

# LEGAL UPDATES

SEPTEMBER 2014



## I- The Ministry of Finance has just promulgated the Circular No. 126/2014/TT-BTC regulating a number of procedures for declaration, collection and payment of taxes on imports and exports

One of the noteworthy changes mentioned in the Circular is that the taxpayers shall pay taxes directly to State Treasury or credit institutions.

The Customs agencies where registering customs procedures might collect taxes from the taxpayers and transfer those amounts into accounts of the State Treasury opened at the commercial banks as prescribed.

In a specific case, the taxpayers may declare themselves and pay taxes at tax collection offices of the State Treasury, credit institutions or customs agencies where their customs procedures are implemented. Taxpayers are entitled to select whether to pay taxes by bank transfer or by cash.

This Circular takes effect from October 01, 2014.



## II- Forms of declaring the use of labor

From October 20, 2014, Enterprises will perform their declaration of the use of labor in accordance with forms promulgated under the Circular No. 23/2014/TT-BLDTBXH.

According to this regulation, the Enterprises must declare the use of labor when starting their operation and declare on a periodic basis of 6 months and annually; this declaration shall be performed under forms No. 05 and 07.

Also according to the regulations of this Circular, within 30 days from the day starting the operation, the Enterprises shall prepare the labor management books and represent those to the competent authorities when required.

Enterprises may prepare their labor management books in paper books or electronic books, but those must have efficiently all compulsory contents i.e. the employees' full name, gender, year of birth, nationality, address, identity card number, technical level or qualification, professional skills, etc.

This circular replaces the Circular No. 06/1998/TT-BLDTBXH, the Circular No. 29/1999/TTLT-BLDTBXH-BQP and the Circular No. 20/2003/TT-BLDTBXH.

## III- Guidance on reduction of personal income tax (PIT) for individuals working in economic zones



The Ministry of Finance has just promulgated the Circular No. 128/2014/TT-BTC providing guidance on PIT reduction for individuals working in Economic zones and Border gate economic zones.

Accordingly, taxpayers who are entitled to PIT reduction accordingly to the guidance in this Circular, are resident and non-resident individuals under the regulations of law on personal income tax, working in economic zones, including:

### III- Guidance on reduction of personal income tax (PIT) for individuals working in economic zones (continued)

1. Individuals who sign labor contracts with the Management of economic zones or the management agencies of the State in economic zones, and actually work in economic zones.
2. Individuals who sign labor contracts with organizations, individuals having business establishments in economic zones, and actually work in economic zones.
3. Individuals who sign labor contracts with organizations, individuals outside the economic zones but they are assigned to work in economic zones and implement the economic contracts signed between organizations or individuals outside the economic zones with the Management of economic zones, the management agencies of the State in economic zones or with organizations, individuals who have their investment and business and operation activities in economic zones.
4. Individuals, groups of individuals who have fixed business locations in economic zones, perform business and production activities as registered in business certificate in economic zones.
5. The reduction of 50% is applied for all subjects.

This Circular takes effects from October 20, 2014 and replaces the Circular No.176/2009/TT-BTC dated September 09, 2009 of the Ministry of Finance.

*Economic zone* is a zone that has a separate economic space with business environment and business is particularly advantage for investors where has specified geographical boundaries, and is incorporated under the conditions and under the conditions, orders and procedures specified in this Decree No. 29/2008/ND-CP.

An economic zone is organized into functional areas, including: non-tariff zone, bonded zone, export processing zone, industrial zone, entertainment zone, tourism zone, urban zone, residential zone, administrative zone and other functional zones in compliance with the characteristics of each economic zone.

### IV- New regulations provided guidance on corporate income tax (CIT), Personal income tax (CIT), Value added tax (VAT) and tax administration

The Government has promulgated the Decree No. 91/2014/ND-CP dated October 01, 2014, amending, supplementing to the Decrees of CIT, PIT, VAT and tax administration.

