

Updates on tax policies and compulsory insurances

November 2017



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In this newsletter, Grant Thornton Vietnam would like to update certain notable points in a new Decree and guidelines relating to tax policies and compulsory insurances as follows:



Notable points in Decree 116/2017/ND-CP regulating the mandatory conditions of automobile manufacture, assembly, import and warranty & maintenance services



Value Added Tax ("VAT") refund of investment project



Tax guidelines on imported goods



Tax treatment on exported goods originated from imports



Guidance on dossiers relating to retrospective contribution of SI, HI, UI and IOAD

1. Some notable points in Decree 116/2017/ND-CP regulating mandatory conditions of automobile manufacture, assembly, import and warranty & maintenance services

On 17 October 2017, the Government issued Decree 116/2017/ND-CP regulating the statutory conditions of automobile manufacture, assembly, import and warranty & maintenance services. These regulations apply to companies operating in automobile manufacture, assembly, import, warranty & maintenance services in Vietnam and for related authorities, organizations and individuals.

One of the notable points is that the aforesaid companies operating in automobile related sectors must have warranty & maintenance centers, which are owned or rented by the companies or under the companies' authorized dealers. The centers must be built on land to which the companies legally have the right to use.

For automobile importing enterprises, it is obligatory that they hold a written certificate or document proving that they are authorized to represent foreign automobile manufacturers/ assemblers to recall defective automobiles imported into Vietnam. When granted an import license, the importers must retain business conditions and assure their fulfillment of liabilities relating to warranty, maintenance, and recall of imported cars in line with Decree 116/2017/ND-CP.

For warranty & maintenance service providers, they have to meet the requirements stipulated in the Decree. For instance, in addition to having warranty & maintenance centers with conditions mentioned above, they must undertake technical support and component supply to serve warranty & maintenance activities of:

- Domestic manufacturing and assembly companies (where warranty & maintenance services are rendered to domestic car manufacturing and assembly companies); or
- Foreign manufacturing and assembly companies (where warranty & maintenance services are rendered to car import companies)

It is worth noting that, Decree 116/2017/ND-CP promulgated the conditions of second-hand automobiles imported into Vietnam. During the examination process, the importers are required to provide the quality control authorities with valid Certificates of roadworthiness or equivalent documents before export date granted by the overseas competent authority.

Moreover, imported second-hand automobiles must have warranty term of at least 2 years or 50,000km for individual automobiles, and at least 1 year or 20,000km for the other types of automobile, depending on whichever comes first.

With regard to the effectiveness of Decree 116, automobile importers established prior to the issue date of Decree 116 may continue their operation until 31 December 2017, but are only allowed to import automobiles after securing an import license from 1 January 2018 onwards in line with Decree 116. The car manufacturing and assembly companies currently operating are permitted to continue their business for 18 months from the effective date of the Decree. Afterwards, they are obligated to comply with the conditions stipulated in Decree 116.



2 years
50,000 km

Individual
automobiles



1 year
20,000 km

Other types of
automobiles

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2. VAT refund of investment project

The Ministry of Finance – the General Department of Taxation has issued Official Letter 4423/TCT-CS dated 28 September 2017 and Official Letter 4725/TCT-CS dated 13 October 2017 to provide guidance on VAT refund for investment projects as follows:

Operating enterprises paying VAT under the credit method which have projects in the investment phase, located in the same city/ province as their headquarters need to separately declare VAT for the investment project. They can offset creditable input VAT of investment projects against VAT payable of current business activities with allowable maximum offset amount equal to VAT payable of current business activities in the tax period.

After offsetting, if the remaining creditable input VAT (to be carried forward to the next period) is VND300million and above, the investment project shall be entitled to VAT refund.

3. Tax guidelines on imported goods

On 27 September 2017, the Ministry of Finance - General Department of Customs has issued Official Letter 6337/TCHQ-TXNK to provide tax guidelines on imported goods as follows:

Policies on goods management and taxation on imported and exported goods are applied when the customs declaration forms are registered, unless otherwise provided by the law on import duty and export duty.

