

# Tax Updates, April 2018

## Vietnam Accounting & Taxation Changes

# Domicile

Corporate Services

This April 2018 Tax Update covers recent selected Decrees and Circulars which provide further clarity for businesses in Vietnam, and we also look at a selection of recent Official Letters released by Tax and related authorities.

### CRITERIA FOR DETERMINING MICRO ENTERPRISES, SMALL ENTERPRISES, AND MEDIUM ENTERPRISES

On 11 March 2018, the Government issued Decree 39/2018/ND-CP providing guidance for the Law Supporting Small and Medium Enterprises and replacing Decree 56/2009/ND-CP issued on 30 June 2009. The Decree also clarifies the criteria for determining the size of enterprises in different sectors, which is important for a number of purposes, including Government incentives and support, and statutory obligations. The criteria can be seen in the table produced below:

		Micro Enterprise	Small Enterprise	Medium Enterprise
Agriculture, Forestry, Aquaculture, Industry & Construction	No. of employees, and	≤ 10	≤ 100	≤ 200
	(i) Yearly Income, or	≤ 3 billion VND	≤ 50 billion VND	≤ 200 billion VND
	(ii) Capital	≤ 3 billion VND	≤ 20 billion VND	≤ 100 billion VND
Trade & Services	No. of employees, and	≤ 10	≤ 50	≤ 100
	(i) Yearly Income, or	≤ 10 billion VND	≤ 100 billion VND	≤ 300 billion VND
	(ii) Capital	≤ 3 billion VND	≤ 50 billion VND	≤ 100 billion VND

Domicile Corporate Services is a leading provider of professional accounting, tax, payroll, compliance, company establishment and advisory services in Vietnam, with a focus on providing quality outsourcing and consulting services to clients.

We assist foreign invested and locally owned companies maintain the highest level of professional standards in Vietnam through proactive compliance, reporting assistance and advice.

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## TAX GUIDANCE AMENDMENTS

On 16 March 2018 the Ministry of Finance issued Circular 25/2018/TT-BTC, providing guidance on a number of Decrees and Circulars. Some matters covered include.

- When mergers and acquisitions involving capital transfers occur, and there is a resulting transfer of depreciable assets to a transferee enterprise, the transferred assets are eligible for depreciation at the carrying amount remaining on the books of account at the transferring enterprise.
- The deduction limit for payments made for voluntary retirement, retirement insurance and life insurance for labourers is increased from 1 million VND to 3 million VND.

Circular 25/2018 / TT-BTC is effective from 1 May 2018.

## OFFICIAL LETTERS RELEASED

*Official Letters are releases showing the Tax Authorities' interpretation and application of Vietnam's Taxation Laws, providing guidance to taxpayers in Vietnam.*

### *VAT Invoices for Payments on Behalf of Customers*

On 19 March 2018, the Hanoi Department of Taxation ("HDT") issued Official Letter 10384/CT-TTHT on VAT invoices issued for payments on behalf of customers.

Clause 7, Article 5 of Circular No. 219/2013/TT-BT states that where a company signs a contract on acting as a shipping agent and receives charges for fees incurred at ports, suppliers must issue an invoice with the customer's tax code and the company is not entitled to deduct claim VAT credits for these invoices. When collecting payment, the company is to only make a receipt and is exempt from issuing a formal invoice.

However, if the supplier has issued an invoice with tax code of the company, the invoice is to be returned and reissued with the correct name and tax code of the customer. Otherwise, the company must issue invoices, lodge VAT declarations and payments when the customer reimburses the payment.

### *CIT Paid on Behalf of Foreign Contractors*

On 22 January 2018, HDT issued Official Letter 3303/CT-TTHT regarding Corporate Income Tax ("CIT") paid on behalf of foreign contractors.

The CIT paid by a taxpayer on behalf of a foreign contractor will be recorded as deductible expenses for the taxpayer if the agreement indicates that the payment to the foreign contractor is not inclusive of CIT (Clause 2.37, Article 4 of Circular 96/2015/TT-BTC).

## FOR FURTHER INFORMATION CONTACT:

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## *Import Tax Refunds*

On 21 March 2018, the Department of Export and Import Taxation issued Official Letter 1385/TXNK-CST on import tax refunds.

Goods that are imported and on which import tax is paid, which are then re-exported may be eligible for reimbursement for the import tax paid and will be exempt from any export tax. Tax refund documents are to be lodged at their direct tax management authority or at the relevant Customs Office for tax reimbursement.

## *Deductibility for Branch Expenses Paid by Parent Company*

On 19 March 2018, the General Department of Taxation ("GDT") issued Official Letter 642/TCT-KK on deductible expenses for branches when payments are made by the parent company.

Where a branch declares and pays VAT separately from the parent company, and where purchases are made by the branch but paid for by the parent company, provided the payment basis is prescribed in the contract and the purchased goods meet deductible conditions, the branch is still be entitled to declare and deduct VAT.

## *Corrections for Errors in E-Invoices Detected After Tax Declarations*

On 9 February 2018, GDT issued Official Letter 542/TCT-CS providing guidelines on corrective actions for errors in e-invoices detected after tax declarations.

Where the invoices have been made and sent to the purchaser and the tax has been declared, then the error is detected, a record which states clearly the errors is to be prepared with electronic signatures of both parties. The provider is to then issue an e-invoice to correct the errors. Amendment e-invoices must indicate the adjustment to the quantity of goods, sale prices, value added tax rates and value added tax amounts. Both parties make the declaration of adjustment in accordance with the tax laws, however the adjustment invoice is not permitted to result in a negative value.

## *Guidelines on Additional Declarations for Missing Invoices*

On 30 January 2018, the General Department of Taxation issued Official Letter 414/TCT-KK providing guidelines on additional declarations for missing invoices.

- For output (sales) invoices issued in a period, any additional declarations are to be made for the period that the output invoices relate. The taxpayers' Tax Office will also be asked to verify the reasons for late declarations, determine tax payment adjustments, and detail penalties for late declaration and payments.
- Input (purchase) invoices adjustments should be made in the period when the omitted invoices are detected, but must be finalised before the Tax Authorities announce a tax inspection of the taxpayer.

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