

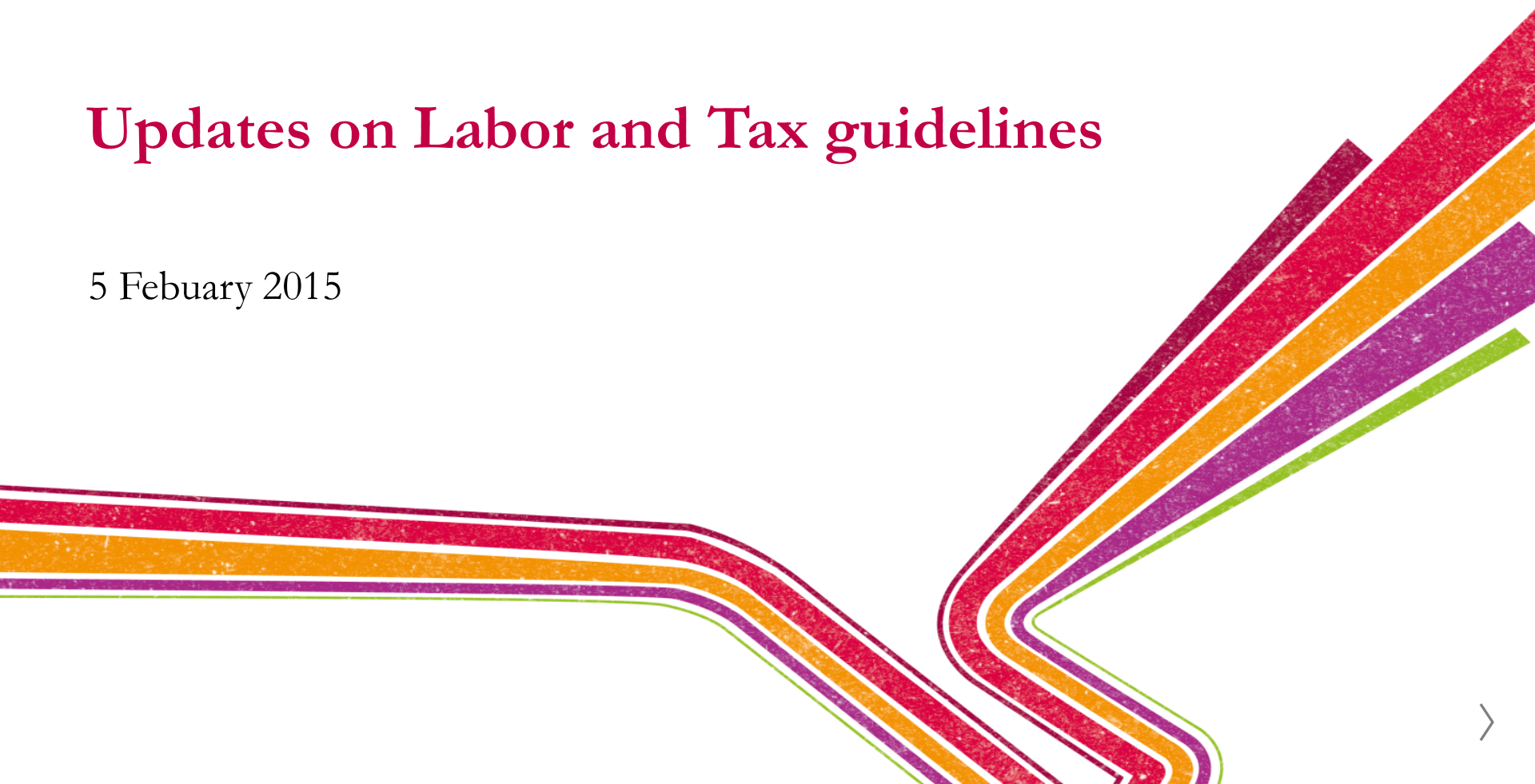


Grant Thornton

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Updates on Labor and Tax guidelines

5 February 2015



Updates on labor guidelines

Grant Thornton (Vietnam) would like to summarize for your reference some newly issued guidance on labor as follows:

Some notable points of Decree No. 05/2015/ND-CP dated 12 January 2015 providing detailed guidance on the implementation of the Labour Code

