countries, along with enjoying the preferential tariff rates within tariff quotas, rice is an example.
 - ▶ Based on Vietnam's confirmation of sectors that are considered as operating in Vietnam under market economy conditions, the UK commits not to apply Article 14.1(b) of its 2019 Trade Remedies Regulations on imported goods from Vietnam.

- ▶ From a multilateral perspective, the UK's accession to CPTPP will contribute to connecting the Asia-Pacific and American regions with Europe, attracting more economies to join the free trade agreement in the Asia-Pacific region, indirectly expanding market entries for Vietnamese goods.

According to the MoIT, the UK has completed the formal ratification of its accession to CPTPP on 16 May 2024, and as at the time of our update, four member countries of the CPTPP have announced their completion of the ratification procedures for the UK's accession to the CPTPP namely, Singapore, Japan, Chile, and New Zealand.

On 26 May 2024, the National Assembly of Vietnam has passed the Resolution on the ratification of the UK's accession to the CPTPP. The ratification procedure for the UK's accession to the CPTPP is expected to be completed by 16 October 2024.

Decree on extension of deadlines for VAT, CIT, PIT and land rent payments in 2024

On 17 June 2024, the Government issued Decree No. 64/2024/NĐ-CP (Decree 64) on extending the deadlines for the payment of VAT, CIT, PIT and land rent in 2024, specifically as follows:

- ▶ For VAT (excluding VAT on imported goods): extend the deadline for VAT payments for the VAT payable incurred for the months from May to September (in the case of monthly VAT declarations) and of quarter II and III (in the case of quarterly VAT declarations) in 2024. A VAT return is still required to be submitted in accordance with current regulations.
- ▶ For CIT: The deadline is extended by three months, applied for the second quarter provisional payment.
- ▶ For VAT and PIT of households and individuals: The deadline for the payment of taxes incurred in 2024 is extended to no later than 30 December 2024.
- ▶ For land rent: The deadline for 50% of the land rent due in 2024 (the payment for the second period of 2024) is extended by two months from 31 October 2024.

Decree 64 is effective from the date of signing until 31 December 2024. For details, refer to the Decree.

Some guidance provided in the form of OLs:

No.	Subject	Content
2352/TCHQ- PC Dated 28 May 2023	Differences on the consumption rate and loss ratio affecting the origin of goods declared in C/O	Last February, the MoF chaired a Dialogue with Korean enterprises on tax and customs policies in 2024. In the Dialogue, the GDC received some questions from enterprises as well as suggestions on the prevailing customs regulations. One question related to the origin of goods (Question 3 in OL).

No.	Subject	Content
		<p>The question relates to the following circumstances. At the time of applying for a C/O the enterprise used the projected consumption rate and loss ratio to calculate the rule of origin, which had been approved by the MoIT for the C/O issuance. Subsequently, the enterprise used a technical or actual consumption rate and realized the origin of goods changed, as a result, compared to the C/O previously issued by MoIT:</p> <ul style="list-style-type: none"> ▶ In this case, the enterprise must re-submit its C/O application to the MoIT based on the technical or actual consumption rate. After that, the enterprise should lodge an amended customs declaration to correct the declared origin of goods. ▶ To properly determine whether the above act of violation is a false declaration of origin or counterfeit of origin, the GDC provides the following guidance: <ul style="list-style-type: none"> ▶ False declaration of origin is determined when there is an act of false declaration compared to the actual origin of goods. Which means, the country of origin is consistent in all customs supporting documents and physical goods, but not accurately declared in the customs declaration. ▶ Counterfeit of origin: the GDC has provided comments on the draft "Project of enhancing the State management on the goods origin" of the MoIT, in which the GDC has suggested to further improve relevant regulations.
2340/TCHQ-TXNK Dated 27 May 2024	Tax policy for goods imported by an EPE which changes the usage purpose	If an EPE re-imports goods which are returned for repair or recycling purposes but subsequently does not re-export them, the custom procedure must follow Clause 7, Article 47, Decree No.

