

Tax update on accounting, transfer pricing, tax, customs and investment policies



In the newsletter for this month, Grant Thornton Vietnam will provide updates, with regard to accounting, transfer pricing, tax, customs and investment policies for your reference:

Content	Page
Notice to business regarding the due date for submission of audit reports, corporate income tax finalization returns and customs returns	3
Pricing determination on transactions with related parties, regarding research activities and design of electrical and electronics goods for entities within the same Group	3
Amendments of license fees regarding payment amount, supplements to payers and exemptions from January 1 2017 onwards	4
Guidance on disclosure of several items in the Low-Income Commitment Form (Form 02/CK-TNCN)	5
Deductibility of overseas travel expenses for employees	5
Additional guidance on non-exemption and non-refundable scenarios of imported goods used for export production	6
Category of conditional businesses and investments from 2017 onwards	6



1. Notice to business regarding the due date for submission of audit reports, corporate income tax finalization returns and customs returns

Regarding businesses with fiscal year ending on 31 December 2016, we would like to inform you that the due date for submission for financial statements and corporate income tax finalization returns is on 31 March 2017.

- Financial statements, accompanied by audit reports. Please note that in case there is branch with independent accounting records, the audited financial statements of such branch must also be submitted.
- Corporate income tax finalization returns with sufficient appendices attached.
- Transfer pricing disclosure form, i.e. Form 03-7/TNDN.
- Personal income tax finalization return for calendar year 2016.

In addition to the penalty for violation of tax administration procedures and late submission of returns mentioned above, for the circumstances in which it is legally required to audit financial statements, violations of submission of financial Statements to the competent authority without audited report shall be assessed with a penalty amounting from VND 20 to 30 million.

In addition, businesses that have registered for import tax exemptions are obliged to report the usage status of such duty-free imported goods during the respective fiscal year to the Customs authorities, where the Category of duty exempt has been registered, no later than the 90th day from the business fiscal year-end.

2. Pricing determination in transactions with related parties regarding research activities and design of electrical and electronics goods for entities within the same Group

The Bac Ninh Tax Department has issued an Official letter to provide guidance to businesses that owns electronic device Centers (as a part of the business) conducting research activities and the design of electrical and electronic products. Accordingly, if such research activities and design of electrical and electronic products that are used for the operations of business (i) and/or provided to the members within the Group (ii), then:

- Such research and design activities of electrical and electronic products provided to overseas members in the Group (ii) are considered the provision of service of an export processing enterprise to overseas.
- The amount received from provision of such research and design activities (ii) are considered revenue from provision of services. Further, the business provided services to the entities in the Group is classified as transactions between related parties. Thus, businesses that perform activities categorized under (ii) is subject to Circular 66/2010/TT-BTC to determine the legitimate taxable revenue of such transaction.



3. Amendments of license fee regarding payment amount, supplements to payers and exemptions from January 1st 2017 onward

According to the new regulations, from 1 January 2017 onward, license tax is hereafter referred to as license fee. The level of payment amount is reduced to two (2) levels for organizations and three (3) levels for individuals engaging in business activities. In particular:

For organizations engaging in production and trading of goods and services, the fee is VND 3 million/year for organizations with chartered capital or investment capital over VND 10 billion and VND 2 million/year for those with capital less than or equal to VND 10 billion.

Branch, representative office, business location, administration agency and other economic organization are subject to the license fee at VND 1 million/year.

The determination of the amount payable for license fee for organizations is on the basis of the capital stated in the business registration. In case chartered capital is not stated/clarified, the investment capital as stated in investment certificates is used instead.

Please note that the due date for payment of license fee in 2017 is 30 January 2017 or within 30 days from the issuance of business registration or investment certificate and tax registration for newly established business. For newly established enterprises, the latest due day for payment of license fee is the last day of the month when an enterprise has begun its business operations, or within 30 days from the issuance date of the business registration certificate or the issuance date of the investment certificate and tax registration for enterprises established but not yet operated. However, since Lunar New Year would begin in January 2017, we recommend payment of such fee should be made prior to Lunar New Year.

Enterprises should also review their business location(s), branch(es), and representative offices in order to ensure proper compliance with this new regulation.



4.Guidance on disclosure of several items in the Low-Income Commitment Form (Form 02/CK-TNCN)

According to the prevailing regulations, the Low-income Commitment Form is applied to residential individuals, with or without labor contract under 3-month duration, in order to be temporarily exempted from the deduction of Personal Income Tax upon receipt of income.

The Hanoi Tax Department has provided guidance for individuals with low income to prepare the Commitment Form 02/CK-TNCN, as attached to Circular 92/2015/TT-BTC. Accordingly, the declared amount at section (*) (in Form 02/CK-TNCN) regarding total income, is determined by the level of family relief in the respective tax year.

For example:

In case there is no dependent: the declared amount of family relief is stated at VND 9 million x 12 months = VND 108 million

In case there is one (1) qualified dependent committed with actual nurturing duration at 10 months in the respective tax year:

**Declared amount =
VND 108 million + VND 3.6 million X 10 months
= VND 144 million**

Grant Thornton Vietnam recommends businesses to review the Forms 02/CK-TNCN being filed to ensure the accuracy of information disclosed.

5.Deductibility of VAT regarding overseas travel expenses for employees

The Ho Chi Minh City Tax Department has issued Official Letter No.10219/CT-TTHT providing guidance on the deductibility of expenses arising from assignments of employees on overseas business trips, which aims to support the main operations of the enterprise. Accordingly, the deductibility of such expenses is regulated as follows:

- Travelling expenses (such as air ticket, accommodations and meals) with sufficient invoices of the assigned country, assignment of business trip, non-cash payment for expense at more than VND 20 million is allowed as deductible expenses to calculate corporate taxable income.
- VAT incurred overseas is not allowed in the declaration of input VAT.



6. Additional guidance on non-exemption and non-refundable scenarios for imported goods used for export production

By virtue of the examination/inspection of business facilities of enterprises engaging in the importation of goods for further production and exportation at customs authorities in several provinces, the following issues have been identified:

- Businesses that do not own production facilities; do not organize production, but outsource to other entities for production.
- Businesses that own production facilities, but yet to put in place sufficient documents to prove the legal use of such land, buildings and plants.
- Business that own production facilities with sufficient legal rights for the use of land and facilities.

With regard to the businesses without production facilities but who outsource to other entities for - production, the General Customs Department has provided guidance that business without production facilities but outsourcing activities or businesses with production facilities lacking legal evidence for the use of land, buildings and plant are **not** qualified for tax exemption and refund of import tax.

7. Category of conditional businesses and investments from 2017 onward

The Vietnamese National Assembly has passed Law No. 03/2016/QH2014 regarding the amendments and modifications to Article 6 and Appendix 4, which define the Category of conditional businesses and investments in the 2014 Investment Law. Accordingly, the changes applied from 1 January 2017 are as follows:

“Trading of firecracker” is categorized as prohibited category of investment and business

The number of conditional investments and businesses remain at 243 categories (in comparison with 268 investment categories stated in the prevailing regulations)

Specifically, businesses categorized as “trading of camouflage devices and software for sound and visual recording and positioning” and “manufacture, assembly and import of vehicles” will be categorized as conditional investment, which will be effective from 1 January 2017 onward.

Please contact the professional consultants of Grant Thornton Vietnam if you need any professional assistance and consultancy regarding the subject matters stated above.



Contact

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