

Updates on Tax, Compulsory Insurance and Customs Policies

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In this newsletter, Grant Thornton Vietnam would like to update the following significant guidance and policies:

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Personal Income Tax (“PIT”) of individuals receiving both GROSS and NET incomes

2.



Foreign Invested Enterprises (“FIEs”) are not allowed to perform on-spot export rights for goods which are not manufactured by the FIEs themselves

3.



Enterprises engaged in the sale of machinery and equipment associated with extra-provincial installation services have to pay extra provincial Value Added Tax (“VAT”)

4.



The 13th-month salary is not subject to the base for compulsory Social Insurance (“SI”) contribution

5.



Tax treatment on interest expenses arising from independent parties for enterprises having related party transactions



1. Personal Income Tax (PIT) of individuals receiving both GROSS and NET incomes

Hanoi Tax Department issued Official Letter No. 81831/CT-TTHT dated 20 December 2017 to provide guidance for the expatriates, who are Vietnamese tax residents, receiving both GROSS and NET incomes. Accordingly, if the company agrees to pay their employees in form of:



Salary (GROSS): the employees are responsible for their PIT liability



Benefits paid by the company (e.g. housing rental, health check fee, insurance premium) (NET):

the Company is responsible for PIT liability. In this regard, the company will convert the GROSS income into NET income to arrive at the total NET income which is used to compute the assessable income for PIT purposes.

2. Foreign Invested Enterprises (“FIEs”) are not allowed to perform on-spot export rights for goods which are not manufactured by the FIEs themselves

On 31 January 2018, the Ministry of Industry and Trade (“MOIT”) issued Official Letter No.130/XNK-CN to provide guidelines for FIEs’ on-spot import and export activities. Accordingly, the MOIT re-affirmed that so far there has been no specific regulation on the case where FIEs export goods (including goods imported or manufactured by other enterprises in Vietnam) to foreign traders but the goods are delivered in Vietnam. Previously, on 11 October 2017, the MOIT issued Official Letter No.1384/XNK-CN having the same comments on similar cases based on regulations valid at that point of time.

In light of the above, at this point of time, it can be interpreted that the FIEs are not allowed to perform on-spot import and export activities of goods, which are not manufactured by the FIEs themselves in Vietnam.





3. Enterprises engaged in the sale of machinery and equipment accompanied by extra provincial installation services have to pay extra-provincial Value Added Tax (“VAT”)

On 30 January 2018, the General Department of Taxation issued Official Letter No. 413/TCT-KK regarding VAT on the sale of machinery and equipment accompanied by extra-provincial installation services. Correspondingly, if the taxpayer sells machinery and equipment to extra-provincial customers, and simultaneously is liable for installation, test run and technical guidance, etc.

In order to ensure the stable operation of the system and equipment, the taxpayer must declare and pay VAT for the said activities at the local tax authorities where the extra-provincial installation service is performed, in accordance with regulations on VAT on extra-provincial construction, installation and sale.

4. The 13th-month salary is not subject to the base for compulsory Social Insurance (“SI”) contribution

The Ministry of Labour, Invalids and Social Affairs (“MOLISA”) issued Official letter No. 560/LDTBXH-BHXH dated 6 February 2018 on determining the salary base for compulsory SI contribution. Accordingly, the base for SI contribution consists of salary, salary-based allowances and other supplements. The base for SI contribution does not include other allowances and subsidies, such as bonuses stipulated in Article 103 of Labor Code, initiative bonuses, meal allowance, transport allowance, phone allowance, accommodation allowance, babysitting allowance, etc. In line with the prevailing regulations, the MOLISA confirms that the 13th-month salary and annual performance-based bonuses are not considered as part of monthly base for SI contribution.



This Official Letter, however, is directly addressed to one enterprise only. Therefore, the enterprises should carefully consider and thoroughly understand the nature of payments to the employees according to the current regulations before applying to their cases.



5. Interest expenses from independent parties for enterprises having related party transactions



In Official Letter No. 741/CT-TT&TH dated 16 January 2018, Binh Duong Tax Department mentioned that if the taxpayers are not engaged in loan contracts with related parties, but only incur interest expenses arising from loans with independent parties, which are not secured by related parties' finance, these interest expenses are not regulated by point 3, Article 8, Decree 20/2017/ND-CP (i.e. interest expenses cannot exceed 20% of EBITDA to be deductible for CIT purpose).



However, the said regulation still has many vague points which leads to various guidelines given by different local tax authorities. In a recent newsletter, Grant Thornton Vietnam also updated the current viewpoint of Hanoi Tax Department, in which if taxpayers have related parties transactions and incur interest expenses, their total interest expense will be subject to the regulatory cap of 20% EBITDA as stipulated in Decree 20 irrespective of whether such total interest expense arises from loans with independent parties or related parties.

Please contact our professional advisors at Grant Thornton Vietnam should you need our assistance with taxation, work permit for expatriates and any legal issues during the course of your business.

Contacts

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