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Highlights of Vietnam's technical updates in Quarter 1/ 2019

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Please refer to our following edition for further details.

TAX

▶ Decree No.13/2019/ND-CP (Decree 13) dated 1 February 2019 by the Government prescribing on science and technology enterprises.

Accordingly, in the case where an enterprise registers and is certificated as a science and technology enterprise, such taxpayers shall be entitled to the following incentives:

- Corporate Income Tax (CIT):
 - ✓ Incentive term: tax exemption for 4 years and 50% tax reduction for the next 9 years;
 - ✓ Objects subjected to incentive:
 - Revenue and income generated from production and trading activities of products formed from the results of science and technology; and
 - Revenue and income generated from new services which apply scientific and technological results in the field of information technology.
 - ✓ Requirements: the revenue from the above products and services must account for at least 30% of total revenue.
- Rental of land and water surface: exemption or deduction for the rental fee used for the purposes of science and technology activities in line with the law on land. The application for exemption or deduction must comply with Article 60, Decree No.43/2014/ND-CP dated 15 May 2014 by the Government.
- Import and export duties: may be entitled to incentives for scientific research, technological development and production and business activities in accordance with the law on import and export taxes.

- Registration fee: exemption for registering land use rights and house ownership in accordance with the law on registration fee.

Decree 13 became effective from 20 March 2019.

► **Decree No.14/2019/ND-CP (Decree 14) dated 1 February 2019 by the Government amending, supplementing some provisions of Decree No.108/2015/ND-CP on Special Sale Tax (SST).**

Notable contents of Decree 14 are as follows:

- Supplement non-taxable commodities: aircraft and yacht serving for the purposes of spraying pesticides, firefighting, film-making, photography, geodetic and cartographic activities.
- Supplement regulations of SST deduction: tax paid which follows a Decision on tax imposing of the Customs Department is deductible, except the case of fraud and tax evasion.
- The decree also provides separate regulations for biofuel:
- ✓ The deductible SST amount in a given period depends on the tax paid amount allocated to a unit of the input material purchased in the preceding period of fossil fuel used for manufacturing biofuel;
- ✓ Enterprise eligible for manufacturing and mixing biofuel shall declare and deduct SST at the local tax authority of its headquarter;
- ✓ The outstanding SST on fossil fuel used for manufacturing and mixing biofuel which has not been fully deducted (counting from the declaration period of January 2016) is allowed to be offset against the SST payable of other products and services which incurred in the same period. This remaining SST after offsetting shall be carried forward to the next period or refunded to the taxpayer.

Decree 14 came into effect from 20 March 2019.

► **Decree No.20/2019/ND-CP (Decree 20) dated 21 February 2019 by the Government amending, supplementing some articles of Decree No.140/2016/ND-CP providing guidance on Registration Fees (RF).**

Notable contents of Decree 20 are as follows:

- Triple the first RF rate for a pick-up car with a loading capacity of less than 1,500 kg, and of 5 seats or less, and for vans of the same loading capacity.
- Supplement the determination method for the land price in case of renting State-owned land in the form of one-time payment of the land rental fee for the entire lease term and the leasing term is shorter than the stipulated term of the Price Quote announced by the provincial People's Committee under the central government as follows:

$$\text{Land price for the leasing term for RF calculation} = \frac{\text{Land price as listed in the Price Quote}}{70 \text{ years}} \times \text{Leasing term}$$

- The RF calculation price for an asset purchased under an instalment payment method is the one-time payment price (exclusive of the instalment interest), including import tax, SST, and value added tax (if any).
- Shorten the timeline for payment of RF to only 30 days from the date of the tax authorities' notification of registration.

Decree 20 became effective from 10 April 2019.

► **Official Letter No.11717/CT-TTHT dated 26 March 2019 by the Hanoi Tax Department providing guidance on Foreign Contractor Withholding Tax (FCWT).**

If a local enterprise had made payment for FCWT on behalf of its foreign contractor, after which the contract was liquidated and the foreign contractor refunded the money back to the local taxpayer, the overpaid tax amount compared to the actual tax payable as provided in current regulations, if any, shall be addressed with the following order of priority: (1) offset against the FCWT payable of the subsequent periods, (2) request a tax refund from the competent tax authority following the guidance specified in Circular No.156/2013/TT-BTC dated 6 November 2013.



