

Update on the latest regulations and important tax policies

August 2018



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In this newsletter, Grant Thornton Vietnam would like to update the latest regulations and notable policies on taxation as follows:

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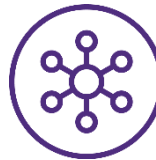
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1. Decision No. 27/2018/QĐ-TTg promulgating System of Vietnam Economic Sectors

On 6 July 2018, the Prime Minister approved Decision No. 27/2018/QĐ-TTg promulgating a new System of Vietnam economic sector, effective from 20 August 2018, replacing old system that is promulgated in Decision No. 10/2007/QĐ-TTg dated 23 January 2007

Accordingly, the new System will remain five (5) levels as the former one. However, a number of new industries in level 4 and level 5 have been supplemented. To be specific, the number of industries in level 4 increases from 437 to 486, and the number of industries in level 5 increases from 642 to 734 to conform to reality. The detailed information can be found in Appendix I of the Decision.

In addition, the new Economic Sector System gives further guidance and clear explanation on economic activities which are categorised in each sector. The detailed information can be found in Appendix II of the Decision.

2. Decision No. 888/QĐ-BHXH on amending procedures of insurance collection

The Government issued Decision No. 888/QĐ-BHXH (“Decision 888”) dated 16 July 2018, effective from 01 July 2018 to amend, supplement a number of articles of collection procedures, appendices and forms of Social Insurance, Health Insurance and Unemployment Insurance (“SI, HI and UI”) at Decision No. 595/QĐ-BHXH dated 14 April 2017. The significant points of Decision 888 include (i) amending a few appendices, forms (e.g. Appendix 01, Appendix 03, Form TK1-TS), (ii) supplementing regulations on late payment interest, and specially provision on SI payment location for branches of entity. In particular, Decision 888 stated that branches can contribute SI at the parent company. Therefore, according to this Decision, the branches of entity can choose to make SI contribution to the Social Insurance Department in regions where the branches of entity locate and operate or in regions where its parent company locates. Prior to this new stipulation, the contribution must be made to relevant Social Insurance Department in regions where the branches of entity locate and operate.

3. The salary base for Social Insurance contribution in exclusive of diligence allowance, unstable shift allowance

On 30 July 2018, the Ministry of Labor, War Invalids and Social Affairs issued Official Letter No. 3016/LĐTBXH-BHXH providing guidance on salary base used to calculate compulsory Social Insurance (“SI”) contribution from 1 January 2018. Accordingly, the shift allowance and diligence allowance payment to employees which cannot be pre-calculated at a specific amount along with contractual salary indicated in labor contract will not be considered as other salary-related allowances for SI contribution.

Therefore, the allowances which are computable and paid regularly along with contractual salary agreed in labor contract will be treated as other allowances which combine with contractual salary to arrive at salary base for SI contribution.



4. Foreign exchange rate used for Foreign Contractor Tax (“FCT”) calculation

On 10 July 2018, Hanoi Tax Department issued Official Letter No. 48097/CT-TTHT to provide guidance on exchange rate used to compute FCT. Accordingly, from 01 January 2015, in case a Foreign Contractor (“FC”) having a bank account opened at commercial banks in Vietnam earns income in foreign currency, the FC needs to convert incomes into Vietnamese Dongs by using the buying rate of the relevant commercial bank where the FC opens its bank account for tax calculation purpose.

If the FC does not have a bank account opened in Vietnam, but receives income in foreign currency (i.e. US dollars) which is transferred from bank accounts opened in Vietnam by Vietnamese parties, then selling rate of relevant commercial bank where Vietnamese parties open bank accounts is used to convert taxable income into Vietnamese Dongs for tax calculation purpose.

Pursuant to regulations at article 3, Decision No. 2730/QĐ-NHNN dated 31 December 2015, cross exchange rate of Vietnamese Dongs with other foreign currencies is used to convert revenue from other foreign currencies into Vietnamese Dongs.

This official letter replaces the former guidance in Official Letter No. 11950/CT-TTHT dated 27 March 2018 issued by Hanoi Tax Department on using average inter-bank exchange rate (period from 1 January 2015 to 4 January 2016) and central exchange rate of Vietnamese Dongs and US dollars (after 4 January 2016) to convert taxable income for tax calculation purpose in case the FCs do not open bank accounts in Vietnam. The guidance in this official letter is similar to prior guidance issued by the General Department of Taxation in Official Letter No. 4587/TCT-CS dated 6 October 2017 which Grant Thornton had updated in the previous Newsletters.

5. Lack of the seller’s signature results in illegitimate invoices

The General Department of Taxation issued Official Letter No. 2796/TCT-DNL dated 17 July 2018 on using electronic vouchers (i.e. electronic invoices) for tax declaration and payment purpose of the Company. Accordingly, in case the Company uses or archives electronic accounting vouchers, e.g. electronic invoices issued by foreign suppliers and manages the invoices through electronic purchasing system of the Company, however these invoices lack the sellers’ electronic signature, then these invoices are illegitimate for tax purpose.



6. Personal Income Tax (“PIT”) liability during probation period

In Official Letter No. 47484/CT-TTHT issued on 9 July 2018, Hanoi Tax Department provided guidelines on withholding PIT in probation period. In particular, according to this Official Letter, whether salary in probation period is subject to PIT under progressive tax rates or 10% depends on labor contract will be signed or not after probation period.

In case after probation period, the Company decides to sign a labour contract with the term of three months or above with the employee, the Company is required to withhold PIT under progressive tax rates upon salary payment including the salary in probation period.

In contrast, after probation period, if the Company does not continue employment with the employee, the salary in probation period (VND2 million or above per each payment) is withheld at 10% PIT (unless the employee signs a commitment letter to confirm that he/she has only one source of income subject to PIT at the rate of 10% and his/her total taxable income less tax relief is below the threshold to be taxed).



7. Value Added Tax (“VAT”) on catering services provided for students in primary schools

The General Department of Taxation issued Official Letter No. 2514/TCT-CS dated 22 June 2018 to provide guidelines on VAT implication on catering services provided for students in primary school. Accordingly, in case the company signs service agreement to provide catering services for the primary school, such service is subject to VAT at 10%. In the meantime, in case the primary schools collect the catering fees, transportation fees and other fees from the students in form of paying on behalf and collecting thereafter, these fees will not subject to VAT.



8. The price of related-party transactions in borrowing activities

On 22 June 2018, Hai Phong Tax Department issued Official Letter No. 8810/CT-TT&HT to provide guidance on determining the price of related-party transactions relating to borrowing activities of entities that have related party relations. Accordingly, in case the entities incur borrowing transactions with the related parties, the price of borrowing transactions is the interests incurred. In other words, it may be understood that the price in related-party transactions is the incurred interests, exclusive of the principal.

Contacts

Please contact 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.

For more detailed 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

Hiroshi Mitsushige

Manager – Japanese Desk
D +84 24 3850 1689
E hiroshi.mitsushige@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 Nguyen Mong Van

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

Masato Karoji

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

Nguyen Thu Phuong

Tax Director
D +84 28 3910 9237
E thuphuong.nguyen@vn.gt.com

