

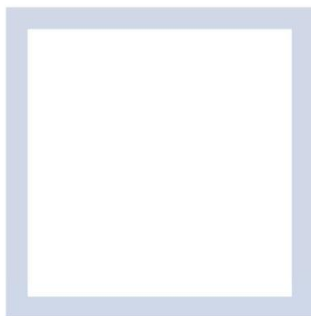
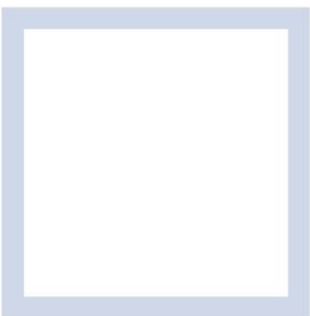
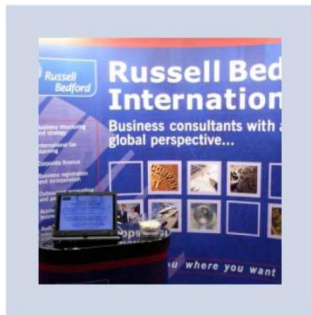
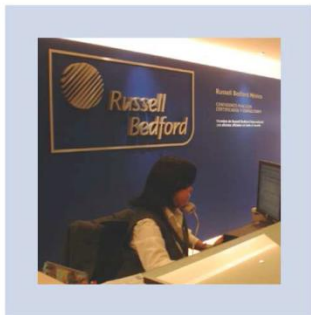
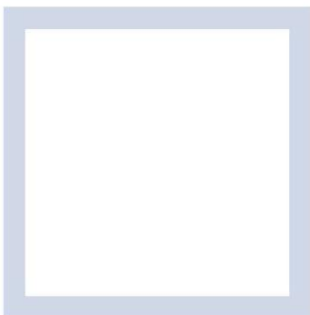


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NEWSLETTER

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Draft Laws supplementing and amending some tax regulations

The National Assembly is drafting the Law supplementing and amending a number of tax regulations. Accordingly, 27 contents of six Laws on tax and Law on tax management will be amended, with following noticeable points:

● Corporate Income Tax (“CIT”)

- ✓ New type of non-deductible expense for tax purpose: loan interest for the loan exceeding 5 times of owners’ equity for manufacturing companies, exceeding 4 times of owners’ equity for other companies. From 1 January 2019, these ratios will be 4 times and 3 times respectively;
- ✓ Profit from transfer of real estate is allowed to offset to loss from business activities.

● Personal Income Tax (“PIT”)

- ✓ 50% deduction of PIT for income from salary, wages of individuals working in economic zones; of hi-tech individuals working in hi-tech zones, hi-tech agricultural zones;
- ✓ Increase of revenue threshold to determine individuals running small business subjective to PIT from current level of VND 100 million per year to VND 150 million per year.

● Value Added Tax (“VAT”)

- ✓ Additional objects not subject to VAT: unprocessed or semi-processed agricultural products sold to enterprises, cooperatives (these ones are currently exempt for declaration and payment of VAT);
- ✓ No refund of VAT for enterprises having un-contributed charter capital or not being able to maintain their business conditions;
- ✓ No refund of VAT for following projects in investment period: investment projects in real estate trading; new investment projects of running enterprises; investment projects in commercial trading; investment in exploitation of natural resources and minerals (applied from 1 January 2017).

● Tax management

- ✓ Taxpayers must declare and pay tax electronically, and must use electronic invoices, invoices coded by tax authorities;
- ✓ Shortage of tax payment resulting from false declaration of tax because of mistakes of the State authority will not bear any tax penalties on taxpayers. However, the tax shortage should still be fulfilled by the taxpayers.

We will update changes in this draft in the next Newsletters.

Draft policy to write-off tax debts

The Ministry of Finance (“MOF”) is drafting a Resolution to write-off tax debts, which is planned to be passed at the National Assembly’s meeting in October. Accordingly, it is expected to write-off late tax payment and penalties for late tax payment incurring before 1 July 2013 for:

- Enterprises who have objective difficulties and fulfilled their principal tax debt before 31 December 2015 meet one of the following criteria:
 - ✓ Shortage of tax payment and penalties on such shortage were due to underpayment the State budget to the enterprises; or
 - ✓ Shortage of tax payment and penalties on such shortage were due to their business partners’ bankruptcy or termination of contract.
- Abandon, dismissal or bankruptcy of business of taxpayers where their information cannot be verified by the tax authorities and local authorities.

We will update changes to this draft in the next Newsletters.

Refund of import tax on processing fee

On 3 September 2015, the General Department of Customs issued Official Letter No. 8029/TCHQ-TXNK on import tax treatment for the added value of goods after processing.

Accordingly, when a domestic company (“the Company”) imports raw materials to produce export goods but before production they have such materials processed by another company in an Export Processing Zone, import tax on added value of the processed materials will be refunded if:

- The Company fully paid import tax and VAT upon receipt of the materials after processing; and
- The Company used such materials to produce products which have been exported.

Off-setting payment via bank transfer acceptable for VAT refund of export goods

On 14 August 2015, the Department of Tax of Hanoi issued Official Letter No. 53643/CT-HTr on input VAT of export goods upon receipt of off-setting payment from a foreign buyer.

In an export transaction where a third party in Vietnam pays to the Vietnamese exporter under instruction of the foreign importer as an off-setting transaction between the two parties, it is considered a bank payment for VAT deduction/ refund purpose of the exporter if:

- The off-setting procedure is regulated in export contract, appendix or contract amendment, if any;
- Credit note from bank of the exporter is available on the amount received from the third party; and
- Credit reconciliation among the three parties is available with confirmation of the importer and the third party.