- This Degree regulates in details the main contents of labor contracts, internal labor regulations.
- The duration of contracts can only be modified once via an appendix to the labor contract and must not alter the type of contracts earlier signed, except for the extension of labour contracts for old workers and part-time union officials.
- If salaries payment is delayed for less than 15 days, no additional payment would be needed. If the delay lasts for **15 days or more**, the employer is required to pay an additional amount, at the minimum, equivalent to **the delayed portion multiplied by the ceiling 01-month deposit interest rate** announced the State Bank of Vietnam at the time of salaries payment. Where such rate is not regulated by the State Bank, then the applicable rate is the 01-month deposit interest rate announced by the **commercial banks, where the employers open their transactional accounts at the time of salaries payment**.
- Within **10 days** from the issuance of the internal labour regulations, the employer must have it registered with the labour management authorities of the provinces, cities where the business is registered.
- The internal labor regulations shall take effect 15 days from provincial

labour management agencies' receipt of the registration documents or re-registration documents.

- Employers who employ less than 10 workers are not required to register the internal labor regulations.

This Decree takes effect from 01 March 2015 and replaces Decree No. 196/CP dated 31 December 1994, No. 93/2002/ND-CP dated 11 November 2002, No. 41/CP dated 6 July 1995, No. 33/2003/ ND-CP dated 2 April 2003 and No. 11/2008 / ND-CP dated 30 January 2008.

Period of stay exempted from visa requirements for citizens of some countries

- On 29 December 2014, the Government issued Resolution No. 99/ NQ-CP, according to which waiving visa requirements for citizens of a number of countries: Russia, Japan, the Republic of Korea, the Kingdom of Denmark, the Kingdom of Norway, the Kingdom of Sweden and the Republic of Finland where the period of staying in Vietnam does not exceed 15 days from the date of entry, regardless of passport types, entry purposes, provided that relevant criteria, according to the Vietnamese regulations, are met.
- The above visa exemption applies to the 5-year period from 01 January 2015 to 31 December 2019 after which would be reviewed, renewed in accordance with the law of Vietnam.
- This resolution takes effect from the issuance date (i.e. 29 December 2014).



Updates on tax guidance

Grant Thornton (Vietnam) would like to summarize for your reference some newly issued tax guidance as follows:

The supplementation of business activities, together with an increase of the existing project's land area is not considered as an expansion project

- This is the guidance as per Official Letter No. 3036/TCT-CS dated 5 August 2014 of the General Department of Taxation for a case involving a project still under construction, not yet put into operation. The Company does not increase investment capital, but supplement business activities and increase the land area (via receiving a land use right transfer and properties situated thereon, but not the production lines) for project implementation. This case is not considered a project expansion, but still the implementation of the initial project, and is still entitled to preferential Corporate Income Tax treatment if the relevant investment conditions are met.

Determination of tax evasion activities

- According to Official Letter No. 5908 / TCT-TTr dated 30 December 2014 of the General Department of Taxation, in case a Company does not maintain accounting records; or does not produce warehouse receipt/dispatch notes for goods bought and sold; or prepare receipt/payment vouchers upon making sales/purchases, then it would be defined as a tax evasion, tax fraud pursuant to Article 108 of the Law on Tax Administration.
- In case the Company poses signs of committing criminal acts, the Tax Department shall propose to the Police authorities for further proceeding.

The calculation of VAT and issuance of invoices for internally consumed goods

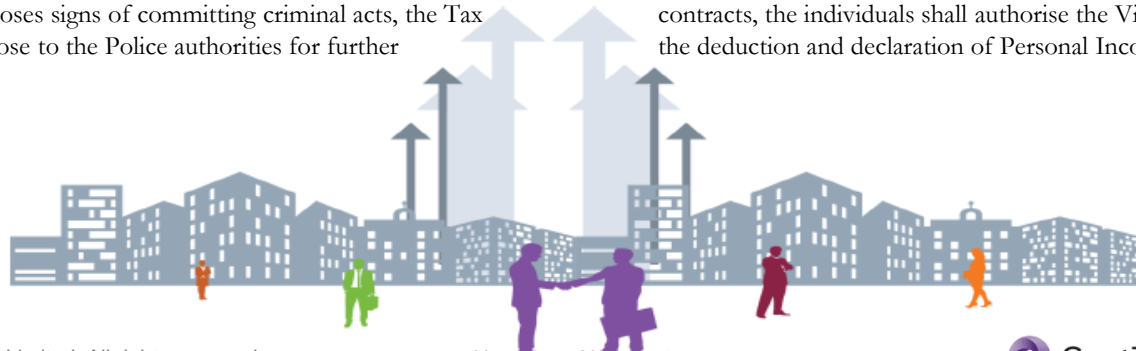
According to Official Letter No. 64 769 / CT-HTr dated 24 December 2014 of Hanoi Tax Department:

