

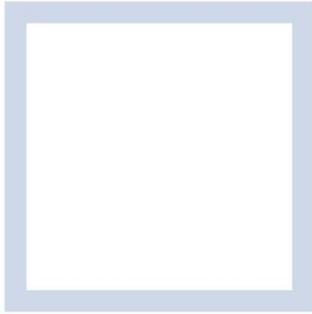
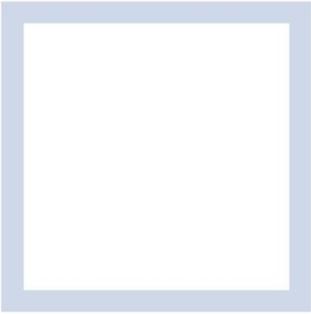
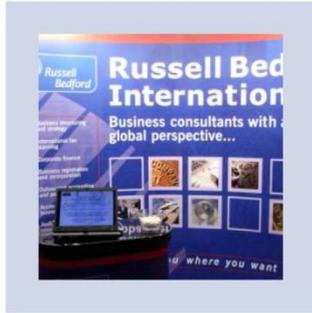
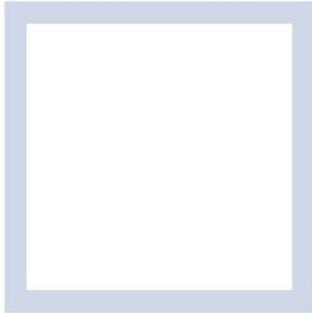
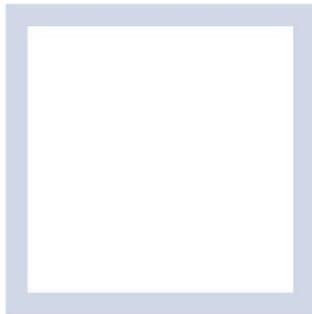
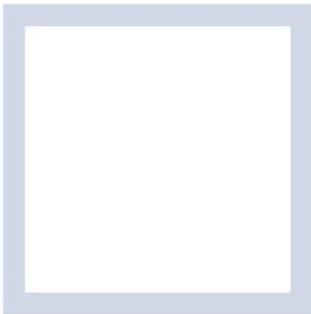


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# NEWSLETTER

Issue 18, October 2015



## IN THIS ISSUE

### Page

#### **New guidance on severance tax**

Circular No. 152/2015/TT-BTC dated 2 October 2015 by Ministry of Finance

1

#### **Specific entities allowed to use foreign currencies in Vietnam**

Circular 16/2015/TT-NHNN dated 19 October 2015 by State Bank of Vietnam

1

#### **Clarification for some regulations of Circular 200**

Official Letter No. 12568/BTC/CDKT dated 9 September 2015 by Ministry of Finance

2

#### **Improvement of the national business environment by the Government**

Resolution No. 19/NQ-CP dated 12 March 2015 by Government

3

#### **New regulations on overseas investment**

Decree No. 83/2015/ND-CP dated 23 September 2015 by Government

3

#### **Trans-Pacific Partnership ("TPP") reached**

Trans-Pacific Partnership ("TPP") reached on 4 October 2015

3

#### **Vietnam General Confederation of Labour ("VGCL") proposes minimum wage increase by 14.4%**

Official Letter No. 1567/TLD dated 5 October 2015 by VGCL

4

#### **Penalty for late payment of trade union fee**

Decree No. 88/2015/NĐ-CP dated 7 October 2015 by Government

4

### **New guidance on severance tax**

On 2 October 2014, the Ministry of Finance (“MOF”) issued Circular No. 152/2015/TT-BTC to guide new regulation on severance tax with following noticeable points:

#### **● Scope**

Crude oil, natural gas, and coal gas are no longer under regulations of this Law but other regulations of the MOF.

#### **● Taxable items**

There are more specific regulations for specific items:

- ✓ Natural water includes: surface water and groundwater other than natural water used for agriculture, forestry, aquaculture, salt production, and seawater used for cooling machines.
- ✓ Natural bird’s nests are excluded those harvested from purpose-built houses.

*This Circular takes effect from 20 November 2015 and replaces Circular No. 105/2010/TT-BTC dated 23 July 2010 of the MOF.*

### **Specific entities allowed to use foreign currencies in Vietnam**

On 19 October 2015, the State Bank of Vietnam (“SBV”) issued Circular 16/2015/TT-NHNN guiding the restriction of use of foreign currencies in Vietnam.

Accordingly, in cases related to national defense and security, petroleum, and other specific cases, an entity is eligible to use foreign currencies in Vietnam after getting a written permission from the SBV.

Detailed documents and procedures are also regulated in the Circular.

*This Circular takes effect from 12 March 2015.*

## **Clarification for some regulations of Circular 200**

Circular No. 200/2014/TT-BTC (“Circular 200”) was issued on 22 December 2014 to replace Decision No. 15/2006/QĐ-BTC on corporate accounting regime in Vietnam and was applied for fiscal years from 1 January 2015 onwards. This is an important change affecting most of Vietnamese companies as they have been familiar with Decision 15 from 2006.

