



**Grant Thornton**

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# Newsletter

31 October 2014

In this Newsletter, Grant Thornton (Vietnam) would like to highlight some key policy changes which enterprises need to be aware of as follows.

# Taxation

**Official Letter (“OL”) No. 12404/BTC-TCT dated 5 September 2014 of the Ministry of Finance (“MoF”) on the Corporate Income Tax (“CIT”) incentives for new investment projects and extended investment projects from 1 January 2014 and some notable points on CIT stipulated in Decree No. 91/2004/ND-CP dated 1 October 2014 of the Government amending and supplementing some articles of various Decrees on taxes.**

## 1. Regarding CIT incentives for new investment projects

According to this OL, where an operating enterprise, which is currently not entitled to CIT incentives, establishes its branch in an industrial zone (except for industrial zones located in areas with favorable socio-economic conditions) to implement a new investment project and this new investment is conducted on or after 1 January 2014 pursuant to cases regulated at Point a, Clause 5, Article 18, Chapter VI of Circular No. 78/2014/TT-BTC, then the branch shall be entitled to CIT incentives as a new investment project in an industrial zone.

Please note that according to Decree 91/2014/ND-CP, with respect to licensed investment projects, for which the investment capital, stages of investment have been specified in the initial investment registration dossiers submitted to the licensing authorities, then the actual investment in subsequent stages would be considered as part of the initially licensed investment project if implemented in line with the investment timeframe (except for force majeure situations). The entitled incentives would be those applicable to the initial investment project; as for investment projects which are licensed before 1 January 2014, the entitled tax incentives shall be applicable to the remaining incentive period, counting from 1 January 2014.

## 2. Regarding CIT incentives for expansion investment projects

In case an enterprise operates in an industrial zone not located within the geographical areas eligible for CIT incentives as set out in applicable regulations before 2014, and from 1 January 2014 expands its production scale, increases capacity, renews production technologies, if one of the three criteria on expansion investment projects prescribed at Clause 5, Article 16, Chapter 4 of Decree No. 218/2013/ND-CP is satisfied, and if the investment is made in the encouraged sectors or geographical areas stipulated in Decree No. 218/2013/ND-CP (including cases where the industrial zone that the investment is located is under unfavorable socio-economic conditions), then the Company shall be able to opt for the CIT incentives currently applicable to the existing project for the remaining period (if any) or the CIT incentives applicable to the expansion investment projects for applying to the income generated from such expansion investment projects.

Where an operating enterprise invests in upgrading, replacing, or renewing the technology of the current operating project, which is within the sectors or geographical areas eligible for CIT incentives as set out under Decree No. 218/2013/ND-CP, if none of the three criteria prescribed at Clause 5, Article 16, of Decree No. 218/2013/ND-CP is met, then the applicable CIT incentives is those applying to the current operating project for the remaining period (if any).

It should be noted that according to Decree No. 91/2014/ND-CP, if an enterprise’s investment project is entitled to tax incentives, and performed regular supplementation investment in machinery, equipment during the course of operation in the period from 2009 to 2013, then the additional income generated from such regular supplementation investment of machineries and equipment is also eligible for applying the CIT incentives of the current project for the remaining duration.



# Taxation

It is notable that the term **“regular supplementation investment in machinery, equipment during the course of business operation”** is not clearly defined in this Decree.

**OL No. 4360/CT-TTHT dated 3 October 2014 of Hai Duong Tax Department providing guidance on registration procedures for the implementation of unilateral Advance Pricing Agreements (“APAs”).**

According to this OL, in case an enterprise performs registration procedures for the implementation of unilateral APAs for the related party transaction being “Processing garment for export and supplying domestically purchased raw materials to its parent company (100% equity ownership)”, after the consultation process, upon receiving the written reply from the General Department of Taxation (“GDT”) allowing for the official submission of the taxpayer’s APA application dossier, the enterprise shall submit the dossier according to template 2/APA-CT to the GDT for consideration in accordance with current regulations.

