

Tax & Legal Update

November 2020

1. Corporate Income Tax ("CIT")

- (i) *Depreciation expense of fixed assets suspended from operation for less than 9 months due to the Covid-19 is deductible for CIT purpose*

According to the Official Letter No. 12452/BTC-TCT dated 9 October 2020 of the Ministry of Finance, where a taxpayer faces a decrease in the market demand due to COVID-19 pandemic and consequently has to suspend the operation of a number of fixed assets, where the suspension is for less than 9 months, such an event is considered a seasonal suspension and the related depreciation expenses during the suspension period is deductible for CIT calculation.

2. Foreign Contractor Tax ("FCT")

- (i) *Sale of goods between two foreign entities will be subject to FCT where the ownership of the goods is transferred in a bonded warehouse ("BWH") in Vietnam*

According to Official Letter No. 3997/TCT-CS of the General Department of Taxation ("GDT") dated 24 September 2020, where a foreign entity outsources goods processing to an Export and Processing Enterprise ("EPE") in Vietnam and the finished goods are then stored at a BWH for sale to another foreign entity, if the ownership of goods is transferred within the BWH before being exported to a foreign country, the foreign entity selling the goods is liable to FCT in Vietnam for such transaction.

Previously, according to Official Letter No. 2303/TCT-CS dated 1 June 2017, if a foreign entity stores goods in a BWH in Vietnam for sale to another foreign entity and if the ownership of goods is transferred outside Vietnam territory (i.e. under FOB or DDP trade terms), such transaction is not subject to FCT in Vietnam. Therefore, the FCT treatment on the sale of goods by a foreign entity to an overseas buyer via a BWH in Vietnam is dependent on where the ownership of the goods is transferred (i.e. outside or inside Vietnam territory).

3. Personal Income Tax ("PIT")

- (i) *Support payment from the trade union to employees is not subject to PIT*

According to the Official Letter No. 3845/TCT-DNNCN dated 15 September 2020 of the GDT, when the trade union uses the trade union fund to provide accommodation support to employees affected by Covid-19, such support payment is not subject to PIT.

- (ii) *The new family relief is applied when an expatriate has to file his/her first tax year PIT finalisation ending in 2020*

According to the Official Letter No. 4590/TCT-DNNCN dated 28 October 2020 of the GDT, where a foreign individual, being a Vietnam tax resident, lodges his/her first tax year PIT finalisation for a period ending within 2020 (e.g. from July 2019 to June 2020), the new family relief level as stipulated under the Resolution 954/2020/UBTVQH14 (i.e. VND11 million/month for the taxpayer, and VND4.4 million/month for eligible dependent) will be applied for the period falling within 2020 of such first tax year.

4. Export/Import Tax

- (i) *Goods imported in the form of temporary-import-for-re-export, but subsequently not re-exported are not eligible for import tax refund*

According to the Official Letter No. 5817/TCHQ-TXNK of the General Department of Customs ("GDC")

dated 3 September 2020, where an enterprise imports goods in the form of temporary-import-for-re-export, but later exports on-the-spot under the instruction of the goods owner instead of re-exporting to overseas or to non-tariff zones, the import tax paid by such enterprise does not qualify for a refund.

5. Special Consumption Tax (“SCT”)

(i) Extension of SCT payment deadline for domestically manufactured or assembled automobiles

On 15 September 2020, the Government issued Decree No. 109/2020/ND-CP on the extension of the SCT payment deadline for domestically manufactured or assembled automobiles. Whereby:

- Domestic automobile manufacturers and assemblers will be granted a grace period for SCT payment for the tax reporting period March to October 2020, including additional SCT payable arising from supplementary SCT declaration during the grace period. The Decree allows the payment to be deferred up to six months for each reporting period, which is due by December 2020. The tax payment deferral also applies to branches and dependent units of taxpayers if they carry out automobile production and assembly activities.
- Taxpayers must submit a written request for extension of the SCT payment deadline according to Decree 109 no later than 30 September 2020.

Decree 109 takes effect from 15 September 2020.

6. Tax Administration and Customs Administration

(i) Decree 125/2020/ND-CP and Decree 128/2020/ND-CP on administrative penalties in the field of tax and customs

On 19 October 2020, the Government issued Decree 125/2020/ND-CP on administrative penalties in the field of tax and invoices and Decree 128/2020/ND-CP on administrative penalties in the field of customs. These decrees take effect from 5 December 2020.

7. Foreign Exchange Control

(i) An EPE is not allowed to use foreign currencies when purchasing materials and services from domestic entities which are not directly used for production activities

According to the Official Letter No. 5051/NHNN-QLNH of the State Bank of Vietnam dated 10 July 2020, where an EPE signs a contract with a domestic enterprise to purchase uniforms, construction and repairing services rather than raw materials, components and other supplies used directly for the production, processing, recycling or assembly of goods for export, such EPE is not permitted to use foreign currencies to purchase those items.

Contact us

KPMG Limited | KPMG Tax and Advisory Limited | KPMG Legal Limited

KPMG in Vietnam and Cambodia is one of the leading professional services firms, with over 1,700 staff working from our offices in Hanoi, Ho Chi Minh City, Da Nang and Phnom Penh. We work with our colleagues across Asia and around the world to provide a broad range of services.

Hanoi

46th Floor, Keangnam Hanoi Landmark Tower, 72 Building,
Plot E6, Pham Hung Street, Cau Giay New Urban Area,
Me Tri Ward, South Tu Liem District, Hanoi, Vietnam

T: +84 (24) 3946 1600

F: +84 (24) 3946 1601

E: kpmghanoi@kpmg.com.vn

Ho Chi Minh City

10th Floor, Sunwah Tower,
No. 115, Nguyen Hue Street, Ben Nghe Ward,
District 1, Ho Chi Minh City, Vietnam

T: +84 (28) 3821 9266

F: +84 (28) 3821 9267

E: kpmghcmc@kpmg.com.vn

Danang

Unit D3, 5th Floor, Indochina Riverside Tower,
No. 74, Bach Dang Street, Hai Chau 1 Ward,
Hai Chau District, Danang, Vietnam

T: +84 (236) 351 9051

F: +84 (28) 3821 9267

E: kpmgdanang@kpmg.com.vn

Follow us on:   

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

© 2020 KPMG Limited, KPMG Tax and Advisory Limited, KPMG Legal Limited, all Vietnamese one member limited liability companies and member firms of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.

kpmg.com.vn