As there are a number of new confusing regulations of Circular 200, on 9 September 2015, the MOF issued Official Letter No. 12568/BTC/CDKT clarifying some regulations of the Circular. Some noticeable points as follow:

### **Accounting currency**

It is not compulsory for companies having major business activities in foreign currency to use foreign currency as the accounting currency. The Vietnamese Dong can still be chosen instead.

### **Exchange rate for conversion of financial statements**

It is acceptable to apply actual exchange rate at 1 January 2015 to convert retained earnings of financial statements at 1 January 2015 as 2015 is the first year applying Circular 200 and no retrospective regulation are required.

### **Classification of prepaid expenses**

The classification of short-term and long-term prepaid expenses should be based on the original maturity of each item rather than residual maturity, i.e no reclassification of prepaid expenses.

### **Revenue on promotion goods**

No sales of gift, promotion goods should be recognized before delivery as the revenue recognition conditions are not satisfied. Therefore, no accrual for cost of sales of gifts, promotion goods should be recorded.

## Improvement of the national business environment by the Government

On 12 March 2015, the Government issued Resolution No. 19/NQ-CP for improvement of the national business environment and competitiveness in 2 years 2015 and 2016. Some noticeable criteria are as follows:

### ● In 2015

- ✓ Time for tax payment shortened to 121.5 hours per year as highest, time for social insurance payment to 49.5 hours per year as highest;
- ✓ Over 95% of enterprises declare tax electronically;
- ✓ Time for opening a business shortened to 6 days as longest;
- ✓ Time for procedures of business bankrupt shortened from 60 months to 30 months as longest.

### ● In 2016

- ✓ Simplify procedures, and reduce time for obtaining construction license to 77 days as longest;
- ✓ Reduce time for registration of the right to ownership, right to use of assets to 14 days as longest;
- ✓ Reduce time for settlement of commercial disputes to 200 days as longest.

## New regulations on overseas investment

On 25 September 2015, The Government issued Decree No. 83/2015/ND-CP on overseas investment.

Accordingly, the investor may transfer foreign currency, goods, machinery and equipment overseas for activities in initial phase such as market research, survey etc before getting the overseas investment certificate. The money transfer limitation is 5% of total overseas investment but not exceeding US\$ 300,000.

*This Decree takes effect from 25 September 2015 and replaces Decree No. 78/2006/ND-CP dated 9 August 2006.*

## Trans-Pacific Partnership (“TPP”) reached

On October 4, 2015, Ministers of 12 countries including Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, United States, and Vietnam reached final agreement on the TPP, which has some main features to become an important agreement of 21st century:

### ● Comprehensive market access

The TPP eliminates or reduces tariff and non-tariff barriers across substantially all trade in goods and services, create new opportunities and benefits for businesses, workers, and consumers of members.

### ● Regional approach to commitments

The TPP facilitates the development of production and supply chains, and seamless trade, enhancing efficiency and supporting our goal of creating and supporting jobs, raising living standards, enhancing conservation efforts, and facilitating cross-border integration, as well as opening domestic markets.

### ● Addressing new trade challenges

The TPP promotes innovation, productivity, and competitiveness by addressing new issues, including the development of the digital economy, and the role of state-owned enterprises in the global economy.

### ● Inclusive trade

The TPP seek to economies at all levels of development and businesses of all sizes can benefit from trade. It includes commitments to help small- and medium-sized businesses understand the Agreement, take advantage of its opportunities.

## ● Platform for regional integration

The TPP is intended as a platform for regional economic integration and aimed to additional economies across the Asia-Pacific region.

Although the negotiation is over, the countries need time to finalize technical issues before the official signing. After signing, members of TPP will have it approved by procedures of each country.

*We will update status on the TPP in the next newsletters.*

## **Vietnam General Confederation of Labour ("VGCL") proposes minimum wage increase by 14.4%**

In our Newsletter on September, we reported that the National Salary Council (of which VGCL is a member) submitted to the Government the final scheme to increase minimum regional wage in 2016 by 12.4% on average.

However, on 5 October 2015, VGCL submitted Official Letter No. 1567/TLD to the Prime Minister against such regime and proposed the lowest increase of 14.4%.

Thus, the parties have yet to come to the final agreement on the proposal and we have to wait for the official decision of the Government for the the exact number.

*We will update changes on this provision in the next newsletters.*

## **Penalty for late payment of trade union fee**

On 7 October 2014, the Government issued Decree No. 88/2015/NĐ-CP amending Decree 95/2015/NĐ-CP on penalties for administrative violation in labour and social insurance, accordingly:

- A fine from 12% to 15% of total trade union fee, but not exceeding VND 75,000,000, shall be imposed upon employer who pay late or insufficiently of trade union fee;
- A fine from 18% to 20% of total trade union fee, but not exceeding VND 75,000,000, shall be imposed upon any employer who fails to pay trade union fees for all workers subject to trade union fee;
- Within 30 days from the date of penalty decision, the employer must pay the outstanding trade union fee, plus interest calculated on the highest interest rate of deposit account announced by State-owned commercial banks at the time of penalty.

*This Decree takes effect from 25 November 2015.*

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