



Comments on the Draft Law on VAT (Amended)

Hanoi | 24 April 2024

Content

- 1 Export Services
 - 2 Business activities of the duty-free shops
 - 3 VAT refund cases
 - 4 Declaration of missed invoices
 - 5 Conditions for input VAT creditability
-
-





Export Services

01

Export services being entitled to VAT rate of 0%

Export services to overseas

1

Draft Law on VAT (amended)

Narrow the subject of application, only applicable for international transport services, transport vehicle rental services used outside the territory of Vietnam, services of the aviation and maritime industries directly supplied to international transport or through agents.

2

Proposed amendments to the Draft

- General principles on determining export services enjoying tax rate of 0%: services are sold, supplied to foreign organizations, individuals and consumed outside Vietnam.
- Some types of services exported to overseas entity such as: processing services for exported goods; software export services; direct support services for exporting goods; construction services overseas, other services directly supplied to foreign organization, individual and consumed outside Vietnam, etc.
- Supplement the criteria for determining the place of consumption in specific cases.

Export services to Non-Tariff Zone (NTZ)

Cancel the regulation on applying VAT 0% on services consumed in NTZ

- Export services entitled to VAT 0% include services **being provided to enterprises in NTZ** and **servicing business activities of enterprises in NTZ**, except for some types of services as prescribed by law (for example, some services that the current VAT regulation clearly stipulate that VAT 0% is not applied when these services are provided to EPE).
- Examples of some types of services supplied to EPE: logistics; processing goods for EPE; electricity, water; services directly serving manufacturing activities of EPE; construction and installation in NTZ etc.

Export services being entitled to VAT rate of 0% (Continued)

Export services to overseas

1. Limitation on the type of services enjoying VAT 0%:
 - is not consistent with the nature and objectives of VAT, and does not ensure comprehensive assessment of the nature of export services
 - is significantly increasing the costs of purchasing services from Vietnamese entities → reducing the competitive advantage of Vietnamese enterprises in the world market, and not in line with the general trend of many countries in the world.
2. Application of VAT 0% to all services sold, supplied to foreign overseas organizations, individuals, and consumed outside Vietnam will encourage the export of services (especially services having huge value related to exported goods – currently accounting for more than 60% of total value of services related to exported goods of ASEAN), promote trade surplus, aligning with the Government's objectives.

