



Tax Updates, February 2018

Vietnam Accounting & Taxation Changes

Domicile

Corporate Services

Our February 2018 Tax Update publication provides a summary of recent updates relevant to Vietnamese businesses. We also look at recent Official Letters from the Tax Authorities to help provide guidance in applying various laws in Vietnam.

DECREE AMENDING SELECTED CORPORATE INCOME TAX AND VALUE ADDED TAX ARTICLES

On 15 December 2017, the Government issued Decree 146/2017/ND-CP amending and supplementing some articles of Decree 100/2016/ND-CP and Decree 12/2015/ND-CP on Corporate Income Tax ("CIT") and Value Added Tax ("VAT") as follows:

i) Value Added Tax

Where exported goods have natural resources, mineral resources and energy costs accounting for 51% or more of the total product cost:

- where the exported goods are directly made from the natural resources or minerals, the goods are not subject to VAT; and
- where the natural resources or minerals are processed into different products which are then processed into finished products for export, the final exported goods will be subject to a 0% VAT rate;

The value of natural resource, mineral and energy costs excludes transportation costs from the place of purchase to the place of processing/production.

ii) Corporate Income Tax

CIT deductions for contributions to voluntary retirement funds, voluntary retirement insurances or for life insurances for employees shall be capped at VND 3 million per person/month.

Decree 146 took effect from 1 February 2018.

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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SPECIAL CONSUMPTION TAX INCREASES FROM 1 JANUARY 2018

With effect from 1 January 2018, the Special Consumption Tax ("SCT") rates for the following products increased:

- Tobacco products increased from 70% to 75%
- Beer products increased from 60% to 65%

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.

Guidance on PIT Declarations for Expatriates Receiving Income from Both Vietnamese and Foreign Companies

On 6 December 2017, the Hanoi Tax Department ("HTD") issued Official Letter 79003/CT-TTHT providing guidelines on PIT declarations for expatriates who receive income from both Vietnamese and foreign companies/employers:

- Where the expatriate has income from both the Vietnamese company and the foreign company, then the Vietnamese company must withhold and declare PIT on income that the Vietnamese company pays to the expatriate. For the income received from the foreign company, the expatriate must declare and pay PIT directly to the Vietnamese tax authority.
- If the expatriate has one source of income from Vietnam which has been paid partially by the Vietnamese company and partially by the foreign company (with the foreign company being reimbursed by the Vietnamese company), then the Vietnamese company must withhold and declare PIT on total income of the expatriate which is paid by both the Vietnamese and the foreign companies.

Deductible Expenses for Invoices Issued Significantly Late

On 9 November 2017, the Ho Chi Minh City Tax Department issued Official Letter 11014/CT-TTHT regarding invoices issued later than when services were provided.

The Official Letter stated that a service provider must issue the invoice to the company in compliance with the invoicing regulations. In this case, the service was completed in 2013, however, the invoice was only issued in 2017. As a result, the purchased services were not deductible in 2013 due to the omission of the invoice or in 2017 due to the matching principle.

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This expense would only be eligible as CIT deductible expense in 2013 if:

- (i) The invoice clearly states that the service was for 2013.
- (ii) Documentation confirming administrative penalties charged by the tax authority due to the late issuance of the invoice, and
- (iii) Other supporting documents (if any) to clarify the matching process.

However, the VAT element of the invoice (for the services provided in 2013) is not creditable.

Taxpayers Obligation for Late Payment Charges when Overpayments Have Arisen in Previous Periods

On 23 November 2017, the General Department of Taxation ("GDT") issued Official Letter 5407/TCT-KK regarding penalties and offsets of taxes.

Where a taxpayer has overpaid tax and, at the same time, has additional tax obligations following an additional declaration for the same tax type and period, then the taxpayer shall only be charged interest on late payments on the remaining amount following the additional declaration.

Import Duty Exemption for Materials and Parts Imported for Export Production

On 29 November 2017, General Department of Customs issued Official Letter 7817/TCHQ-TXNK on import duty exemptions for materials and parts imported for export production.

In this Official Letter, the taxpayer had imported materials and parts for export production and then transferred these to its dependent branch to handle an element of the production. The work-in-progress was transferred back to the taxpayer for finishing and exporting. In this case, the imported materials and parts were still eligible for import duty exemption per Decree 134/2016/ND-CP.

Interest on Related Party Loans Subject to Corporate Income Tax Deduction Limits

On 15 January 2018, HTD issued Official Letter 1990/CT-TTHT to provide guidelines for CIT deductions on interest expenses per Decree 20/2017/ND-CP.

- The interest expense incurred by the taxpayer during a tax year is to be treated as a deductible expense when determining the income subject to CIT, provided it does not exceed 20% of the total EBITDA (Earnings Before Interest, Tax, Depreciation and Amortisation).
- Where the company's EBITDA is less than zero, then the entire interest expense in the tax period cannot be deducted.

Note: we expect further Official Letters to be released regarding this matter as taxpayers await further clarity on the application of the restrictions on tax deductions for interest and the impact on carry-forward tax losses.

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