



NEWSLETTER

AUGUST 2020



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The PIT policy for dependent registration and PIT finalized authorization illegally

Official Letter No. 3254/TCT-DNNCN dated August 10th 2020 issued by General Department of Taxation

- According to this Official letter, in case the individuals who works at an income payer's organization (referred to as "the Company") registers duplicated dependent deduction which leads to understatement of tax payable or in case the individuals has multiple sources of income but illegally authorized PIT finalization at the Company which leads to overstatement of tax eligible refund, then:
- Tax authorities fines the individuals who make illegal declaration of according to the Law on Tax Administration.
- The Company has responsibility to notify, work with individuals to summarize, declare, and pay full amount of tax payable to State Treasury as prescribed.



The PIT policy guidance on declaring family deduction according to Resolution No. 954/UBTVQH14 dated June 2nd 2020 in case doing finalization for individuals goes home

Official letter No. 2455/CT-TTHT dated August 12th 2020 issued by Bac Ninh Province Tax Department

- According to this Official letter, in July 2020, the Company prepares PIT finalization for the individuals who have labor contract expired and goes home, the tax payer who has PIT finalization period from 2019 to 2020 could apply new family deduction level from January 2020 in accordance with Resolution No. 954/2020/UBTVQH14.
- For submission procedure in accordance with new deduction level, the Company could submit paper declaration dossier to tax office, cause the tax system has not yet been updated.



The CIT policy for PIT expenses arising from worldwide income of foreigners

Official Letter No. 40839/CT-TTHT dated May 25th 2020 issued by Hanoi City Tax Department

Official Letter No. 7955/CT-TTHT dated August 24th 2020 issued by Dong Nai Tax Department

According to guidance from Ha Noi City Tax Department, the expatriate who is assigned from the parents company (Japan) to the Company (subsidiary in Vietnam) to work as labor of the Company, the Company bears PIT obligation arising from worldwide income of the foreigner which will be considered as deductible expense when determine CIT taxable income if following conditions are satisfied:

- These expense meets the conditions stated in Article 4, Circular 96/2015/TT-BTC;
- In assignment letter signed between Japan side and Vietnam side stated clearly about Company's responsibility for paying PIT arising from the worldwide income of expatriate.



The CIT policy for PIT expenses arising from worldwide income of foreigners

Official letter No. 40839/CT-TTHT dated May 25th 2020 issued by Hanoi City Tax Department

Official Letter No. 7955/CT-TTHT dated August 24th 2020 issued by Dong Nai Tax Department

- However, according to the guidance from Dong Nai Tax Department, if the Company pays PIT on behalf of a foreigner arising from the income subject to PIT paid by the foreign company (parent company), this PIT expense is not deductible for CIT purpose.
- Thus, the point of views of the Hanoi Tax Department and Dong Nai Tax Department are different with the same nature.
- Therefore, we recommend an enterprise should contact tax expert to get the appropriate advice before applying for this issue.



The CIT policy on expenses for prevention of Covid-19 pandemic.

Official letter No. 66297/CT-TTHT dated July 16th 2020 issued by Hanoi Tax Department

According to this Official letter, in case the Company pays for the expenses of masks, anti-bacteria water, and protective accessories for employees to prevent Covid-19 infection, then:

- For PIT purpose: these expenses are not subjected to PIT (regardless expense serve for the general or specific employee);
- For CIT purpose: these expense considered as deductible expense when determine CIT taxable income in accordance with Article 4 of Circular 96/2015/TT-BTC.

This Official Letter replaces Official Letter No. 44403/CT-TTHT dated June 1st 2020, earlier, Hanoi Tax Department have guided for these above expenses spent on specific employee would be subjected for PIT purpose, at once, these expenses are treated as welfare expense and not exceed 1 month's average salary actual paid in the year.

Besides, Ministry of Finance is in the process of preparing a Decree to guide deductible expenses for expenses related to prevention, sponsorship and support to prevent the pandemic.



The CIT policy on reduction of CIT payable in 2020 under Resolution No. 116/2020/QH14.

