

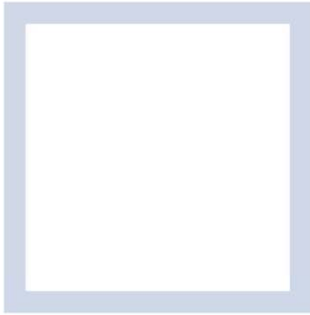
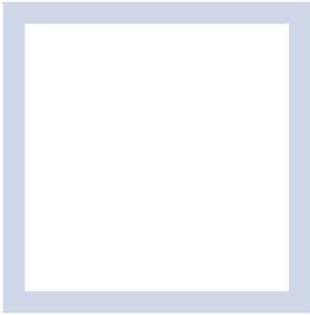
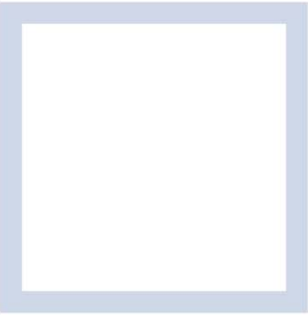
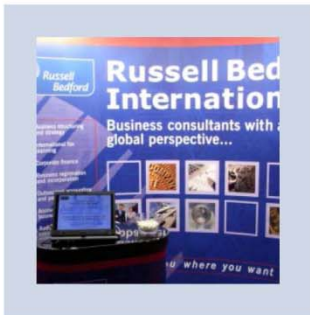
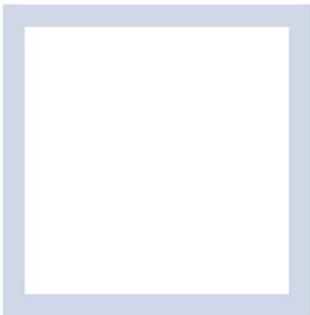
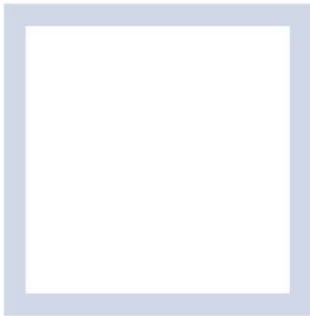
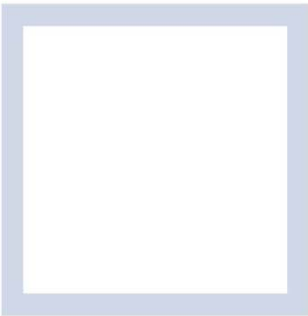


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# NEWSLETTER

Issue 16, August 2015



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### **Excessive material of Export Processing Enterprises (“EPEs”) are not subjected to import tax and value added tax (“VAT”)**

On 24 July 2015, the General Department of Customs ("GDC") issued Official Letter 6790/TCHQ-TXNK on tax on excessive material of EPEs kept in store and not for domestic consumption.

Accordingly, the excessive material is not subject to import tax in accordance with Decree 87/2010/ND-CP; and is not subject to VAT as regulated in Article 5 of VAT Law No. 13/2008/QH12. Therefore, no tax should be implied by customs authorities on the material.

If such enterprises sell the material domestically or commit tax fraud, the tax on material should be implied in accordance with current regulations.

### **Corporate Income Tax ("CIT") policy for enterprises meeting conditions of geographical preferences**

On 11 August 2015, the General Department of Tax ("GDT") issued Official Letter No. 3218/TCT-CS on CIT policy for companies meeting conditions of geographical preferences.

Accordingly, if a company is under preferential CIT from 2014 onwards for geographical preference of having its production in an industrial zone established under the Prime Minister’s decision, all the income arising from its production in the preferential zone should be eligible for tax incentive, except for income from capital transfer, real estate transfer, minerals exploitation and services subjected to special consumption tax regulated in Point 3, Article 18, Chapter VI of Circular No. 78/2014/TT-BTC dated 18 June 2014 of the Ministry of Finance.

### **New regulation on assets, gifts under tax exemption**

On 4 August 2015, the Prime Minister issued Decision No. 31/2015/QĐ-TTg on luggage, movable assets, gifts, and sample goods applicable for tax exemption, consideration of tax exemption and non-taxable. Accordingly:

- Gifts by foreign organizations/ individuals to Vietnamese organizations; and those given by Vietnamese organizations/ individuals to foreign organizations of less than VND 30,000,000 is entitled to export/ import tax exemption and not subject to VAT. If the gifts are for donation and charity purposes, they are under consideration for exemption from import duty, and non-subject to excise tax and VAT on the whole value, even though their value exceed the above limit;
- Vietnamese citizens permanently living overseas, who are granted permanent residency in Vietnam, shall be exempted from import duty for one used car imported to Vietnam.

