



Grant Thornton

An instinct for growth™

Newsletter

Evaluation report on tax administration reform and business satisfaction levels in 2014; Salary, Tax, Customs and supporting policies for Enterprises

31 August 2015



Evaluation on tax administration reform

Vietnam Chamber of Commerce and Industry (VCCI), Advisory Council on the reform of tax administrative procedures, the World Bank's International Finance Corporation and the General Department of Taxation have announced at the Seminar conducted on 11 August 2015 the Report on "Evaluation of tax administration reform: Satisfaction levels of Business in 2014".

The entire process of enterprise investigating, data processing and reporting was conducted independently under the lead of VCCI's research team based on the survey results of enterprises operating in 63 provinces and cities nationwide.

Grant Thornton Vietnam would like to provide a brief summary of some notable points in this Report for your reference as follows:

Information Approach

According to the Report, of every two enterprises being investigated, one said it found easy to access to legal documents, tax policies of the Central Government or guiding documents of the Ministries or Departments.

Evaluation on implementing tax administrative procedures

49% of the enterprises participated in this survey said that they used to encounter difficulties in implementation of tax administrative procedures (e.g: tax registration, tax declaration).

Tax officers required to provide variety information and documents which were un-necessary and the processing time was too long.

Inspection, examination and resolving complaints

It seems that enterprises creating higher revenue shall suffer higher tendency of tax inspection and examination. 90% of the enterprises agreed that the term of tax inspection and examination is in compliance with the prescribed time. 26% of the enterprises have paid unofficial fees during tax inspection and examination. 32% of the enterprises said the interpretation and application of tax regulations in the tax inspection and examination process of tax officers always tend to be adverse inference for enterprises. 13% of the enterprises used to complain about the tax inspection and examination procedures of the Tax authorities. Many enterprises did not complain due to (i) being afraid of the risks upon future relationships (32%); (ii) concerning about time consuming (31%).

Evaluation of tax administrative reforms

(Evaluation of tax administrative reform, continue from previous page)

Services of tax officers

- 53% of the enterprises agreed that tax officers have polite attitude, behave correctly and respectfully towards them.
- 52% of the enterprises had good evaluation of professional knowledge and skills of the tax officers in tax declaration and tax finalization.
- 32% of the enterprises admitted that they had to pay unofficial fees to the tax officers. Among the FDI enterprises participated in the survey, 41% of them responded that they paid unofficial fees to the tax officers.
- 48% of FDI enterprises believed that they would be discriminated if they didn't pay these unofficial fees. Among the enterprises believed of being discriminated if they didn't pay such fees, 50% of them said that they would be required on documents supplementation and explanation, approximately 37% of them being afraid that they would be prolonged the tax procedures and 15% of them said that the tax officers would no longer have civilized and polite attitude when contacting.

General evaluation of tax laws and petition of the enterprises

92% of the enterprises participated in the survey said that tax laws have made positive changes/ quite positive changes

The enterprises expressed their expectations towards the reform of tax administration in the upcoming time, such as: Simplification of tax administrative procedures (86%), expansion of the information forms of tax administrative bodies & tax administrative procedures (71%).

In case you are interested in full version of this independent research results, please kindly contact with VCCI. Grant Thornton Vietnam is willing to provide you more information and assistance.

Updates on guidance relating to salary and tax

Circular No. 23/2015/TT-BLDTBXH providing guidance on a number of articles on salary which took effective from 8 August 2015 and the regimes pertaining to this Circular are applicable from 1 March 2015 onwards.

Some notable points of this document are as follows:

Term of salary payment

- Employee enjoying monthly salary shall be paid on a monthly or semi-monthly basis and the salary must be paid to the employee within such working month.
- Time of salary payment shall be agreed between both parties and **defined at a fixed time in the month.**

Calculation of extra wages for overtime working, night-shift working and overtime night-shift working

- This Circular stipulated specifically the computation method and definitions of all items in this computation formula.

Grant Thornton Vietnam recommends the Enterprises:

- **Review the term of salary payment and calculation of extra wage for overtime to comply with the new regulations.**
- **Prepare a report reflecting in details the time of night-shift working, overtime working, extra wages already paid for night-shift working, overtime working to the employees. This report is kept at the income paying organization and presented to the tax authority upon requested to prove for tax exemption portion of income in accordance with the Laws on PIT.**

Circular No. 92/2015/TT-BTC providing guidance on a number of articles amending VAT, PIT and Tax administration.

This Circular came in to force since 30 July 2015 and applied for the PIT period of 2015 onwards.