- In case the internally consumed goods serve business purposes, the Company shall issue VAT invoices, in which the selling price is displayed as the payment charge, the tax rate and VAT amount are left as nil and crossed out as stipulated in Circular No. 39/2014 / TT-BTC dated 31 March 2014.
- In case the internally consumed goods do not serve business purposes (such as serving individual consumption of the staff), the Company shall issue invoices and calculate VAT a per guidance of Circular No. 39/2014 / TT-BTC.

Declaring Personal Income Tax for the technical assistance fees of foreign experts

The GDT provided guidance in Official Letter No. 172 / TCT-PIT dated 16 January 2015 as follows:

- Where the foreign individuals are employees dispatched to Vietnam by the foreign contractors, such income is then taxable in Vietnam and such individuals must perform self-declaration and payment of Personal Income Tax to the tax authorities managing the Vietnamese companies.
- Where the individuals' income has been determined from the foreign contracts, the individuals shall authorise the Vietnamese companies for the deduction and declaration of Personal Income Tax on their behalf.



Note to Enterprises

On the deadline for submission of the annual tax return

For Enterprises having a fiscal year ended 31 December 2014, please be noted that the deadline for submission of the following relevant reports and the annual tax return is *31 March 2015*.

- The financial statements, attached with the audit report
- The annual Corporate Income Tax finalization return
- The declaration of Related Party Transactions, according to template No. 03-7/TNDN
- The Personal Income Tax finalization return

Apart from penalties for violating tax administrative procedures and for late tax payment due to late submission of the above annual tax returns, a fine ranging from VND20 to VND30 million would be imposed for companies submitting Financial statements to the relevant authorities without the attachment of an audit report, if such an report is statutorily required.



Contacts

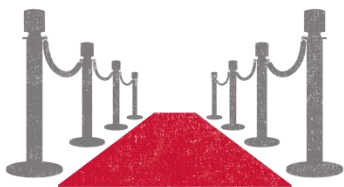
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If you have any question or require further information relating to this tax alert, please contact our professional tax advisors.

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Please visit our website:

www.gt.com.vn



Hanoi Office

18th Floor, Hoa Binh International Office Building
106 Hoang Quoc Viet
Cau Giay District, Hanoi
Vietnam
T + 84 4 3850 1686
F + 84 4 3850 1688

Hoang Khoi

Tax Partner
D +84 4 3850 1618
E Khoi.Hoang@vn.gt.com

Nguyen Dinh Du

Tax Partner
D +84 4 3850 1620
E Du.Nguyen@vn.gt.com

Kaoru Okata

Director – Japanese Desk
D +84 4 3850 1680
E Kaoru.Okata@vn.gt.com

Pham Ngoc Long

Tax Director
D +84 4 3850 1684
E Long.Pham@vn.gt.com

Kieu Hoai Nam

Tax Senior Manager
D +84 4 3850 1681
E Nam.Kieu@vn.gt.com

Ho Chi Minh Office

28th Floor, Saigon Trade Center
37 Ton Duc Thang Street
District 1, Ho Chi Minh City
Vietnam
T + 84 8 3910 9100
F + 84 8 3914 3748

Nguyen Hung Du

Tax Partner
D +84 8 3910 9231
E HungDu.Nguyen@vn.gt.com

Valerie – Teo Liang Tuan

Tax Director
D +84 8 3910 9235
E Valerie.Teo@vn.gt.com

Tran Hong My

Tax Director
D +84 8 3910 9275
E HMy.Tran@vn.gt.com

Tomohiro Norioka

Director – Japanese Desk
D +84 8 3910 9205
E Tomohiro.Norioka@vn.gt.com

Tran Nguyen Mong Van

Tax Senior Manager
M +84 8 3910 9233
E MongVan.Tran@vn.gt.com

Nguyen Bao Thai

Tax Senior Manager
M +84 8 3910 9236
E Thai.Nguyen@vn.gt.com

Questions & feedback

