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Vietnam – 2013 Tax Season Guidance for Personal Income Tax Returns

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Vietnam's General Department of Taxation has issued guidance ("OL 336") on 2013 personal income tax (PIT) finalization with respect to tax return filings for 2013.[1] OL 336 covers tax filing and administration, residency determination, tax treatment of benefits-in-kind, calculation of grossed-up income, and other matters relevant to completing and filing tax returns.

Why This Matters

An understanding of what's in OL 336 will help tax and global mobility professionals responsible for dealing with their international assignees' Vietnamese 2013 tax filing requirements understand what has changed in terms of the various items noted in the introductory paragraph above. Understanding the rules and procedures as clarified by the guidance, should aid in the completion and timely filing of tax returns and in reducing errors and mitigating compliance-related penalties.

Below we highlight some of the provisions in OL 336.

House Lease Periods and Residency Determination

The lease period for a leased "house" in Vietnam of 183 days or more in a tax year is used for determining tax resident status in relation to PIT finalization. The lease period of 90 days is applied for determining tax residency status *before* 1 July 2013.

Final Tax Returns for Persons Leaving Vietnam

Individuals that have already finalized their tax (submitted a final return) in order to leave Vietnam, but then return to work in Vietnam until the end of the same year, are required to re-finalize their tax (that is, file another PIT final return) on their worldwide income for the entire year. However, any tax paid outside of Vietnam on their income earned in the period they did not work in Vietnam can be assessed for a tax credit in Vietnam.

Calculating Taxable/Assessable Income

- OL 336 indicates that:
  - for the period from January 2013 to June 2013, determination of taxable income and assessable income is based on Circular 84/2008/TT-BTC and the relevant prevailing regulations; and
  - for the remainder of 2013, the determination is subject to Circular 111/2013/TT-BTC and relevant regulations.

- OL 336 also provides the methodologies (with examples given) for calculating taxable income and tax liabilities for both above-noted periods including employment contracts on net- and gross-of-tax terms as follows.

  - For gross employment contracts, tax liability is determined on monthly assessable income averaged from the taxpayer's taxable income over a year (i.e., 12 months) after allowable deductions.

  - While for net employment contracts (per Example 9 provided in OL 336), monthly net income actually received in a month is grossed up and the monthly grossed-up income is deemed as taxable income for purposes of finalizing tax returns.

    In addition, from 1 July 2013 (instead of 1 October 2013, the effective date of Circular 111), the fringe benefits paid on a net-of-tax basis by employers on behalf of employees shall be added to their net income, then grossed up in total for PIT purposes. In Example 9 in OL 336, the following would be expected to be clarified further. In theory, compulsory insurance contributions should be deducted from net income before grossing up, while Example 9 shows the deduction of compulsory insurance contributions from the grossed-up amount for the first six months of 2013. It should be noted, the approach (i.e., deducting insurance contributions from net income) is applied in the Example for the last six months of 2013.

Tax Filing: (1) by Income-Paying Bodies, and (2) Forms to Be Used

- Example 1 of OL 336 makes clear that if authorized by employees, income-paying bodies should finalize/complete their employees' tax which has been imposed on the income paid by that income-paying body only.

- The Tax Forms used for 2013 tax finalization are still based on Circular 28/2011/TT-BTC, except the Form 04-02/TNCN (the form to authorize tax finalization) which is covered by Circular 156/2013/TT-BTC.

- There are no requirements for tax finalization by those tax residents that have income from securities transfers if they have already paid the deemed tax at 0.1 percent on each transfer and are therefore not required to pay the tax rate of 20 percent on the gains at year end.

KPMG Note

In general, there are several updates on 2013 PIT finalization guidance in comparison with that issued for 2012. Individuals and enterprises should take the above guidance into account and carefully review their 2013 PIT finalizations for appropriate implementation of the rules and related guidance.

Footnote:

1 Official Letter No. 336/TCT-TNCN ("OL 336") dated 24 January 2014. For an electronic version of OL 336 (Công văn số 336/TCT-TNCN ngày 24/01/2014 v/v hướng dẫn quyết toán thuế TNCN năm 2013) in Vietnamese go to: http://www.gdt.gov.vn/wps/portal/!ut/p/b1/04_Sj9CPykssy0xPLMnMz0vMAfGjzOKdA72dw7zDDAwMLE2NDDx9XcNcfBzNDPwNDfQLsh0VAVzKWQY!/?WCM_GLOBAL_CONTEXT=/gdt%20content/sa_gdt/sa_vanban/vbhd/vbhd_tct/2014-01/119595e0-e26b-439b-9115-7a7b04f53af2 .

Tax Governance Institute Video Webcast

Camp Releases Comprehensive Discussion Draft to Overhaul the U.S. Internal Revenue Code; The Obama Administration Releases Its Fiscal Year 2015 Budget

Friday, 7 March 2014 | 1:30 p.m.–3:00 p.m. (EST; GMT -5)

On 26 February, U.S. House of Representatives Ways and Means Committee Chairman Dave Camp released a long-awaited "comprehensive discussion draft" to overhaul the U.S. Internal Revenue Code. The draft would affect virtually all taxpayers and significantly change the way business income is taxed in the United States.

The Administration is expected to release its FY15 Budget on 4 March. Among other items, the budget is expected to contain proposals designed to combat alleged erosion of the United States tax base.

Please join Hank Gutman, principal in charge of KPMG LLP's (U.S.) Legislative and Regulatory Services, and director of the Tax Governance Institute; and a panel composed of Ray Beeman, House Ways and Means Committee tax counsel and special advisor for tax reform; Marty Sullivan, chief economist at Tax Analysts, the non-profit provider of tax news and analysis for the global community; and Manal Corwin, national leader of International Tax and principal in charge of International Tax Policy in KPMG's Washington National Tax; as they discuss the theory, substance, and potential effects of the adoption of the Camp and Administration proposals.

This event is part of a series of Webcasts that will feature KPMG professionals discussing the technical details of the proposals.

For more information and to register, click here.

The information contained in this newsletter was submitted by the KPMG International member firm in Vietnam. The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

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