

1. PERSONAL INCOME TAX

❖ Expenditures on transport support for household businesses

Decree 126/2020/ND-CP An organization: who makes payment of bonuses, sales support, promotions, trade discounts, payment discounts, cash or non-cash support payment to household and individual businesses paying tax under a deemed method, shall declare and pay tax on behalf of such individuals.

Based on the above decree, the General Department of Taxation further guides that the company is responsible for withholding, declaring and paying PIT on behalf of the total amount of transportation assistance paid to the business person who is a sales agent of the company. Company can applicable tax rate of 1% of the total amount received according to the tax return form No. 01 / CNKD.

❖ Expenditures on quarantining foreign experts serving prevention and control of Covid-19

Official Letter No. 5032/TCT-CS dated November 26th, 2020 of General Department of Taxation about expenditures on quarantining foreign experts serving prevention and control of Covid-19.

In case the employees have the Covid-19 quarantine costs paid by their employer upon their entry into Vietnam, these payments will be treated as the employees' benefits and thus may be included in taxable income.

2. CORPORATE INCOME TAX

❖ Expenditures on quarantining foreign experts serving prevention and control of Covid-19

Official Letter No. 5032/TCT-CS dated November 26th, 2020 of General Department of Taxation about expenditures on quarantining foreign experts serving prevention and control of Covid-19.

- The hotel expense for isolation for foreign experts mentioned in the labor contract and is paid by the enterprise is considered as a deductible expense, if there are sufficient application, documents and payment according to regulations;

- The expense of flight tickets for business trip for experts with sufficient invoices and documents in accordance with regulations is deductible for CIT purposes;
- The testing expense for Covid-19 which is considered a welfare and directly paid by the employer is considered a deductible expense when determining taxable income if there are sufficient invoices, documents and payments as prescribed.

3. IMPORT TAX

Official Letter No. 8115/TCHQ-TXNK dated December 28th, 2020 of General Department of Vietnam Customs on treating tax of goods temporarily exported, re-imported.

In case of borrowed goods, when it is temporarily imported, import tax must be declared and paid, the customs value is all expenses paid by the borrower to delivery the goods to the first import checkpoint. When the borrowed goods are re-exported, they are not eligible for import tax refund.

4. LABOR UPDATE

❖ Foreigners working in Vietnam

Decree No. 152/2020/ND-CP dated December 30th, 2020 of The Government on foreign workers working in Vietnam and recruitment and management of Vietnamese workers working for foreign employers in Vietnam (officially enters into force from February 15th, 2021).

Accordingly, some highlights are specified in this Decree as follows:

a) Intra-company transferee just have to express two conditions:

- Intra-company transferee is a manager, executive, expert or technical worker of a foreign company which has established a commercial presence in Vietnam's territory who is temporarily transferred within the company to the commercial presence in Vietnam's territory;

- Has been recruited by the foreign company at least 12 consecutive months prior to the transfer date;

b) Expert is a foreign worker: The Decree changes and adds two (02) following cases:

- Obtains at least 5 years' experience and a practicing certificate in corresponding with the job position that he/she will be appointed in Vietnam;
- Falls under a special case subject to decision of the Prime Minister according to a request of the Ministry of Labor, War Invalids and Social Affairs;

c) The Decree adds one (01) following cases about technical worker:

Technical worker obtains at least 5 years' experience in corresponding with the job position that he/she will be appointed in Vietnam.

d) Renewal of work permit

In Decree 11/2016/ND-CP, the law does not mention about the issue of extending work permits for foreign workers working in Vietnam. Whereby:

Work permit is renewed once for a period of up to 2 years;

** Eligibility requirements for renewal of a work permit:*

- The remaining validity period of the work permit is at least 5 days but not exceeding 45 days;
- The competent authority grants an acceptance of demand for foreign workers;
- A document supporting that the foreign worker will continue in employment with the employer as specified in the concerned work permit is available;

e) Report on employment of foreign workers

Prior to July 5 and January 5 of the following year, the employer of foreign workers shall send a first-half-year report and an annual report on employment of foreign workers, using Form No. 07/PLI;

The reporting period of the first 6 months is from December 15 of the previous reporting year to June 14 of the reporting year, the reporting period of the annual report is from December 15 of the previous reporting year to December 14 of the reporting year.

❖ The leave regime

Decree 145/2020/NĐ-CP dated December 14th, 2020 of the Government regulating and guiding some articles of the Labor Code on working conditions and labor relations

The Decree comes into force from January 1st, 2021.

Accordingly, the leave regime has some necessary changes as following:

a) Calculation of annual leave days in case the employee does not work full months (Article 66):

If an employee's working time is not a full month and the total number of working days and paid leave days is at least 50% of the normal working days in a month, it will be considered a complete month (01 month);

b) Change in payroll method for untaken annual leave days (Article 67):

According to the Labor Code 2019, employees are only paid for the annual leave (without taking leave) related to job termination and job loss. Furthermore, the salary as the basis for paying an employee for untaken annual leave days is the salary written in his/her employment contract of the month preceding the month in which the employee resigns or loses his/her job (instead of it is the average salary under the labor contract of the preceding 06 months before calculating salary).

Abbreviations

OL
Official Letter

GDT
General Department of Taxation

TIN
Tax Identification Number

CIT
Corporate Income Tax

PIT
Personal Income Tax

VAT
Value Added Tax

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This newsletter aims to update and summarize general regulations associated with tax, accounting, investment and labor in Vietnam. You should refer to expertise before making decision.