Export services to NTZ

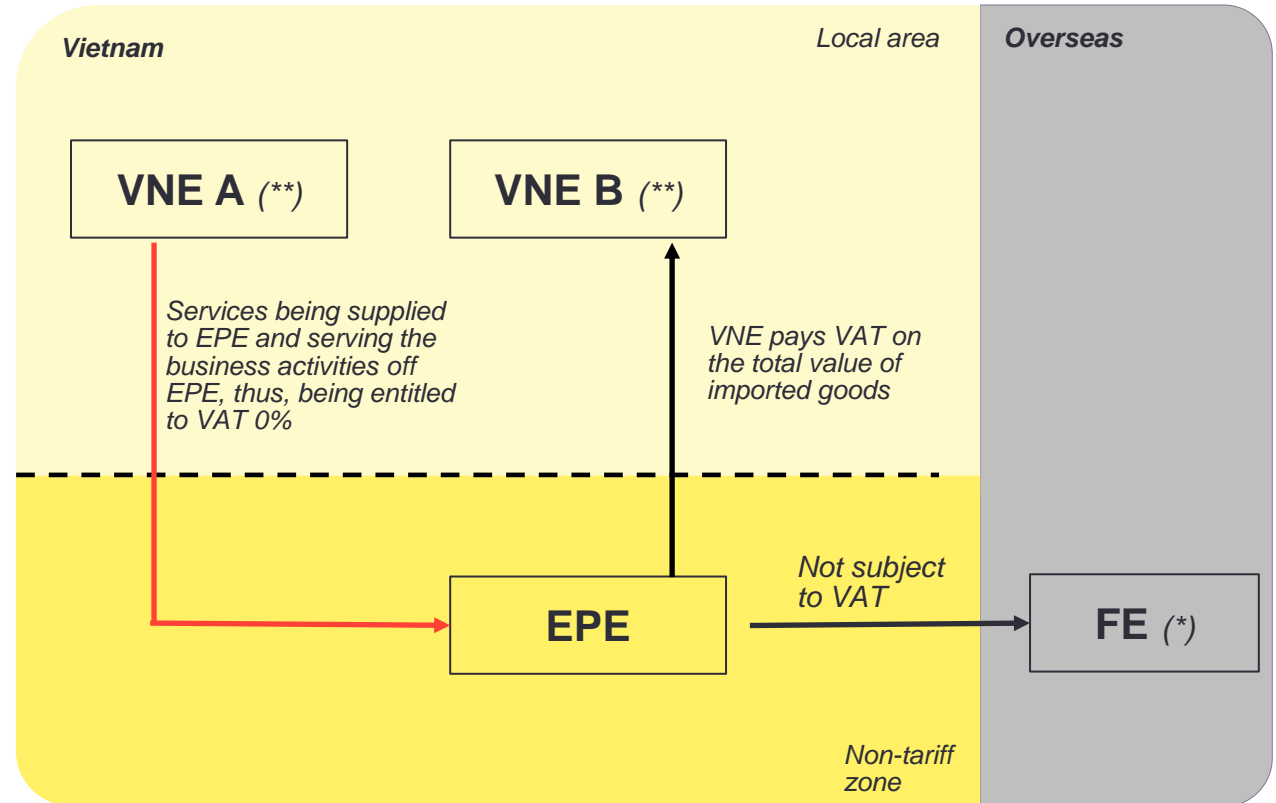
1. Cancellation of the regulation on the application of VAT 0% for services exported to NTZ:
 - is inconsistent with the objectives on the formation of the NTZ;
 - discourages export activities;
 - increases tax costs, and is not fair, seriously affecting the operation of enterprises in NTZ.
2. Application of VAT 0% with export services to NTZ will encourage the export of goods and services of enterprises in NTZ as well as encourage EPE to use the services of domestic suppliers, contributing to increase in the rate of localizing products, in accordance with the policy of the Government.

3

Reason for the proposed amendments

Export services being entitled to VAT rate of 0% (Continued)

- EPE normally undertakes the main stages in manufacturing goods for export and tends to outsource domestic enterprises for processing input goods, spare parts for production specialization purposes, contributing to the localization rate of products.
- If VAT 10% is applied on services supplied to EPE, there will be increase in input costs and decrease in the competitive advantage of EPE's goods, causing EPE to seek suppliers from overseas.
- If EPE sells goods into domestic area → domestic enterprises must file customs declaration, declare and pay tax, including VAT on goods at import stage.



—→ Sale of goods
 —→ EPE outsources services

(*) Foreign enterprise (FE)
 (**) Vietnamese enterprise (VNE)