Some notable points of this document are as follows:

- Exempted from PIT for the one-off relocation allowance paid to the expatriates coming to work in Vietnam, Vietnamese leaving Vietnam to work in overseas and Vietnamese residing in overseas on a long term basis and returning to Vietnam to work.
- For the non-compulsory insurance without an accumulated premium comprising the following insurance products: health insurance, death insurance (except for the death insurance with refund policy), etc. in which Policy owner shall not receive the accumulated premium from joining insurance besides the insurance amount or the compensation paid by the insurer according to the Agreement in Insurance Contract.
- Costs of transporting employees from their place of residence to their work and vice versa shall not be included into their taxable income in accordance with the company policies.
- Income from capital investment from the profit paid out by private companies and one-member limited liability companies owned by an individual is not subject to PIT.

Updates on guidance relating to salary and tax

(Circular No. 92/2015/TT-BTC, continue from previous page)

▪ Conversion of taxable income into Vietnamese Dong:

Revenue, income received in a foreign currency must be converted into VND using the actual buying rate **of the individual's bank at the time of receiving income**

In case the taxpayer has no bank account in Vietnam, the buying rate of Vietcombank at the time of receiving income must be used.

Grant Thornton Vietnam recommends the Enterprises to pay attention to this new regulation to apply the appropriate rates for converting the taxable income.

▪ Principles of tax finalization in some specific cases, as following:

Vietnamese tax resident having income from wage, salary stays in Vietnam for less than 183 days in the first calendar year but for 183 days and more in 12 consecutive months from the first arrival day in Vietnam.

- For the first tax year: PIT finalization dossier is required to be declared and submitted at the 90th day as latest from the day fully counting of 12 consecutive months.
- For the second tax year: The deadline for submission of PIT finalization dossier is 90 days after the end of the calendar year.

• Foreign individuals being tax residents in Vietnam, when terminating their employment contract in Vietnam are required to finalize their PIT with the tax authority before leaving Vietnam

If a foreign individual being tax resident in Vietnam when terminating his/her employment contract in Vietnam does not finalize his/her PIT before leaving, he/she may authorize the employer or other organization/individual according to the Civil Code to finalize the PIT if the authorized organization/individual guarantees to take responsible with the tax authorities for the PIT payable amount of the foreign individual as prescribed.

In this case, the deadline for submission of PIT finalization is 45 days from the departure day.

▪ Supporting documents to prove the tax withheld, tax temporarily paid during the year or tax paid in overseas.

If the foreign tax authorities do not have a regime to issue a certificate of tax payment, the taxpayer could use Certificate of tax withheld (clearly indicate specific tax returns which tax amount have been paid) issued by the income paying organization or a self-certified copy of the bank transfer showing the tax paid overseas.

Updates on guidance relating to Customs

(Circular No. 92/2015/TT-BTC, continue from previous page)

▪ **Offsetting mechanism when carrying out of PIT finalization on behalf of individuals**

- Obligation from tax finalization on behalf of individuals shall be offset against the withholding tax obligation of the paying income organization.
- In case incurring an additional tax payable after offsetting, the income paying organization/individuals must fully pay such amount to the State Budget.
- If incurring an overpaid tax amount after offsetting, the tax authority will automatically offset such amount against the tax payable of the next period. Or the income paying organization/individual might submit a requesting form for tax refund under the form No. 01/DNHT enclosed with Circular No. 156/2013/TT-BTC to the tax authorities.

Remuneration and expenses of the supervisory board

According to the guidance in Official Letter No. 42921/CT-HTT dated 30 June 2015 issued by Hanoi Tax Department:

The payment of remuneration and operating expenses of the Supervisory Board, if these members are not directly involved in the operation and business activities of the Company, then the above expenses shall not be allowable for CIT deduction.

Income from liquidation of scraps, wastes, interest on indefinite saving account are enjoying CIT incentives

According to the guidance in Official Letter No. 45014/CT-HTT dated 10 July 2015 issued by Hanoi Tax Department:

1. In case the enterprise is enjoying preferential CIT due to satisfying the conditions of preferential investment field, then from the tax period 2014, income from preferential investment field and income from liquidation of scraps, wastes of products belonging to the preferential investment field, foreign exchange differences directly related to the revenue, expenses of the preferential investment field, interest on indefinite saving account and other related direct income also enjoys CIT incentives under the provisions at Clause 4 Article 18 Circular No. 78/2014/TT-BTC; Article 10 Circular No. 96/2015 / TT-BTC.
2. In case the project investment of an enterprise is enjoying preferential CIT due to satisfying the preferential conditions on area (including industrial parks, economic zones, hi-tech park), then the income entitled to CIT incentives is the entire income generated from business activities in the preferential area except for some types of income mentioned at Point a, b, c Clause 1 Article 10 Circular No. 96/2015/TT-BTC dated 22 June 2015 of the Ministry of Finance.

Updates on guidance relating to Customs

Royalty fee, license fee shall be added to the tax valuation of imported goods

During the inspection conducted by the Customs Department, enterprises might be required by the Customs Department to add royalty fee and license fee into the tax assessable value of the imported goods leading to the increment of tax liabilities.

