

Tax Newsletter updates tax policies on Funds for real estate investment, Personal Income Tax and Business Licenses

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Tax Newsletter updates tax policies on Funds for real estate investment (“the Funds”), Personal Income Tax (“PIT”) imposed on brokerage activities, business cooperation with individuals and Business Licenses for commercial trading activities and other activities directly related to purchase and sale of goods by Foreign Invested Enterprises (“FIE”) in Vietnam.



In this newsletter, Grant Thornton Vietnam would like to update several tax policies and laws for your ease of reference, in particular:

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1. General Tax Department provides guidance on tax policies regarding the operation of the Funds

General Department of Taxation has issued guidance policies regarding the operation of Funds as follows:

- Tax code registration: A Fund is an affiliated unit and to be granted tax code with 13 digits.
- Tax obligations of investors when contributing capital by way of real estate into a Fund including:
 - Capital contribution by assets to establish an enterprise or by real estates into a Fund is not subject to registration fees;
 - Organizations and individuals contributing real estate into a Fund are not required to issue VAT invoice or to declare and pay VAT;
 - With respect to the tax duties when investors contribute capital by way of real estate into a Fund:
 - In the event if the investors are organizations doing business in Vietnam under the Law on Investment or Law of Enterprises: they are required to pay 20% income tax on taxable turnover of real estate transfers. In addition, the investors are responsible to record entries and pay corporate income tax in case that the value real estate' is assessed higher than the remaining value in accounting books.
 - In case the investors are individuals, they are required to pay personal income tax on real estate transfers at a rate of 2% on transferred value of the real estate that individuals contributed into the Fund.
- Tax duties once the Fund purchases, transfers or leases the real estate:
 - Based on input invoices for purchasing assets bearing the information of the Fund issued by suppliers, the the Fund management company will declare and deduct input VAT of the purchased assets on behalf of the Fund. The related expenses of the purchased assets (i.e. the assets' value, fees, charges, etc.) will be settled directly via the accounts of the Fund.
 - If the Fund leases its real estate, the management company of the Fund will take responsibility for the issuance of output invoices or authorize the real estate management company to issue output invoices to customers with seller's information in the name of the Fund management company and 13 digit tax code of the Fund.
 - When real estate is transferred, the Fund management company is accountable to issue output invoices to customers, and to declare Value Added Tax and Corporate Income Tax on behalf of the Fund. In case the real estate is located in different provinces or cities from the the Fund Management company's head office, the Fund management company will have to register temporary tax codes with the local tax authorities where the real estate is located locate for tax declaration and tax payment purposes.



2. Personal Income Tax imposes on brokerage activities, business cooperation with individuals

The Ministry of Finance has issued guidance on tax policies for brokerage activities and business cooperation with individuals.

- **For brokerage activities:** If a company engages an individual to perform brokerage activities in selling goods and pays commission to an individual, the commission will be regarded as wage/salary. The company is responsible for withholding 10% PIT on the payment of commission if each payment is from VND2million and above.
- **For business cooperation:** Given that a company signs Business Cooperation Contract ("the BCC") with an individual (who does not carry out his/her own business) to provide services to customers. The BCC is based on turnover basis and for example the individual will receive 40% of the contract value. The company will have to carry out the below actions when distributing 40% the contracted value to the individual:
 - Withhold, declare and pay PIT on behalf of the individual or the individual will have to carry out the tax declaration and payment on income from BCC.
 - The company will use payment vouchers for expenses relating to the BCC, which are related to the company's business operation, as the supporting documents for deductible expenses when determining taxable income for CIT calculation purposes.

3. Business Licenses regarding trading activities and other activities directly related to the purchase and sale of goods by FIE's in Vietnam

The Ministry of Industry and Trade ("the Ministry") has issued a Decision on acceptance of planning to simplify administrative procedures of the Ministry in 2017, in which the notable point is the Ministry will submit the amended Decree namely Decree No. 23/2007 on simplifying dossiers and procedures relating Business Licenses for trading companies and other activities directly related to the purchase and sale of goods ("Business License") by FIE's in Vietnam as stipulated in the Decree No. 23/2007/ND-CP, in particular:

- I. The FIE will not be required to carry out procedures for obtaining the rights to export and import;
- II. The proposed regulations provide for the right to act as a wholesaler for goods used by FIE's in the production process. The right to wholesale distribution is limited to certain materials which belong to the list promulgated by the Ministry.

Grant Thornton will keep you updated once the amended Decree 23/2007/ND-CP is released.

According to prevailing regulations, the FIEs are required to register for the rights to import, export and distribute before conducting the purchase and sale of goods and other activities directly related to purchase and sale of goods in Vietnam.

Please kindly contact experts of Grant Thornton if you have any concerns on Business License regarding purchase and sale of goods and other activities directly related to purchase and sale of goods of FIE in Vietnam



Contact

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