



## LEGAL UPDATE

### A. TAX AND ACCOUNTING

#### **VAT calculation methods in 2014**

On 18<sup>th</sup> December 2013, The Ministry of Finance issued Official Letter No. 17557/BTC-TCT providing guidance on applying VAT calculation methods in 2014.

- If total revenue from goods and services which is subject to output VAT in 2013 is 1 billion or above, the Company shall apply deduction method in 2014.
- If total revenue from goods and services which is subject to output VAT in 2013 is less than 1 billion and the Company submits announcement in Form 06/GTGT (Circular 156/2013/TT-BTC) to the tax authority to register for deduction method, the Company shall apply deduction method in 2014.
- If total revenue from goods and services which is subject to output VAT in 2013 is less than 1 billion and the Company does not register for deduction method, the Company shall apply direct method from 01/01/2014 onward.
- If the Company applies direct method the Company shall use sale invoice from 01/01/2014 instead of VAT invoice.
- The announcement on application of VAT deduction method (Form 06/GTGT attached with Circular 156/2013/TT-BTC) must be received by the tax authority before 31/12/2013.

#### **Determining revenue in 2013:**

- The revenue in 2013 for the purpose of determining VAT calculation method is the total of the item "Total revenue from goods and services subject to VAT" on monthly VAT declarations from 12/2012 to 11/2013.
- Newly established companies in 2013 which have not been in existence for 12 full months shall estimate annual revenue as the total of the item "Total revenue from goods and services subject to VAT" on monthly VAT declarations in 2013 divided by the number of months in operation and multiplied by 12.

#### **VAT imposed by the tax authority is not deductible**

On 18<sup>th</sup> November 2013, The General Department of Taxation issued Official Letter No. 7129/TCT-CS forbidding the deduction of VAT imposed by custom authority.

- If during the importing process, the Company lists machine and equipment which are not categorized under VAT exemptions as VAT exempted goods, the Company is not allowed to deduct the amount of VAT later imposed by the custom authority.

#### **Guidelines on how to determine assessable income for PIT calculation and responsibilities of Vietnamese companies for expats working in Vietnam**

On 25<sup>th</sup> November 2013, The Tax Department of Long An Province issued Official Letter No. 2067/CT-TTHT providing guidance on how to calculate PIT assessable income of expats.

- If the Vietnamese company signs a contract with a foreign company stipulating that the Vietnamese company will bear all expenses related to expats working in Vietnam such as accommodations, utilities, meals, those expenditures will be included in assessable income of the expats.

- Salaries paid by the foreign company to those expats during their time in Vietnam are also included in assessable income of the expats.
- Responsibilities of the Vietnamese company:
  - Deduct and declare PIT on the expenditures for expats.
  - Inform the foreign company about the expats' obligation to pay PIT.
  - Provide information about the expats assigned to work in Vietnam for the General Department of Taxation no later than 7 days since the expats first start working in Vietnam
- The expats are responsible for declaring and paying PIT on the salary paid by the foreign company.
- If the foreign company charges a fee for assigning expats to Vietnam, this fee is subject to FCT.

### **Cost of imported goods which is discrepant with the contract and has been disposed of shall not be deductible**

On 28<sup>th</sup> November 2013, The General Department of Taxation issued Official Letter No. 410/TCT-CS providing guidance on recording deductible expense from imported goods which is discrepant with the contract and has been disposed of.

If the Company detects that the seller has sent goods which is in discrepancy with the contract, the seller refuses to take the goods back and the Company has disposed of the goods, the expenditures related to this goods (cost of goods sold, custom clearance expense, disposal expense...) shall not be deductible for CIT calculation purpose.

## **A. INVESTMENT, OTHERS**

### **More people shall be allowed to join Unemployment Insurance Program**

On 16<sup>th</sup> November 2013, The Parliament enacted Job Law No. 38/2013/QH13. In which:

- All individuals with labor contract of 3 months or more shall be eligible to join Unemployment Insurance Program. Employers who hire less than 10 employees shall participate in compulsory Unemployment Insurance Program.
- Regulations stipulated in Job Law 2013 will replace all previous regulations in Social Insurance Law 2006; the period an individual joins Unemployment Insurance Program under the old regulations will be added to joining period.
- The Job Law also stipulates policies on creating jobs, evaluating, issuing professional certificates, providing human resource services...

Job Law is effective on 01/01/2015.

### **Social Insurance contribution rate is raised by 2% from 2014**

According to the plan to adjust the Social insurance contribution rate stipulated in Decree No. 152/2006/ND-CP dated 22/12/2006 clarifying certain regulations on compulsory Social Insurance in Social Insurance Law; Decree No. 190/2007/ND-CP dated 28/12/2007 providing guidance on voluntary Social insurance, from 01/01/2014:

- The level of Social insurance contribution is increased by 2% to 26%, in which the employer contributes 18%, the employee 08%.
- The levels of Unemployment Insurance Contribution and Medical Insurance Contribution stay the same: Unemployment Insurance: 02% (employer contributes 01%, employee 01%), Medical Insurance: 4.5% (employer contributes 3%, employee 1.5%)

From 01/01/2014, total Insurance Contributions the employer has to pay is 22%, employee 10.5%.

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