U&I AUDIT

A member of JPA International

AUDITING - ACCOUNTING - TAX CONSULTING

LEGAL UPDATES

JUNE 2013

I - Changing the Law on Personal Income Tax

Personal income tax will be changed from July 01, 2013:

The Law on personal income tax No. 26/2012/QH13 amending and supplementing a number of articles of the Law on personal income tax adopted by the National Assembly and takes into effect from July 01, 2013. Accordingly, the biggest change is the level of reduction based on family circumstance for taxpayers is over 9 million Vietnamese dong per month (an increase of 5 million compared with the previous level) and reduction for each dependent is 3.6 million Vietnamese dong per month (the previous level was 1.6 million).

The law also supplemented cases of personal income tax exemption for individuals as follows:

+ Subsidies of social relief nature and other allowances, subsidies without nature of salaries, wages will be exempted from personal income tax.

+ Retirement pensions paid by the Social Insurance Fund; retirement pensions paid monthly by the Voluntary Retirement Fund is exempted from personal income tax.

Also according to this Law, other incomes earned from transfer of real estate under any form shall pay personal income tax.

In addition, the law also stipulated the Consumer Price Index (CPI) which changes over 20% compared to the effective time of the Law or the latest time point of adjusting the reduction based on family circumstances, the Government submits to the Standing Committee of the National Assembly for adjustment of the reduction based on family circumstances for taxpayers and the reduction based on family circumstances level for dependent in conformity.

II - Changing Value added tax (VAT) and Corporate Income Tax (CIT)

The Law on amending and supplementing a number of articles of the Law on VAT and Law on corporate income tax adopted by the National Assembly dated June 21, 2013, takes into effect on January 01, 2014 with some notable changes:

VAT

Additional declaration and deduction of VAT: Taxpayers are allowed to conduct additional declaration and deduction of VAT before tax authorities pass tax inspection decision (formerly they were entitled to conduct additional declaration and deduction of VAT in the period less than 06 months).

VAT refund: Enterprises having input value added tax amount which has not been fully deducted in this period shall be deducted into the next period; after at least 12 months (formerly was 03 months) but still having input value added tax which has not been deducted, these enterprises are entitled to tax refund. For the new investment projects which are in the basic construction phase if total input value added tax has not been deducted from 300 million or more will be considered for value added tax refund (formerly 200 million).

Borrowing interest paid to business establishments which are not the credit institutions is not subject to value added tax.

II - Changing Value added tax (VAT) and Corporate Income Tax (CIT) (continued)

CIT **To decrease tax rate, increase control level of advertising cost, expand investment incentives**.

Tax rate: The common tax rate will decrease from 25% to 22% as from 2014 and continuously decrease to 20% as from 2016.

On June 26, the Ministry of Finance promulgated the Official Letter No. 8336/BTC-CST to implement a number of provisions which takes into effect from July 01, 2013 in the Law on amending and supplementing a number of articles of the Law on corporate income tax and the Law on amending and supplementing a number of articles of the Law on VAT. Accordingly, from July 01, 2013, the corporate income tax rate will be 20% for enterprises including co-operatives having total annual income not exceeding 20 billion dongs. Income which is the basis for determining whether an enterprise is the subject to the tax rate of 20% is the total income of the preceding year.

The Ministry of Finance also provided guidelines, the tax rate of 20% shall not apply to income from capital transfer, the transfer of capital contribution right; income from the transfer of real estate (except for income from investment-business to social dwelling houses for selling, leasing, leasing and purchasing), income from investment projects transfer…

Investment incentives: Income from the new projects established in some Industrial Parks and new projects in manufacturing field having the minimum investment capital scale of VND 6,000 billion (equivalent to USD 300 million) shall be entitled to corporate income tax incentives as they meet the specific criteria.

The control level for cost of promotion and advertising: The control level for cost of promotion and advertising shall increase from 10% to 15% and apply to all types of enterprises.

The norm of raw materials consumption: abrogating the provision regarding notice of norm of raw materials consumption.

III– Tax payment extension for import- export enterprises

Import- export enterprises are still entitled to tax payment extension:

According to the Law on amending tax administration which takes into effect from July 01, 2013, the regime of tax payment extension (275 days) are still allowed to apply.

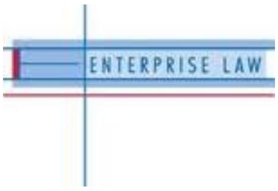
However, the new point compared with the obsolete provision is that enterprises must meet the following 04 conditions, they will be entitled to tax payment extension (for goods are imported materials and raw materials for manufacturing exported goods):

- There are establishments for manufacturing exported goods in Vietnam territory;
- There are export and import activities during 2 consecutive years up to the registration date of the customs declaration without trade fraud, tax evasion, tax debt overdue, late payment amount or fines;
- In compliance with the law on accounting and statistics;
- Making the payment via bank under the provisions of law.

For cases which do not meet the above criteria must be guaranteed by credit institutions for entire tax amount payable, otherwise enterprises must efficiently pay tax amount before customs clearance or goods clearance.

IV - Amending, supplementing the Enterprise Law

The National Assembly adopted the Law on amending and supplementing article 170 of the Enterprise Law:



As we mentioned in the previous newsletters regarding amending and supplementing article 170 of the Enterprise Law. On June 20, 2013, receiving the consent of a majority of votes, the Law amending and supplementing article 170 of the Enterprises Law was officially adopted by the National Assembly.

Specifically, in clause 2, article 170 has been amended towards foreign-owned enterprises which have been established before July 01, 2006, have the right to re-register for management organization and business operation under this law and relevant laws.

In case of non-reregistration, enterprises organize management and operate under the investment license and their charter. For contents not specified in the investment license and the charter, enterprises perform in compliance with the provisions of this Law and relevant laws.

In case of adjustment and supplementation of investment license and the charter, enterprises perform in compliance with the law at the time point of adjustment and supplement for amended and supplemented contents.

Foreign-owned enterprises which have been established before July 01, 2006 and their operation duration expired under the investment license after July 01, 2006 and they have not performed dissolution procedures are entitled to perform the re-registration procedures for continuous operations. Enterprises shall be themselves responsible for issues arising from the expiration date in accordance with provisions of investment license up to the time point of their re-registration under law.

The Law on amending and supplementing article 170 of the Enterprise Law takes into from 08/01/2013.