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Updates on payment and tax guidelines

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Updates on payment and tax guidelines

In this Newsletter, Grant Thornton (Vietnam) would like to update recent guidance on payment method as follows:

Circular No. 09/2015/TT-BTC dated 29 January 2015 issued by the Ministry of Finance provides guidance on payment methods of Enterprises in making capital contribution, purchasing, selling, transferring the capital contributed in other Enterprises; and payment method of Enterprises being non-credit institutions in borrowing, lending and paying loans to/from each other within the Vietnamese territory as follows.

- Enterprises do NOT use cash (paper or metal monies issued by the State Bank of Vietnam) in making capital contribution, purchasing, selling, transferring the capital contributed in other Enterprises.
- When conducting transactions of capital contribution and purchasing, selling, transferring the capital contributed in other Enterprises, Enterprises shall use the following payment methods:
 - Cheques
 - Payment orders – money transfers
 - Other non-cash payment methods pursuant to the prevailing regulations..
- Circular No. 09/2015/TT-BTC takes effect from 17 March 2015.

In addition, Grant Thornton (Vietnam) would like to update some recent guidance on tax policies as follows:

Official Letter No. 480/CT-TTHT issued by Hai Duong Tax Department on 05 February 2015 regarding overtime salary expenses

According to Hai Duong Tax Department, where the Company pays for the employees' overtime hours which exceed the overtime hours prescribed by the Labor Code, such expenses would be considered CIT-deductible if the payments are regulated in one of the following documents: Labor Contract, Collective labor agreement, Financial regime of the Company... and are supported by proper supporting documents.

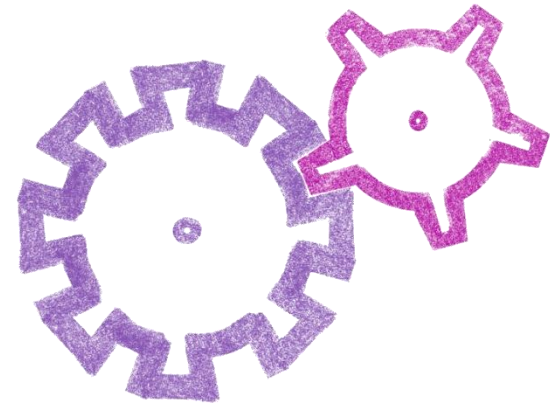
Official Letter No. 552/CT-TTHT issued by Hai Duong Tax Department on 09 February 2015 regarding changes in the depreciable useful life of fixed assets.

- Where the Enterprise's fixed assets are currently depreciated over the useful life of 8 years, but then re-assessed down to 4 or 6 years, such revision shall be allowed if it is performed once only per each asset, the re-assessed useful life of the assets does not exceed its technical lifetime, and such changes do not result in the enterprise' business performance changing from profit-making to loss-making or vice versa for the year in which the change takes place.
- Where the enterprise has already notified the depreciation method to the tax authorities, changes in the fixed assets' depreciable useful life would NOT need to be re-notified.

Update on Transfer Pricing

The Ministry of Finance promotes training programs aiming at improving transfer pricing auditing skills for tax officers.

- According to the Propaganda and Support Division of Dong Nai Tax Department, in the end of January 2015, the Ministry of Finance collaborated with Dong Nai Tax Department in organizing a course on IMPROVING TRANSFER PRICING AUDITING SKILLS for more than 80 officers including heads of divisions, sub-divisions and tax audit officers.
- The training curriculum focused on:
 - basic knowledge on how to broadly identify transfer pricing cases in related party transactions, on benchmarking principles, transfer pricing methods and providing detailed guidance on the determination of items subject to disclosure in Form GCN – 01/QLT
 - highlighting actual transfer pricing cases which have been identified, investigated and successfully concluded by Vietnamese tax authorities
 - acquiring theoretical knowledge, while practicing on illustrative examples and undertaking multiple choice tests during the course
 - equipping the skills of identifying, investigating and selecting transfer pricing methods when conducting transfer pricing audits
 - initiating transfer pricing audits in 2015 for inspection divisions, including the determination of the relevant divisions which are responsible for performing desk reviews for obtaining information forming the basis for selecting target enterprises, while at the same time charged with putting through the tax audit adjustments subsequent to the audits.
- This training is in line with Decision No. 1250/QD-BTC dated 21 May 2012 of the Ministry of Finance, approving the action plan for transfer pricing controls during the period from 2012 to 2015, with the following emphases:
 - training, providing in-depth expertise for officers responsible for transfer pricing management activities in order to successfully accomplish the mission in the future
 - focusing on promoting transfer pricing inspection activities by tax authorities at all levels; ensuring the planned and actual transfer pricing audits should account for at least 20% of the total cases within a year.



Notice for Enterprises

Grant Thornton (Vietnam) recommends that Enterprises should review the accuracy of information disclosed in the related party transaction declaration, and examine supporting documents for substantiating the selection and application of the most suitable pricing method in related party transactions, including information, data, vouchers for benchmarking studies, adjusting material differences, pricing calculation pursuant to the adopted pricing method, and reasoning for such application.

Enterprises should be aware that in accordance with the Ministry of Finance's regulations, the information, documents and vouchers relevant to the business activities and the transfer pricing method **must be prepared at the time of undertaking the related party transactions, updated and supplemented during the process of conducting the transactions**, and maintained in accordance with regulations on accounting record keeping and maintenance pursuant to accounting, statistics and taxation guidelines.

According to the observation of Grant Thornton (Vietnam), during the audit process, where **Enterprises provide supplementary transfer pricing documents, but such documents do not form the basis on which the previously submitted related party transaction declaration is prepared, there is a possibility that such documents might NOT be accepted by the Tax authorities.**



Contact

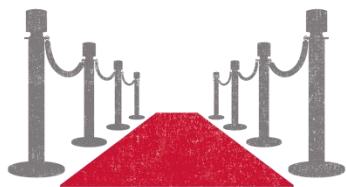
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If you have any question or require further information relating to this tax alert, please contact our professional tax advisors.

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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

Tran Nguyen Mong Van

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

Tomohiro Norioka

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

Nguyen Bao Thai

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

Questions & feedback

