

# Vietnam Tax Updates April 2020

## Vietnam Accounting & Taxation Changes

This April 2020 publication of our Tax and Accounting Updates looks at a Draft Resolution increasing personal deduction and dependent deduction for personal income tax, written guidance of Authorities regarding COVID-19 Support and our regular review of recent Official Letters released by the Tax Authorities.

### **DRAFT RESOLUTION ON INCREASING PERSONAL DEDUCTION AND DEPENDENT DEDUCTIONS FOR PERSONAL INCOME TAX ("PIT")**

On 2 March 2020, the Ministry of Finance released a Draft Resolution on increasing personal deduction and dependent deduction for PIT. In particular:

- Increasing personal deduction from 9,000,000 VND/month to 11,000,000 VND/month (equivalent to 132,000,000 VND/year);
- Increasing dependent deduction from 3,600,000 VND/month to 4,400,000 VND/month/dependent.

The Resolution proposes these changes to be applicable from the 2020 tax year. If withholding PIT has been calculated and paid using the current deduction levels (9,000,000 VND for personal deduction and 3,600,000 VND for dependent deduction), the annual 2020 PIT amount will be finalised based on the new levels.

### **GUIDANCE ON COVID-19 SUPPORT**

#### **Deferral of Social Insurance Contribution into Retirement and Death Fund for Selected Organisations**

In order to implement orders of the Government indicated in the Directive 11/CT-TTg in supporting businesses in Vietnam which are significantly impacted by COVID-19, the Ho Chi Minh City Department of Labour, Invalids and Social Affairs ("DoLISA") issued Official Letter 553/BHXH-QLT on 23 March 2020 guiding the deferral of Social Insurance contribution to the Retirement and Death Fund (one of three

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Social Insurance Funds requiring 14% contribution from employer and 8% contribution from employee of the salary fund) for selected enterprises.

## Applicable Enterprises

Enterprises operating in passenger transport, tourism, textile, accommodation, restaurant and other sectors that are facing difficulties due to COVID-19 and meet one of the following conditions:

- has 50% of the total of employees temporarily stop working as companies could not arrange enough works; or
- suffer a damage of more than 50% of the total value of assets caused by the epidemic (excluding land value).

## Payment Deferral Period

Eligible enterprises can defer their social insurance payments until the end of June 2020. By the end of June 2020, if COVID-19 is still not under control, and the enterprises continue to request for the deferral, the payments can be extended until December 2020.

During the deferral period, enterprises still have to pay for the Sickness and Maternity Fund, Labour Accident and Occupational Disease Fund (the 2 remaining Social Insurance Funds), Health Insurance Fund (HI), Unemployment Insurance Fund (UI) with a total rate

of 10% of the salary fund (including 7.5% contribution from employer and 2.5% contribution from employee).

## Application Process for the Deferral

Enterprises notify DoLISA the total number of employees participating in the social insurance who temporarily ceases working, or Finance authorities to determine the damage value of properties against the assets value according to the latest properties physical count report.

Enterprises submit the dossier to the DoLISA following delivery note 600a, enclosed with documents of a competent agency certifying the eligibility for deferring payment to the Retirement and Death Fund.

## **Deferral of Trade Union Contribution for Selected Enterprises**

On 18 March 2020, the Vietnam General Confederation of Labour issued Official Letter 245/TLD regarding deferral of Trade Union contribution for selected enterprises.

According to the Official Letter, enterprises, having 50% of the total number of employees temporarily stop working, can defer their Trade Union contribution until the end of June 2020. It can be considered to extend until the end of December 2020 if the epidemic is not controlled.

## **Guidance on Payment of Salaries to Employees During Work Cease Period due to the COVID-19 Epidemic**

On 30 March 2020, the Hanoi Federation of Labour issued Official Letter 198/LDLD guiding on salary payment for employees who ceases working due to the COVID-19 epidemic.

