

# LEGAL UPDATES

OCTOBER 2014



## I- Guiding and supplementing several new points on Corporation Income Tax (CIT), Value Added Tax (VAT), Personal Income Tax (PIT), and tax declaration in accordance with Law on tax administration



The General Department of Taxation has just promulgated the Official Letter No. 4716/TCT-CS introducing new contents of the Circular No.151/2014/TT-BTC, guiding the Government's Decree No. 91/2014/ND-CP dated November 01, 2014 on the amendment and supplement of a number of articles in the Decrees provided tax regulations. Accordingly, a number of regulations on Corporation Income Tax (CIT), Value Added Tax (VAT), Personal Income Tax (PIT) and Law on tax administration are amended and supplemented that their tendency to create the advantage conditions to Enterprises.

The number of new changes and notable points by each type of taxes are specified as follows:

### Corporate Income Tax

- Supplementing the regulation that Enterprises are entitled to appropriate the depreciation to deductible expenses when determining the taxable income on the entire value of sample, test drive automobile for automobile business operation with its value is more than 1.6 billion dong.
- Supplementing the regulation that Enterprises are entitled to include to the deductible expenses for direct benefits to employees such as: Expenses for wedding and funeral of employees or their families; holiday travel activities, health care treatment; expenses for knowledge improvement at training centers; expenses to employee's family affected by natural disasters, enemy inflicted destruction, accidents, illness; rewards to employees' children having good study achievements; allowance for travel on public holidays or new year festival, and other welfare expenses. Total payment shall not exceed actual average 01 month salary in the tax period of the Enterprises.
- Extending the duration of CIT exemption for the contracts related to science research and technology development.
- Guiding on tax incentives for phased investment and the regular machinery and equipment projects .
- Allowing Enterprises to have newly investment in some certain Industrial Parks are being entitled to CIT incentives .
- Guiding to transfer the CIT incentives for textile and garment Enterprises being ceased their tax incentives in accordance with WTO commitment due to the fact that they are entitled the tax incentives under the export rate condition and change it into other actual conditions that Enterprises satisfy

### Value Added Tax

- Supplementing non-taxable subject to VAT whether the borrower sells himself/herself the guaranteed assets as authorized by lender to settle the guaranteed loans, it is the non-VAT subject and satisfying conditions.
- Supplementing the regulation on deducting input VAT applied for fixed assets of sample, test drive automobile for automobile business operation which shall be entitled to deducted entirely (not restrain at the net price of 1.6 billion dong).
- Abrogating the compulsory regulation that the final settlement and VAT adjustment deducted for deferred payment must be performed by December 31 yearly; replacing with that, the adjustment of overdue payment is only implemented in case of no documents.

## I- Guiding and supplementing several new points on Corporation Income Tax (CIT), Value Added Tax (VAT), Personal Income Tax (PIT), and tax declaration in accordance with Law on tax administration (continued)

### Personal income tax

- Housing benefits that the employers built and provided freely to employees working in industrial zones; houses are built by employers and provided freely to employees in economic zones, and areas with difficult socio-economic conditions or extremely difficult socio-economic conditions shall be excluded from the taxable income of PIT.
- Supplementing whether individuals are insurance agents, lottery agents, and multi-level marketing being paid the deductible income of PIT by organizations, such income shall not be tax finalized.
- Providing the exemption from PIT for land transfer before July 01, 1994.

### Tax declaration under Law on tax administration

- Supplementing and amending the regulation: VAT payers having total revenue of goods and service of the consecutively previous year from 50 billion dong or less than declare VAT by quarterly, and the tax declaration period is applied from the IV declaration period in the Fourth quarter of 2014 (October, November, December of 2014). It is accompanied with the Form No. 07/GTGT – Announcement to change VAT declaration term from Period into Month.
- Supplementing the new regulations to allow exemption from CIT finalizing and CIT finalizing inspection for some certain cases.
- Abrogating the regulation on submitting the quarterly CIT report, Enterprise itself determines and pays CIT in the Quarter and performs the yearly finalizing.
- Tax authorities may order and use the result of an independent audit company in case the enterprise is dissolved.
- Enterprises are entitled to the exemption of PIT finalizing when dissolution if there is no tax deduction arisen.
- Supplementing and detailing a number of cases are entitled to extend tax payment duration.