To learn more about the administrative procedures for the application of APAs, please refer to our Newsletter dated 7 May 2014:  
<http://www.gt.com.vn/download.php?info=publications&submenu=279>

**OL No. 4278/TCT-CS dated 2 October 2014 of the GDT on the VAT rate applicable to exported services.**

According to this OL, where a Company provides software development and information technology (“IT”) services in accordance with IT regulations to its client being a foreign company and these services are consumed outside Vietnam, such services shall be deemed as exported services and subject to 0% VAT rate, provided that criteria stipulated at Point b, Clause 2, Article 9 of Circular No. 219/2013/TT-BTC dated 31 December 2013 of the MoF are met. In brief, such criteria include:

- A service contract must be in place with the organisations, individuals located overseas or in non-tariff areas;
- There must be evidence of bank payments for the service fees and other supporting documents as regulated under relevant regulations.

**OL No. 4277/TCT-CS dated 2 October 2014 of the GDT on exchange rate differences.**

In case the Company repays short-term and long-term foreign currency loans to foreign companies by way of converting such loans into equity, the foreign exchange losses resulting from the revaluation of such loans at the time of repayment shall be considered the foreign exchange losses realised during the period and treated as a CIT-deductible expense.

**OL No. 3924/TCT-CS dated 10 September 2014 of the GDT on tax policies for agricultural products.**

According to this OL:

- Enterprises buying agricultural products directly from producers or purchases goods, services from business households and individuals, who have income under the VAT-taxable threshold (VND100 million/year), shall be allowed to prepare listing according to template 01/TNDN (issued in conjunction with Circular No. 78/2014/TT-BTC), together with vouchers supporting payments to the sellers.
- Enterprises buying agricultural products from business households and individuals (except for the above case) shall be required to use invoices according to current regulations. These expenses shall be considered deductible for CIT calculation purposes, provided that criteria regulated at Clause 1, Article 6, Circular No. 78/2014/TT-BTC are met.

# Other updates

**OL No. 11910/TCHQ-TXNK dated 1 October 2014 of the General Department of Customs on the use of invoices in customs dossiers for export procedures.**

This Office Letter refers to Office Letter No. 11352/BTC-TCHQ dated 14 August 2014 of the MoF, according to which, export invoices shall be replaced by commercial invoices in the customs dossier for export, or for on-spot import/export transactions as assigned by the foreign traders.

Local enterprises exporting goods to non-tariff areas, selling goods to export processing enterprises shall use VAT invoices or sales invoices in accordance with provisions set out in Circular No. 39/2014/TT-BTC dated 31 March 2014 of the MoF.

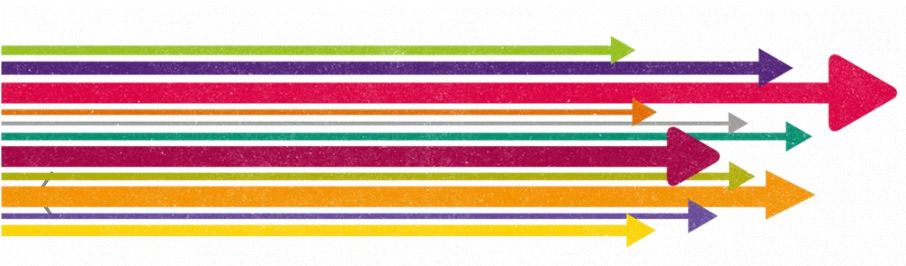
**Circular No. 146/2014/TT-BTC dated 6 October 2014 of the MoF providing financial regimes for securities companies, fund management companies.**

This Circular provides guidance on the financial regime for securities companies, fund management companies, branches of foreign fund management companies licensed and operated in Vietnam.

This Circular provides specific guidance on the following issues:

- Management and use of capital and assets;
- Financial security;
- Revenue and expenses management;
- Profit and funds provision;
- Accounting and audit regime, Report on the financial situation and securities investment.

This Circular shall take effect from 21 November 2014, applicable to the financial years 2014 onwards and replace Circular No. 11/2000/TT - BTC dated 1 February 2000 of the MoF providing guidance on the financial management regime of joint stock and limited liability securities companies.



# Contacts

## For further information

If you have any question or require further information relating to these updates, please contact our professional advisors.

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