

# Tax Newsletter July 2017

## Tax regulations and preferential policies regarding industrial cluster development



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### **1. Hanoi and Ho Chi Minh Tax Departments require individuals conducting business activities via social networks and online trading websites to perform tax registration and declaration**

According to Tax Departments, the taxpayers subject to tax registration and tax declaration obligations with regard to the business of selling goods and providing services via online social networks or online trading websites (referred as “e-commerce”) are listed as follows:

- Vietnamese citizens (residing in Vietnam) engaged in such business activities must perform tax registration and if the turnover from selling of goods exceeds the taxable turnover threshold (current turnover threshold being up to VND 100 million per year) are obliged to perform tax declaration as well as to pay Value Added Tax (VAT) and Personal Income Tax (PIT) to State Budget.
- Foreign organizations or individuals engaged in e-commerce business in Vietnam or earning income from e-commerce business in Vietnam must perform the tax obligations applicable to foreign organizations or individuals operating business or earning income in Vietnam.

Accordingly, the above-mentioned taxpayers should perform tax registration and tax declaration obligations to minimize the risk of violating administrative procedures and tax obligations.

### **2. Tax declaration performed by individuals providing consulting services**

Hanoi Tax Department provides guidance on the case where a company contracts with an individual (either Vietnamese or foreigner) to provide consulting services. If this is a non-commercial individual, given that the value of the contract is determined on the basis of monthly or daily salary, such income (which is defined as “salary” or “wage”) is only subject to Personal Income Tax (PIT) in accordance with Circular 111/2013/TT-BTC.



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On the contrary, if this is a commercial individual, the income from providing consulting services is regarded as operating income, which is subject to Personal Income Tax (PIT) and Value Added Tax (VAT) as provided in Circular 92/2015/TT-BTC.

With regards to The General Department of Taxation's perspective on businessperson or businesspeople, Point 1, Article 6 of Commercial Law No. 36/2005/QH11 dated 14<sup>th</sup> June 2005 stipulates:

*“Traders include lawfully established economic organizations and individuals that conduct commercial activities in an independent and regular manner with business registration”*

**Please note that the tax rate and tax calculation method differ between income from individual salary/ wage and individual business operation.**

**Grant Thornton Vietnam is willing to provide detailed advice on tax declaration solutions applicable to each type of transaction made by clients upon request.**

### **3. Foreign Contractor Tax for advertising and online consulting activities**

#### **Advertising activities**

The General Department of Taxation issued the Official Letter providing guidance on the case where a Vietnamese company contracts with a foreign company to run advertisements for its products to be posted on a foreign magazine. Such advertising service is exempt from Foreign Contractor Tax (FCT) according to Circular No. 103/2014/TT-BTC. It should also be noted that this guidance is not applicable for online advertising and online marketing.

#### **Online consulting activities**

Hanoi Tax Department issued the Official Letter providing guidance on Foreign Contractor Tax obligations for online consulting activities. Pursuant to Circular No. 103/2014/TT-BTC, in cases where the foreign contractor provides legal consulting, market development consulting, technical consulting, etc. for a company via such communication methods as email, telephone, software and other online communication applications, such services are subject to Foreign Contractor Tax (FCT) including Value Added Tax (VAT) and Corporate Income Tax (CIT).



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#### **4. Preferential policies on industrial cluster development**

The Government has issued a series of preferential policies on industrial cluster development in Decree No.68/2017/ND-CP, in which:

- Production and business investment projects in industrial clusters will be exempt from land lease fees in 7 years and enjoy other incentives in accordance with the legal regulations.
- Investment projects on industrial zones' technical infrastructure will be exempt from land rent for 11 years. They will also be considered eligible for credit loans from the State, at a level not exceeding 70% of their total investment, along with enjoying other preferences under the current provisions of law.
- Incentives for trade village industrial clusters:
  - Business and investment projects in trade village industrial clusters will enjoy 11-year-land lease exemption and be considered to borrow State credits under 70% of their total investment capital; together with other incentives and supports for industrial clusters.
  - Technical infrastructure business projects will be exempt from 15-year-land lease fees and considered for State credit loans up to 70% of their total investment; together with other incentives and supports for industrial clusters.

In addition, Decree 68 also provides guidelines on encouraged investment fields and industries; expansion of investor's rights in technical infrastructure business projects; cases of building permit exemption, etc.

The Decree takes effect from 15<sup>th</sup> July 2017 replacing Decision No.105/2009/QĐ-TT dated 19<sup>th</sup> August 2009.



**Tax**

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