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Newsletter

Guidance on issuance of Construction Permits and tax declaration methods for foreign contractors operating in the field of construction in Vietnam.

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Guidance on issuance of Construction Permit for foreign contractors operating in the field of construction in Vietnam

The Ministry of Construction has promulgated Circular No. 14/2016/TT-BXD which provides guidance on granting the Construction Permits and managing foreign contractors operating in the field of construction, in Vietnam. This Circular is effective from 15th August 2016 and replaces Circular No. 01/2012/TT-BXD dated 8th May 2012.

Scope of the Circular:

This Circular applies to foreign contractors performing construction activities in Vietnam, including:

- Formulation of construction planning;
- Formulation of construction investment project;
- Construction survey;
- Construction design;
- Construction execution;
- Construction supervision;
- Construction project management;
- Selection of contractors;
- Pre-acceptance testing, handover of the work for exploitation or use ;
- Warranty and maintenance;
- Supply of technological materials and equipment accompanying technical services related to construction work; and
- Other activities related to construction.

Application dossier for granting Construction Permit to a foreign organization includes:

1. An application dossier for granting a Construction Permit in Vietnamese following the standard template;
2. A copy or a digital file containing a color copy of the original which is an image or other format (*.pdf) of bid-result or decision on contractor selection or construction contract, etc;
3. A copy or a digital file containing color copies of the originals which are images or other format (*.pdf) of Establishment License (or Certificate of Business Registration of the organization) and

Practice Certificates (if any) issued by the country being the home country of the foreign contractor or by the country where the construction project is conducted;

3. A digital file containing color copies of the originals which are images or other format (*.pdf) of report on experience in related construction activities following the prescribed format and the audited financial reports for the last three years (for cases where the contractors execute projects not subject to Law on bidding in Vietnam);
4. A digital file containing color copies of the originals which are images or other format (*.pdf) of consortium contracts with Vietnamese contractors or contracts with Vietnamese sub-contractors (as mentioned in the bid dossier) which specify the tasks of the Vietnamese contractors;
5. A lawful power of attorney to persons who are not the legal representatives of the contractor in the prescribed format;
6. A digital file containing a color copy of the original which is an image or other format (*.pdf) of decision on project investment or investment certificate or approval on investment policies.

Note:

- The Establishment License or the Certificate of Business Registration issued by foreign authorities must be consularised and legalized, unless an international treaty in which Vietnam and the relevant country are signatories contains provisions on consular legalization exemption. Documents made in foreign languages must be translated into Vietnamese and the translations must be notarized/authenticated according to Vietnamese Laws.
- After receiving the Construction Permit, if the foreign contractor wishes to make any modifications to the name or address of the foreign contractor or any changes to parties of the consortium or a sub-contractors or other contents of the granted Construction Permit, such foreign contractor will have to submit an application for modification of the Construction Permit.



Guidance on granting the Construction Permit for foreign contractors operating in the field of construction in Vietnam (cont.)

Compliance requirements after being granted Construction Permit:

- After obtaining a Construction Permit, the foreign contractor will establish an Executive Office at the place where the project is located and register name, phone number, fax number, e-mail address, seal, bank account and tax code of the Executive Office. After registration of the information of the Executive Office, the foreign contractor will send a written notification directly or by post to the local Construction Department where the project is located.
- Periodically on December 20th every year, the foreign contractor will send reports on contract execution status in the prescribed format to the licensing authority and the local Construction Department where the project is located.

Revocation of the Construction Permit:

A foreign contractor will have their Construction Permit revoked in any of the following cases:

1. The foreign contractor fails to rectify a violation when receiving the more than two written requests from the of relevant authorities.
2. The foreign contractor has incurred penalties for administrative violations in relation to activities mentioned in the Construction Permit on more than two occasions.

Responsibilities of the Investors/Project owners

- With regards to applications for obtaining a Construction Permit without a contract, the foreign contractor has to present the Construction Permit issued by licensing authorities to the investor/project owner within 30 days from signing of the contract. Failing which, the execution of the contract has to be suspended until the license is available;
- Together with the foreign contractor to register the import/export of material, machinery and equipment related to the contract execution;
- To supervise the foreign contractor executing the consortium contract with the Vietnamese contractors or the contracts with Vietnamese sub-contractors;
- To consider the capacity on supply of domestic construction equipment before negotiating on the list of construction machinery and equipment of the foreign contractor which will be subject of an application for temporary import and re-export;
- To consider the capacity of technical labor supply in Vietnam before negotiating with the foreign contractor on the list of foreign employees who will apply to come to Vietnam to work for the foreign contractor under the contract;
- To certify the final statement of imported material/equipment of the foreign contractor upon completion of the construction.
- The investor or the project owner to send a written notification on the functions and tasks of the foreign contractor carrying out the project management consultancy and supervising construction quality to other contractors and agencies in charge of construction quality management.

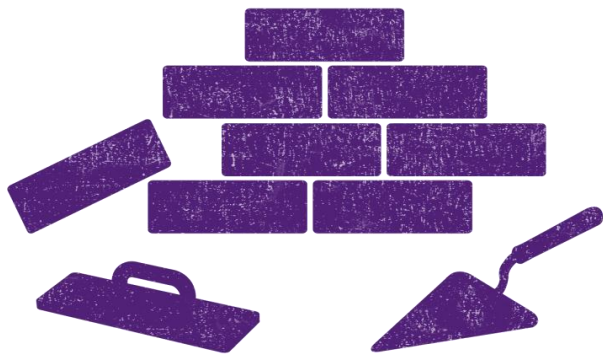


Tax Declaration Methods Obligations Of Foreign Contractors And Employees That Enter Vietnam To Work For The Project

Foreign contractors can choose one of the following tax declaration methods to declare the revenue earned from the contract signed with the investor:

- Deduction method; or
- Direct method; or
- Hybrid method.

Employees of the foreign contractor who come to Vietnam to work are required to carry out the administrative procedures in relation to Work Permit, Tax code registration, Personal Income Tax compliance regardless of whether such employees receive salary from the Executive Office.



Grant Thornton Vietnam's Assistance To Foreign Contractors

Grant Thornton Vietnam is experienced in assisting foreign contractors performing construction projects in Vietnam, including: Consultancy on contract negotiation with the project owner or sub-contractors;

1. Consultancy on contract negotiation with the project owner or sub-contractors;
2. On behalf of the foreign contractor, to liaise with the Ministry of Construction for obtaining the Project Construction Permit;
3. Establishing the Executive Office;
4. Setup accounting system for management and tax declaration purposes;
5. Periodic report to the local Construction Department;
6. Carry out tax registration, tax declaration and tax finalization upon completion of project;
7. Register work permit for foreign employees to allow them to work for the project in Vietnam; and
8. Declare personal income tax for the foreign contractor's employees working for the project in Vietnam.

Please kindly contact Grant Thornton Vietnam for detailed advice

Contacts

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Should you need to use information from this newsletter or support from Grant Thornton Vietnam, please contact our professional consultants.

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