The reason of above guidance originated from the following definitions, pursuant to the provisions at Article 14 Circular No. 39/2015/TT-BTC :

- Royalty fee is an amount of money that the buyer must pay directly or indirectly to the owner of intellectual property rights in order to be transferred the ownership or the right to use the intellectual property rights.
- License fee is an amount of money that the buyer must pay directly or indirectly to the owner of intellectual property rights in order to be allowable to perform a number of activities within the rights of industrial property rights.

Circular No. 39/2015/TT-BTC providing guidance on the addition of the royalty fee and license fee into the value of imported goods only if fully satisfying the following conditions:

1. The buyer has to pay the royalty fee and license fee for the use, transferring of the intellectual property rights in relation to the imported goods, according to clause 4 of this Article, being in process of customs valuation;
2. Royalty fee and license fee paid by the buyer directly or indirectly as a condition of the sale transaction of goods,

according to Clause 6 of this Article, being in process of customs valuation, and specified in sale contract, license contract or other agreement on transference of intellectual property rights;

3. Not yet included in the actual price which is already paid or payable of the imported goods being in the process of customs valuation.

Circular No. 39/2015/TT-BTC also provides guidance on NOT having to add the royalty fee and license fee into the customs value if falling into one of these following circumstances:

- The amount of money that the buyer must pay for the right to reproduce the imported goods or copy the works art in Vietnam (for example: if a sample of goods is imported to use for producing the copies exactly the same as the original imported one, then the amount of money paid for manufacturing goods following to the imported sample is considered as the right to reproduce the imported goods);
- The amount of money that the buyer must pay for the right to distribute or resell the imported goods if such amount is not considered as a condition for sale transaction of imported goods.

In case the amount of money the buyer pay for the right to reproduce, distribute or resell the imported goods is already included in the actual price which is paid or payable, it shall not be deducted from the customs value when determining the value of such imported goods.

Grant Thornton Vietnam recommends the Enterprises to review the documents and value of the imported goods that have been declared to ensure the correct declaration of tax assessable value.

Supporting enterprises in Nghe An province

People's Council of Nghe An Province has issued Resolution No. 175/2015/NQ-HĐND dated 10 July 2015 on a number of supporting policies for Enterprises located in Nghe An province in building and developing their brand name in the period 2016-2020.

Objects to be supported

- Enterprises of all economic sectors granted Business Registration Certificate with headquarter located in Nghe An province and having the need of branding development. Prioritizing:
 - ✓ The enterprises which commercialize the key products or strategic products of Nghe An Province.
 - ✓ The enterprises whose products have been granted Certificate of registration of trademark protection, geographical indications, industrial designs; application of standards, technical regulations and quality management system in accordance with the international standards.
- Related agencies and units.

Contents and supporting levels from the budget of Nghe An province

- Conducting trainings about the knowledge and skills in building, promoting the developing of products' branding and corporate branding; Editing documents relating to branding development.
 - ✓ Supporting levels: 100% expenditures including hiring lecturers (domestic and foreign), translation, location, water, materials ...

- Consultant on brand naming, logo designing, identifier system and building strategic development of products' branding and corporate branding.
 - ✓ Supporting levels: 50% of the total expenses but not exceeding 100 million/enterprise.
- Consultant on developing communication activities, marketing, promoting products' branding, corporate branding on TV stations and newspapers of Nghe An, Central and on the websites having large international transactions.
 - ✓ Supporting levels: 50% of the total expenses but not exceeding 100 million/enterprise.
- Supporting the enterprise on protection of their brands when having disputation or trademark infringement.
 - ✓ Supporting levels: 50% of the total expenses but not exceeding 100 million/enterprise.

Contacts

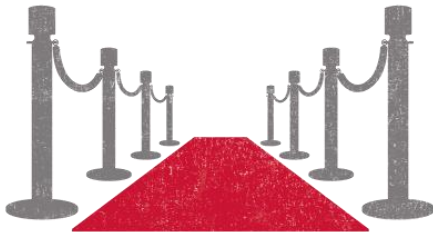
This Newsletter has been prepared for reference purposes only. No responsibility can be accepted by Grant Thornton (Vietnam) for errors or omissions in this publication or for loss occasioned to any person acting or refraining from acting as a result of any material in this tax alert.

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

For downloads

Please visit our website:

www.gt.com.vn



Ha Noi Office

18th 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

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

Nguyen Nhat Le

Tax Senior Manager
D +84 4 3850 1685
E Le.Nguyen@vn.gt.com

Ho Chi Minh Office

28th 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

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

Nguyen Bao Thai

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



© 2015 Grant Thornton (Vietnam) Limited. All rights reserved.
Grant Thornton (Vietnam) Limited is a member firm of Grant Thornton International Ltd (GTIL). GTIL and the member firms are not a worldwide partnership. Services are delivered by the member firms. GTIL and its member firms are not agents of, and do not obligate, one another and are not liable for one another's acts or omissions.