

Technical Update

Tax and Legal Services

March 2016

1. Corporate Income Tax ("CIT")

- (i) *Expenses associated with the repair and maintenance of fixed assets serving employees are deductible for CIT calculation purposes*

According to Official Letter No. 1087/TCT-DNL dated 18 March 2016 by the General Department of Taxation, where a company possesses fixed assets that are used to serve its employees, the expenses associated with the repair and maintenance of such fixed assets are treated as deductible expenses for CIT calculation purposes.

- (ii) *Assets acquired from another company are not allowed to inherit tax incentives*

Under the current regulations, a new company established from other companies' transformation, change of ownership, division, splitting up, merger or consolidation is allowed to inherit CIT incentives for the remaining period, if incentive conditions are still applicable. Based on this provision, Official Letter No. 987/TCT-DNL dated 14 March 2016 by the General Department of Taxation provides that, in case a company acquires a factory from another company, the company is not allowed to inherit tax incentives, and the acquisition is considered an expansion investment project for CIT incentive determination.

2. Value Added Tax ("VAT")

- (i) *VAT declaration for manufacturing projects in supporting industries*

According to Circular 21/2016/TT-BTC dated 5 February 2016, companies with projects to manufacture supporting products, that are on the list of products made by supporting industries, and prioritized for development as stipulated under Decree No. 111/2015/ND-CP dated 3 November 2015, shall declare VAT on a quarterly basis, regardless of whether their annual revenue exceeds VND50 billion or not.

If a company earns revenue from both manufacturing supporting products and other business activities, the company will be still eligible for quarterly VAT declaration.

- (ii) *Transferring project which has been partially completed and put into operation will be subject to VAT*

Pursuant to Circular 219/2013/TT-BTC, the transfer of an investment project to continuously develop the manufacture of VAT liable goods and services is exempt from declaring output VAT. However, according to Official Letter 751/TCT-CS dated 26 February 2016, if the transferred project consists of multiple phases and a part of the project has been completed and put into operation at the time of transfer, then income from the transfer of the entire project shall be subject to VAT.

- (iii) *Import VAT of goods imported for capital contribution are creditable*

According to Official Letter 706/TCT-KK dated 24 February 2016, where a company imports goods under a capital contribution contract in which the payment method is specified as capital contribution, and where the company retains appropriate supporting documents such as custom declarations, handover minutes and VAT payment documents, the relevant goods are eligible for a VAT credit.

- (iv) *Making payment for imported goods via bank transfer to a third party being an individual appointed by the seller does not satisfy non-cash payment condition*

According to Official Letter 833/TCT-KK dated 3 March 2016, when a taxpayer makes payment for an import contract via bank transfer to a third party individual, who is a foreigner not present in Vietnam with an overseas bank account, the bank transfer documents associated with such a payment do not satisfy the non-cash payment condition to be eligible for a VAT credit.

3. Foreign Contractor Tax (“FCT”)

(i) *Foreign exchange rate for FCT calculation purposes*

According to Official Letter 982/TCT-CS dated 14 March 2016, when a foreign contractor earns taxable revenue in foreign currencies, the buying exchange rate announced by the commercial bank where the foreign contractor maintains its bank account in Vietnam shall be used to convert such revenue to Vietnam Dong for FCT calculation purposes.

4. Personal Income Tax (“PIT”)

(i) *Tax treatment of trade discounts, payment discounts and promotion prizes*

According to Official Letter No. 1163/TCT-TNCN dated 21 March 2016, the PIT treatment of trade discounts, payment discounts and promotion prizes paid to business individuals is as follows:

- Payment discounts and bonuses for individuals meeting sales targets are subject to PIT at 1%;
- Trade discounts are not subject to PIT; and
- Promotion prizes are subject to PIT at 10% on amounts in excess of VND10 million.

(ii) *No PIT code is issued upon the change of identity card number or identification number*

According to Official Letter 896/TCT-KK dated 8 March 2016, if an individual has been granted a PIT code and later is issued with a new identity card or a new identification number, they are required to update their tax registration information in accordance with the tax administration regulations. The tax authorities must not issue a new PIT code associated with the new identity card number or the new identification number to the individual.



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