Official Letter No. 3138/CT-TTHT dated July 29th 2020 issued by Da Nang City Tax Department

- According to this Official letter, the Company has total revenue less than VND 200 billion in 2020 (including revenue from financial activities and other revenues) is eligible for reduction of CIT payable in 2020 according to Resolution No.116/2020/QH14.
- Whereby, in case the Company applies the fiscal year starting from July 1st to June 30th, the tax period in 2020 for CIT reduction under Resolution 116/2020/QH14 will be from July 01st 2020 to June 30th 2021.
- However, Da Nang City Tax Department also noted in Clause 2, Article 3 of the Resolution has stated: "The Government guides the implementation of this Resolution". Therefore, incased the Government and the Ministry of Finance provide difference instructions than those content above, the Tax Department will send response document to the Company.



Guidance on applying CIT incentive period

Official letter No. 70284/CT-TTHT dated July 29th 2020 issued by Hanoi City Tax Department

- According to this Official letter, in case investment project X is granted the first investment registration certificated by the Management Board of Hanoi Industrial and Export Processing Zones on November 12, 2019 with the project implementation period is 5 years from the granting dated of the certificate, the investment project is located in the industrial park, and not located in a socio-economic locality with favorable conditions.
- If this project of the Company meets condition as a new investment project according to the Government's regulations, the income from this project is applied CIT incentives according to the actual conditions and the exemption or reduction period is determined according to the Investment Law, the Corporate Income Tax Law and other related regulation.
- However, at the end of the project implementation period according to the first investment registration certificate, the Company is **not** entitled to apply CIT incentives under the new investment project, but shall declare and pay CIT in accordance with regulations.



Tax policy regarding to liquidate a part of fixed assets

Official Letter No. 2332 /CT-TTHT dated July 21st 2020 issued by Bac Ninh province Tax Department

In case the Company has fixed assets (F.A) which is a warehouse system (including categories such as: warehouse, locker house, toilets, rest houses, garage, etc.) is being managed by 1 code of F.A and not be separated to monitor. Due to the upgrade demand for matching the usage situation now, the Company wants to demolish the garage to reconstruct it more modernly, the dismantling of this will reduce original cost of fixed assets of the whole warehouse system, so:

- The Company shall prepare the sufficient procedures for the liquidation of F.A (such as: a written decision to dismantle a garage, a decision or the minutes of the liquidation of F.A, etc.);
- Determining the value of the assets to be liquidated;
- Determining income from liquidation the assets (if any).

If the Company is an export processing enterprise and liquidates fixed assets into the domestic market, the Company should contact the Customs Department for further guidance on customs procedures as prescribed.



The Corporate income tax policy on depreciation expense of fixed assets during a period of suspended operation due to Covid-19 epidemic

Official Letter No. 1930/CT-TTHT dated July 2nd 2020 issued by Hai Phong Tax Department

Due to the effects of the Covid-19 epidemic, the number of sales orders of the Company has been reduced significantly, the Company was forced to suspense a production line of an product within 03 months from June 1st 2020, **the depreciation expense of fixed assets in such period**, will **NOT** be considered it as deductible expenses for CIT purpose.

According to the current regulations, the depreciation expense of fixed assets be used for production and business activities of goods and services in the following cases can be considered as deductible expenses:

- Suspending operation due to seasonal production with a period less than 9 months;
- Suspending operation for repairing, relocating area, and maintaining the fixed assets periodically in a period less than 12 months, then continuing use it for production and business purpose.



Guidance on duration for applying electronic invoice

Official Letter No. 2576/TCT-CS dated June 23rd 2020 of the General Department of Taxation

Official Letter No. 2543/CT-TTHT dated August 19th 2020 of Bac Ninh Tax Department

- According to General Department of Taxation, from November 01st 2018 to October 31st 2020, while the tax authority has **not announced** on converting to use e-invoices according to **Decree No. 119/2018/ND-CP and Circular No. 68/2019/TT-BTC**, the enterprise still complies with Decree No. 51/2010/ND-CP, Decree No. 04/2014/ND-CP, Circular No. 39/2014/TT-BTC and Circular No. 32/2011/TT-BTC.
- From November 01st 2020, the application of e-invoices will comply with Decree No. 119/2018/ND-CP and Circular No. 68/2019/TT-BTC.
- In order to implement the Law on Tax Administration No. 38 / QH14 / 2019, **the Ministry of Finance has drafted for the Government to replace Decree No. 119/2018 / ND-CP** on electronic invoices and documents. When the Government issues a Decree on electronic invoices and documents under the Law on Tax Administration No. 38 / QH14 / 2019, the enterprise shall comply with this Decree.



