ACCOUNTING TAX ADVISORY

September 2024
Newsletter

KMC CONSULTING COMPANY LIMITED

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Content

1 Deductible compensation expenses are usually due to contract cancellation.

OL No. 20507/CTBDU-TTHT dated 25 July 2024 issued by Binh Duong Provincial Tax Department regarding deductible compensation arising from the contract cancellation of the Company:

Compensation expenses arising from cancelling the Company’s contract according to the sales agreement can be considered as deductible expenses when determining CIT. Accordingly, these expenses should have the full payment documents to customers and receipts of customers.

2 PIT Policy on Golf Expenses

OL No. 39488/CTHN-TTHT dated 4 July 2024 issued by the Hanoi Tax Department regarding PIT policy on golf expenses for employees cooperating with customers:

Expenses invoiced under the Company name: In case the vouchers of golf expenses are invoiced under the Company name, the expenses are not considered as income received by the employees and are therefore not included in taxable income.

Golf card in the name of an individual: In case the golf cards are named under the representatives of the Company, the expenses are included in the taxable income of the participating individual.

3 PIT during probation period

OL No. 21458/CTBDU-TTHT dated 1 August 2024 issued by Binh Duong Provincial Tax Department regarding PIT obligations during the probationary period of employees is determined:

The labour contract IS SIGNED after the probationary period: In case the Company enters a labour contract with an employee after the probationary period of three (03) months or more, the Company is responsible for deducting PIT by the progressive tariff on taxable income, including the one during the probationary period, before paying salary to the employee.

The labour contract IS NOT SIGNED after the probationary period: In case the Company does not sign a labour contract with the employee after the probationary period ends, the Company should deduct PIT at a 10% rate for income from VND 2 million or more per time of the employee when paying salary during the probationary period.

3 PIT during probation period

PIT for low-income labor: In case the total taxable income of the employee in the finalization year, after family deductions, is lower than the tax payable income and has only income subject to the 10% tax rate, the employee shall make a commitment letter (by Form No. 02/CK-TNCN) to the Company. Based on the employee's commitment letter, the Company would temporarily not deduct PIT at the 10% rate when paying income to the employee. The employee should be legally responsible for the content of his/her commitment and must have a tax code at the commitment time. Any fraud, if detected, will be handled by provisions of the Law on Tax Administration.

4 Verification documents for compulsory insurance premiums abroad are eligible for deduction in Vietnam

OL No. 21956/CTBDU-TTHT dated 7 August 2024 issued by Binh Duong Provincial Tax Department regarding documents proving compulsory insurance premiums abroad are deductible in Vietnam:

The Company has foreign employees assigned to work in Vietnam as internal transfers and paid compulsory insurance premiums according to the regulations of the nationality country of the employees. To prove the deductibility of abroad insurance premiums, the following documents are required:

- A copy of receipts from the insurance organization, or
- Confirmation from the income-paying organization regarding the deducted and paid insurance amount on behalf of the employee.

4 Verification documents for compulsory insurance premiums abroad are eligible for deduction in Vietnam

The verification documents should comply with the provisions at Clause 2, Article 9, Circular No. 111/2013/TT-BTC dated 15 August 2013 and Article 85, Circular No. 80/2021/TT-BTC dated 29 September 2021 of the Ministry of Finance.

5 VAT rate of 10% in case of the warehouse rented by EPEs out of the non-tariff zone

OL No. 2231/CTLAN-TTHT dated 9 May 2024 issued by Long An Provincial Tax Department regarding the 10% rate of VAT in case EPEs rent warehouses outside the non-tariff zones:

In case the Company as EPE rent a warehouse to store raw materials and products, with the rental service performed and consumed outside the non-tariff zone, the service is not eligible for the 0% VAT rate as specified in Article 9, Circular No.219/2013/TT-BTC. Consequently, the 10% VAT rate should be applied following the regulations.

