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# Tax inspection - Tax audit results in 2014 Updates on Tax, Social insurance and Labour policy

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# Tax inspection, tax audit results in 2014 and updates on tax policy

## TAX INSPECTION AND TAX AUDIT RESULTS IN 2014

In 2014, tax authorities have increasingly conducted inspection and examination on tax and transfer pricing issues in order to avoid losses for the State Budget. According to the announcement from the Ministry of Finance, the data of enterprises being audited and subject to tax adjustment are as follows:

- **Number of enterprises that were inspected and audited:** 67,053 enterprises as opposed to 64,119 enterprises in 2013, in which the number of enterprises being inspected on transfer pricing issue has seen an increase from 2,110 enterprises in 2013 to 3,661 enterprises in 2014 (73% increase)
- **Total incremental tax collections through the inspection and examination:** VND12,224.85 billion in comparison with VND13,657.08 billion collected in 2013.
- **Reduction of loss amount of the enterprise subsequent to inspection/examination:** VND22,027.12 billion which was an increase from VND4,192.86 billion in 2013.
- **The creditable VAT amount reduced through tax examination:** VND1,127.41 billion as contrasted with VND136.95 billion reduction in 2013.

In the current context, Grant Thornton Vietnam has seen a trend of increasing the number of tax inspection and audit being carried out. In addition, there is a noticeable change in the tax authorities' perspectives when imposing tax adjustments relating to taxpayer's tax obligations. Transfer pricing still remains at the centre of attention in any tax inspection.

Grant Thornton Vietnam recommends that enterprise taxpayers to ensure its compliance to the current regulations and its guidance. We recommend enterprises to regularly review the existing documentation in place to ensure that they are readily available during a tax audit/inspection. The impact of which is greatly positive in illustrating an proactive measures by the enterprises in minimising potential tax risks.

## CREDITABILITY OF VAT AMOUNT WHEN MAKING PAYMENTS TO BANK ACCOUNTS THAT HAVE NOT BEEN REGISTERED WITH TAX AUTHORITIES.

On 5 May 2015, General Department of Taxation has issued Official Letter No.2093/TCT-KK providing guidance for taxpayers using bank accounts, which have not been registered with tax authorities in accordance with regulations, to settle payment for the goods, services procured from and provided by local suppliers.

In such instances, the taxpayers shall be exposed to administrative fine for violation of tax registration, as well as:

- If the suppliers also fail to notify their bank accounts information to the Tax authorities, they will be fined on violation of tax registration. The tax payers will not be eligible for consideration of either tax credit or tax refund on related input VAT.
- If the suppliers have notified their bank accounts information to the tax authorities, or taxpayers have supplementally notified their bank account information before the issuance of tax decision to be audited/inspected by the Tax authorities, any tax credit or refund might be considered.

Grant Thornton Vietnam recommends that enterprises should request their suppliers to provide supporting documents substantiating that their bank accounts have already been notified to the Tax Authorities in accordance with regulations to ensure its eligibility to apply for tax credit and tax refund.

# Updates on policy relating Corporate Income Tax applicable in 2015

On 22 June 2015, the Ministry of Finance has promulgated Circular No. 96/2015/TT-BTC dated 22 June 2015 providing guidance on the implementation of the law on Corporate Income Tax (“CIT”). This circular amends and supplements a number of tax guidance aiming to provide more support for enterprises. Grant Thornton (Vietnam) would like to summarise the noteworthy points of Circular No. 96 as follows:

1. Amendments and supplementation on a number of regulations relating to CIT declaration and payment for Vietnamese enterprises investing in foreign countries and simplification of the dossiers for tax declaration and payment of Vietnamese enterprises investing in foreign countries with regards to the income from the investment project in overseas to skew towards the case of application dossier under Double Tax Avoidance Agreement.
2. Amendment on the timing of revenue recognition for the purpose of calculating taxable income relating to provision of services
3. Consumption norm: Abolishing the provision relating to enterprise which builds and manages the consumption norms of raw materials, supplies, fuel, energy, goods used in production and business by themselves from which the excessive portion of this consumption norm shall not be included in deductible expenses.
4. Accommodation expenses for expatriate: Supplementation for provision relating to the deductibility of accommodation expenses for expatriate during their business trip in Vietnam if such expenses are settled by the Vietnamese entity contracting with a foreign entity in which the contract terms clearly states such expenses are borne by the Vietnamese entity.
5. Expenses relating to employee’s uniform: Elimination the cap on the expenditure incurred for employee’s uniform which are paid in kind. Expenses are fully deductible provided legitimate invoices, proper supporting documents are available.
6. Business allowance: Elimination of the cap on travelling allowances for business trips. Enterprises can include such expenses in the deductible expenses if adequate invoices, supporting documents can be provided in accordance to the regulations. In instances where the enterprises provide per diem allowance for its employees during their business trip which is in compliance with the company’s financial and internal policy, such per diem allowances can be regarded as allowable for deduction.
7. Elimination of the requirement for report of payment of electricity and water expenses in the Form No. 02/TNDN.
8. Differences in exchange rate:
  - In instances where the differences of exchange rate incurred which are not directly related to the revenue and expenses generated during the enterprise’s main production/business activities, the loss from foreign exchange shall be recorded in the financial expenses. On the other hand, gains from foreign exchange shall be recorded in the other income when determining taxable income.
  - Similarly, the gains or losses from foreign exchange due to the revaluation of loan in foreign currency at the end of the financial year which are not directly related to the revenue/expenses generated through the main production/business activities, shall be recorded in the other income or financial expenses when calculating taxable income.



