Vietnam Tax Updates April 2021

Vietnam Accounting & Taxation Changes

This April 2021 publication of our Tax and Accounting Updates looks at draft changes to taxation for business individuals as circulated by the Ministry of Finance, loan interest reductions for customers affected by COVID-19, the General Department of Taxation's guidance on the finalization of 2020 PIT, and our regular review of recent Official Letters released by the Tax Authorities.

DRAFT CHANGES FOR TAXATION TO BUSINESS INDIVIDUALS FROM THE MINISTRY OF FINANCE

The Ministry of Finance is drafting a Circular guiding tax and tax administration for business households and individuals (ie, those in receipt of business income). Key items arising in the recent drafts circulated for comments, include:

Additional inclusions to individuals receiving taxable business income

Taxpayers under this draft Circular include individuals, groups of individuals and business households engaged in production and trading of goods and services in all fields of production and business, as prescribed by law. In addition to current production and business sectors, the Ministry of Finance is requiring the following additional sectors to clarify the taxable parties for business income:

- Rental property owners, and
- E-commerce business of individuals, including individuals earning income from digital information content products or services in accordance with the law on E-commerce.

Additional parties subject to tax declarations on behalf of individuals

Accordingly, an organisation or an individual will declare or pay tax on behalf of an individual in the following cases:

- Organisation leasing an asset from an individual and the lessee is assigned as a taxpayer in the lease contract.
- Organisation engaging with individuals for business.
- Organisation paying bonuses, sales support, sales

promotion, commercial discount, payment discount, and cash or non-cash support payments to a business household.
- Organisation being a Vietnamese partner of an overseas digital platform provider that does not have a permanent establishment in Vietnam but has an agreement with the overseas digital platform provider to pay income to an individual earning income from digital information content products and services through partner organisations in Vietnam.

Proposing to reduce the rate of the presumptive tax adjustment from 50% to 20%

Individuals paying presumptive tax during the year and experience changes to their business activities, are required to declare the adjustment and supplement information so that the tax authority has a basis to re-determine presumptive revenue, the presumptive tax rate and other information concerning the individual's business. This will also include adjusting from the time of change and for the remaining months of the tax year. Where business individuals do not change their business lines, the tax authority shall only re-determine the presumptive revenue for adjustment from the time of change and the remaining months of the tax year if through the verification, examination and inspection of data, there are grounds to determine that the presumptive revenue changes by 20% or more compared to the previous revenue. Where there are changes of business lines, additional adjustments will arise according to the reality of the changed business line.

The current regulation covers cases where revenue changes by 50% or more, then the tax authorities will make adjustments. This makes it difficult for both taxpayers and tax authorities to adjust the presumptive tax rate, given the current size threshold required. For business households, business individuals, those whose turnover reduces by less than 50%, current regulations state that taxes will not be adjusted to reduce the presumptive tax. The adjustment of the presumptive tax rate to 20% will ensure taxpayer tax position better reflects their true earnings.

CUSTOMERS AFFECTED BY COVID-19 ARE ENTITLED TO LOAN INTEREST REDUCTION

On 2 April 2021, the State Bank of Vietnam issued Circular 03/2021/TT-NHNN amending Circular 01/2020/TT-NHNN concerning debt rescheduling, interest reduction or exemption, or debt non-restructuring for the purpose of supporting customers impacted by COVID-19.

According to this document, regulations on interest exemption or reductions granted to customers affected by COVID-19 include:

- Credit institutions and foreign bank branches may, at their discretion, decide to grant exemptions or reductions of interest or fees prescribed in their internal rules and regulations with respect to outstanding debts incurred from credit facilities before 10 June 2020 (except corporate bonds) if:
  - Obligations to repay principal and/or interest are due during the period from 23 January 2020 to 31 December 2021;
  - Customers are incapable of repaying principal and/or interest debts by payment due dates under terms and conditions of lending contracts or agreements due to decreases in their revenue and income caused by the COVID-19 outbreak.
- Interest and fee exemption or reduction granted to customers under Circular No. 03 will last until 31 December 2021.

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Previously, Circular 01/2020 stipulated the application of exemptions or reductions to customers who have the obligation to repay debts for the period from 23 January 2020 to the day following 3 months from the date the Prime Minister announced the termination of the COVID-19 epidemic.

