

Tax Newsletter December 2016



In this newsletter, Grant Thornton Vietnam would like to update the following issues relating to tax, insurance, trade union and customs for your reference

Content	Page
Circular 173/2016/TT- BTC on input Value Added Tax (“VAT”) deductibility conditions which took effect from 15 December 2016	3
Cases not entitled to VAT refund from 1 July 2016	3
Foreign Contractor Tax (“FCT”) policy on transferring the right of use of trademark	4
Increment of mid-shift meals and lunch allowance	4
General Department of Taxation requests the local tax authority to prevent and repel the exploitation of sale and issuance of single invoices which are commonly used for claiming of expenses, which might lead to losses to the state budget collection in 2017	5
Contribution to trade union fee in 2017	6
10% VAT for mold repair service	6
Import tax exemption for materials imported before 01 September 2016	6

1. Circular 173/2016/TT- BTC on input VAT deductibility conditions which took effect from 15 December 2016

The Ministry of Finance (“MoF”) has issued Circular 173/2016/TT- BTC (“Circular 173”) on 28 October 2016 which amends and supplements the first paragraph of Clause 3 Article 15 of Circular no. 219/2013/TT- BTC

Accordingly, the regulation the buyer’s bank account and the seller’s bank account must be registered or notified to the tax authorities pertaining to the conditions of payment vouchers via banks for claiming input VAT, was abolished .

Hence, enterprises having documentary evidence proving the transfer of money from the buyer’s bank account to the seller’s bank account opened at payment services providers under legitimate payment methods as prescribed by the law will be regarded as having bank transfer receipts.

Not registering the payers bank account with the tax authorities is considered as violating tax procedures only (as prescribed at Clause 2, Article 8, Decree 129/2013 / ND-CP); nevertheless, the buyer shall still be entitled to claim VAT deductible.

2. Cases not entitled to VAT refund from 1 July 2016

Official Letter No. 13804/BTC -TCT issued by Ministry of Finance dated 30 September 2016 provides further guidance on cases not entitled to VAT refund in accordance with Law No. 106/2016/QH13:

Domestic goods and services:

Exported goods and services:

- Exports are exported outside of the customs-controlled area;
- Goods are imported and re-exported afterwards;
- Exports of natural resources and minerals before or after further processing whose prime cost is comprised of, at least 51%, the total value of such natural resources and minerals plus the energy cost;

Investment projects:

- The charter capital of an investment project has not been adequately contributed as registered;
- The investment project in a conditional business sector fails all of business conditions as prescribed in the Law on Investment or fails to maintain the satisfaction of all business conditions during its operation
- The natural resource or mineral extraction project is licensed after July 01, 2016 or a manufacturing project where total value of natural resources and/or minerals inclusive of energy cost makes up at least 51% of the cost price.

3. Foreign Contractor Tax policy on transferring the right of use of trademark

MoF has issued Official Letter No. 15888 / BTC-CST on the 7th November 2016 to provide guidance on FCT policy for transferring the right of use of trademarks.

In the event a foreign enterprise derives income from the transfer of the right of use of a trademark, in accordance with the Law on intellectual property, the applicable tax rate of this nature of income will be as follows:

- Corporate Income Tax (“CIT”): applicable tax rate of 10% on the CIT-taxable income; and
- Value Added Tax (“VAT”): applicable tax rate of 10% on the VAT-taxable income (if applying deduction method) or 5% (if applying direct method)

For cases incurred prior to 7 November 2016 where VAT and CIT have been declared and paid, there is no requirement to make any adjustment even if the tax obligations computed differs from the guidance in this official letter. If taxes have not been declared or declared but VAT and CIT have not been paid, the tax payer shall be required to declare and pay VAT and CIT under the guidance in this official letter.

4. Increment of mid-shift meals, lunch allowance

According to Circular No. 26/2016/TT-BLDTBXH issued by the Ministry of Labor – Invalids and Social Affairs on guidelines for the management of labor, salary and incentives for employees in wholly state-owned single-member limited liability enterprises, from 1 January 2016 retrospectively, the mid-shift meals, lunch allowance paid to employees which is not included in taxable income of employees increase from VND680,000/person/month to VND730,000/person/month.



5. General Department of Taxation requests the local tax authorities to prevent and stop the exploitation of sale and issuance of single invoices which are commonly used for claiming expenses which might lead to losses to the state budget collection in 2017

General Department of Taxation has issued the Official Letter No. 5156 / TCT- KTNB to prevent the sale and issuance of single invoices. Accordingly, the criteria to identify the households, individuals and organizations allowed to sell, issue single invoices considered to be high risk, include:

1. Households, individuals and organizations who purchase or who are granted single invoices with transaction value amounting from 20 million and above;
2. The single invoices are sold, issued to cooperatives, foreign contractors, project management boards, mass organizations, social organizations, state administrative agencies;
3. The single invoices are sold, issued to households, organizations and individuals recurrently in a month (from 02 invoices or more), and in a quarter (from 03 invoices or more);
4. The single invoices are sold, issued to individuals, households whose identity card details held at the tax office does not coincide with the names of people who are allowed to sell, issue invoices;
5. The single invoices are sold, issued bearing the signature of requestor is not consistent with name in the request letter to be sold, issued invoices;
6. The single invoices are sold to households and organizations which do not operate in line with their registered business sectors or their operation functions, especially for commodities sand, stone and gravel;
7. The single invoices are sold, issued having VAT and PIT payable to the state budget are not consistent with the VAT and PIT rates as prescribed at Circular No. 92/2015 / TT- BTC.
8. The single invoices are sold, issued do not comply with the procedures in Circular No. 39/2014 / TT-BTC.



