



Grant Thornton

An instinct for growth™

Audit • Tax • Advisory • Outsourcing

# Updates in tax, customs and contracts with construction contractors

April 2017

In this month's newsletter, Grant Thornton Vietnam will provide updates, with regard to tax, customs and contracts with construction contractors for your reference as follows:

1. Corporate income tax incentives on interest from deposits, proceeds from defective materials, fines and compensation.
2. Setting production norms for all raw materials used for processing or manufacturing for export.
3. Customs procedures for handing over construction to Export-processing enterprises.
4. Handling breaches of contracts by members in the construction contractor partnership.



## 1. Corporate income tax incentives on interest from deposits, proceeds from defective materials, fines and compensation

Hai Phong Tax Department has provided guidance for the case of a company established in the economic zone having interest from deposits with the operation office of a commercial bank in the economic zone, money reimbursed from defective materials, fines or compensation from parties due to breach of contract, which is related to the business activities in the economic zone are entitled to Corporate income tax incentives.

According to the current regulations, the enterprise's income from the implementation of investment projects in production and business in the economic zone is entitled to Corporation income tax incentives as follows:

- Preferential tax rate of 10% within 15 years.
- 4-year tax exemption.
- 50% reduction of tax payable for 9 subsequent years.

## 2. Setting production norms for raw materials used for processing or manufacturing for export

According to the General Department of Customs, setting up the production norms for imported raw materials and supplies for processing and manufacturing for export is currently implemented in line with Article 55 of Circular 38/2015/TT-BTC with no exception being granted.

Thus, all imported raw materials and supplies for processing and manufacturing for export must be in accordance with established production norms, including norms on usage of raw materials, norms of consumable materials and wastage proportion of raw materials.

These norms must be set prior to commencement of production and for each separate product code. Furthermore, during the process of production, if any changes occur, the new norms must be reset to fit actual status.



### 3. Customs procedures for handing over construction to Export-processing enterprises

As per the Official Letter No. 500/GSQL-GQ2 dated March 13, 2017 of the General Department of Customs on the customs procedures for goods of Export-processing enterprises, in case that the company imports goods to supply to Export-processing enterprises under construction contracts, the customs procedures shall comply with the provisions at Point b, Clause 4, Article 16 and Clause 2, Article 75 of Circular No. 38/2015/TT-BTC.

Accordingly, after handing over the projects to the Export-processing enterprise, the company must report the volume of imported goods to the customs office under Form 18/NTXD-DNCX/GSQL attached to Annex V of Circular 38/2015/TT-BTC.



### 4. Handling breach of contract between parties to construction contracts or consortia

The Ministry of Construction has provided a guiding document for handling violations by parties who do not properly perform their obligations as follows:

Under the provisions of the law on construction contracts, the parties must be responsible for completely implementing the provisions in the signed contract. If any party fails to comply with any terms of the signed contract, it is considered as breach of contract. Breaches of contract shall be handled based on the provisions of the actual contract and the relevant legal regulations at the time of the breach.

Accordingly, in case a party in a consortia fails to fulfill its obligations, including obligations to the other parties in a consortia and the provisions of the construction contract that the consortia signed with the investor, the member is responsible to the investor, and the remaining members of the consortia for the damages caused

Therefore, the investor can rely on the content of the contract signed with the consortia and any agreement amongst the contractors and the laws related to construction contracts in order to request the contractor to comply with the signed agreements or contracts and pay compensation for damages. If such consortia member still fails to fulfill its obligations, the investor may initiate a lawsuit in court or arbitration in accordance with the provisions on settlement of disputes in the signed contract.

# 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.

## Head Office in Hanoi

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

## To view more information

Please visit our website

[www.grantthornton.com.vn](http://www.grantthornton.com.vn)

## Ho Chi Minh City Office

14<sup>th</sup> Floor, Pearl Plaza  
561A Dien Bien Phu Street, Binh Thanh District, Ho Chi Minh,  
Vietnam  
Phone:+ 84 8 3910 9100  
F: + 84 8 3914 9101



**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 Nguyen Mong Van**  
Tax Director  
D +84 8 3910 9233  
E MongVan.Tran@vn.gt.com



**Trần Hồng Mỹ**  
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