

# Tax Updates November 2019

## Vietnam Accounting & Taxation Changes

This November 2019 publication of our Tax and Accounting Updates looks at the proposed annual increases to the Minimum Monthly Wage and the Minimum Basic Wage for 2020, along with our regular review of recent Official Letters released by Vietnamese Authorities.

### OVERVIEW OF PROPOSED INCREASES TO MINIMUM MONTHLY WAGES AND MINIMUM BASIC WAGES IN 2020

#### Proposed Annual Increase to Minimum Monthly Wage Effective from 1 January 2020

Vietnam's National Wage Council has released an announcement regarding their proposal to increase Minimum Monthly Wage for workers in Vietnam at an average of 5.5% across the 4 regions, effective from 1 January 2020. This increase is subject to the Prime Minister's final approval, which is expected to be procedural.

Zone	2019 Minimum Monthly Wage	2020 Minimum Monthly Wage	Increase
Zone 1	4,180,000	4,420,000	5.7%
Zone 2	3,710,000	3,920,000	5.6%
Zone 3	3,250,000	3,430,000	5.5%
Zone 4	2,920,000	3,070,000	5.1%

#### Proposed Annual Increase to Minimum Basic Wage Effective from 1 July 2020

The National Assembly of Vietnam has finalised their proposed annual changes to the Minimum Basic Wage for July 2020 onwards, which have been submitted to the Government for final ratification. The Minimum Basic Wage increases from 1,490,000 VND to 1,600,000 VND.

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Impact of the changes (for Zone 1 Employers):

Insurances	Social Insurance (SI)	Health Insurance (HI)	Unemployment Insurance (UI)
Contribution Basis	20 x Minimum Basic Wage	20 x Minimum Basic Wage	20 x Minimum Basic Wage
From 1 July 2019: Maximum Monthly Cap (VND)	29,800,000 (20 x 1,490,000)	29,800,000 (20 x 1,490,000)	83,600,000 (20 x 4,180,000)
From 1 January 2020: Maximum Monthly Cap (VND)	29,800,000 (20 x 1,490,000)	29,800,000 (20 x 1,490,000)	88,400,000 (20 x 4,420,000)
From 1 July 2020: Maximum Monthly Cap (VND)	32,000,000 (20 x 1,600,000)	32,000,000 (20 x 1,600,000)	88,400,000 (20 x 4,420,000)

## Minimum Monthly Wage Changes:

- Employers should ensure that their staff are not paid less than the monthly minimums.
- This increase also effects the maximum payment cap for Unemployment Insurance, which is 20 times the minimum wage.

## Minimum Basic Wage Changes:

Although the Minimum Basic Wage is generally only applicable to Government employees (with a multiple applied based upon their role/position),

these changes also impact the maximum caps for the monthly calculation of Vietnamese Social Insurance and Health Insurance payments, for general employer and employee portions.

Employers should factor in these changes into their budgeting process for 2020.

“ The Minimum Monthly Wage is proposed to increase from 4,180,000 VND to 4,420,000 VND from 1 January 2020 ”

## OFFICIAL LETTERS RELEASED

### Taxation Procedures for Branches with Production Facilities in Provinces Different to their Head Office

On 24 October 2019, the Hanoi Department of Taxation issued Official Letter 80504/CT-TTHT providing guidance on the application of taxation for production branches in different Provinces to the head office, and which are dependent accounting units.

Where a company has production branches, as dependent accounting units, and which do not sell goods directly to external buyers, taxation is to be implemented as follows:

### Value Added Tax ("VAT"):

The company will be responsible for VAT declaration at the head office, and is to allocate VAT payments to the

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tax authorities at the localities where the production branches are located. The VAT the company pays to each locality of the production branches is determined as 2% (for the goods subject to 10% VAT) or 1% (for the goods subject to 5% VAT) on the turnover (exclusive of VAT) of the products produced by the production branch. The payment to the tax authority by the head office will be the balance after deducting VAT paid at the localities.

Where the allocated VAT of the branches per above principle is greater than the total VAT payable, then the company will self-allocate the VAT to the branches based on the proportion of the turnover of products produced by the production branches to the total turnover of the company.

If the company is not subject to VAT, then it is not required to pay the VAT at the localities of the branches.

In addition, the company must prepare and send the VAT Allocation Table to the tax authority of the head office and the tax authorities at the localities where the dependent branches are located, according to form O1-6/GTGT (issued together with Circular 156/2013/TT-BTC).

