

5 Things To Note Before Tax Disputes In Vietnam

Under economic integration, with a large number of small and medium enterprises in Vietnam, **Tax Disputes** are becoming more and more popular with many different forms. Although the achievements of administrative reforms are remarkable with major Tax Policy Reforms, those changes have not been agreed, the law is not complete, and the awareness of businesses and tax authorities is limited which have led to many disputes in this particular area.

Tax Disputes are conflicts of interest between parties involved in relations of tax law while subjects are interests related to tax amounts or fines for tax law violations, are expressed under the special legal status of the legal relationship between collectors and taxpayers, in which the parties express themselves outside the objective world their disagreements, conflicts of wills, rights and legitimate interests through legal acts such as lawsuits and complaints. Currently, Tax Disputes are divided into two main categories: procedural disputes and revenue disputes. The content mentioned below are notable points to ensure procedures when a Tax Dispute occurs.

1. Procedural disputes about tax

Current tax procedures include: **procedures for Tax registration**, tax declaration, **tax payment**, tax assessment and granting of tax identification number; procedures for buying and printing invoices and documents; procedures for tax finalisation; procedures for Tax refund, exemption or reduction; procedures for management of information on taxpayers; procedures for Tax examination, tax inspection; procedures for Enforcement of tax administration decisions; procedures for handling of violations of tax law; procedures for settlement of tax-related complaints and denunciations and other procedures.

Tax Disputes in Vietnam usually arise when officials and public employees of tax agencies fail to create favourable conditions and cause difficulties for taxpayers – the the implementation of tax procedures are often prolonged and time consuming. Currently, **Tax Disputes in Vietnam** often occur when taxpayers carry out procedures for Tax registration, tax declaration, tax payment, tax refund, exemption or reduction.

Therefore, evidence should be archived during the implementation of tax procedures to prove that a tax dispute has arisen to protect taxpayers' legitimate rights.

2. Revenue disputes about Tax

Revenue disputes about Tax arise when conflicts or disagreements occur between taxpayers and tax agencies and competent tax officials on payable tax amounts. This dispute may be a dispute over tax imposition or a dispute over determination of tax. A dispute over the tax imposition presents a problem where the taxpayers believe that the tax authority has fixed the amount of tax (for export and import goods) that they have to pay against the tax, and a dispute over determination of tax amounts is reflected that taxpayers believe that tax agencies or tax officials determined the wrong tax amounts that they have to pay on the basis of invoices and accounting books.

In addition, Revenue disputes about Tax are also divided into 2 groups: Disputes between individuals and tax administration agencies and Disputes between organisations and tax administration agencies.

On the balance, taxpayers need to have legal documents including invoices, vouchers on the purchase, sale of goods, services, import and export products to prove the tax assessment or determination of tax authorities is not in compliance with the Tax law provisions (related to tax rates, quantity of taxable goods, taxable subjects, etc.).

3. Method of resolving tax disputes

According to the international practices of resolving tax disputes of many countries in the world (both in the Common Law and Civil Law systems), it shows that tax disputes are settled by self-negotiation or mediation between parties, otherwise will proceed to the court. Tax disputes in Vietnam come in two forms: resolving complaints about tax and resolving administrative cases about tax.

4. Prescription issues

Regarding the Tax Disputes, the Statute of limitation for making a complaint and the statute of limitation for lawsuit institution are also a matter of concern. Taxpayers should be aware of the statute of limitation for making a complaint in tax disputes that will comply with the 2011 Law on Complaints: the statute of limitation for making a complaint is 90 days, after receiving an administrative decision or knowing or being informed of an administrative decision or act. In case a complainant fails to exercise the right to complain in accordance with the statute of limitation due to illness, natural disaster, enemy sabotage, working mission or study in a distant place or another objective obstacle, the period during which such obstacle exists is not counted into the statute of limitation for making a complaint.

For the statute of limitation for a lawsuit institution in a tax dispute, it will be complied with the 2015 Law on Administrative Procedures: one year from the date of receipt of or knowledge about an administrative decision or act or a disciplinary decision on dismissal.

5. Competence to resolve Tax Disputes in Vietnam

Agencies and organisations competent to settle tax disputes in Vietnam include:

- The tax authority has made an administrative decision or complained about an administrative act.
- The tax authority is the immediate superior of the tax authority that made the administrative decision or complaint under the administrative act.
- Courts, (Administrative Courts).

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