

Update on new regulations and guidance on taxation, customs and labour

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



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1. Highlights about Value Added Tax (“VAT”) and Corporate Income Tax (“CIT”) in Decree 146/2017/ND-CP

On 15 December 2017, the Government issued Decree 146/2017/ND-CP amending, and supplementing Decree 100/2016/ND-CP and Decree 12/2015/ND-CP to provide guidance on some regulations of VAT and CIT, including the following significant points:

- ❑ Supplementing the following cases where exported goods have a ratio of mineral resources from 51% and above are entitled to VAT rate of 0%:



Exported products processed from mineral resources which are directly exploited and processed by business entities themselves or by other hired business entities, where during the manufacturing process the products have been transformed into other products before being processed into exported goods.



Exported products processed from mineral resources which are purchased and processed by business entities themselves or by other hired business entities, where during the manufacturing process the products have been transformed into other products before being processed into exported goods.

- ❑ Supplementing some cases where the business entities are entitled to VAT refund, i.e. enterprises imported goods then exported into non-tariff zones or exported overseas. Previously, the case of “goods being imported then exported” was not considered for VAT refund.
- ❑ Supplementing the regulations on life insurance payment, as well as increasing the capped deductible expense of (i) voluntary pension fund contributions, (ii) purchasing voluntary pension insurance and (iii) life insurance for employees from VND1 million to VND3 million per month per person.

Decree 146/2017/ND-CP takes effect from 1 February 2018.

2. Response to queries about the current import and export duty policies

The General Department of Customs issued Official Letter 7599/TCHQ-TXNK dated 20 November 2017 to respond to some queries raised by provincial Customs Departments about the implementation of Law on import and export duties. Accordingly, there are some noteworthy points as below:

❖ **Anti-dumping tax, countervailing duty, safeguard tariff, environmental protection tax:**

For imported raw materials for manufacturing exports, the application of safeguard tariff, anti-subsidy duty and anti-dumping duty is the same as import duty. Thus, the imported raw materials for manufacturing exports, which are entitled to import duty exemption, will be also exempt from safeguard tariff, anti-subsidy duty and anti-dumping duty.

❖ **Duty exemption for imported raw materials which have been forwarded under one processing contract to another:**

In case a processing contract expires, imported goods for processing, which have not been exported but forwarded under another processing contract will be exempt from duty if on-spot export/import procedure is carried out correctly in line with the regulations.

❖ **Duty refund for the cases of importing overseas-processed products, which were already subject export duty upon export for processing:**

The current regulations are silent on duty refund for goods exported for processing overseas and re-imported later where export duty was already paid.

❖ **Inspection at enterprises importing raw materials for manufacture of exports prior to handling tax exemption:**

The inspection at enterprises importing materials for manufacture of exports is only to be applied to organizations/individuals who are, for the first time, entitled to import duty exemption on raw materials, supplies, machinery, and equipment imported for processing and manufacturing exports.

3. Tax implication on goods imported for manufacture of exports but destroyed later

The General Department of Customs issued Official Letter 8127/TCHQ-TXNK dated 13 December 2017 to provincial Customs Departments guiding tax treatment on goods imported for manufacture of exports but destroyed later. Correspondingly, the imposition of tax is as follows:

Import tax

(i) Raw materials, supplies and components imported for manufacture of exports which are no longer used and need to be destroyed; (ii) raw materials, supplies and components imported for manufacture of exports, which have been put into production to form semi-finished products or finished products but damaged and destroyed, will be subject to import duty declaration and payment.

Value Added Tax

(i) Raw materials, supplies and components imported for manufacture of exports which are no longer used and need to be destroyed; (ii) the raw materials, supplies and components imported for manufacture of exports which have been put into production to form semi-finished products or finished products but damaged and destroyed then, will be exempt from VAT.

However, enterprises are required to pay VAT in case the destroyed goods are still used and consumed in Vietnam under VAT regulations.

4. Foreign Chief of Representative Office is not exempt from work permit

The Ministry of Labor, Invalids and Social Affairs issued Official Letter 1246/CVL-QLDNN dated 27 November 2017 providing guidelines on work permits for foreign Chiefs of Representative Offices.

Only foreigners who are Chiefs of Representative Offices of international organizations or non-governmental organizations are exempt from work permit. The foreign Chief of Representative Offices of foreign commercial entities are still required to apply for work permits.



5. Holiday period for Value Added Tax payment on machinery import projects from VND100 billion

On 8 November 2017, the General Department of Customs issued Official Letter 7292/TCHQ-TXNK indicating the deadline for VAT payment of imported equipment/machinery with total value of VND100 billion and above. In particular, the following points should be noted:

Entities entitled to extension of deadline for VAT payment

Under the current regulations, if an enterprise has a total import value of machinery and equipment for investment projects from VND100 billion and above, it is allowed to request for extension of deadline for VAT payment on machinery and equipment imported for forming fixed assets of an investment project within 60 days after the statutory deadline for payments of VAT .

Registration for extension of deadline for VAT payment

In case an enterprise imports machinery and equipment to form the fixed assets of an investment project with many shipments, the enterprise needs to attach the list of imported goods for VAT payment extension prepared by the enterprise for its first shipment.



Please contact Grant Thornton professional tax advisors should you require further advice related to taxation, work permit for foreigners or any legal issues during your business operation.

Contacts

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