



Global Tax Update

Vietnam

Deloitte Tohmatsu Tax Co.

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New Circular : Clarification of guidance about calculation method of creditable VAT ratio etc, Circular No. 26/2015/TT-BTC, Circular No. 39/2014/TT-BTC

To provide detailed guidance, and amending and supplementing a number of articles on VAT, Tax administration, and invoices for goods and services, on 27 February 2015, the Ministry of Finance issued Circular No. 26/2015/TT-BTC, providing guidance on VAT, Tax administration under Decree No. 12/2015/ND-CP dated 12 February, 2015 of the Government providing details on the implementation of the Amended Law on Tax Laws, and supplementing Circular 39/2014/TT-BTC dated 31 March 2014 from the Ministry of Finance on invoice for goods and services.

We would like to update a number of important changes in Circular 26 as follows:

(1) Value Added Tax (“VAT”)

More detailed guidance with examples on the procedures for collateral handover for the bank to repay debt.

Cigarettes, liquor, and beer, which were imported then later be exported are now included to the list of goods which are exempted from output VAT declaration upon export. However, the corresponding input VAT of such goods shall not be creditable.

Clearer guidance on the determination of

creditable VAT ratio in the case of inseparable input goods and services used for both VAT-taxable and non-VAT taxable goods and services. Accordingly, the creditable input VAT is calculated based on the percentage (%) of the VAT taxable revenue and those required no VAT declaration and calculation, over the total output revenue including the inseparable revenue which required no VAT declaration and calculation.

The Circular also clarifies that in case the enterprise imports goods as presents, gifts from overseas organization and individuals, the non-cash payment documents would not be required.

(2) Tax administration

The Circular stipulates that only the construction, installment, and extra provincial sales activities with amount (VAT inclusive) of VND1 billion and above should be declared at the province where the activities occur.

The Circular removes the List of Input and Output goods and service declaration from the VAT and Special Consumption Tax Declaration dossiers. Accordingly, only the new Form 01/GTGT attached to this Circular 26 shall be used for VAT declaration.

The Circular supplements guidance on the tax payment currency, and revenue and expense recognition exchange rates as follows:

- The actual transaction exchange rate for revenue recognition is the buying rate of the commercial bank where the taxpayer's account is opened;
- The actual transaction exchange rate for expense recognition is the selling rate of the Commercial bank where the taxpayer's account is opened at the date of transaction.
- Other cases shall follow the guidance at Circular 200/2014/TT-BTC dated 22 December 2014.

The Circular also provides detailed guidance on determination of late payment penalties, specifically:

- For late payments of tax amount incurring from 1 January 2015, the penalty rate is 0.05% per late day on the late tax payments.
- For late payment of tax amount incurring prior to 1 January 2015, but has not been settled after 1 January 2015, the late payment interest and penalties payable for the period prior to 1 January 2015 shall be calculated based on the regulations from Tax Administration Law No. 78/2006/QH11, and the Amended Law No. 21/2012/QH13;
- For tax under-declaration of the tax period before 1 January 2015, but was found or self-re-determined after this date, the 0.05% rate per late day is still applied for the entirety of the late payment period.

(3) Regulations on invoice for goods and services

The Circular clarifies that, after five (05) working days from the date of receipt of the request for the use of self-printed invoice, if the directly managing tax authority does not issue

any written opinions, the enterprise would automatically be allowed to use the self-printed/ordered invoices.

The Circular supplements guidance for the case where issued invoice with erroneous buyer's name, or address, however the buyer's tax code is still correct; then the involving parties only need to issue an invoice adjustment minute, but not the adjustment invoice.

(4) Effective date

The Circular is in effect from 1 January 2015, which is also the effective date of the Law No. 71/2014/QH13, and Decree No. 12/2015/ND-CP.

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