

Technical Update

VIETNAM

September 2010

Corporate Income Tax (CIT)

Costs of sponsorship to commercial events not tax deductible

According to Official Letter 3204/TCT-CS dated 23 August 2010 of the GDT, when a company provides sponsorship to a commercial event, such sponsorship expenses shall not be allowed as tax deductible.

The rationale is that sponsorship expenses are seen by the tax authorities exactly as they are: sponsorship, and not advertising or marketing expenses, even when free advertising for the sponsor at the event is part of the sponsorship agreement.

Businesses looking at sponsoring commercial events as a way of marketing or advertising their products should take heed of this tax treatment for proper planning purposes.

Value Added Tax (VAT)

Credit guarantee services provided by credit institutions not subject to VAT

In its Official Letter 11754/BTC-CST dated 6 September 2010 addressing all local tax departments, the MOF clarifies that the provision of guarantee services by credit institutions, including the issuance of L/Cs, shall not be subject to VAT.

However, for invoices issued before 18 March 2010 where VAT was already included and charged, no adjustment is required now.

Commercial banks and credit institutions providing guarantee services should pay attention to the above guidance from the MOF for proper determination of VAT payable amounts.

Personal Income Tax (PIT)

Further guidance on how to gross up employment income

On 14 September 2010, the GDT issued Official Letter 3565/TCT-TNCN to all local tax departments providing further guidance on how to gross up different elements of a remuneration package for PIT purposes, in particular:

- Fringe benefits paid by an employer on behalf of an employee (such as housing rental, utilities, insurance premium payments, etc.) are now confirmed to be treated as gross income, thus no gross-up is required.
- In case an individual has more than one job and receives net income from one employer, and gross income from others, they must perform the gross-up for the net income then combine with the other gross income to arrive at the total gross income package.
- It remains unclear how to perform the gross-up in case an individual has one source of income but the package contains both gross and net elements, e.g. gross salary and net bonus. Further guidance in this respect is expected.

Although Official Letter 3565 does not specify an effective date, it is meant to clarify the provisions of Circular 84 on PIT. As such, it can be construed that the technical guidance under Official Letter 3565 should apply from tax year 2009.

25% of revenue from property lease overseas is subject to PIT in Vietnam

On 8 September 2010, the GDT issued Official Letter 3473/TCT-TNCN to all local tax departments providing the method for calculating taxable income from property lease overseas of foreigners being Vietnam tax residents.

According to Official Letter 3473, for the purpose of calculating Vietnam PIT, the taxable income from property lease overseas shall be deemed at 25% of the lease revenue. This deemed income then shall be subject to Vietnam PIT at progressive rates in the same manner applicable to employment income.

Foreigners residing in Vietnam should be aware of this detailed guidance to ensure full compliance.

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