Accordingly, some new noteworthy points as follows:

#### Corporate income tax

- Certain welfare expenses directly paid to employees and Enterprises collect efficiently vouchers or invoices which the expense not exceed actual average 01 month salary in the tax period, this shall be deductible when determining the taxable income.
- Certain expenses incurred which related to production and business activities of an Enterprise, including the welfare expenses directly paid to employees that enterprises collect efficiently vouchers or invoices accordingly to the regulations 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 as guided by the Ministry of Finance; total payment not exceed actual average 01 month salary in the tax period.
- Income from the new investment projects and implementation of new investment projects in industrial parks (except for industrial parks located in areas having advantage socio-economic conditions) shall be exempted from CIT for 02 years and reduced 50% of tax payable for the following 04 years.
- For investment projects of Enterprises are being entitled the tax incentives and they additionally invest in the regular machinery and equipment in the period from 2009 to 2013, during their business and production process, additional income from supplement of this regular machinery and equipment shall be also entitled to tax incentives at the tax rate which the projects are applied for the remaining duration of these projects.



#### IV- New regulations on corporate income tax (CIT), Personal income tax (CIT), Value added tax (VAT) and tax administration (continued)

##### Value added tax

The deferred or installment purchases of goods and services with the value of 20 million dong or more than, the business establishments shall base on the contracts for the purchase of goods and service, value added invoices and non-cash payment vouchers of those goods and services to declare and deduct the input VAT. In case there has not been any non-cash payment voucher yet due to the settlement date under the contract, the business establishments are still entitled to declare and deduct the input VAT.

Goods or services purchased by offset method between the cost of purchased goods and services against the value of goods and services sold are also considered as non-cash payment.

##### Personal income tax



Supplementing and clarifying some taxable amount is the subject to PIT:

Benefits in cash or non-cash other than salary or wages paid by the employers to the employees that taxpayers are beneficiaries in any forms including:

- Housing fees, electricity and water supply and accompanied services (if any), excluding housing benefits which the houses are built by employers for employees working in industrial zones, houses are built by employers for employees economic zones and areas with difficult socio-economic conditions or extremely difficult socio-economic conditions.
- The accumulated premiums of life insurance, other voluntary insurance and accumulated amounts contributed to voluntary retirement fund purchased or contributed by the employers to the employees. Before paying insurance benefits or retirement pension to individuals, insurance agencies or the companies manage the voluntary retirement shall be responsible for deducting at the rate of 10% from the accumulated premiums or accumulated amounts contributed to the fund which is corresponding to the amounts the employers purchased or contributed for employees since July 01, 2013.
- Membership fees and other fees serving for personal requirements such as health care, amusement, sports, entertainment, beauty.

##### Law on Tax administration

Quarterly tax declaration is applied to taxpayers who satisfy the condition of having total revenue of goods and services of the consecutively previous year is from 50 billion dong or less than.

CIT declaration is yearly finalization declaration or tax declaration until the time when enterprise separation, consolidation, merger, enterprise form amendment (excluding the amendment cases that the successors receive all tax obligations of the company before amending), dissolution or operation ceasing except for declaring CIT per time arising from real estate transfer activities, other business activities as regulated in the law on CIT.



#### IV- New regulations on corporate income tax (CIT), Personal income tax (CIT), Value added tax (VAT) and tax administration (continued)

Tax authorities shall be responsible to inspect the tax finalization of Enterprises within 15 (fifteen) working days, from the date receiving sufficiently dossiers and documents related to tax finalization obligations from the taxpayers for cases of separation, consolidation, merger, enterprise form amendment, dissolution or operation ceasing. For cases of dissolution, operation ceasing, the Ministry of Finance guided the tax authorities to order and use the results of independent auditing companies, organizations engage the business in tax procedures preparing services in order to carry out quickly and conveniently the inspection of tax finalization.

Dossier of CIT finalization declaration including:

- Declaration form for CIT finalization declaration;
- Financial statements of the year or at the time of separation, consolidation, merger, enterprise form amendment, dissolution or operation ceasing;

Dossier of CIT finalization declaration on real estate transfer is the CIT declaration form of real estate transfer;

Dossier of CIT declaration per time is the CIT declaration form.

This Decree takes effect from November 15, 2014. Particularly regulations related to Law on CIT shall be applied to the taxable period as from the year 2014.



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