The following is highlights of the Official Letter:

1. Where employees must stop working due to (i) the quarantine period at the request of authorities;

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(ii) companies (or divisions) ceases operation due to blockade; (iii) companies have difficulty in the materials sourcing or market that lead to the temporary suspension of operation, and could not arrange enough jobs for employees: Salaries of employees during this suspension period must comply with Clause 3, Article 98 Labour Code, where the salaries are agreed by employer and employee, but not lower than the regional minimum wage as set by the Government.

2. If the prolonged suspension period affects the ability to pay of the companies, the employer and employees may agree to "suspend the labour contract" without salary or to pay a part of salary (according to Article 32 of the Labour Code). This agreement must be made in writing with employees.
3. In case companies have to narrow down production scale or stop operation: The Trade Union participates in planning and implementing labour employment plans, unilaterally terminate labour contracts with employees (according to Article 38 and Article 44 of the Labour Code). In this case, the enterprises must pay severance allowance to employees (according to Article 49 of Labour Code), and the Trade Union guides employees to complete the procedures for unemployment insurance (if any).

“ Deferral of Social Insurance Contribution for selected enterprises which are significantly impacted by COVID-19 ”

## OFFICIAL LETTERS RELEASED

### Payment on Behalf of Offshore Parent Company

On 10 March 2020, the Hanoi Department of Taxation issued Official Letter 10335/CT-TTHT on issuing VAT invoices when a Vietnam company receives payments on behalf of its offshore parent company.

Where a Vietnam company agrees to pay on behalf of its offshore parent company for air tickets and accommodation expenses for employees of the parent company assigned to work in Vietnam, the VAT invoices must be issued to the parent company. When collecting payments, the Vietnam company only prepares receipts. VAT invoices are not required.

If the vendor has issued VAT invoices to the Vietnam Company, they should request suppliers to recall and re-issue the invoices to the parent company. If the supplier refuses, the Vietnam company must issue VAT invoices to the parent company when receiving the payments.

### Employees' Authorisation to Finalise their PIT in case they are internally transferred within a Group

On 20 March 2020, the Hanoi Department of Taxation issued Official Letter 13120/CT-TTHT regarding employees' authorisation for their annual PIT finalisation where they are transferred within a Group.

According to Clause 1, Section II of Official Letter 801/TCT-TNCN on 2 March 2016, employees that are transferred between enterprises in the same group, corporation or between parent company and subsidiaries, between head office and its branches during the year, are eligible to authorise the current company for their annual PIT finalisation.

Accordingly, where a company engages in labour contracts with employees who are transferred from its subsidiary, they can authorise the current company to finalise their annual PIT for all income earned during the year, including those earned at the subsidiary.

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## Capital Gains Tax when the Offshore Parent Company of an FDI Enterprise in Vietnam Transfers its Ownership

On 2 March 2020, the General Department of Taxation issued Official Letter 866/TCT-CS regarding tax declaration of a Vietnam company for shares transferred of its offshore parent company. According to Clause 2, Article 14 of Circular 78/2014/TT-BTC, a foreign corporate investor (that does not operate under Vietnamese Investment Law and Enterprise Law) transfers its ownership to another investor and make a gain on the transfer, it is subject to capital gain tax in Vietnam.

Accordingly, if the investor of the offshore parent company transfers its ownership in an FDI company in Vietnam to another foreign investor, this is considered as "indirect transfer of ownership". Therefore, the FDI enterprise in Vietnam is required to declare and pay on behalf of the foreign investors for the capital gain tax corresponding to the number of shares owned by the parent company.

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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: (028) 6291 5779

**Hanoi:**  
Level 13, Hanoi Tower  
49 Hai Ba Trung, Hoan Kiem District  
Phone: (024) 3226 3314

**Danang:**  
Level 3, Indochina Riverside Tower  
74 Bach Dang, Hai Chau District  
Phone: (0236) 366 4662

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