

Client Alert

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0% VAT FOR "ON-THE-SPOT EXPORT"

From 2009, 0% VAT has applied in the case when a toll manufacturer delivers products to a local third party at the foreign principal's instruction instead of exporting/returning processed products to a foreign principal. In early 2011, the Ministry of Finance issued Official Letter 1135/BTC-TCT on 24 January 2011 to allow 0% VAT in cases when a local contract manufacturer sells goods to a foreign buyer but physically delivers goods to a local third party who will use the goods for export production. However, under Official Letter 1135/BTC-TCT, the 0% VAT rate is not applicable when the local third party uses the goods for production for local sales. Consequently, the VAT amount charged to the foreign buyer will lead to additional costs to the foreign buyer since a foreign entity buying goods in Vietnam cannot register as a VAT taxpayer in Vietnam in order to claim input VAT credit, and the local third party that imports the goods will have to pay import VAT, which results in a double assessment of VAT.

To address this issue, the Ministry of Finance issued Official Dispatch 15514/BTC-TCT on 16 November 2011 to reinstate the previous rule and allow the application of 0% VAT in the case of on-the-spot export regardless of whether the local third party importer uses such goods for export production or local production. Specifically, the exporter that on-the-spot exports goods (i.e., local delivery) can apply the 0% VAT rate if the following conditions are satisfied:

- (i) The export contract or the toll manufacturing contract signed with the foreign entity indicates that the goods will be delivered in Vietnam;
- (ii) The customs declarations certify that the goods have been delivered locally to a local importer;
- (iii) Payment by the foreign entity is made via bank transfer; and
- (iv) The export invoice or VAT invoice issued by the local exporter must show the name of the foreign entity, the Vietnamese importer and the place of local delivery in Vietnam.

Parties who pay attention to these straightforward requirements can now avoid significant unnecessary tax.

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