



Tax Updates, September 2020

Vietnam Accounting & Taxation Changes

Domicile

Corporate Services

A partner of Acclime.

Our September 2020 publication of Tax and Accounting Updates covers Business License Fee exemptions for the first year of establishment, and looks at a range of Official Letters released by Vietnamese Authorities, including guidance on tax declarations for foreign contractor capital transfer taxes, relaxed quarantine requirements for experts entering Vietnam for less than 14 days, discussion on applying import tax exemptions under international treaties, and Proof of Origin under the EVFTA.

BUSINESS LICENSE FEE EXEMPTION FOR FIRST YEAR OF ESTABLISHMENT

On 9 July 2020, the Ministry of Finance released Circular 65/2020/TT-BTC amending Circular 302/2016/TT-BTC from 15 November 2016 covering annual Business License Fees.

Accordingly, during the first year of establishment (or doing business), parties are exempt from Business License Fees for that first year (the period from 1 January to 31 December), covering:

- Newly established organisations (ie, a new tax code or new enterprise code).
- Households, individuals, or groups of individuals, doing business for the first time.

During the exemption period, if an organisation, household, individual or group of individuals establish a new branch, representative office or business location, those affiliated units shall be also exempted from the Business License Fee over the same exemption period granted to the organisation, household, individual or group of individuals.

If the new organisation, household, individual or group of individuals commenced their production/business for the first time before 25 February 2020 and establishes a branch, representative office or business location after 25 February 2020, the organisation, household, individual, group of individuals, branch, representative office or business location is still required to pay their Business License Fee for that branch, representative office or business location.

The Circular took effect from 23 August 2020.

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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OFFICIAL LETTERS RELEASED

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

Guidance on Tax Declarations for Foreign Contractor Capital Transfer Taxes

On 17 July 2020, the Hanoi Department of Taxation issued Official Letter 66768/CT-TTHT on withholding tax declarations for capital transfer activities of foreign organisations.

Where a foreign organisation transfers its share capital in a company operating in Vietnam, the tax obligations for the transaction will depend on the structure of the operation in Vietnam.

Specifically:

- If the foreign company operates under the Enterprise Law and the Investment Law, it is to declare and pay Corporate Income Tax ("CIT") by itself.
- Otherwise, the capital transferee is to determine, declare, deduct, and pay CIT on behalf of the foreign organisation. If the transferee is also a foreign organisation that does not comply with the Law on Investment and the Law on Enterprises, the company established under Vietnam laws in which capital is invested by that foreign organisation must declare and pay CIT on behalf of the foreign organisations.

Tax declarations arising from the transfer of capital must be submitted within 10 days from the transfer date stated in the transfer contract.

Relaxed Quarantine Requirements for Foreign Experts Entering Vietnam for Less than 14 Days

The Ministry of Health issued Official Letter 4674/BYT-MT on 31 August 2020 to provide guidelines on Covid-19 prevention and control regarding short-term work visits (less than 14 days) for foreign experts, which were previously not functionally possible.

Investors, experts, skilled workers and business managers who enter Vietnam to work for a period of less than 14 days can be subject to revised quarantine and medical isolation if they meet and comply with the following conditions:

- Three to five days before entry, experts must have a negative Covid-19 test result via a Realtime PCR test for SARS-CoV-2.
- At the point of entry, the foreign expert will be separated from other people, and taken to approved accommodation facilities.
- Experts are expected to make electronic health declarations and use the Bluezone application. Experts are to be tested by RT-PCR techniques after arriving at their approved accommodation, and tests must be retaken every 2 days during their stay in Vietnam.
- Where experts only enter Vietnam to participate in meetings to sign contracts or agreements, a workplace must be chosen to minimize travel throughout provinces which may cause difficulties with Covid-19 prevention and control.
- At meeting places, employers must maintain a list of all participants in meetings (the foreign experts and their contacts) including full names, nationalities, workplace addresses, lodging places, phone numbers and emails.

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Import Tax Exemption Dossiers under International Treaties

On 20 August 2020, the General Department of Customs ("GDC") issued Official Letter 5538/TCHQ-TXNK on import tax exemption dossiers under international treaties.

Under the provisions of Clause 4, Article 29 of Decree 134/2016/ND-CP, when submitting an application for import tax exemption under an international treaty for the first time, the enterprise must submit a copy of the treaty and provide the original for comparison.

According to the guidelines, if the original of the treaty cannot be provided, the enterprise must certify, sign, seal and take responsibility before law for the accuracy, truthfulness and legality of the copy provided to the General Department of Customs.

In addition, contracts supplying goods which specify prices of goods (excluding import duties) are to be provided.

If the international treaty does not specify the category and quantity of the tax exempt products, the project owner needs to develop a list of goods to be exempted from tax and send it to the Ministry of Finance for the Prime Minister's approval as specified in Clause 1, Article 29 of Decree 134/2016/ND-CP).

Proof of Origin Under the EU-Vietnam Free Trade Agreement (EVFTA)

The EU-Vietnam Free Trade Agreement formally entered into effect from 1 August 2020. However, until the Government releases a Decree regulating the tariff schedules detailed under the EVFTA, the GDC has issued Official Letter 5575/TCHQ-GSQL dated 21 August 2020 to guide Customs Authorities on how to accept Proof of Origins:

- Where customs declarations are registered after 1 August 2020 and have a valid Proof of Origin attached, Customs will accept the submitted Proof of Origin and require the company to declare the reference number and the date of the Proof of Origin as regulated under Article 5 Circular 38/2018/TT-BTC;
- Per the official notice from the EU Commission, the EU itself will not issue a Certificate of Origin Form EUR.1. Therefore, Vietnam can only confirm special preferential tariff treatments to products originating from the EU on the basis of statements of origin made by registered exporters on REX (Registered Exporter System) or by exporters for shipments not exceeding 6,000 Euros;
- Deadlines for submissions of Proof of Origins are in accordance with the current regulations, (i.e. submission at time of importation or within 30 days from the registration date of the Customs Declaration). However, during the Covid-19 epidemic, Customs will allow companies to submit a Proof of Origin within the validity period of the Proof of Origin (i.e. one year) in accordance with the provisions of Circular 47/2020/TT-BTC dated 27 May 2020.

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