6. Contribution to trade union fees for 2017

Vietnam Confederation of Labor had issued Decision No. 1699/QD-TLD dated 18 October 2016 on establishment principles and assignment of trade union financial estimates for 2017.

Under this decision, the trade union financial estimates are established based on the general principles that: the contribution level is 2% salary funds based to pay social insurance for laborers. The salary funds for payment of trade union fees in 2017 is calculated basing on the average salary in first 6 months of 2016 multiplied by the number of employees participating in the social insurance regime.

Grant Thornton Vietnam would like to note the following important contents for your reference:

- Trade Union units at all levels will tighten the trade union fees collection: for units which have not established a primary Trade Union, the Trade Union units will coordinate with social insurance agencies to collect the arrears of trade union fees; the Trade Union units who have already established the primary Trade Union shall check and review the number of employees subject to trade union fee participation. .
- The Trade Union organizations will promote trade union activities in the industrial zones, export processing zones by reducing the proportion of administrative expenses, activities at the union level to create budget for the establishment of union institutions at the industrial zones and export processing zones.

7. 10% VAT for mold repair services

Ha Noi Tax Department has issued the Official Letter No. 71642/CT-TTHT dated 18 November 2016 on VAT tax rate for mold repair service to customers being export processing enterprise (“EPE”)

Under the current regulations, the VAT rate for services provided to EPE will be 0% if it meets the condition of “consumed in the EPE”. In contrast, if the service is consumed outside the EPE, the tax rate of 0% will not be applied.

For cases where a company manufactures goods for the customer being an EPE and using the company’s own mold and during the manufacturing progress, the company has to change the design of molds due to the customers’ request., then the company will have to enter into a contract for the mold repair services to the customer. If this service is carried out and consumed outside the EPE therefore the VAT rate of 0% will not be applied.

8. Import tax exemption for raw materials imported before 01 September 2016

The Supervision and Management Department of Customs has issued an Official Letter No. 1464/GSQL-GQ2 on customs procedure for materials imported before 01 September 2016 as follows:

Raw materials imported for export production but the products have not been exported; raw materials temporarily imported that have not been re-exported and have yet paid tax will be exempted from tax;

- ✓ Taxpayer must send a written request to the Customs Department to resolve the tax exemption formalities for customs declaration registered before 1 September, 2016, to clearly declare the quantity of goods, amount of tax refund or tax exemption;
- ✓ Deadline for declaration is 31 December 2016

For raw materials imported for domestic production but which eventually have been exported, the enterprise is required to submit the finalization report on the usage status of raw materials, machinery, equipment and exports after the fiscal year ends according to Article 60 of Circular No.38/2015/TT-BTC.

Contact

This news letter is for reference purposes only. Grant Thornton Vietnam holds no responsibility for mistakes therein, as well as damages caused by the use of information from this newsletter without official advisory opinions from Grant Thornton Vietnam before practice.

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

To view more information, please visit our website:

www.grantthornton.com.vn

Hanoi Head Office

18th Floor, Hoa Binh International Office Building
106 Hoang Quoc Viet Street, Cau Giay District, Ha Noi, Viet Nam

Phone: + 84 4 3850 1686

F: +84 4 3850 1688



Hoang Khoi

Tax Partner

Phone: +84 4 3850 1618

Email: Khoi.Hoang@vn.gt.com



Nguyen Dinh Du

Tax Partner

Phone: +84 4 3850 1620

Email: Du.Nguyen@vn.gt.com



Kaoru Okata

Director - Japanese Desk

Phone: +84 4 3850 1680

Email: Kaoru.Okata@vn.gt.com



Pham Ngoc Long

Tax Director

Phone: + 84 4 3850 1684

Email: Long.Pham@vn.gt.com

Ho Chi Minh city Office

14th Floor, Pear Plaza
561A Dien Bien Phu Street, Binh Thanh District, Ho Chi Minh, Viet Nam

Phone: + 84 8 3910 9100

F: + 84 8 3914 9101



Nguyen Hung Du

Tax Partner

Phone: +84 8 3910 9231

Email: HungDu.Nguyen@vn.gt.com



Valerie - Teo Liang Tuan

Tax Director

Phone: +84 8 3910 9235

Email: Valerie.Teo@vn.gt.com



Tran Hong My

Tax Director

Phone: +84 8 3910 9275

Email: HMy.Tran@vn.gt.com



Tomohiro Norioka

Director - Japanese Desk

Phone: +84 8 3910 9205

Email: Tomohiro.Norioka@vn.gt.com



Tran Nguyen Mong Van

Tax Director

Phone: +84 8 3910 9233

Email: MongVan.Tran@vn.gt.com