



Global Tax Update

Vietnam

Deloitte Tohatsu Tax Co.

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New Decree: Clarification of definition about new investment project etc No. 12/2015/ND-CP etc

To provide detailed guidance on the Amended Law No. 71/2014/QH13 dated 26 November 2014, the Government has issued Decree No. 12/2015/ND-CP dated 12 February 2015 to amend and supplement a number of Articles in Decrees No. 218/2013/ND-CP dated 26 December 2013 on Corporate Income Tax, No. 65/2013/ND-CP dated 27 June 2013 on Personal Income Tax, No. 209/ND-CP dated 18 December 2013 on Value Added Tax and No. 83/2013/ND-CP dated 22 July 2013 on Tax Management.

Below is our summary of notable changes in the aforementioned Decree.

(1) Corporate Income Tax ("CIT")

1) Guidance on taxable income

Supplementing and stipulating the Vietnam-sourced income subject to CIT of those enterprises established under regulations of foreign countries, arising from the transfer of capital, investment projects, rights to contribute capital and participate in investment projects, rights to explore and produce natural resources in Vietnam.

2) Guidance on deductible expenses

- Expenses which are for occupational

education and training provided to employees are deductible for CIT purposes.

- Interest expenses in the investment stage which have been capitalized are **not** deductible. Meanwhile, interest expenses which associated loans are used to invest into other enterprises are deductible provided that the charter capital has been fully contributed.
- Removing the cap of 15% for advertising and promotion expenses.
- Removing the cap of VND1 million per month per person in relation to life insurance expenses for employees.

3) CIT incentives

- Amending and supplementing the definition of "new investment projects". New investment projects which are entitled to CIT incentives are those projects being granted under Investment Licences **or Investment Certificates or granted investment rights under investment laws.**
- Stipulating the disbursement condition in order for the large-capital scale investment projects (i.e. minimum VND6,000 billion) to be entitled to 10%

CIT rate in 15 years, CIT exemption in 4 years and 50% CIT reduction in the following 9 years, i.e. the disbursement must be conducted **not over 3 years from the first time the investment rights are granted** under investment laws.

- Amending and supplementing new subjects to enjoy 10% CIT rate in 15 years, CIT exemption in 4 years and 50% CIT reduction in the following 9 years, including:
 - i. New investment projects which manufacture products in the List of supporting industrial products prioritized for development;
 - ii. Investment projects in manufacturing sector (exclusive of products subject to special sales tax, mining projects) having investment capital scale of at least VND12,000 billion which satisfy the conditions on technology usage and disbursement schedule (not over 05 years from the first time the investment rights are granted under investment laws).
- Stipulating the conditions for extension of the application of preferential CIT rate (not exceeding 15 years) related to specially-encouraged investment projects with capital scale of at least VND12,000 billion.
- Stipulating that income from investment projects in trading and service sectors **outside of the economic zones, high-tech zones, industrial zones and tax incentivized locations** is **not** entitled to CIT incentives.
- Providing detailed guidance on transition principle of CIT incentives, based on which investment projects could opt for CIT incentives under the amended laws for the remaining period provided that they satisfy the conditions for incentives.

Particularly, the Decree has stipulated some notable entitlement subjects as follows:

- **For those investment expansion projects which were granted licences or invested in the period of 2009 – 2013:** if the conditions for incentives under Law No. 32/2013/QH-13 are met up to tax year 2014, they are entitled to incentives for expansion investment projects under this Decree for the remaining period **from tax year 2015 onwards**;
- **Investment projects in industrial zones in the period of 2009 – 2013** are entitled to incentives under Law No. 32/2023/QH-13 for the remaining period **from tax year 2015 onwards**;
- Investment projects in locations which were **not tax-incentivized prior to 1 January 2015 but currently is**, based on this Decree, are entitled to incentives for the remaining period from tax year 2015 onwards;
- Investment projects in locations transformed into tax-incentivized locations after 1 January 2015 are entitled to incentives for the remaining period from the transformation time.

(2) Personal Income Tax (“PIT”)

- Stipulating 04 tax rates applied to business income from 04 business sectors.
- Stipulating that taxable income benefits in relation to housing, electricity, water and services (if any) associated with those houses built by employers to provide to employees working in the industrial zones or houses built by employers in

specially-difficult or difficult socio-economic locations to provide to employees.

- Stipulating **PIT exemption** on one-off relocation allowance for Vietnamese residing long term overseas, who come to work in Vietnam.
- Providing detailed guidance on PIT declaration for life insurance and other non-compulsory insurances with accumulation nature of which premium is paid by employers:
 - i. If the insurance is bought from insurance enterprises established under Vietnamese laws: insurance enterprises are responsible for withholding 10% of the accumulated premium corresponding to the portion paid by employers for employees upon the contract expiration;
 - ii. If the insurance is bought from insurance enterprises not established under Vietnamese laws: employers are responsible for withholding PIT at the rate of 10% on the insurance premium paid before paying out salary to employees.
- Supplementing that contributions/payments to voluntary pension funds are allowable deductions. However, such deduction is capped at VND1 million per month, including the contributions made by both employers and employees.
- Stipulating the responsibility for withholding and declaring PIT on payments made to those employees who enter into **labor contracts with term over 3 months** (withholding at progressive PIT rates) and **labor contracts with term under 3 months** (withholding at flat rate of 10%).

(3) Value Added Tax (“VAT”)

Stipulating that **imported** goods should be supported by non-cash payment vouchers for VAT creditability purposes, except when the total value of **imported** goods and services is under VND20 million each time.

(4) Tax Management

- Removing the requirement on the submission of output and input invoice listings in monthly/quarterly VAT and special sales tax returns.
- Unifying regulations on the exchange rate applied to convert revenue, expense, taxable price and tax paid to State Budget in foreign currencies. Specifically, the Decree has provided detailed guidance on exchange rate applied to taxable price for imported and exported goods as below:
 - Applying buying exchange rate announced by the Headquarter of Vietcombank at the end of Thursday of the previous week, or the exchange rate at the end of the previous working day before Thursday if Thursday is a holiday. This exchange rate is used to determine the taxable price for custom declarations of the week.
 - For those foreign currencies which the Headquarter of Vietcombank does not announce exchange rates, the cross-exchange rates between VND and a foreign currency announced by the State Bank of Vietnam (“SBV”) at the time of custom declarations should be used.
 - For those foreign currencies of which the cross-exchange rates are not announced, it should be determined on the basis of the exchange rate between USD and VND and the exchange rate between USD and

other foreign currencies announced by SBV. The exchange rates announced by SBV are updated on SBV's website.

- Removing the late payment interest rate of 0.07% per day applied on those late tax payment exceeding 90 days. From 1 January 2015 onwards, for late payment interest arisen from tax audits, tax inspections and self-declared by the taxpayers, the late payment interest rate of 0.05% per day is applied on the outstanding tax liabilities.

(5) Implementation

This Decree shall come into effect from the effective date of Law No.71/2014/QH13 regarding the amendment and supplementation of a number of Laws on Taxation (i.e. **from 1 January 2015**).

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