The Circular comes into force as of 17 May 2021.

CASES WHERE INDIVIDUALS ARE NOT REQUIRED TO FINALISE PIT FOR 2020

On 12 March 2021, the General Department of Taxation ("GDT") issued Official Letter 636/TCT-DNNCN guiding the finalization of Personal Income Tax ("PIT").

Accordingly, the GDT guidance covers numerous cases where individuals earning income from salaries or wages do not have to undertake PIT finalisation for the 2020 tax year (for those directly submitting finalisations with tax offices), for example:

- Individuals who have additional PIT payable after tax finalisation for the year of VND 50,000 or less.
- Individuals whose PIT payable is less than the balance of tax paid during the year and he/she does not wish to claim a refund or offset against future payment in the next periods.
- Individuals who sign a labour contract of 3 months or more at a company, while having current income from other sources and have had PIT withheld at the rate of 10%, if there is no request for settlement, there is no requirement to settle with the income.

OFFICIAL LETTERS RELEASED

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

Guidance on VAT refunds for new investment projects

On 1 April 2021, GDT issued Official Letter 944/TCT-CS on the refund of VAT input for new investment projects.

Accordingly, VAT input arising during and investment period will be refunded if a company is registered under the VAT deduction method, has a new investment project that is in the investment stage, incurs VAT on goods and services purchased and used for that investment and which has not otherwise been deducted, and the balance exceeds 300 million VND or more (except for cases that are not eligible for a refund as prescribed).

At the end of the investment phase to switch to the production and business phase, if the VAT input from the investment phase has not reached 300 million VND or more, companies must declare in the index "Remaining input VAT of the investment project to be refunded" on the VAT declaration for the investment projects (form 02 / GTGT) at the tax period ending the investment period. Where this item has not been declared, companies can make an additional declaration according to the provisions of Point b, Clause 4, Article 7 of Decree No. 126/2020/ND-CP.

Companies should compile dossiers of VAT refund applications for investment projects when meeting the prescribed tax refund conditions.

Policy of collecting registration fees for imported vehicles

On April 1, 2021, GDT issued Official Letter 935/TCT-CS to answer questions concerning the policy on the collection of registration fees for imported vehicles.

Based on the current regulations of the laws on registration fees and tax administration, there are no regulations that when declaring and paying the registration fee, taxpayers must present the declaration of origin of imported cars and motorbikes. In addition, the customs office does not carry out procedures to confirm the origin declaration for imported vehicle shipments with customs declarations registered from 1 December 2020.

Therefore, when the taxpayer declares and pays the registration fee for imported vehicles, the tax authority does not require the taxpayer to present the declaration of origin of imported cars and motorbikes according to regulations. If it is necessary to search, taxpayers can access the electronic system of the customs authority to connect the data of the imported vehicle.

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CIT and PIT on non-compulsory health insurance for employees

The Hanoi Tax Department ("HTD") released Official Letter 7431/CTHN-TTHT dated 12 March 2021 covering questions about CIT and PIT on non-compulsory health insurance provided by companies for its employees. Based on current regulations, where a company provides a non-compulsory health insurance benefit that is not accumulative for employees:

- CIT: The company's expenses for providing the health insurance are considered as welfare expenses directly paid to employees, and therefore, if the total amount is less than the average actual monthly salary of all employees in the taxable year and meets the conditions as guided in Article 4 of Circular 96/2015/TT-BTC, they shall be included in deductible expenses when determining the income subject to CIT.
- PIT: The amount is not included in the employee's personal income taxable income.

Guidance on PIT for employee gifts

On 5 April 2021, HTD released the Official Letter 10145/CTHN-TTHT on PIT for employee gifts. Accordingly, where a company provides in-kind gifts to employees, if the provided gifts are not included in one of the following cases, it will not subject to PIT:

- Stocks, share rights, bonds, treasury bills and other types of securities in accordance with the Securities Law; shares in a joint stock company in accordance with the Law on Enterprises.
- Capital shares in economic organizations and business establishments, such as limited liability companies, business cooperation contracts, etc.
- Real estate such as land use rights, land use rights with assets attached to the land, home ownership, land lease rights, etc.
- Other assets that must be registered for ownership or rights-of-use with State management agencies, such as motorbikes, cars, etc.

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