Business activities of duty-free shops

02



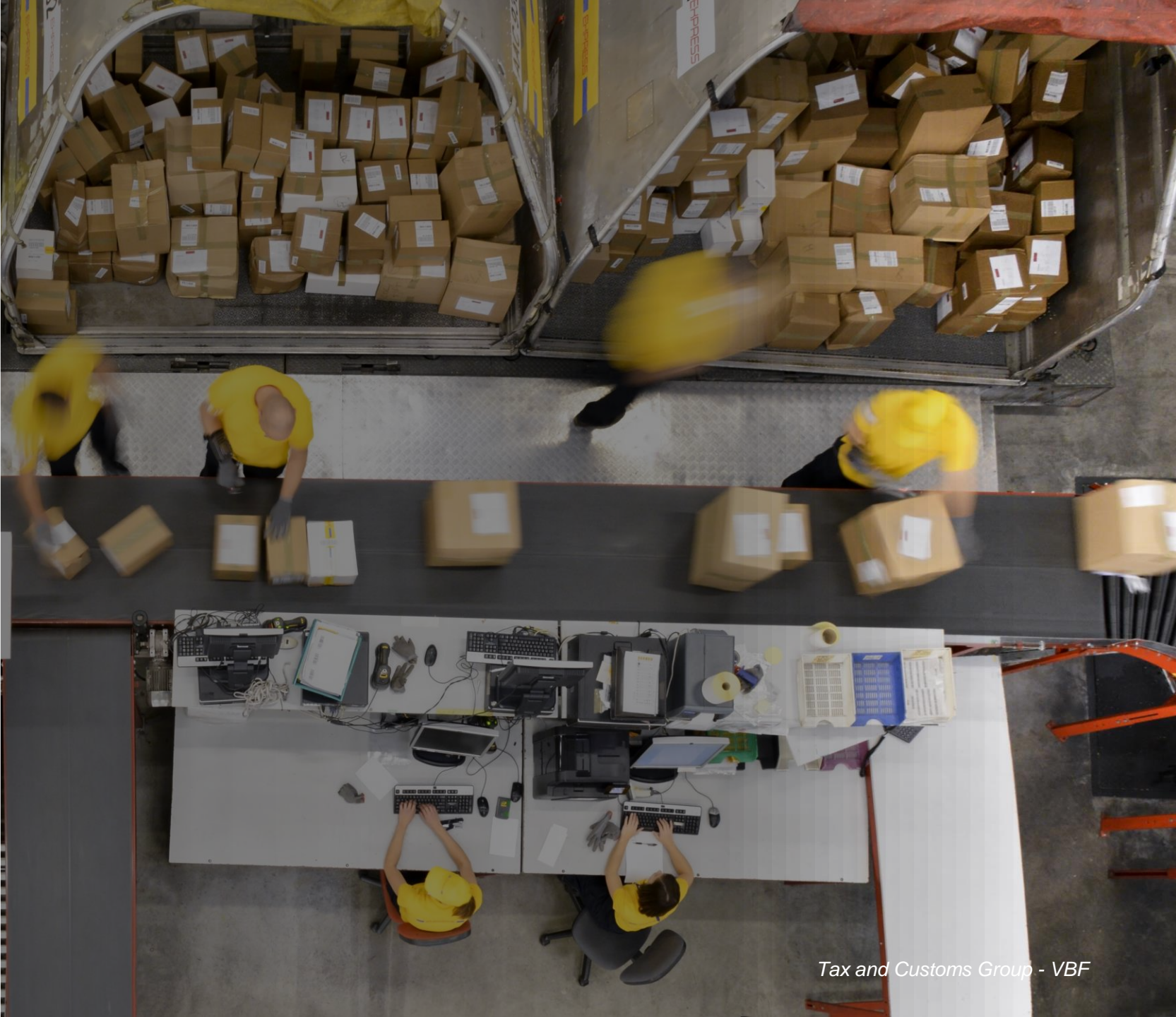
VAT on business activities of duty-free shops

Current	Draft	Conditions for tax refund under export activity scheme according to Clause 2c Article 13	Concerns
Exempt from VAT	VAT 0% There are Opportunities but also Concerns	Having contracts signed with foreign parties on the sale, processing of goods and provision of services	Most customers are foreign individuals or Vietnamese individuals exiting/entering, so there is no sales contract.
		Having non-cash payment evidence	There are many cases whereby the individuals only pay in cash for purchasing goods when entering / leaving the country.
		Customs declaration	Goods in duty-free shops are sold to individuals, so there will be no customs declaration for each sale. Instead, customs procedures will follow the Government's separate guidance in Decree 100/2020/ND-CP.
		Packing slips, bills of lading, insurance documents	These documents are not appropriate and practical for goods sold to individuals at duty-free shops

Propose that Draft Law will have separate regulations for the conditions under this Article in specific cases of enterprises operating duty-free shops

VAT refund cases

03



Tax refund for cases subject to VAT 5%

Draft VAT Law
(Amended)

"If a business establishment that only manufactures goods, provides services subject to VAT rate of 5% has outstanding creditable input VAT at VND 300 million or more after 12 months or 4 quarters, it will be entitled to VAT refund"

(Clause 1, Article 14, Draft)

Concerns and
Proposed
amendments to
Draft

Input VAT that has not been fully creditable for taxable items subject to VAT 5% is considered for refund but not appropriate. It is proposed to remove the word "**only**" because normally enterprises will trade several items at various tax rates.