Guidance on duration for applying electronic invoice

Official Letter No. 2576/TCT-CS dated June 23rd 2020 of the General Department of Taxation

Official Letter No. 2543/CT-TTHT dated August 19th 2020 of Bac Ninh Tax Department

- According to Circular 68/2019/TT-BTC dated September 30th 2019 guidance on Decree 119/2018/NĐ-CP dated September 12th 2018: “From November 1st 2020, corporations, economical and other organization, business household have to carry out using electronic invoice registration based on instruction of this circular.
- According to Law on Tax Administration No 38/2019/QH14 dated July 1st 2020: “Statement about invoice, electronic document of this Law is effective as from July 1st 2022
- According to Law on Legally Document Promulgated No 80/2015/QH13 dated June 20th 2015: In case there are many different point of views in one issue, the highest legally document will be applied.
- Therefore, electronic invoice will be obligated using on July 1st 2022 as Bac Ninh Tax Department’s viewpoint. However, the Government encourage apply by July 1st 2022



Foreign Contractor Tax policy on importing of machinery, software and providing service.

Official Letter No. 2099/CT-TTHT dated Jul 27th 2020 of Long An province Tax Department

In case the Company has intended to sign the following two contracts with foreign contractors:

- **Contract No.1:** A contract for importing industrial computers and software with Company A based in Germany, this contract states that Company A only provides these computer and software, **not** provide any other services in Vietnam and delivery under CIF terms, delivery at Vietnamese border gate.
- **Contract No.2:** A contract for the installation of industrial computer system services signed with company B based in Malaysia.

The company A and B are two independent legal entities in the same Group. Accordingly,

- **For contract No.1:**
 - ✓ Imported machinery is not a subject of application to the Foreign Contractor Tax.
 - ✓ Imported software is a subject of application to Foreign Contractor tax at the rate of 10% of CIT (software is not a subject to VAT).
- **For contract No.2:**
 - ✓ Income from the providing service is applicated to Foreign Contractor Tax at the rate of 5% CIT and 5% VAT.



Accounting guidance regarding to goodwill

Official Letter No. 885 / BTC-QLKT dated Jan 22th 2020 of the Ministry of Finance

This Official Letter guidelines on the accounting for "goodwill" in case the Company acquires a business segment of another enterprise.

Accordingly, depending on acquiring the business segment is constituting a business activity or transaction not, the accounting will be different. As follows:

- If the acquisition of the business segment constitutes a business activity and this consolidation does not result in a parent company - subsidiary company relationship, goodwill (if any) incurred from this transaction will be reflected as an asset in the buyer's individual financial statements to allocate gradually within 10 years.
- Conversely, if the acquisition does not constitute a business activity, the Company shall not record goodwill. The Company shall allocate it to the individual identifiable assets and liabilities based on their respective fair values at the date of acquisition.



Using of foreign currency when selling goods and providing services to export processing enterprises

Official Letter No. 5051/NHNN-QLNH dated July 10th 2020 of the State Bank of Vietnam

- According to current regulations, in case of an export processing enterprise (EPE) buys goods from the domestic market, the current regulation just allowed using foreign currencies for the transaction of buying input raw materials, input supplies, input accessories, etc. serving directly in the producing, processing, recycling or assembling of exporting goods or exporting.
- Therefore, a contract between an EPE and a domestic company to buy uniforms, construction and repair services, etc. is **NOT** allowed to use foreign exchange in the territory of Vietnam.
- Consequently, it can be understood that the domestic companies providing services or selling goods not be input raw materials, input supplies, input accessories, etc. directly serving in the producing, processing and recycling, assembling of exporting goods or exporting is **NOT** allowed to value, quote price in foreign currency and **NOT** be issued invoices in foreign currency to the EPE.



THANK YOU



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