Any project without import, export duty incentives or with import, export duty incentives less advantageous than the incentives given in the Law 107/2016/QH13 on export and import duties, will be entitled to incentives specified in this Law for the remaining preferential period of the project. Accordingly:

- Where enterprises import spare parts and/or components from the application date of incentives under the Law on Investment for synchronous assembly/ use together with machinery and equipment but these machinery and equipment were imported before the date of applying incentives under the Law on Investment, the spare parts and/or components shall not be exempt from import duty.
- Where enterprises import spare parts and/or components for synchronous assembly/ use together with machinery and equipment and these machinery and equipment are exempt from tax from the application date of incentives under the Law on Investment, the spare parts and/or components shall be exempt from import duty.
- Where enterprises import molds to be assembled into machines having been previously imported to produce components in different models, these molds shall not be exempt from import duty.
- Law 107/2016/QH13 is silent on tax treatment where enterprises import new machines and equipment for productivity increase and for synchronous assembly/ use together with machinery and equipment having been imported before.



4. Tax treatment on exported goods originated from imports

The General Department of Customs - Tax Department of Export and Import has issued Official Letter 3828/TXNK-CST dated 5 October 2017 and Official Letter 3861/TXNK-CST dated 10 October 2017 to provide guidelines on tax treatment on exported goods originated from imports as follows:

Imported goods which have to be exported to a foreign country or exported into a non-tariff zone for consumption therein will be subject to import duty refund and exempt from paying export duty. The export activity must be done by the initial importer or by an entity authorized by the initial importer. Tax refund procedures are in line with the regulations on tax administration.

Imported goods which have to be exported back to foreign owners or exported to a third country shall be considered for import duty refund in proportion to the quantity of goods actually exported and exempt from paying export duty. The condition for import duty refund and exemption from export duty is that the exported goods have not yet been produced, processed, repaired, or used in Vietnam. In case the exported goods are imported wine, beer, tobacco, and wood, the customs authorities will examine and reconcile between the exported goods and the previously imported goods.



Imported goods which have to be exported to a foreign country or exported into a non-tariff zone for consumption therein will be subject to import duty refund and exempt from paying export duty.



Imported goods which have to be exported back to foreign owners or exported to a third country shall be considered for import duty refund in proportion to the quantity of goods actually exported and exempt from paying export duty.

5. Guidance on dossiers relating to retrospective contribution of SI, HI, UI and IOAD

Social Insurance Department of Ho Chi Minh City has issued Official Letter 2055/BHXH-QLT dated 2 October 2017 to guide dossiers regarding retrospective contribution of SI, HI, UI and IOAD as follows:

- In case of retrospective collection of SI, HI, UI, and IOAD obligations according to Inspection conclusion issued by Social Insurance Department or inspectors, or Decision on administrative violations (retrospective collection of 6 months and above) or Inspection conclusion (retrospective collection of less than 6 months) from the competent authorities, the enterprises should create electronic dossier No 601 for re-collecting SI, HI, UI and IOAD obligations together with the scanned Inspection conclusion or Decision on administrative violations.
- In case of enterprises' self-request for retrospective collection:
 - i. Where enterprises are late in registering new employees and request for retrospective collection, the electronic dossier No 600 should be immediately lodged in order to notify the authority of labour increase.
 - ii. Then, the enterprises need to create retrospective collection dossier for the retrospective period with the required documents including:
 - ✓ Labor contract, appendix to labor contract, etc.
 - ✓ Payroll or bank payment voucher corresponding to retrospective period
 - ✓ Others: explanation letter, or documents relating to wages (if any).
 - ✓ Salary scale registered with local labor department.

Please contact our professional advisors at Grant Thornton Vietnam for assistance with taxation, work permits for expatriate and legal issues you may have during the course of your business.

Contacts

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