Tax refund for conversion into export processing enterprise

Draft Law on VAT (amended)

According to Clause 4, Article 14, the Draft stipulates:

"4. Business establishments that pay value-added tax under credit method are entitled to a refund of value-added tax in case of ~~ownership change, enterprises conversion, merger, amalgamation, division, separation, dissolution, bankruptcy, termination of operation~~ having overpaid value-added tax or input value-added tax amount not fully credited"

Proposed amendments to the Draft

- The case whereby normal enterprises (non-EPE) being converted into EPEs is also needed to be subjects of tax refunds.
- The proposed amendment is as follows:

*"4. Business establishments that pay value-added tax under credit method are entitled to a refund of value-added tax in case of **enterprises conversion from normal enterprises into export processing enterprises**, dissolution, bankruptcy having overpaid value-added tax or input value-added tax amount not fully credited"*

Declaration of missed invoices

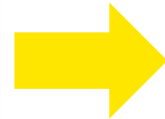
04



Declaration of missed invoices

Draft Law on VAT (Amended)

Clause 1dd, Article 13 of the Draft stipulates:
*"dd) Input value-added tax incurred in a month shall be declared and credited when determining the payable tax amount of that month. In case the business establishment detects that the input value-added tax amount is ~~incorrect~~, missed upon declaring, crediting, it shall be **additionally** declared and creditable **in the period detecting the missing** before the tax authority announces the decision on tax inspection, tax audit at the taxpayer's premises."*



Concerns and proposed amendments to the Draft

- Current law no longer restricts the deadline for invoice declaration.
 - In fact, enterprises that miss the declaration are suffering losses due to late creditability.
 - Amendment to allow declaration in the period detecting the missing → it is proposed to be longer binding by the time when the tax authority already announced the decision on tax inspection, tax audit at the taxpayer's premises.
- The proposed amendment is as follows:
"dd) Input value-added tax incurred in a month shall be declared and credited when determining the payable tax amount of that month. In case the business establishment detects that the input value-added tax amount is missed upon declaring, crediting, it shall be declared and creditable in the period detecting the missing ~~before the tax authority announces the decision on tax inspection, tax audit at the taxpayer's premises."~~

Conditions for input VAT creditability

05



Conditions for input VAT creditability

Draft Law on VAT (Amended)

Clause 2.a, Article 13, Draft on Conditions for input VAT deduction:

"a. Having a value-added invoice for purchase of goods, services or payment evidence of value-added tax at the import stage or VAT payment evidence on behalf of foreign party. Minister of Finance shall stipulate documents of value-added tax payment on behalf of foreign parties, for foreign organizations without Vietnamese legal identity and foreign individuals doing business or having income arising in Vietnam."



Proposed amendments to the Draft

1. VAT on invoices issued by foreign suppliers (who directly pay taxes) to service purchaser in Vietnam needs to be creditable for the purchaser → to ensure the continuity among VAT payment stages, to respect the nature of VAT and to encourage foreign suppliers to switch to centralized tax declaration via the Portal.
2. There is no mechanism for organizations who declare and pay VAT on behalf of individuals as prescribed in Circular 40/2021/TT-BTC to credit input VAT.

→ Proposed amendments to the Draft are as follows:

*"a. Having a value-added invoices for purchase of goods, services **or invoices for purchase of goods, services from foreign suppliers doing e-commerce business, doing business based on registered digital platforms, directly paying tax in Vietnam in accordance with the law on tax administration** or payment evidence of value-added tax at the import stage or VAT payment documents **on behalf of individuals and business households paying tax using the presumptive method and on behalf of foreign entities. [...]"***

A photograph of the Golden Gate Bridge in San Francisco. The image shows a close-up of one of the bridge's towers, which is a reddish-orange color. The tower has two large, rectangular openings. Below the tower, the bridge's roadway is visible, filled with cars. The bridge is surrounded by a thick layer of fog or mist, which obscures the background. The sky is a clear, bright blue. The overall scene is a mix of natural and man-made elements.

Thank you for listening!