# Updates on policy relating Corporate Income Tax applicable in 2015

## 9. CIT Incentives:

In instances where enterprises have investment, which are entitled to CIT incentives based on geographical location and have generated revenue outside of such investment area, that income shall be treated as follows:

- Such enterprises are not entitled to the CIT incentives for the income generated in an area that doesn't belong to the preferential investment areas.
- Income generated within other preferential investment area is entitled to CIT incentives. As such, the CIT incentives shall be determined for such income based on the specific area where the investment projects are undertaken, taking into account the time and level of CIT incentives allowed in these areas.

## 10. CIT incentives carry forward:

- Enterprises having expansion investment project which has been certified by the authorised authorities or has been implemented for the period 2009-2013, up until 2014 tax period, met the requirements for tax incentives (preferential fields or areas including the industrial zones, economic zones, high technology park), shall be entitled to tax incentives for the income from the expansion project for the remaining period from 2015 tax period onwards.
- Enterprises having unfinished production expansion investment projects until 31 December 2008 that have continued in 2009 and finished and commenced operation in 2010, if satisfy the conditions for tax incentives

(preferential fields or areas including industrial parks, economic zones, high technology parks) stipulated at the time of deciding to implement the expansion investment project can choose the CIT incentive schemes applied for the increasing income from the expansion project for the remaining period from 2015 tax period onwards.

- Enterprises having investment in industrial zones during the period from 2009 to 2013 which, up until 2014 tax period, met the conditions for tax incentives (preferential fields or areas), shall be entitled to tax incentives for the remaining period from 2015 tax period onwards.
- If the location in which enterprises with investment project (inclusive of industrial parks, economic zones, high technology parks) was not listed in the preferential areas for tax incentives, from 1 January 2015, are categorized in the preferential areas for tax incentives, are entitled to tax incentives for the remaining period from 2015 tax period onwards.

## 11. Circular's effective dates:

- Circular 96 takes effect from 6 August 2015 and is applicable for the 2015 tax period onwards.
- The Circular 96 abolishes the guidance on CIT issued by the Ministry of Finance and other related Departments which is inconsistent with the provisions stipulated in this Circular.

**Grant Thornton (Vietnam) recommends the enterprises to proactively reviews the internal information to ensure an effective measure for CIT in 2015.**



# Updates on guidance relating to Social Insurance and Labour Policy

## THE DEADLINE OF ISSUING HEALTH INSURANCE (“HI”) CARDS PROCEDURE

Official Letter No. 2049/2015/BHXH-NVGD1 dated 26 June 2015 stipulated the procedure for issuing HI cards on a timely basis.

According to this Official Letter, Social Insurance Department of Ho Chi Minh City has issued the guidance as below:

- Employers are required to carry out the procedure of extending HI cards for employees **at least ten (10) days prior to the HI cards being expired**; or the procedure of new issuance of HI cards has to be undertaken **at least ten (10) days before the labour contracts take effect**. The Social Insurance authorities shall issue certification for temporary use if the employees requires medical examination while the HI card has not been issued.
- **If employers do not follow the deadline for the above procedure, they will be responsible to reimburse the employees all expenses incurred** in terms of the rights and level of HI which the employees has to bear while waiting for the HI cards.
- **Social Insurance authorities shall only pay the health exam expenses incurred since the date of HI card issuance, expenses incurred before the issuance date of the HI card are not under the payment scope of Health Insurance Fund.**

## TIMING IN CALCULATING SEVERANCE ALLOWANCE

Official Letter No. 2343/LDTBXH-LDTL dated 18 June 2015 was issued by Ministry of Labor, War Invalids and Social Affairs which provides guidance in determining the timing to calculate severance allowance.

- The employers shall pay the severance payment to employees who have been regularly employed in a company for twelve (12) months or more. The severance allowance shall be calculated at a rate of half a month salary for each year of employment.
- The time the employees take off in accordance with the entitlement regimes stipulated in the Social Insurance Laws shall be counted as the employee’s actual working time for the calculation of severance allowances and unemployment allowances.
- The period of employment service used as the basis for the calculation of the severance allowance will be the actual employment period excluding the period of participating in Unemployment Insurance under Law of Unemployment Insurance and the period of having been paid Severance Allowance by the employer.
- The time in which the employees on maternity leaves without salary/wage from the employer but receive the social insurance allowance, then they are not entitled to participate the Unemployment Insurance scheme for this period.