6 Foreign Contractor Tax (“FCT”) on Road transport services

OL No. 42509/CTHN-TTHT dated 24 July 2024, issued by the Hanoi Tax Department regarding FCT on road transport services:

Foreign-invested enterprises that provide road transport services and generate income in Vietnam based on contracts, agreements or commitments with Vietnamese organizations and individuals are subject to FCT. The applicable tax rate is determined as follows:

- 2% CIT on taxable revenue
- 3% VAT on taxable revenue

However, foreign contractors who provide services that meet international transportation requirements as prescribed shall apply a VAT rate of 0%.

Foreign enterprises with income from services provided and consumed outside Vietnam are not subject to FCT.

7 FCT on interest paid to Parent Company

OL No. 3602/TCT-CS dated 15 August 2024 issued by the GDT stipulated FCT on loan interest paid to the Parent Company:

In case, a Vietnamese Company and a foreign Parent Company enter a long-term loan contract and stipulate the principal and interest will be paid in one lump sum after 10 years, the Parent Company is subject to FCT on interest income in Vietnam by regulations.

In case, the Parent Company writes off the loan interest debt and the Vietnam Company does not incur any loan interest payments, the Company should not declare and pay FCT on behalf of the Parent Company.

However, the loan interest expenses accrued annually corresponding to the written-off part should be considered as other income when determining taxable income according to regulations.

8 Social Insurance Law No. 41/2024/QH15

On 29 June 2024, the 7th Session of the 15th National Assembly approved the Social Insurance Law No. 41/2024/QH15 takes effect from 1 July 2025.

The 2024 Social Insurance Law has the following 14 new essential points specifically:

- **Supplementing social pension benefits to enhance a multi-layered social insurance system:** Elderly individuals who do not receive a pension or monthly social insurance benefits are eligible to receive social pension allowances at 75 years old (reducing from the previous age of 80). The elderly individuals from impoverished and near-impoverished households aged between 70 years old under 75 years old are entitled to social pension benefits.

8 Social Insurance Law No. 41/2024/QH15

- **Supplementing regulations to improve the connection between social pension benefits and basic social insurance:** Individuals who reach the retirement age but do not contribute enough time to enjoy a pension (less than 15 years of contribution) or are not old enough to receive social pension (under 75 years old) shall request and receive a monthly allowance from own contribution in case of not receiving one-time social insurance or retained. When receiving a monthly allowance, the state budget will pay for health insurance.
- **Extending the scope of participation:** The 2024 Social Insurance Law stipulates the expansion of subjects eligible to participate and fully enjoy social insurance regimes by extending participated subjects of compulsory social insurance to owners of registered households business; part-time workers at the commune, village, and residential group levels; part-time employees; business managers and cooperative managers who do not receive salaries.

8 Social Insurance Law No. 41/2024/QH15

- **Supplementing the right to receive sick leave and maternity benefits for part-time workers at the commune level:** The 2024 Social Insurance Law has officially granted part-time workers at the commune level the right to enjoy sickness and maternity benefits expanding their entitlements beyond the current provisions as retirement and death.
- **Adding maternity benefits to voluntary social insurance policy:** Voluntary social insurance participants who meet the prescribed conditions are entitled to maternity benefits of VND 2 million for each newborn child, guaranteed by the state budget. Employees should not pay exceeding current regulations.
- **Social insurance contribution of at least 15 years will receive a pension:** The 2024 Social Insurance Law increases the opportunity to receive a pension for social insurance participants by reducing the minimum years of social insurance contributions from 20 years to 15 years.

8 Social Insurance Law No. 41/2024/QH15

- **Encourage employees to reserve their contribution time to receive pension instead of receiving social insurance at one time:**

  Employees who have stopped participating in social insurance will receive a one-time social insurance payment when requested from one of the following cases: Reaching retirement age but not contributing to social insurance for 15 years; Going abroad to settle down; Suffering from one of the following diseases: cancer, paralysis, decompensated cirrhosis, severe tuberculosis, AIDS; Reducing a labor capacity of 81% or more; Extremely severe disabilities; Employees who contributed social insurance before 1 July 2025, are not subject to compulsory social insurance after 12 months but not participate in voluntary social insurance and have paid social insurance for less than 20 years.

