

Draft Guideline for VAT reimbursement for contractors implementing VSRE pilot projects

1. Legal background:

- Circular No. 123/2007/TT-BTC dated 23/10/20-07 “Guideline on implementation of taxation policies and preferential taxation for ODA Programs and Projects”.
- Circular No. 60/2007/TT-BTC dated 14/6/2007 “Guideline on implementation of some articles of the Law on Tax Management and Guideline on implementation of Government’s Decree No. 85/2007/ND-CP dated 25/5/2007 on detailed regulation for implementation of some articles of the Law on Tax Management.
- Circular No. 128/2008/TT-BTC dated 24/12/2008 “Guideline on collection and management of state receivables through State Treasure”.
- Circular No. 85/2007/TT-BTC dated 18/7/2007 “Guideline on tax registration regulated in the Law on Tax Management”.

2. General information of MHP pilot projects:

- The MHP pilot projects are ODA grant projects. These projects are entitled for exemption from different kinds of taxes such as equipment import tax, special consumption tax (if any), and value added tax (VAT).
- Project management agency: Ministry of Industry and Trade
- Project owner/grant using agency: Provincial People Committee / PMU
- Project implementation contract: the contract signed between project owner and consortium of contractors with contract price exclusive tax.

3. Direct basic for application of VAT reimbursement:

*“In case of **main contractor** (regardless the main contractor is the object to pay VAT directly or deductively) signed contract with the ODA project owner or the donor for implementation of ODA project with VAT excluding contract price, **the main contractor will be entitled to be reimbursed the input VAT** which have been paid upon buying goods, services for implementing the contract signed with the project owner, or the Donor. Reimbursement of VAT shall be implemented according to the Item 4, Section V of this Circular”* (Quoted from Circular No. 123/2007/TT-BTC, Section II, Items 3, 3.4).

4. Procedures:

4.1. Application for tax code:

Each member of contractor consortium, if still have no tax codes (MST) shall self- apply for tax codes according to the guideline in *Circular No. 85/2007/TT-BTC dated 18/7/2007*.

Tax registration documentation of an enterprise (except dependent units) shall include:

- Tax registration form (using form No. 01-DK-TCT) and attached declaration forms (if any).

- Copy of Business Registration Certificate or License of Foreign Investment in Vietnam, or copy of Decision on establishment of the enterprise.

In case the applied enterprise is a mother company which has its dependent units, the enterprise shall list all the dependent units in an attached “List of dependent units”. The Tax Agency which manages the mother company will provide tax code to the mother company and tax codes for dependent units even the dependent units are based in other provinces. The mother company shall be responsible to notice tax codes (13 figure number tax code) to its dependent units. Tax agency which manages the mother company is responsible to notice the tax codes of dependent units to its dependent tax units respectively.

Application forms can be downloaded from website of General Taxation Agency: www.gdt.gov.vn

Business enterprises, units, organizations shall submit tax registration forms at tax agencies in provinces, cities under the direct management of the central government (hereinafter referred as “province”) where enterprises, units, organizations have main headquarter offices.

Tax agencies shall be responsible for issuing tax registration certificates within 5 working days for applications submitted directly at the tax agencies, and within 10 days for applications submitted directly to tax agencies’ dependent units which counted from the date of receiving full tax registration documents (excluding time for adjustment, correction, and supplement due to errors of applicants).

4.2. Declaration of VAT

(According to Circular 60/2007/TT-BTC dated 14/6/2007)

The contractors shall declare tax by using tax declaration support software version 2.0. This software can be downloaded from www.gdt.gov.vn

Tax declaration shall be performed monthly. The dossier of VAT declaration shall be directly submitted to the tax agency.

Guideline on VAT declaration is provided in Section II, Circular No. 60/2007/TT-BTC dated 14/6/2007.

4.3. Guideline on VAT reimbursement dossier

(According to Circulars No. 128/2008/TT-BTC and 60/2007/TT-BTC)

According to the Circular 128/2008/TT-BTC (Part B. Particular regulations / Item 6. Reimbursement of State receivables/ 6.2. Procedures for reimbursement /6.2.1. Reimbursement of receivables under the management of tax agency and customs agency) and Circular 60/2007/TT-BTC (Part G. Procedures for tax reimbursement, tax compensation, deduction / Item I. Documentation for tax reimbursement/3.