## **Corporate Income Tax ("CIT"):**

Similarly, the company also declares CIT at the head office and allocates amounts to the localities where the branches are located as guided in Articles 12 and 13 of Circular 78/2014/TT-BTC. The allocated CIT is determined based on the proportion of expenses of the factory on total expense of the company, multiplied by the total CIT payable by the company.

## **Personal Income Tax ("PIT"):**

If the head office signs labour contracts and pays salary to all employees, and then locates employees to work at branches, the head office remains responsible for PIT deduction and payments.

## **Health Insurance Obligations for Foreign Individuals Internally Transferred to Vietnam from a Group Company**

On 30 September 2019, the Vietnam Social Insurance Department issued Official Letter 3650/BHXH-BT regarding Health Insurance obligations for foreign individuals who are internally transferred to Vietnam.

Under the provisions of Clause 1, Article 12 of the Law on Health Insurance 2008 (amended by Clause 6, Article 1 of the Law on Health Insurance 46/2014/QH13), foreign individuals who are employed in Vietnam as managers, and who derive income in Vietnam, are subject to Vietnamese Health Insurance obligations.

Under the provisions of Point a, Clause 2, Article 2 of Decree 143/2018/ND-CP (effective from 1 December 2018), foreign individuals internally transferred to Vietnam are exempted from Social Insurance obligations. This has led many businesses to believe that these individuals are also be exempted from Vietnamese Health Insurance obligations, which is not the case.

## **VAT on Exported Services**

On 26 September 2019, the General Department of Taxation issued Official Letter 74660/CT-TTHT for VAT on exported goods and services.

Where a company provides services which are consumed outside Vietnam (and the services are not included in the lists of services which are not subject to 0% VAT as stated in Clause 3, Article 9, Circular 219/2013/TT-BTC), and which meet the conditions for exported services in Clause 2, Article 9 of Circular 219/2013/TT-BTC, they are entitled to apply 0% VAT on the services.

The company is to issue commercial invoices in accordance with international practices as guided by Clause 7, Article 3 of Circular 119/2014/TT-BTC.

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If the income is subject to CIT (ie, through a Withholding Tax process) in a foreign country which has signed a Double Tax Agreement with Vietnam, the tax paid in the foreign country can be deducted from the tax payable in Vietnam, provided all conditions are met per Article 48 of Circular 205/2013/TT-BTC, and Article 44 of Circular 156/2013/TT-BTC.

## Foreign Constructor Tax ("FCT") Policy for Distributing Goods for Foreign Vendor

On 10 September 2019, the General Department of Taxation issued Official Letter 70832/CT-TTHT on Foreign Constructor Tax policy for distributing goods for foreign vendor.

According to Clause 3, Article 1 of Circular 103/2014/TT-BTC, where a foreign company incurs income from selling goods in Vietnam through an authorized Vietnamese company to provide part of distribution services and other services related to the sale of goods, the foreign company will be subject to FCT.

If the foreign company fails to meet the conditions for direct tax declaration and payment in Vietnam, the Vietnam company shall deduct the amount of FCT (VAT and CIT) before payments to the foreign party and is responsible for declaring and paying the FCT on behalf of the foreign vendor in accordance with Article 12 and Article 13 of Circular 103/2014/TT-BTC.

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[vietnam@acclime.com](mailto:vietnam@acclime.com)

[vietnam.acclime.com](http://vietnam.acclime.com)

## FOR FURTHER INFORMATION CONTACT:

**Matthew Lourey**  
Managing Partner  
[m.lourey@acclime.com](mailto:m.lourey@acclime.com)

**Thao Do**  
Manager, Tax & Accounting Services  
[thao.do@acclime.com](mailto:thao.do@acclime.com)

**Phung Nguyen**  
Manager, Tax & Accounting Services  
[phung.nguyen@acclime.com](mailto:phung.nguyen@acclime.com)

## Acclime Vietnam

**Ho Chi Minh City:**  
Level 9, Abacus Tower  
58 Nguyen Dinh Chieu, District 1  
Phone: +84 (0)28 6291 5779

**Hanoi:**  
Level 13, Hanoi Tower  
49 Hai Ba Trung, Hoan Kiem District  
Phone: + 84 (0)24 3226 3314

**Danang:**  
Level 3, Indochina Riverside Tower  
74 Bach Dang, Hai Chau District  
Phone: +84 (0)236 366 4662

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