LABOUR, WAGES & PERSONAL INCOME TAX (PIT)

► **Decree No.157/2018/ND-CP dated 16 November 2018 by the Government prescribing minimum regional salary applied to employees working under labour contracts, effective 1 January 2019.**

Accordingly, the minimum regional salary shall change to a new range from VND2,920,000 to VND4,180,000 per month which results in an increment in the maximum salary cap for Unemployment Insurance (UI) calculation (i.e. 20 times of the regional minimum salary).

► **Circular No.18/2018/TT-BLDTBXH (Circular 18) dated 30 October 2018 by the Ministry of Labour, Invalids and Social Affairs amending and supplementing several articles on managing foreign individuals working in Vietnam, effective 18 December 2018.**

Notable points provided in Circular 18 are as follows:

- Amending and supplementing certain statutory reporting forms as follows:
 - ✓ Form 01 - Report of demand to use foreign workers;
 - ✓ Form 02 - Report of changes in demand to use foreign workers; and
 - ✓ Form 09 - Application for certification of foreign workers' eligibility for exemption from work permit.

- The employer is no longer required to retrieve expired work permits for submission to the original issuing authority yet such employer is obliged to inform the governing authority in writing, in some specific cases by an official letter.
- Where a work permit expires due to a conflict between its content and the relevant labour contract, the regulatory authority shall inform the employer in writing of expiry of that work permit.

► **The income arising from transferring individuals' share in a joint stock company is subjected to PIT rate of 0.1% on the transfer price as provided in Official Letter No.1211/TCT-DNNCN dated 4 April 2019 by the General Department of Taxation.**

As per the mentioned Official Letter, "stock" is a presenting form of "share". Thus, when individuals transfer their share of a joint stock company, the income arising from there is considered as income from transferring securities instead of transferring capital. Subsequently, such income shall be subjected to PIT at a rate of 0.1% on the sale proceed.



ACCOUNTING

► **Circular No.132/2018/TT-BTC (Circular 132) dated 28 December 2018 by the Ministry of Finance providing guidance on accounting regimes for Micro Enterprises (MEs).**

Notable contents of Circular 132 are as follow:

- ✓ Governing scope: Instruction on bookkeeping, Financial Statement (FS) preparation and presentation of MEs which pay corporate income tax (CIT) via the calculation methods based on the assessable income and percentage of sales of goods and services.
- Key contents:
 - ✓ MEs could opt to apply the accounting regime for small and medium-sized enterprises pursuant to Circular No. 133/2016/TT-BTC in accordance with their business activities and management requirements.
 - ✓ MEs could appoint a person in charge of accounting without being required to arrange for a chief accountant. Otherwise, MEs could engage the accountant and chief accountant services from a service provider.

- ✓ MEs declaring CIT based on the percentage of sales of goods and services are not required to set up a chart of accounts but instead single-entry records. In addition, submitting FS to the Tax authority is not a must for MEs.
- ✓ MEs declaring CIT based on the assessable income are still requested to prepare and submit their FS to the direct governing tax department and the business registration government body.
- ✓ MEs are allowed to design accounting documents in line with their business activities, or apply standard forms and methods of preparing accounting documents as guided in Appendix 1 of this Circular.

Circular 132 became effective from 15 February 2019 and is applicable for the financial year commencing on or after 01 April 2019.

CUSTOMS

► Official Letter No.1966/TCHQ-TXNK dated 5 April 2019 by the General Department of Customs guiding import duties on goods leasing and Value Added Tax (VAT) on goods repairing services.

In the case of the Export Processing Enterprises (EPE) - providers of moulds to domestic enterprises as agreed under the processing contract for their processing, import duties shall be exempted when temporarily importing the relevant moulds into Vietnam. On the other hand, when an EPE lends the moulds to a domestic enterprise for its production of components for the EPE under a rental agreement of machinery, equipment, import duties exemption shall not be applicable for the temporary import of moulds into Vietnam of the EPE.

On a related note, if the mould repairing service provided by the domestic enterprise to the EPE is carried out and consumed outside of the non-tariff zone, such a service shall not be subjected to the VAT rate of 0%.



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