## II- Many changes in Social Insurance (SI) dossier

From November 01, 2014, there are many changes in SI dossier of enterprise with a tendency of document reduction. For example:

- Abrogating the Form D01-TS, D01b-TS for the procedure required such as announcement of labor decrease, cessation, and temporary cessation of SI payment etc.
- Abrogating the list of employees incurred by SI with requirement such as the procedure of SI first registration, announcement of labor decrease, announcement of labor increase etc.
- Replacing “the declaration of Social and Health Insurance participation”, “the declaration of volunteer Social Insurance participation”, and “the declaration of Social Insurance participation” by the new ones “the declaration of Social and Health Insurance” and “the declaration of Social and Health Insurance participants” personal information change”.
- Providing detailed definition how a copy is and detailed regulation of Social Insurance enjoyment dossier is not compulsorily requested providing notarized documents.

Enterprises should make reference to such changes specified in the Decision No. 1018/QĐ-BHXH so that the implementation of the relevant procedures is ensured.



### III- Guidance on settlement of troubles in customs procedure

The Ministry of Finance has just promulgated Official Letter No. 14397/BTC-TCHQ guiding and timely removing problems and difficulties of Enterprise, facilitating import and export activities related to implement of Circular No. 128/2013/TT-BTC (Circular 128), Circular No. 22/2014/TT-BTC (Circular 22) and labeling of imported goods. Accordingly, the notable contents of the Official Letter include:



- Procedure of temporary import, re-export; procedure of goods input and output bonded warehouse provided in Circular 128.
- Customs procedure for on spot exported and imported goods and e-customs procedure for goods input and output bonded warehouse provided in Circular 22.
- On labeling imported goods, the Official Letter guided that there is no sanction for original label of goods failing to present full and proper information as prescribed in Decree 89/20006/ND-CP; however, the goods owner must add sub-label before circulating on the market.

Accompanied with the Official Letter No. 14397 are a number of forms to implement the guided procedures. The Official Letter is applied from the October 10, 2014.

### IV- New guidance contents on foreign contractor tax



On October 02, 2014, the General Department of Taxation promulgated the Official Letter No. 4280/TCT-CS introducing new contents of the Circular No. 103/2014/TT-BTC (Circular 103) on foreign contractor tax.

Accordingly, there are the new notable contents in the Circular 103 as follows :

#### Supplementing of taxable objects not yet provided previously:

- Foreign organizations or individuals perform the partial or entire business operation of goods distribution and services supply in Vietnam, including cases of authorizing or hiring the Vietnamese organizations to perform a part of service distribution, or other services related to the sale of goods in Vietnam.
- Foreign organizations or individuals use Vietnamese organizations or individuals to negotiate and sign the contracts by the name of the foreign organizations or individuals.
- Foreign organizations or individuals perform the export, import and distribution rights in Vietnam; purchase of goods for export purpose, sale of goods to Vietnamese businesses under commercial law.

#### Supplementing of non-taxable cases:

- Goods delivery service only at the border gate of a foreign country or in Vietnam attached with warranty condition belonging to the seller's responsibilities and obligations, other than no any other services carried out in Vietnam.  
(Formerly: providing goods attached with warranty condition in Vietnam should pay FCT).
- Foreign individuals or organizations use bonded warehouse, Inland Container Depot as warehouse for the ancillary international transport operation, transit, transit, store or other outsourcing processed by other Enterprises.  
(Not provided in the past).

#### The taxable income of CIT

Supplementing the income from transfer of economic contract/ project in Vietnam; transfer of property rights in Vietnam into taxable income of CIT of foreign contractors.

(Not provided in the past).

## IV- New guidance contents on foreign contractor tax (continued)

### The VAT calculation method when declaring by direct method

Amending the regulation on VAT calculation by direct method is as follows:

VAT amount is calculated by (=) Assessable turnover multiplying (x) the rate (%) of the added value to the turnover.

When Vietnamese Party deducts or pays VAT on behalf of foreign contractor with the method mentioned above, it is used the Declaration Form No. 01/NTNN accompanied by the Circular No. 103/2014/TT-BTC.

Formerly: VAT amount is calculated by (=) Assessable turnover multiplying (x) the rate (%) of the added value to the turnover multiply (x) VAT tax rate.

## V- Guidance on submission dossier of non-collection export duty



The Ministry of Finance has just promulgated the Official Letter No. 14015/BTC-TCHQ guiding submission dossier of non-collection export duty for imported goods satisfying the condition being totally processed from imported materials.

Accordingly, in order to be refunded of imported duty and exempted from exported duty when exporting products manufactured from totally imported material, the enterprise must notice the production norm to customs agencies before exporting.

Dossier of non-collection export duty includes the main documents as follows:

- Official letter requesting for non-collection import duty with the explanation on production norm, quantity, value of material, number of declaration form, quantity of goods, amount of requesting for non-collection.
- Goods purchase and sale contract and invoice; list of imported material declaration forms specifying of quantity; contract of join manufacturing; payment vouchers.
- Payment vouchers of exported goods.

The Official Letter above is applied from October 03, 2014.

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