*This Decision is effective from 1 October 2015.*

### **Appeal against tax inspection**

On 16 July 2015, the GDT issued Decision 1276/QĐ-TCT on settlement procedures before signing of inspection/ examination minute at taxpayers’ office in case of potential appeal lodgement. Accordingly, the following cases might result lodgement of appeal:

- There are no regulations in legal documents but the inspectorate still makes their judgements; there are legal documents being legally equal but regulating differently on the same matter;
- Taxpayers have different understanding of the legal documents from the tax officers’ view; taxpayers do not agree with the legal basic applied by the tax authorities; taxpayers do not agree with the tax implied by tax officers;
- Taxpayers do not sign on inspection minute; do not comply with the decision of tax administrative penalty;
- Taxpayers having un-answered letters to the authorities;
- The inspection/examination subjects are under investigation of the authorities;
- Other cases under judgement of the head of inspectorate.

## Tax audit procedures

On 28 July 2015, The GDT issued Decision 1404/QD-TCT on tax audit procedures, in specific:

- Taxpayer and tax department in-charge should receive notification of tax inspection within 30 working days from the issuance date of approval for inspection;
- A taxpayer may be subjected to surprise audit in the following cases:
  - ✓ Under suspicion of tax/ law violation;
  - ✓ Settlement of tax disputes;
  - ✓ Demerger, merger, consolidation, dissolution, bankruptcy, equitization under laws' regulations.
- Taxpayers can request to postpone tax audit after the issuance of audit decision. The tax authorities should inform their acceptance or denial of request within 5 days from the date of receiving such request;
- If a taxpayer does not sign the minute of tax inspection, tax authorities should send a notice to the taxpayer within 5 days from the date of inspection minute. If the taxpayer fails to sign, within 30 working days from the date of the inspection minute, the tax authorities should announce the tax inspection minute to public.

*This Decision takes effect on 28 July 2015 and replaces Decisions No. 74/QD-TCT, 1116/QD-TCT, and 1895/QD-TCT.*

## Treatment for loss of invoice of sellers

On 10 August 2015, the GDT issued Official Letter 3195/TCT-CS on treatment for loss of invoice of sellers.

Accordingly, in case of loss or damage of copy 2 (client's copy) of invoice, the penalty is from VND 10 to 20 million under Clause 4, Article 11 of Circular 10/2014/TT-BTC. Meanwhile, loss or damage of copy 1 or 3 (seller's copy) of invoice should only be under fine from VND 500,000 to 1,000,000 in accordance with Clause 1, Article 12 of Decree 105/2013/ND-CP on accounting law.

## New invoice examination procedures

On 28 July 2015, the GDT issued Decision No. 1403/QD-TCT on invoice examination procedures. A number of new points are as follows:

- Time to send decision of invoice examination to organizations/ individuals subjected to examination is increased from 3 to 5 working days from the date of signing the decision;
- Time for organizations/ individuals under examination to prove their non-violation of creation, printing, issuance, management and use of invoice is reduced from 5 to 3 working days from the date of receiving the result of examination;
- Changes of filing duration:
  - ✓ Files of examination of reports on printing, issuance, management and use of invoice are kept for 15 years from the ending date of examination;
  - ✓ Summary reports are kept for 15 years from the reporting year.

*The Decision is effective from 28 July 2015 and replaces Decision 381/QD-TCT of 2011.*

## **New guidance on unemployment insurance**

On 31 July 2015, the Ministry of Labor, Invalids and Social Affairs issued Circular 28/2015/TT-BLĐTBXH guiding in details the unemployment insurance ("UI"). A number of new points are as follows:

- If an employee engages in more than one labor contract and pays UI based on the first signed contract, within 30 days after the expiration of the first contract, the next employer is entitled to UI obligation;
- Monthly unemployment allowance is equal to 60% of average salary of 6 consecutive months before the unemployment, provided that the UI obligation was fulfilled in that period;
- Monthly unemployment allowance should not exceed 5 times of basic salary for employees subjected to the State's salary system; 5 times of minimum regional salary stipulated by the Labor Code at the time of termination of labor contract for employees subjected to their employers' salary systems.

*This Circular takes effect from 15 September 2015 and its regulations are applicable from 1 January 2015.*

## **33 commercial banks allowed to guarantee real estate projects**

Under the real estate trading Law dated 25 November 2014 by the National Assembly, before sale or finance lease of off-plan property, investor's financial obligations must be guaranteed by a competent commercial bank in case of the investor's failure to hand over the property to clients on schedule.

A list of 33 competent banks was issued by the State Bank of Vietnam on 12 August 2015, including 24 domestic banks and 9 foreign/ joint venture banks, with absence of some large ones such as Sacombank, VIB, and Eximbank.

## **Devaluation of Vietnam dong**

In the morning of 19 August 2015, the State Bank of Vietnam devalued the Vietnam dong ("VND") by 1% against the US dollar and widened the trading band from 2% to 3%, which was the third adjustment from the beginning of 2015. From 1 January 2015, the VND was devalued by 3% and the trading band was widened from 1% to 3%.

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