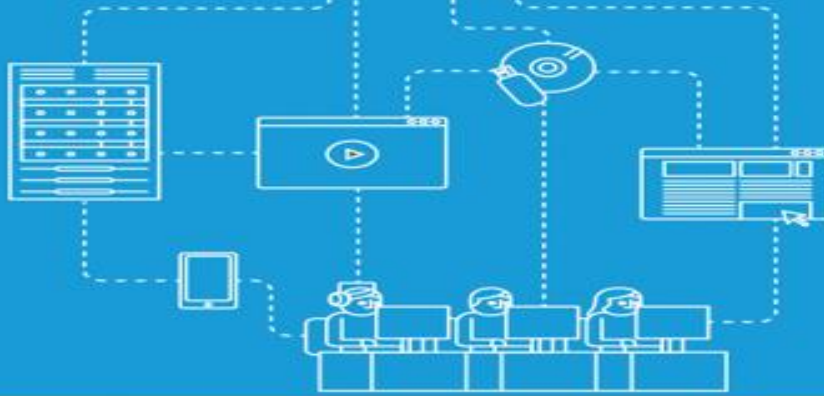




This Spotlight includes:

1. Guidance on the gross-up formula in Personal Income Tax ("PIT")
2. Foreign individuals are allowed to authorize a Vietnam enterprise to fulfill their PIT obligations in Vietnam on their behalf
3. New supporting policies for small and medium enterprises
4. Enforcement of tax management to electronic commerce activities



Guidance on the gross-up formula in PIT

According to Official Letter 2943/TCT-TNCN dated 04 July 2017, the gross-up formula in case an employee receives salary on a net basis and contributes compulsory social insurance shall be as follows:

- For the period prior to 01 July 2013: Compulsory insurance contributions **are NOT allowed to be deducted** from net income before the gross-up computation;
- For the period from 01 July 2013 onwards: Compulsory insurance contributions **are allowed to be deducted** from net income before the gross-up computation.

The above guidance is the official opinion of the General Department of Taxation after a long period to consider and obtain consulting from the Ministry of Finance.

Therefore, it is suggested that the enterprises should review and consider making necessary adjustments if PIT calculations, declarations and payments are different with the above guidance to minimize the risks in the tax audit in the future.

Foreign individuals are allowed to authorize a Vietnam enterprise to fulfill their PIT obligations in Vietnam on their behalf

The General Department of Taxation recently issued some guidelines that allow a foreign individual to authorize a Vietnam enterprise in accordance with the provisions of the Civil Code to fulfill their PIT obligations on their behalf, as follows:

Guidelines	Official Letter 2700/TCT-TNCN dated 21 June 2017 guiding on the case a foreign individual being an expatriate assigned by a foreign contractor to work in Vietnam. If foreign individual is determined as <u>non-tax resident</u> in Vietnam in tax year and incomes are received at overseas place.	Official Letter 3438/TCT-TNCN dated 02 August 2017 and Official Letter 3329/TCT-TNCN dated 27 July 2017 guiding on the case in which a foreign individual is determined as <u>tax resident</u> in Viet Nam in tax year and has <u>two sources</u> of incomes.	
Monthly/quarterly PIT withholding, declaration, and payment	Foreign individual can authorize a Vietnam enterprise in accordance with the provisions of the Civil Code to withhold, declare and pay PIT on their behalf.	Incomes are paid by foreign enterprise	Foreign individual can authorize a Vietnam enterprise in accordance with the provisions of the Civil Code to withhold, declare and pay PIT on their behalf.
PIT finalization	PIT finalization dossier is not compulsory to submit if having the PIT overpaid during tax period and not request PIT refund.	Incomes are paid by Vietnam enterprise	Vietnam enterprise is responsible to temporarily withhold PIT based on the progressive tariffs. <ul style="list-style-type: none"> • Foreign individual is required to directly conduct PIT finalization with tax authorities. • Foreign individual can authorize a Vietnam enterprise in accordance with the provisions of the Civil Code to make PIT finalization on him/ her behalf (<i>guided by Official Letter 3438 / TCT-TNCN</i>)



New supporting policies for small and medium enterprises

On 12 June 2017, the National Assembly approved Law 04/2017/QH14 that provides some policies to support small and medium enterprises (SMEs) having foreign and/ or domestic capital investment. These policies will take effect from 01 January 2018.

Accordingly, a SME is defined as an enterprise has no more than the average of 200 employees participating in the social insurance per year and meet one of the following conditions:

- Total capital does not exceed VND 100 billion; and
- Total revenue of the preceding year does not exceed VND 300 billion.

The key incentives providing for SMEs include:

- SMEs will be entitled to a CIT preferential rate for a certain period.

The Law does not specify clearly the CIT rate or the period, but its previous draft in May 2017 proposed a rate of 15% for a maximum 5 years.

We expect the guiding documents in the coming months will clarify the tax rate and period for SMEs application;

- CIT exemptions and reductions are available to the enterprises investing in distribution chains, in which

such distribution chains have at least 80% SMEs participating in production chains in Vietnam;

- SMEs can apply a simplified accounting system as stipulated in the accounting regulations;
- SMEs can receive credit guarantees from a fund which is established by Provincial People's Committees;
- Domestic SMEs located in industrial zones or high-tech zones can enjoy the low rental rate from Provincial People's Committees;
- SMEs can be supported in technology research and development, technology transfer, intellectual training, consulting and protection, or in the establishment of technical facilities, common working place by the Ministries and Provincial People's Committees;
- SMEs can also receive the supports in human resource development and legal consulting;
- Beside, innovative start-up SMEs or SMEs participating in joint industries, value chains can be entitled to others incentives and supports.

Should you need any discussion on the impacts of these changes to your activities, please do not hesitate to contact us.

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Enforcement of tax management to electronic commerce activities

On 16 June 2017, the General Department of Taxation issued Official Letter 2623/TCT-CS addressing to all provincial tax authorities on the enforcement of tax management to electronic commerce (E-commerce) activities relating to goods/ services trading via websites and social networks. Some noted points are as follows:

- Tax authorities should popularize tax policies, review and enforce taxpayers who are carrying out E-commerce activities to declare and pay taxes in line with the prevailing regulations;
- Tax authorities should perform tax audits and tax inspections at the enterprises who are conducting E-commerce activities for the purpose of implementing tax management for E-commerce activities in order; and
- Tax authorities should proactively report and consult to other competent authorities to ensure smooth cooperation in the management and performance of tax audits/ inspections to the individuals and enterprises conducting E-commerce activities.



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