

# LEGAL UPDATES

## AUGUST, 2013



### I - Being entitled to declare Value added tax (VAT) every quarter



Being entitled to declare Value added tax every quarter is the latest point prescribed in the Law on tax administration No. 21/2012/QH13, taking into effect from July 01, 2013. Accordingly, declaring tax every quarter is applied to VAT payers with total turnover of goods sale and service provision of the adjacent previous year from 20 billion dong or less than. In case taxpayers have just started their business and production activities, declaring VAT shall be performed every month. After engaging in business and production activities for full of 12 months, from the next calendar year, they shall base on the turnover level of goods sale and service provision of the adjacent previous year to declare VAT every month or every quarter.

Thus declaring VAT every quarter shall not apply for:

- The new establishment enterprise.
- Enterprise has total turnover of goods sale and service provision of the adjacent previous year over 20 billion dong.

Taxpayers are responsible for self-defining that they are the subject of declaring tax every month or every quarter to declare tax in accordance with provisions.

In case a taxpayer eligible for declaring VAT every quarter, the taxpayer must not declare VAT in July, 2013 but he/she shall declare for the third quarter in 2013 (VAT payable to the budget in July, August and September, 2013) no later than October 30, 2013. In case a taxpayer is not eligible for declaring VAT every quarter, he/she shall declare VAT in July, 2013 no later than August 20, 2013 in accordance with the current provision.

In case a taxpayer is eligible for declaring VAT and being the subject of declaring VAT every quarter, he/she wants to transfer to declare VAT every month, he/she shall send a notification to directly-managing tax agency no later than the time limit of submitting the VAT declaration form in July, 2013.

### II - Applying tax rate of corporate income tax (CIT) as the rate of 20% as from July 01, 2013 for enterprises have total turnover not exceeding 20 billion dong



It is one of the new provisions as prescribed in Article 2 of the Decree No. 92/2013/ND-CP, taking into effect on August 13, 2013. Accordingly:

Enterprises established in accordance with Vietnamese law, including cooperatives, non-business units with total annual turnover not exceeding 20 billion dong are the subjects applied the tax rate of 20% from July 01, 2013.

Total annual turnover is the basis for determining enterprises are subjects applied the tax rate of 20% prescribed in this clause that is the total turnover from goods sale and service provision of enterprises in the adjacent previous year.

In case an enterprise has total duration of business and production from its establishment to the CIT taxable term in 2012 less than 12 months or taxable period more than 12 months under laws or it is the new establishment in 06 months at the beginning of the year 2013, turnover shall be the basis for determining enterprise that applies the tax rate of 20% is the average turnover of months in 2013 or average turnover of months in 2013 to the end of June 30, 2013 not exceeding 1.67 billion dong.

The tax rate of 20% shall not apply to the a number of income such as that from capital transfer, transfer of project; income from business and production activities at outside of Vietnam, income from activities of exploring and exploiting minerals, petroleum, precious natural resources, etc.

### III - Paying salary lower than regulation shall be fined

The Government has just promulgated the Decree No. 95/2013/ND-CP on handling administrative violations in labor and social insurance, taking into effect on October 10, 2013.

Accordingly, employers pay compulsory social insurance, unemployment insurance late or they pay compulsory social insurance, unemployment insurance incompliance with regulations, they shall be fined up to 75 million dong. Violation organization shall be fined double violation individual.



The Decree also clearly stipulated that if employers have one of behaviors such as: not paying salary on time, paying less than the provisions of the salary scale and payroll sent to the State administration agencies for district-level staff, overtime payment, night working for employees less than stipulated level, deducting employees' wages is incompliance with provisions, paying not full wages to employees who stop working, etc. also shall be fined from 05-10 million dong to 40-50 million dong. Employers paying employees less than the regional minimum wage prescribed by the Government also are fined 20-30 million dong to 50-75 million dong. In addition, employers violating the provisions shall be suspended their operation from 01 to 03 months.

Other than the above fines, employers are forced to pay full wages to employees, simultaneously pay the interest on deferred payment wages to employees based on the maximum interest rate applicable for demand deposit announced by the State Bank of Vietnam at the time of payment.

### IV - Included in taxable income of employees only mid-shift meals which are paid much more than the current provision level



On August 06, 2013, the General Department of Taxation promulgated the Official Letter No. 2503/TCT-TNCN to solve the entanglement on amounts of mid-shift meals. Accordingly:

For amounts of mid-shift meals: not included in taxable income of employees if employers organize directly the mid-shift meals for employees.

In case units paying income do not organize directly the mid-shift meals but they pay money directly to employees, the amount shall not be included in the taxable income of the employee if the expenditure is in accordance with the guidance of the Ministry of Labor, Invalids and Social Affairs (under the current provision not exceeding 680,000 dong per month).

If paying more than the guidance of the Ministry of Labor, Invalids and Social Affairs, the exceeding amounts shall be included in taxable income of employees.

### V - The reduction based on family circumstance specifically stipulated for taxpayers is 9 million dong per month, for each dependent is 3.6 million dong per month



The Ministry of Finance has just promulgated the Circular No. 111/2013/TT-BTC, guiding the implementation of the Law on Personal Income Tax and the Law amending and supplementing a number of articles of Law on Personal Income Tax and the Government's Decree No. 65/2013/ND-CP detailing a number of articles of Law on Personal Income Tax and the Law amending and supplementing a number of articles of Law on Personal Income Tax.

Accordingly, the level of reduction based on family circumstance specifically stipulated for taxpayers is 9 million Vietnamese dong per month, for each dependent is 3.6 million dong per month.

Person has much income amounts shall be selected his/her reduction at one place

In addition, the Circular also stipulated the principle to calculate the reduction based on family circumstance, taxpayers have much amount from salary and wages from their business at a time period (fully by month), and the taxpayers are able to select one place for calculating the reduction based on family circumstance.

**V - The reduction based on family circumstance specifically stipulated for taxpayers is 9 million dongs per month, for each dependent is 3.6 million dongs per month (continued)**

For foreigners who are individuals resident in Vietnam are entitled to calculate the reduction based on family circumstance for themselves from January or from the month of entrance in Vietnam in case the first time of individuals in Vietnam to the month they finish the labor contract and leave Vietnam in the taxable year (calculated fully by month).

In case in the taxable year individuals have not been reduced for themselves or reduced themselves less than 12 months, they are entitled to the reduction fully 12 months upon tax finalization under laws.

Taxpayers are entitled to calculate the reduction based on family circumstance for dependents if they have a tax registration and tax code.

In case taxpayers have not calculated for dependents in the taxable year, they are entitled to reduction for dependents since the month incurred nourishment obligation as taxpayers conduct the tax finalization and registration of the reduction based on family circumstance for dependents.

Each dependent is entitled to the reduction only once into a taxpayer in the taxable year. In case many taxpayers have the same dependents whom they must nourish, these taxpayers agree themselves to register the reduction based on family circumstance into a taxpayer.

The Circular takes into effect as from October 01, 2013.

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