8 Social Insurance Law No. 41/2024/QH15

Employees who do not receive a one-time social insurance payment but reserve contributed time have opportunities such as (i) Enjoying higher benefits when continuing to participate in SI; (ii) Easier conditions to enjoy a pension; (iii) Health Insurance was paid by the Social Insurance Fund when enjoying pension; (iv) Enjoying monthly allowance when not eligible for pension and yet old enough to receive social pension; (v) the State budget will pay for health insurance when enjoying monthly allowance.

8 Social Insurance Law No. 41/2024/QH15

- **Ensuring the right to participate in and enjoy social insurance for Vietnamese working abroad and foreigners working in Vietnam:** The 2024 Social Insurance Law conducts better assurance of the right to participate in and enjoy social insurance for Vietnamese working abroad and foreigners working in Vietnam by supplementing provisions on cases of international treaties in which the Socialist Republic of Vietnam is a member stipulate the social insurance participation time of employees in Vietnam and abroad is contained to consider the eligibility for social insurance benefits.
- **Improve the efficiency of the Social Insurance Investment Fund:** The 2024 Social Insurance Law prescribes improving the investment efficiency of the Social Insurance Fund, strengthening management and improving the usage efficiency of the Social Insurance Fund by expanding the portfolio and strategies of investment in the Social Insurance Fund.

8 Social Insurance Law No. 41/2024/QH15

- **Supplementing provisions on additional pension insurance:** The 2024 Social Insurance Law adds a chapter on supplementary pension insurance, which stipulates the subjects, principles, and the State's policy on supplementary pension insurance to provide more options for employers and employees to participate in contributions to receive higher pensions.
- **Specifically stipulating on "reference level" instead of "basic salary":** The legislation outlines a "reference level" for the calculation of contribution and benefit levels in particular social insurance regimes; the reference level is currently equivalent to the basic salary which remains in effect and not been abolished.
- **Apparently stipulating on the management of social insurance collection and payment:** To enhance adherence to the Law and guarding the legitimate rights and interests of employees by dedicating a chapter to regulating the management of social insurance collection and payment; clarifying the procedures for addressing late payments and evasion of social insurance contributions.

8 Social Insurance Law No. 41/2024/QH15

- **Regulations on electronic transactions in social insurance:** The Social Insurance Law 2024 creates favorable conditions for participants and beneficiaries of social insurance by supplementing regulations on electronic transactions in social insurance, adjusting, reducing, and simplifying dossiers and procedures for implementing social insurance.
- **Amending and supplementing regulations of social insurance regimes to be practical and better protect the rights of employees:** Social Insurance Law No. 41/2024/QH15 has inherited and developed current appropriate regulations that have practically tested, revised inappropriate regulations, ensured feasibility, long-term, consistency and unity of the legal system.

Abbreviations

VAT	Value Added Tax	**MOF**	Ministry of Finance
PIT	Personal Income Tax	**GDT**	General Department of Taxation
CIT	Corporate Income Tax	**MOIT**	Ministry of Industry and Trade
FCT	Foreign Contractor Tax	**MOLISA**	Ministry of Labor, War Invalids and Social Affair
SCT	Special Consumption Tax	**DPI**	Department of Planning and Investment
IET	Import and Export Tax	**SBV**	The State Bank of Vietnam
OTH	Other	**EPE**	Export processing enterprises
OL	Official Letter	**EPZ**	Export Processing Zone
ACC	Accounting	**IZ**	Industrial Zone
LAB	Labor		

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KMC’s Newsletter aims to update and summarize the general provisions related to Taxation, Accounting, Investment and Labor in Vietnam. You should seek professional advice before making a decision.

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Connect with us.

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