

# Update on new regulations and important tax policies



# Content

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

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- 4 Official Letter No. 4641/TCT-DNNCN on Personal Income Tax for overtime salary in excess of the prescribed cap level
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# 1. Regional minimum wages in 2020 increased since 01 January 2020

On 15 November 2019, the Government issued Decree No. 90/2019/ND-CP, replacing Decree No. 157/2018/ND-CP of November 15, 2018, setting the regional minimum wage for employees working under labor contracts. Accordingly, from 1 January 2020, the regional minimum wage will increase by VND150 - 240,000 per month compared to prevailing regulation.

- The corresponding increase in each region is as follows:
  - Region I: from VND 4,180,000 to VND 4,420,000 / month;
  - Region II: from VND 3,710,000 to VND 3,920,000 / month;
  - Region III: from VND 3,250,000 to VND 3,430,000 / month;
  - Region IV: from VND 2,920,000 to VND 3,070,000 / month.

The area of regional minimum wage is specified in the list attached to the appendix of Decree No. 90/2019/ND-CP.

The regional minimum wage is the lowest which serves as a basis for enterprises and employees to discuss and pay salary, in which the salary paid to employees working in normal working conditions, ensuring sufficient time to work normally in the month and completing the work norms or agreed scope of work. For employees doing jobs that require workers to pass vocational training, the agreed wage must be at least 7% higher than the regional minimum wage level above.

According to current regulations, the cap of unemployment insurance contributions is 20 times of the regional minimum wage, so enterprises should pay attention to increase the contribution rate (if necessary) and calculate unemployment insurance at the new corresponding rate as above if the employee's salary exceeds the cap.



## 2. Official Letter No. 4178/TCT-CS introducing certain contents of Circular No. 68/2019/TT-BTC

On 15 October 2019, the General Department of Taxation issued Official Letter No. 4178/TCT-CS briefly introducing some key contents of the newly issued Circular No. 68/2019/TT-BTC. Enterprises need to refer to this official letter together with the contents of Circular No. 68 to get an overview of the main contents of the current regulations on electronic invoices.

# 3. Official Letter No. 4707/TCT-CS on compulsory use of new electronic invoices when directly requested by tax authorities

On 18 November 2019, the General Department of Taxation issued Official Letter No. 4707/TCT-CS on electronic invoices to some local tax departments.

Accordingly, the Government's Decree No. 119/2018/ND-CP in 12 September 2018, takes effect from 1 November 2018. During the transition period from 1 November 2018 to 31 October 2020, if the tax authority has not notified the enterprises about the conversion to use electronic invoices according to Decree No. 119/2018/ND-CP, they can still use invoices according to the old regulations under Decree No. 51/2010/ND-CP and circulars, documents guiding the implementation.

As such, enterprises only have to convert to use electronic invoices in accordance with Decree No. 119/2018/ND-CP when required by the tax authorities during this transition period.

It should be noted that when an enterprise issue invoices in the old form, they must issue those invoices at the correct time as prescribed in Clause 2, Article 16 of Circular No. 39/2014/TT-BTC with full of compulsory contents (including electric signature) as per Article 6, Circular No. 32/2011/TT-BTC.

In case the enterprise has converted to a new electronic invoice form, the enterprise must make invoice in time and with all compulsory contents as prescribed at Point e, Clause 1, Article 3 and Article 4 of Circular No. 68/2019/TT-BTC.



## 4. Official Letter No. 4641/TCT-DNNCN on Personal Income Tax for overtime salary in excess of the prescribed cap level

On 12 November 2019, the General Department of Taxation issued Official Letter No. 4641/TCT-DNNCN on Personal Income Tax for overtime wages that exceed the cap for overtime hours.

According to the current regulations, overtime salaries are exempt from PIT, however, only for the difference that is higher than the normal daily salary for overtime hours which is not exceeding the legal limit. When calculating overtime, the number of overtime hours allowed to be calculated according to the labor law should be determined: Maximum 200 hours per year; in special cases, it shall not exceed 300 hours in a year as prescribed in the Labor Code 2012. The case of overtime exceeding the above permitted limit is considered as violation of the law.

Accordingly, if the Company allows employees to work overtime within the limit of 200 or 300 hours/year, the total difference in overtime salary that is higher than the daily salary is exempted from PIT. Thus, it can be understood that hours exceeding the limit prescribed by the labor law will be subject to PIT.



# 5. Official Letter 4593/TCT-KK on declaration of exported goods returned after being refunded by tax offices

On 8 November 2019, the General Department of Taxation issued Official Letter No. 4593/TCT-KK on the declaration of returned exports when tax authorities have already accepted the tax refund.

According to this Official Letter, in case the Company exported goods, declared and was refunded input VAT of exported goods by tax authorities as prescribed, however the shipment was returned by the foreign side because it did not meet the contractual agreement, the Company must make additional tax declaration package for the period in which the goods was returned, and the Company must pay back the refunded VAT amount corresponding to value of returned goods and late payment interest as regulated.





# 6. Official Letter No. 3341/BCA-V03 on validity of Temporary Residence Card of foreign workers in case of corporate merger

Ministry of Public Security issued Official Letter No. 3341/BCA-V03 dated 5 November 2019 to provide guidance on temporary residence cards for foreign workers in case of enterprise merger.

According to the Ministry of Public Security, the merger of the Company will lead to a change in employer and the guarantee Company to issue temporary residence cards for foreign workers at the merged Company. Therefore, after the merger, the merged company must re-apply for a work permit and issue a temporary residence card for foreigners. Foreign workers are not required to leave the country because their purpose of entry and residence has not changed.





# Contact

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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