Vietnam's Tax and Legal Update

Guidelines on 2015 Personal Income Tax Finalization

March 2016

On 02 March 2016, the General Department of Tax has issued Official Letter No. 801/TCT-TNCN providing guidelines on 2015 Personal Income Tax ("PIT") finalization.

1. Individual subject to PIT Finalization

The individual tax residents having incomes from wages and salary duing the year shall be required to perform the PIT finalization at year-end in case where they have outstanding PIT obligation or request for tax refund/offset as a result of the finalization. However, there are exceptional cases for such PIT Finalization, including:

- The individual whose tax payable is less than the provisional tax paid and does not request for tax refund/offset.
- The individual who has income from labour contract with term up from 03 months, and, in addition, has other short-term income less than VND 10 million average per month, for which he/she has already had 10% PIT withheld at source, then the individual is not required to include this income into PIT Finalization.
- Regarding the life insurance preminum (except for voluntary pension insurance) and other non-compulsory insurance with accumulated premium which had already been withheld 10% PIT by employer or insurance agency on the premium paid on behalf, the preminum is not required to be included for PIT finalization.

2. Authorization of PIT Finalization

The regulation on authorization of PIT finalization is generally the same as last year. However, in accordance with this OL 801, in case the employee ***being transferred to new employer as a result of restructuring*** (such as division, seperation, merger, acquistion or transformation) or ***being transferred between the organizations within the same system*** (such as among the group, holding company, between parent and subsidiary company,

head office and its' branch), then the employee could still authorize the new employer to handle the PIT finalization on his/her behalf.

3. Determination of PIT liability

Basically, taxable income would generally include all incomes and benefits in-kind and in-cash of the individuals during the tax year. From 2015, according to new Circular 92/2015/TT-BTC on amendment of Circular 111/2013/TT-BTC providing guidelines on PIT, the taxable income shall have some noteble changes as follows:

- In cases where the employer provides housing benefit together with payment for electricity, water and other attached utilities (if any), all of these benefits shall be included into taxable income of the employee but not exceeding 15% of total taxable income (excluding the rental, electricity, water and other attached utilities).

- The following items are non-taxable: non-compulsory insurance premiums of the insurance with no accumulated premium (including insurance provided by foreign insurance companies, not established and operating under Vietnamese laws, but permissible to provide the products in Vietnam); transportation from home to work place which is in accordance with the company policy (the provision on taxability in case where the benefit is provided for individual use has been removed); wedding and funeral allowances for employees and their family as per the employer's policy and in accordance with CIT regulations.

Regarding family relief, the individuals will be entitled to personal relief for full 12 months and entitled to dependent relief from the first month the employee must take care of the dependent (if the employee has declared Form 16/DK-TNCN in which the starting time of dependent relief was stated after the actual first month, then the employee must re-register Form 16 together with the PIT Finalization dossier). For the deduction of dependents other than parents and children, the registration must be made no later than 31 December 2015.

4. Procedures for self-declared PIT Finalization

This note is for those employees who do not authorize the Company for PIT Finalization. In case there is outstanding PIT payable after calculation of final PIT liability, then the individual shall be required to submit the PIT finalization dossier and make payment of this outstanding amount to the tax authority on or before the deadline. In case of tax refundable, the individuals do not have to submit the finalization dossier unless they have request to get the refund (in which case late submission of PIT finalization/refund dossier would not be subject to administrative penalty).

The deadline for submission of 2015 PIT Finalization is the 90th from the year-end.

5. PIT finalization of foreign tax residents

Regarding the foreign tax residents who are citizens of countries or territories which have signed Double Tax Agreement with Vietnam, then their PIT obligations in Vietnam shall only be calculated from first month of arrival in Vietnam to the last month of their labour contract and leaving Vietnam (calculated on a month-full basis). Family relief shall be applied according to the number months of the tax period.

For foreigners terminate labour contract and leave Vietnam, they are required to perform tax finalization before the date of departure. In case the individuals could not meet the deadline, they could authorize for the employer or other organization, individual to handle the PIT finalization on their behalves no later than the 45th day from the date of departure.

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