# Updates on guidance relating to Social Insurance

## **SOCIAL INSURANCE POLICY FOR EMPLOYEES STUDYING OR WORKING ABROAD, ON BUSINESS TRIP OR ON LEAVE DUE TO LONG TERM ILLNESS**

**Official Letter No. 1660/BHXH-THU dated 28 May 2015 providing guidance on the implementation of collecting Social Insurance, Health Insurance contributions for employees being assigned to study or work abroad or on business trip as well as on leave due to long-term illness:**

### **Contribution on social and unemployment insurance**

- With regards to the employee, who is assigned to study or work overseas, is still entitled to salary, remunerations paid by Company during the time of studying/working overseas, the monthly contribution shall be 28% based on monthly salary and remuneration. The rate is inclusive of 26% for Social Insurance (18% and 8% paid by the employer and employee respectively); 2% Unemployment (employer and employee pay the same rate of 1%).
- In instances where the employee who is assigned to study or work overseas does not receive any income from the company during the time of studying/working overseas, the monthly contribution is 22% (retirement and survivorship allowance fund) based on the monthly salary and remuneration used to calculate the compulsory social insurance contribution before going abroad and will be fully borne by the employee.

### **Employees on sick leave receiving monthly allowance due to illness, as listed in the list of illnesses that required long term treatment**

From 1 January 2015, employees taking leave due to **illnesses that required long term treatment**, the employer and the employee are not required to pay for Social Insurance, Health Insurance and Unemployment Insurance contribution; the employee will be paid health insurance by the Social Insurance authority. The Social Insurance authority will issue the Health Insurance card with a different code number for the employee under the above list.

### **Employees take sick leave for 14 days or above in a month in accordance to the provisions of the Social Insurance Law**

Such employees, in accordance with the Law on social insurance, is not required to pay health insurance contribution, however, they are still entitled to the health insurance benefits.

### **Employee working abroad**

If the employee working abroad participates in Health Insurance within 60 days from the date he/she enters into Vietnam, the time participated in Health Insurance scheme can be inclusive of the total time working abroad up to the date he/she registers for Health Insurance.



# Contact

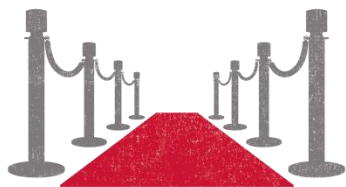
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## Ha Noi Office

18<sup>th</sup> Floor, Hoa Binh International Office Building  
106 Hoang Quoc Viet  
Cau Giay District, Ha Noi  
Vietnam

T + 84 4 3850 1686

F + 84 4 3850 1688

## Hoang Khoi

Partner

D +84 4 3850 1618

E [Khoi.Hoang@vn.gt.com](mailto:Khoi.Hoang@vn.gt.com)

## Nguyen Dinh Du

Partner

D +84 4 3850 1620

E [Du.Nguyen@vn.gt.com](mailto:Du.Nguyen@vn.gt.com)

## Kaoru Okata

Director – Japanese Desk

D +84 4 3850 1680

E [Kaoru.Okata@vn.gt.com](mailto:Kaoru.Okata@vn.gt.com)

## Pham Ngoc Long

Director

D +84 4 3850 1684

E [Long.Pham@vn.gt.com](mailto:Long.Pham@vn.gt.com)

## Ho Chi Minh Office

28<sup>th</sup> Floor, Saigon Trade Centre  
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

Partner

D +84 8 3910 9231

E [HungDu.Nguyen@vn.gt.com](mailto:HungDu.Nguyen@vn.gt.com)

## Valerie – Teo Liang Tuan

Director

D +84 8 3910 9235

E [Valerie.Teo@vn.gt.com](mailto:Valerie.Teo@vn.gt.com)

## Tran Hong My

Director

D +84 8 3910 9275

E [HMy.Tran@vn.gt.com](mailto:HMy.Tran@vn.gt.com)

## Tran Nguyen Mong Van

Director

D +84 8 3910 9233

E [MongVan.Tran@vn.gt.com](mailto:MongVan.Tran@vn.gt.com)

## Tomohiro Norioka

Director – Japanese Desk

D +84 8 3910 9205

E [Tomohiro.Norioka@vn.gt.com](mailto:Tomohiro.Norioka@vn.gt.com)

## Nguyen Bao Thai

Senior Manager

D +84 8 3910 9236

E [Thai.Nguyen@vn.gt.com](mailto:Thai.Nguyen@vn.gt.com)



# Questions & feedback