Documentation for ODA Project VAT reimbursement), Documentation for VAT reimbursement for ODA projects includes:

- Written request for VAT reimbursement in accordance with form No. 05/DNHT issued together with Circular 128/2008/TT-BTC dated 24/12/2008;
- Declaration of VAT amount to be reimbursed according the form No. 01-1/HTBT issued together with Circular 60/2007-TT-BTC.
- Declaration of receipts, vouchers of purchased goods, services according to form No. 01-2/GTGT issued together with Circular 60/2007-TT-BTC; *Notes: Declaration of receipts, vouchers of purchased goods services in form No. 01-2/GTGT which shall be submitted together with tax reimbursement document is the copies with stamped pages.*
- *Decision of competent agency approving for the ODA project (Copy with stamp and signature of authorised person). In case multi tax reimbursement, this decision just needs to be submitted at the first time. (According to Circular 60/2007/TT-BTC)*
- Certification of the ODA project management agency that the project is ODA grant project (certified copy) and there is not state budget allocation for paying VAT. Tax payer shall submit this document with tax reimbursement document at the first time. *(According to Circular 60/2007/TT-BTC)*

“In case the main contractor preparing tax reimbursement document, apart from the documents mentioned at this point, there shall be certification of the project owner on that there is no counterpart State funding for paying VAT; contract price in bidding results is without VAT and request for VAT reimbursement to the main contractor”. (Quoted from Circular 60/2007/TT-BTC)

In case request for VAT reimbursement for contractors implementing pilot projects of VSRE:

The legal documents used by the main contractors in implementation of pilot projects shall be submitted at the first time of requesting for tax reimbursement:

1. Decision approving total investment cost by Ministry of Industry and Trade (copy with stamp and signature of competent body).
2. Certification by Ministry of Industry and Trade that the resource for the project is ODA grant from Sweden (copy with stamp and signature of competent body). This certification may not be necessary because the decision of the MOIT clearly mentioned of the ODA grant from Sweden. However, this needs to be checked with tax agency.
3. Approval of bidding results for selection of contractor implementing the pilot project (copy with stamp and signature of PMU).
4. Decision of Provincial People Committee on entrusting duty of pilot project management to PMU (copy with stamp and signature of PMU).
5. Contract signed between PMU and contractor consortium (copy with stamp and signature of PMU).
6. Certification of PMU for the contract between PMU and the contractor consortium: Contract signed with before-tax price (before-tax price of the contract

is VND). PMU are not allocated the budget for paying VAT directly to the contractor consortium.

At each time the main contractor requests for VAT reimbursement, apart from the document requesting for VAT reimbursement, declaration of VAT amount, summary of receipts, vouchers of purchased goods, services as mentioned above, main contractor needs to attach a correspondence from PMU to tax agency, certifying the following:

- Project (name of project) is the project with ODA grant from Sweden Government.
- Project owner:.... address.....
- **Consortium of main contractors** implementing the project: (*Name of each contractor, address registered at the tax agency when applying for tax codes, tax codes*).
 - o Contractor 1:
 - o Contractor 2:
- Contract with the consortium of the above contractors has been signed, approved and in effect on date
- The contract signed with before-tax price (*before-tax price of the contract is*). PMU is not allocated the budget for paying VAT directly to the contractor consortium.
- Total amount paid to the contractor ... as of time requesting for VAT reimbursement (month... year...) is VND (equivalent to ...% of contracted works)
Please Tax agency (name of the Tax agency) to reimburse VAT to the above mentioned contractor.

4.4. Period for requesting VAT reimbursement

(According to Circular 60/2007/TT-BTC, Part G. Procedures for tax reimbursement, compensation)

Circular 60/2007/TT-BTC doesn't specify specific period of VAT reimbursement, therefore, please contact with local tax agency for detailed guidelines.

According to Circular 60/2007/TT-BTC:

- For tax payer requesting tax reimbursement first time (tax reimbursement document shall be checked before performance of tax reimbursement): the tax agency shall make decision on tax reimbursement or inform the reason of rejecting the request for tax reimbursement within sixty (60) working days since the date of receiving sufficient tax reimbursement document.
- For tax reimbursement document which is checked after tax reimbursement is made (applied for the next times of tax reimbursement): fifteen (15) working days, from the date of receiving sufficient tax reimbursement document, the tax agency shall make decision on tax reimbursement or inform the reason of rejecting the request for tax reimbursement.

5. Notes:

“For getting VAT reimbursement, **the main contractor shall account separately between VAT and before VAT prices of goods, services purchased** for implementing contract on providing goods and services which is signed with the project owner or ODA grant donor. If VAT is not separately accounted, the VAT reimbursement shall not be made” (quoted from Circular 123/2007/TT-BTC).

In case the main contractor is the **consortium of different members and each member implements separate work**, each member shall issue their own invoices for their revenue: in this case, tax agency will provide tax code to each member of the consortium (if not yet provided with tax code).

In case members of consortium **share income under the contract**, the tax agency will provide tax code to the leading member (if not yet provided with tax code) for getting VAT reimbursement.

In case members of consortium **share revenue under contract**, the tax agency will provide tax code to the member which is responsible for issuing invoice to the project owner for getting VAT reimbursement.

In case members established the **consortium steering committee**, this committee will do accounting, opening bank account and is responsible for issuing invoice and receiving payment from project owner: in this case, the tax agency will provide tax code to the committee for getting VAT reimbursement. Each consortium member will issue VAT invoices when receiving payment from consortium steering committee.

REIMBURSEMENT OF VAT TO CONTRACTORS IMPLEMENTING PILOT PROJECT OF VSRE

