

RECENT UPDATE ON LABOUR AND TAX



DRAFT DECREE OF THE GOVERNMENT STIPULATING THE REGIONAL MINIMUM WAGES

In July 2019, the Government issued Draft Decree stipulating the regional minimum wages for laborers working under labor contracts (“Draft Decree”) to replace Decree No. 157/2018/ND-CP (Decree 157). According to Draft Decree, the regional minimum wages are increased as compared to Decree 157 as follows:

Unit: VND/month

Region	Draft Decree	Decree 157	Increment
I	4,420,000	4,180,000	240,000
II	3,920,000	3,710,000	210,000
III	3,430,000	3,250,000	180,000
IV	3,070,000	2,920,000	150,000

The applicable regions for minimum wages are adjusted in this Draft Decree as follows:

- From Region III moved up to Region II: Chau Thanh District and Ben Tre City (Ben Tre Province), Dong Phu District (Binh Phuoc Province)
- From Region IV moved up to Region III: Cam Khe District (Phu Tho Province), Cua Lo Town and Nghi Loc District, Hung Nguyen District (Nghe An Province), Dong Son District and Quang Xuong District (Thanh Hoa Province), Ba Tri District, Binh Dai District and Mo Cay Nam District (Ben Tre Province)



PERSONAL INCOME TAX ON INCOME BEING GIFTS RECEIVED FROM PROMOTION PROGRAMS

On 27 September 2019, General Department of Taxation (“GDT”) issued Official Letter No. 2875/TCT-DNNCN providing guidance on Personal Income Tax (“PIT”) on income being gift received from **promotion programs**.

According to this Official Letter, in case a company **provides a travelling trip to its individual clients (not in monetary form) who meet the sales target**, the provided travelling trip shall be deemed as income from gifts. However, as the travelling trip (in this case) is not subject to registration of ownership, so income from gifts will not be subject to PIT.

Enterprises that follow to the above guidance must implement promotion programs in accordance with the regulations on trade promotion activities.

Currently, RSM Vietnam has not noticed any guidance from the tax authorities regarding PIT exemption for gifts which are offered in the monetary form and to the beneficiaries who are not individual clients. We will keep our eyes on this issue and update you of any development.

GUIDANCE ON IMPORT DUTY EXEMPTIONS FOR RAW MATERIALS IMPORTED TO MANUFACTURE THE ON-THE-SPOT EXPORT

According to Official Letter No. 5826/TCHQ-TXNK issued on 05 October 2018, General Department of Customs (“GDC”) stated that as from of 01 September 2016, import duty exemption scheme was not applicable for raw materials imported to manufacture products for on-the-spot export. The reasons are such exemption not in compliance with Decree 134/2016/NĐ-CP. Consequently, import duty that already exempted shall be retrospectively collected and late payment interest and administrative charges shall be imposed.

However, on 25 June 2019, GDC issued Official Letter No. 4138/TCHQ-TXNK **replacing** Official Letter 5826/TCHQ-TXNK. Specifically, enterprise will **be exempted** from import duty instead of subject to import duty.

The Official Letter does not provide for further guidance for the cases that enterprises have paid import duty, late payment interests and admin charges. RSM Vietnam will continue updating you of any development.

GUIDANCE ON POLICIES FOR CORPORATE INCOME TAX INCENTIVES IN ENCOURAGED AREAS

On 02 August 2019, GDT issued Official Letter No. 3042/TCT-CS guiding for cases that are not entitled to Corporate Income Tax (“CIT”) incentives in encouraged areas as follows:

- According to regulations for enterprises having investment projects that meet the conditions on encouraged areas, income entitled to CIT incentives are all income generated from business activities of these above investment projects in encouraged areas (except for income from project transfer, real estate transfer, mineral exploitation, production and trading of goods and services subject to Special Consumption Tax)
- In case, enterprises who are entitled to CIT incentives in encouraged areas, register for supplemented trading activities but **do not increase capital, do not carry out expanded investment** to increase assets, additional income from such trading activities **will not be entitled** to CIT incentives in encouraged areas. Official Letter No. 17008/BTC-CST issued by the Ministry of Finance on 17 November 2015 could be referred for the same situations



GUIDANCE ON THE CONDITIONS FOR RECORDING DEDUCTIBLE EXPENSES FOR ONLINE SHOPPING

On 08 July 2019, Ha Noi Tax Department issued Official Letter No. 53582/CT-TTHT providing guidance on the conditions to record deductible expenses when a company **purchases software via website of foreign supplier**. Particularly, such company should withhold and declare Foreign Contractor Tax (“FCT”) and be allowed to record the deductible expenses if the company meet the conditions as follows:

- Software expenses are related to the company’s business activities; and

- Having invoice, payment vouchers as prescribed under prevailing regulations.

This Official Letter also guides that if the company **cannot present an invoice** that meets **the Vietnamese regulations, because the foreign supplier cannot issue the invoice in Vietnam**, the company can instead use **FCT return and FCT payment evidence according to the prevailing regulations.**

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