No.	Subject	Content
		<p>08/2015/NĐ-CP dated 21 January 2015 (Decree 08), accordingly:</p> <ul style="list-style-type: none"> ▶ If the recycled products are processed goods, the EPE must conduct customs procedures to change the usage purpose for domestic consumption or undertake destruction procedures. ▶ If the recycled products are not processed goods, the EPE must conduct a customs procedure that is similar to that of the re-imported goods, to change the usage purpose for domestic consumption. ▶ The EPE must follow the goods management policy and tax policies at the time of opening the new customs declaration. <p>Where an EPE is a foreign-invested enterprise and wants to liquidate the imported goods by means of selling, gifting, or donation to Vietnam domestic market, if it satisfies all conditions to liquidate goods as prescribed in Circular No. 04/2007/TT-BTM dated 4 April 2007, the EPE can conduct either of the following customs procedures:</p> <ul style="list-style-type: none"> ▶ Change the usage purpose: The EPE follows the goods management policy and pays the applicable import duty and VAT. ▶ On-the-spot (OTS) import and export: The EPE performs OTS export customs declaration. The domestic enterprise performs OTS import customs declaration and pays applicable import duty and VAT.
2236/TCHQ-TXNK Dated 22 May 2024	Classification and duty rate application of automotive parts in CKD sets	If an enterprise imports automotive parts in CKD but does not participate in the tax incentives program under Decree No. 26/2023/NĐ-CP dated 31 May 2023 of the Government (Decree 26), and it satisfies all conditions in Point b.5.1, Clause 2, Section II, Appendix II in Decree 26, the enterprise can choose either of the following:

No.	Subject	Content
		<ul style="list-style-type: none"> ▶ Classify HS code for each automotive part or component and apply the preferential import duty rate in Section I, Appendix II in Decree 26. ▶ Classify HS code for each automotive CKD set and apply the preferential import duty rate as prescribed in Heading 98.21.
2178/TCHQ-GSQL Dated 15 May 2024	Customs procedure for scraps fabric returned after exportation	<p>If an enterprise exports scrap fabric overseas, which is subsequently returned back to Vietnam, upon carrying out the re-import customs procedure:</p> <ul style="list-style-type: none"> ▶ The Pollution Control Department - Ministry of Natural Resources and Environment states that the current regulations are silent on the re-importation of scraps fabric. ▶ The GDC instructs the in-charge customs authority to receive the customs dossier and perform customs procedures according to prevailing regulations on re-import exported goods.
2011/TCHQ-GSQL Dated 9 May 2024	Difference on HS codes declared in the C/O and customs declaration	<p>When the HS code of imported goods indicated in the C/O is different from the HS code declared in customs declarations:</p> <ul style="list-style-type: none"> ▶ The customs authority might reject the submitted C/O if there is sufficient basis to determine that goods declared in the C/O is not the one declared in the customs declaration. Alternatively, the customs authority can make a conclusion based on Notification of customs classification or based on the physical examination of the imported goods. ▶ Otherwise, if the basis is insufficient, the custom authority will conduct procedures in accordance with Article 16 in Circular No. 33/2023/TT-BTC dated 31 May 2023 of the MoF that handle special cases of information mismatch between customs declaration and the C/O.
2643/TCHQ	Determining whether an entity is a foreign	During the customs procedures for OTS import and export of goods at Clause 1(c), Article 35 of Decree

No.	Subject	Content
Dated 10 June 2024	trader without a presence in Vietnam	<p>08, the GDC encountered difficulties related to determining foreign entities having no presence in Vietnam.</p> <p>The documents on trade and foreign trade only define the term foreign trader without a presence in Vietnam, but do not specifically state what are the required documentation, methods, determining procedures, inspection, and which is the administration authority responsible for this matter. This causes difficulties for the GDC in guiding customs procedures.</p> <p>Accordingly, the GDC requests the MoIT and the Ministry of Planning and Investment to provide guidance on the composition of the documents, the methods and procedures for determining and inspecting whether a foreign trader has a presence in Vietnam or not.</p>

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