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Update on new regulations and important tax policies

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Content

In this newsletter, Grant Thornton Vietnam would like to update recent important regulations and important tax policies including:



Some notable points of the amended Tax Administration Law No. 38/2019/QH14



Import Duty exemption for raw materials and supplies imported for processing and production of on-spot exported goods



VAT refund for imported for re-exported goods



1. Some notable points of the amended Tax Administration Law No. 38/2019/QH14

On 13 June 2019, the amended Tax Administration Law No. 38/2019/QH14 ("2019 Tax Administration Law") was approved by the Parliament and officially issued which takes effect from 1 July 2020. However, the regulations on electronic invoices and documents of this Law will take effect from 1 July 2022. Some notable points of this amended Tax Administration Law are as follows:



Extending deadline for submission of Personal Income Tax (PIT) finalization

According to the amended Tax Administration Law, individuals are allowed to submit tax finalization dossier by the last day of the 4th month from the end of calendar year for PIT finalization dossier of individuals filing directly to the tax authorities. Consequently, for individuals who are self-finalized PIT with the tax authorities, the deadline has been extended by 1 month compared to the previous 90-day deadline. This will provide more time to the individuals to prepare and submit the final return and reduce the number of dossiers that the tax authorities must receive during the peak season of tax finalization.



Tightening the tax administration for transfer pricing activities

The National Assembly also introduced new regulations on tax declaration obligations, tightening the tax administration of transfer pricing activities, specifically, prohibited acts including collusion, connection, and connivance between taxpayers and tax officers, tax authorities for transfer pricing and tax evasion. The amended Tax Administration Law also clearly states that the Ministry of Planning and Investment is responsible for directing and guiding relevant authorities to enhance the valuation of investment projects to prevent transfer pricing and tax avoidance.

1. Some notable points of the amended Tax Administration Law No. 38/2019/QH14

Broadening the taxpayers' rights

Besides remarkable points above, the Tax Administration Law also added some other contents to ensure taxpayers' rights as well as to support dealing with tax authorities more easily and conveniently:

- To be notified the deadlines for settlement of tax refunds, non-refundable tax amounts and legal bases for non-refundable tax amounts.
- To search, view and print all electronic documents that they have sent to the portal of tax administration authorities, described in this Law and the law on electronic transactions.
- To use electronic documents in transactions with tax administration authorities and relevant authorities, organizations.
- To be not imposed penalty for tax administration violation and to be waived of interest on late payment in the cases where the taxpayers follow the guidance and decisions of tax authorities and other competent authorities relating to the determination of taxpayers' liability (However, the current law does not specify what kind of tax guidance and decision which may fall under this provision of Law, the companies should stay updated with guiding documents issued later on for practical application).

Tax administration for e-commerce business activities

One of the highlight in this law is the tax administration for e-commerce business which is officially regulated for the first time. Under this new regulation, for the e-commerce business, digital-based business and other services performed by foreign suppliers without having a permanent establishment in Vietnam, such foreign suppliers will be required directly or via authorisation, to conduct tax registration, tax declaration and payment in Vietnam in accordance with the Minister of Finance's regulations.

The regulations on e-commerce in the Tax Administration Law 2019 have initially set the legal basis to tighten the tax administration for e-commerce activities as well as foreign suppliers with no permanent establishment in Vietnam.



2. Import Duty exemption for raw materials and supplies imported for processing and production of on-spot exported goods

On 25 June 2019, the General Department of Customs has issued Official Letter 4138/TCHQ-TXNK guiding the tax handling for imported goods for processing and export production for on-spot export.



According to this official letter, in case the enterprises that import raw materials and supplies for processing and manufacturing the goods will export, then re-export and sell products, processed and manufactured from imported raw materials and supplies to foreign entities, but are assigned by such foreign entities to deliver goods to other enterprises in Vietnam (on-spot exports) shall be exempt from Import Duty on raw materials and supplies imported for processing and production of on-spot exported goods.

This Official Letter replaces the content under Point 2, Official Letter No. 5826 / TCHQ-TXNK dated 5 October 2018 of the General Department of Customs.

3. VAT refund for imported for re-exported goods

Recently, the General Department of Vietnam Customs issued Official Letter No. 3005/TCHQ-TXNK dated 16 May 2019 and Official Letter No.1453/TCHQ-TXNK on 14 March 2019 guiding on VAT refund for imported goods then re-export to foreign goods owners or re-export to third countries.

According to these Official Letters, the General Department of Customs has issued guidelines for VAT refund for re-export to return goods or re-export to third countries for customs declarations registered in each period specifically as follows:



For customs declarations registered before 1 July 2016: Customs authorities shall process the VAT refund in accordance with Point 1, Article 49, Circular No. 38/2015/TT-BTC dated 25 March 2015.



For export declarations registered from 1 July 2016 to before 1 February 2018: In cases where enterprises have paid VAT on imported goods then re-exported, the customs declarations registered in this period are not entitled to tax refund but to declare tax and claim tax credit in accordance with Point 3, Article 1, Circular No. 130/2016/TT-BTC of the Ministry of Finance.



For export declarations registered from 1 February 2018 onwards: Customs authorities shall process the VAT refund in accordance with Point 64, Article 1, Circular No. 39/2018/TT-BTC dated 20 April 2018 of Ministry of Finance for cases where enterprises have paid VAT on imported goods.

Contacts

Please contact our professional advisors at Grant Thornton Vietnam for assistance with taxation, accounting, transfer pricing, labour, investment and customs as well as other legal issues you may have during your business operation.

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