Overseas warranty not subject to foreign contractor tax

On 14 August 2015, the Department of Tax of Hanoi issued Official Letter No. 53649/CT-HTr on foreign contractor tax (“FCT”) for warranty services.

Accordingly, when a contract with a foreign party was engaged with warranty terms and the goods are shipped overseas for warranty services, such warranty services are not subject to FCT.

PIT for individuals working in Economic Zones

On 31 August 2015, the Department of Tax of Hanoi issued Official Letter No. 55618/CT-HTr on PIT for individuals working in Economic Zones (“EZs”).

Accordingly, individuals are applicable for 50% deduction of PIT on the income received from working in EZs. Income from this source should be properly separated from other sources upon declaration of PIT for such employees.

Minimum regional salary to increase by 12.4% in 2016, awaiting approval of the Government

On 3 September 2015, the National Salary Council submitted to the Government the scheme to increase the minimum regional salary in 2016 by 12.4% on average, in details:

	New level (VND/month)	Current level (VND/month)
Region I	3,500,000	3,100,000
Region II	3,100,000	2,750,000
Region III	2,700,000	2,400,000
Region IV	2,400,000	2,150,000

The new salary regulation might have significant impacts on salary expenses of enterprises, as well as their social insurance and health insurance expenses calculated on salary.

The Government is expected to issue a Decree based on this scheme. We will update changes of this regulation in the next Newsletters.

Detailed guidance on Law on real estate trading

On 10 September 2015, the Government issued Decree No. 76/2015/ND-CP guiding the implementation of some articles of the Law on real estate trading No. 66/2014/QH13 ("Law 2014").

Accordingly, the minimum legal capital of a real estate business is VND 20 billion; unless it is a small or irregular business on real estate services or sales, transfer, lease, finance lease of real estate (specific conditions are regulated in this Decree). Operating businesses who fail this regulation are entitled to keep operating, provided that they should fully contribute the legal capital within 1 year from 1 July 2015 (the effective date of Law 2014).

Besides, real estate projects which are granted investment decision, land, land lease, or permit for project transfer; have contracts for transfer, sale, lease, or finance lease of real estate engaged before 1 July 2015 are not subject to the procedures in the Law 2014. Similarly, contracts for sale, transfer, lease, finance lease of real estate, transfer of project, and transfer agreement engaged before 1 November 2015 shall remain their validity without revision to comply with templates and procedures in this Decree.

This Decree takes effect from 1 November 2015 and replaces Decree No. 153/2007/NĐ-CP.

Detailed regulations on business registration

On 14 September 2015, the Government issued Decree No. 78/2015/NĐ-CP guiding in details on business registration. Some new regulations are as follows:

- Shortened time of business registration from 5 to 3 working days, from the day of receiving application;
- Registration procedures can be performed online;
- Each enterprise will be given one registration number, which is also its tax code;
- The design, content and number of stamp of a business, of its branch(es) and/ or its representative office(s) can be decided by the enterprise. An enterprise can have more than one stamp with the same design and content.

This Decree takes effect from 1 November 2015 and replaces Decrees No. 43/2010/NĐ-CP and No. 05/2013/NĐ-CP.

Simplified procedures for foreign investors in securities market

On 18 August 2015, the MOF issued Circular No. 123/2015/TT-BTC guiding on foreign investment in stock market. A number of significant changes are as follow:

- Minimisation of document requirement: Vietnamese translation is no longer required for documents in English or English translation which are notarized or authenticated in a foreign country;
- Securities trading codes of foreign investors should be issued within one working day (under current regulation it is 3-5 working days);
- Securities trading codes should not be issued to foreign investors who are canceled securities trading codes within 2 years to the time of application; are under investigation or effective penalty for their violation in areas of finance, banking, foreign exchange management, or tax.

This Circular takes effect from 1 October 2015 and replaces Circular No. 213/2012/TT-BTC.

New Ethical Standard for accounting and auditing practices

On 8 May 2015, the MOF issued Circular No. 70/2015/TT-BTC for new Ethical Standard for accounting and auditing practices, including 3 parts:

- Part A: General provisions and basic ethical principles;
- Part B: Provisions for certified accountants, auditors;
- Part C: Provisions for practicing accountants, professional auditors.

This Circular takes effect from 1 January 2016 and replaces the former Standard in Decree No. 87/2005/QĐ-BTC

5 more banks allowed guaranteeing real estate projects

In our Newsletter in August, we noted 33 commercial banks allowed guaranteeing real estate projects.

On 27 August 2015, the State Bank of Vietnam issued a list of 5 additional commercial banks, bringing the total qualified banks to 38.

No interest for USD deposits from organisation

On 25 September 2015, the State Bank of Vietnam issued Decision No. 1938/QĐ-NHNN regulating the ceiling interest rate for USD deposits of organisations and individuals in credit institutions, branches of foreign banks in Vietnam.

Accordingly, the ceiling interest rate for USD deposits of organizations, except for credit institutions and branches of foreign banks in Vietnam, is 0% p.a. (formerly 0.25% p.a.); for USD deposits of individuals is 0.25% p.a. (formerly 0.75% p.a.).

Interest rates for USD fixed-term deposits of organizations and individuals in credit institutions and branches of foreign banks in Vietnam engaged before the effective date of this Decision should still be effective until expiry.

This Decision takes effect from 28 September 2015 and replaces Decision No. 2172/QĐ-NHNN.

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