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Additional guidelines on temporary VAT refund for exported goods

Introduction

On 30 June 2010, the Ministry of Finance (“the MOF”) issued **Circular No. 94/2010/TT-BTC (“Circular 94”)** guiding on Value Added Tax (“VAT”) refund for goods actually exported.

Circular 94 shall be of full force as from **14 August 2010** and replace Circular No. 04/2009/TT-BTC (“**Circular 04**”) on VAT refund pursuant to Resolution No.30/2008/NQ-CP of the Government dated 11 December 2008.

Like the previous Circular 04, Circular 94 allows enterprises to be granted a temporary refund of VAT up to **90%** of the credited input VAT relating to goods actually exported for which payment vouchers via bank transfer are not yet available (except for some cases for which a prior check must be made before a refund is granted). Besides, Circular 94 provides additional guidance on tax refund procedures for some specific cases in order to overcome the limitation of the old regulations as follows:

Some cases of VAT refund for exported goods:

No.	Case of exported goods	Level of VAT refund
1	Where goods are exported by the mode of deferred payment specified in the export contract before payment deadline	100% of the input VAT
2	In case of export consignment, the consignee must make payment to the consigner via a bank transfer	90% of the input VAT if not having payment vouchers via bank transfer
3	Where selling price of goods already exported is adjusted and the following conditions are met: <ul style="list-style-type: none"> - Having appendix stipulating adjusted selling price; - Having VAT invoice that is adjusted in accordance with the new selling price; - Satisfy all conditions for claiming input VAT relating to exported goods 	
4	Where there are changes in export volume and the value of payment via bank transfer due to an increase/decrease in weight, volume relating to exported goods during transit because of their physical and chemical characteristics	
5	Where overseas customers return goods exported	No refund or subject to recollection of the refunded tax amount

Other important notes:

Circular 94 provides some guidance on the process of inspection and handling violations after tax refund that enterprises should note as follows:

- Where two parties **adjust the payment schedule**, written agreement on adjustment in payment schedule must be immediately provided to tax authorities within 03 (three) days, from the date of signing.
- **By the deadline of payment** in accordance with export contract, if taxpayers **fail to present payment vouchers via a bank**, it will not only be withdrawn corresponding to the temporary tax refund that is already granted, but be subject to tax penalty on wrong declaration leading to an increase in the amount of refundable tax.
- Where the export contracts do not specify payment schedule, within 30 (thirty) days from the granting date of temporary refund of 90% of the input VAT, if the taxpayer does not demonstrate any appropriate explanation, tax authorities will carry out inspection after tax refund and clarify the reason of delay in producing of payment vouchers via bank. In case the enterprise is found not to have met the conditions for tax refund relating to exported goods, temporary VAT refund already granted will be completely recollected and subject to penalties on tax violation under the current regulations.

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