

Updates on tax policies

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1. Reform in administrative procedures for registration and change of VAT calculation methods

The Ministry of Finance – the General Department of Taxation has issued Official Letter No. 4253/TCT-CS dated 20 September 2017 to introduce some new points in Circular 93/2017/TT-BTC as follows:

Determined VAT calculation method will be based on VAT returns submitted by a company to the tax authority, specifically:

- Where a company applies VAT deduction method, Form 01/GTGT and Form 02/GTGT are required for submission to the tax authority;
- Where a company applies VAT direct method, Form 03/GTGT and Form 04/GTGT need to be filed with the tax authority.

This Official Letter also provides guidelines on dispensing with Form 06/GTGT when a newly established company and an operating company with VAT revenue of less than VND 1 billion apply VAT deduction method, and when a company changes its VAT calculation method.

2. VAT obligations of Export Processing Enterprises (EPEs) with export and import rights

On 12 September 2017, the General Department of Taxation issued Official Letter No. 4107/TCT-KK providing detailed guidelines on the management of declaration obligations of EPEs performing export and import procedures as follows:

- For production activities related to export, EPEs are not considered as VAT payers, therefore they are not required to declare VAT to the tax authority for these activities.
- However, in addition to the aforementioned production activities, in case the EPEs are also licensed to conduct trading activities or activities directly related to purchase and sale of goods in Vietnam, these added activities are subject to VAT. The EPEs have to perform tax registration with the local tax authority and maintain separate accounting books to record revenue and expense associated with the purchase and sale of goods in Vietnam, not recording them in the accounting books for production activities. Meanwhile, separate areas must be arranged for storing imported and exported goods in accordance with the import and export rights.

According to our research, the Hanoi Tax Department issued Official Letter No. 45692/CT-HTr dated 8 July 2016 providing detailed guidance for an enterprise to change tax registration information when granted the rights to export and import in Vietnam in accordance with Article 11, Circular 80/2012/TT-BTC which was then amended by Article 12, 13 of Circular 95/2016/TT-BTC. Accordingly, this enterprise must declare and pay VAT in compliance with the regulations on trading activities in Vietnam.



3. Invoice use during the tax debt period enforced by notification of invalid invoice

The General Department of Taxation issued Official Letter No. 4094/TCT-CS dated 11 September 2017 on penalizing administrative violations related to invoices as follows:

In case the taxpayer is in the tax debt period and enforced by “Notification of invalid invoices”, technically, the taxpayer cannot issue invoices. If the taxpayer uses any invoice during this period, such action will be considered illegal.

4. Corporate Income Tax (“CIT”) for dividends received before the investment date and interest income derived from the revenue on sale of securities

The Official Letter No. 4085/TCT-DNL dated 11 September 2017 issued by the Ministry of Finance – the General Department of Taxation provides guidance on CIT on dividend received before the investment date and interest income derived from the revenue on sale of securities as follows:

- In case cash is collected from the sale of securities and deposited at a bank, the interest income is considered as other financial income and not subject to VAT declaration and payment in accordance with Clause 1, Article 5, Circular 219/2013/TT-BTC of the Ministry of Finance. Issuance of VAT invoice for such financial income is unnecessary.
- For dividend received before the investment date, which is recorded as a decrease in investment value, such dividend is exempt from CIT once the right to receive dividend is certified.



5. Transfer Pricing Form for the fiscal year ended after 1 May 2017 (which is the effective date of Decree 20/2017/ND-CP)

One of the vague points of Decree 20/2017/ND-CP (“Decree 20”) and Circular 41/2017/TT-BTC (“Circular 41”) regarding tax management on businesses having related party transaction(s) is the effective date (both regulations have their effective date on 1 May 2017). Currently, based on unofficial exchanges with the tax authorities, it can be interpreted that the application of the new regulations, Decree 20 and Circular 41, is required for enterprises with their fiscal year ended after 1 May 2017.

Accordingly, under this interpretation, enterprises whose fiscal year ended after 1 May 2017 (for example, fiscal year ended 30 June 2017) have to comply with the new regulations in Decree 20 and Circular 41, one of which is to prepare and submit the Transfer Pricing Form (Form 01 – Decree 20) in place of the previous Appendix 03-7/TNDN.



The application of Decree 20 and Circular 41 is required for enterprises with their fiscal year ended after 1 May 2017

In this regard, Hanoi Tax Department issued Official Letter No. 63347/CT-TTHT dated 21 September 2017 confirming that enterprises with fiscal year ended 30 June 2017 have to conform to the new regulation, which is to prepare and declare Form 01 under the guidance in Decree 20 and Circular 41.

It is noted that up to now, the HTKK software system supporting the declaration, which was developed by the General Department of Taxation, still has not supported the declaration of Form 01. Therefore, in case of applying the new regulations, enterprises have to declare Form 01 in hard copy.



In case of applying the new regulations, enterprises have to declare Form 01 in hard copy

Notwithstanding, we noted that enterprises located outside Hanoi should discuss directly with their local tax authority to confirm the requirements (on the use of Form 01 or Appendix 03-7/TNDN in this case) as the understanding and interpretation of the new regulations may differ for each province.

Please contact our professional advisors at Grant Thornton Vietnam for assistance with taxation, work permits for expatriate and legal issues you may have during the course of your business.

Contacts

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