Grant Thornton
An instinct for growth™

Updates on new decree and certain important policies on taxation and customs

April 2018

JAN 02 03 APR 05 06 JUL 08 09 OCT 11 12

Contents

In this newsletter, Grant Thornton Vietnam would like to update certain notable guidelines relating to new tax policies as follows:

1. New decree promulgating the penalties for administrative violations in the domain of accounting and independent audit

The Government issued Decree 41/2018/ND-CP dated 12 March 2018 regulating the sanctioning of administrative violations in the domain of accounting and independent audit

Accordingly, maximum fine for one administrative offense is VND50 million for individuals and VND100 million for organizations (previously VND30 million for individuals and VND60 million for organizations). The Decree also increases the fine for specific offenses such as wrong application of regulations on wording, numbers, currency units, accounting periods, forged financial statements, etc.

Additionally, the Decree supplements some provisions of penalty applied to other offenses such as wrong application of accounting regime, accounting documents not being translated into Vietnamese, financial reports with insufficient content or incorrect forms as stipulated. The Decree will come into effect from 1 May 2018.

2. Tax obligations on transferring leased land and factories on land from export processing enterprises to domestic enterprises

On 5 March 2018, Ha Noi Tax Department issued Official Letter No. 8382/CT-TTHT to provide guidance on tax policies on activities of transferring leased land and factories on land from export processing enterprises ("EPEs") to domestic enterprises.

In particular, if an EPE transfers its leased land and factory to a domestic enterprise under prevailing regulations, this activity is therefore subject to Value Added Tax ("VAT") at a rate of 10% and that EPE has to issue VAT invoice for such activity

In case the EPE does not have VAT invoices, the EPE must purchase a VAT invoice from the local tax authority to issue to domestic enterprise.

In addition, the EPE is required to make payment for VAT liability before purchasing the invoice from the tax authority.

For Corporate Income Tax ("CIT") purposes, at the time of transferring land and construction, the EPS has to declare and remit the CIT obligation on income generated from such transfer.

3. Credit of overseas tax paid against Personal Income Tax ("PIT") payable in Vietnam

The General Department of Taxation ("GDT") issued Official Letter No. 9841/CT-TTHT providing guidance on PIT policy in the case of Japanese considered as Vietnamese tax residents. Accordingly, in case a Japanese individual has income in Japan which is already withheld tax by the income-paying entity in Japan (including resident tax), the tax amount paid in Japan will be allowed as a credit against PIT payable in Vietnam (under Avoidance of Double Taxation Agreement between Japan and Vietnam).

However, the allowable tax credit must not exceed the PIT payable under Vietnamese tax rates, which is allocated/attributable to the overseas income (the rate of allocation is equal to the ratio of income earned in Japan to the total taxable income). Regarding the administrative procedure to be able to enjoy the tax credit, the taxpayer must provide a copy of documents proving the tax amount paid overseas which are granted by the foreign tax authority when such taxpayer files their PIT finalization return. Otherwise, the taxpayer can provide a copy of PIT withholding certificate or Confirmation letter from the income-paying entity stating the PIT amount withheld and paid.

4. Deemed import duty can be subject to assessment for tax refund

In Official Letter No. 1218/TCHQ-TXNK issued on 7 March 2018, the General Department of Customs provide guidance on tax refund for companies paying deemed import duty

In particular, according to the Law on Export and Import duties, taxpayers who already paid import duty on goods initially imported for business operation but eventually used for manufacture of goods that have been exported to a foreign country, will be entitled to import duty refund

Accordingly, the General Department of Customs agree that companies in the above-mentioned case are still entitled to import duty refund even though they paid import duty, which is deemed under the tax assessment decisions of the customs offices, provided that the prescribed conditions are met.

5. List of enterprises with a high probability of being subject to tax inspection, tax audit in 2018

On 20 November 2017, the GDT issued Official Letter No. 5339/TCT-TTr addressed to all provincial tax departments relating to setting the plan for tax inspections and tax audits in 2018. Correspondingly, the GDT has set the target for tax inspections and tax audits, in which it is required for tax departments to conduct tax inspections and tax audits at the taxpayers' offices at least 18.5% of total taxpayers operating under the tax administration. In addition, the GDT also provides the list of sectors and industries which the tax departments need to focus on to conduct tax inspections and tax audits in 2018, including:

❖ Enterprises operating in the fields with huge room for tax re-collection (Oil and gas, Pharmaceuticals, Financial Institutions, etc.),

❖ Multinational corporations in Vietnam and corporations, enterprises with high revenue or big tax amount remitted to the State Treasury;

❖ Enterprises with activities of transferring capital, brand, and projects;

❖ Enterprises having a high portion of related party transactions, enterprises operating at a loss for many years or at a profit much lower than other enterprises operating in the same field;

❖ Big enterprises in fields of real estate, construction material manufacturing, mining mineral resources, consumer goods manufacturing and trading, automobile manufacturing and trading, scrap purchasing and processing;

❖ Enterprises operating in new sectors;

❖ Enterprises having high risks relating to invoices, having large tax refunds, having sudden tax refund, having VAT refund on goods exported across the land border;

❖ Enterprises not having been inspected or audited by the tax authorities for many years; especially, big enterprises enjoying tax incentives.

❑ ***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

This newsletter 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 use information from this newsletter or support from Grant Thornton Vietnam, please contact our professional consultants

To view more information
Please visit our website

grantthornton.com.vn

Head Office in Hanoi

18th Floor, Hoa Binh International Office Building
106 Hoang Quoc Viet Street, Cau Giay District, Hanoi, Vietnam
T + 84 24 3850 1686
F + 84 24 3850 1688

Hoang Khoi

Tax Partner
National Head of Tax
D +84 24 3850 1618
E khoi.hoang@vn.gt.com

Nguyen Dinh Du

Tax Partner
D +84 24 3850 1620
E du.nguyen@vn.gt.com

Kaoru Okata

Director – Japanese Desk
D +84 24 3850 1680
E kaoru.okata@vn.gt.com

Ho Chi Minh City Office

14th Floor, Pearl Plaza
561A Dien Bien Phu Street, Binh Thanh District, Ho Chi Minh City, Vietnam
T + 84 28 3910 9100
F + 84 28 3910 9101

Nguyen Hung Du

Tax Partner
D +84 28 3910 9231
E hungdu.nguyen@vn.gt.com

Valerie – Teo Liang Tuan

Tax Director
D +84 28 3910 9235
E valerie.teo@vn.gt.com

Tran Hong My

Tax Director
D +84 28 3910 9238
E hmy.tran@vn.gt.com

Masato Karoji

Director – Japanese Desk
D +84 28 3910 9135
E masato.karoji@vn.gt.com

Tran Nguyen Mong Van

Tax Director
D +84 28 3910 9233
E mongvan.tran@vn.gt.com

Grant Thornton
An instinct for growth™

grantthornton.com.vn