

Value Added Tax (“VAT”)

Full input VAT credit for advertising and promotional expenses in excess of statutory cap

According to Official Letter No. 2479/TCT-KK dated 20 July 2011 of the GDT, input VAT of goods/services used for the production/provision of VAT-taxable goods/services shall be fully credited if relevant conditions on credit of input VAT under VAT regulations are satisfied, regardless whether such expenses are determined as deductible or not for CIT calculation purposes.

Accordingly, enterprises having advertising and promotional expenses in excess of the statutory cap excluded for CIT calculation purpose should still be able to claim full input VAT credit on such excluded expenses, subject to other normal VAT credit requirements.

Enterprises, especially those with significant advertising and promotional expenses, should pay attention to the above guidance for the correct assessment of creditable input VAT.

Necessary payment vouchers via banks for claiming input VAT with respect to Project Operation Office of foreign contractors in Vietnam

Under the current regulations on VAT, one condition for a VAT-registered Project Operation Office (“POO”) of a foreign contractor to claim input VAT credit is that it must make payments directly from its own bank account

opened in Vietnam (for goods/services purchased with value of more than VND20 million).

However, according to Official Letter No. 2524/TCT-CS dated 25 July 2011 of GDT, a POO in Vietnam shall still be allowed to claim input VAT credit when its overseas headquarters directly make payments to Vietnamese suppliers on its behalf, if the following supporting documents are available:

- Confirmation on such remittance by the foreign bank;
- Documents to substantiate the actual goods/services transactions;
- Documents to substantiate that the Vietnamese suppliers have claimed output VAT declaration based on the relevant invoices issued;
- Documents to show that the goods/services providers in Vietnam have fully received the amount transferred from overseas headquarters in accordance with the relevant sales contracts and invoices; and
- The POO’s authorisation for their headquarters to make payment directly from overseas bank accounts is clearly stated in the sales contracts between the POO and the Vietnamese suppliers.

Foreign contractors having a VAT-registered POO in Vietnam should pay attention to the above guidance from the GDT for claiming input VAT of goods/services purchased in Vietnam.



Personal Income Tax (“PIT”)

Guidance on authorisation letters for PIT refund claims

According to Official Letter No.2616/TCT-TNCN issued by the General Department of Taxation on 29 July 2011, in case an expatriate employee authorises a Vietnamese organisation or individual to perform necessary procedures for PIT finalisation purposes on his/her behalf, the authorisation letter should comply with the following requirements:

- If the authorisation letter is made overseas and in a foreign language, it must be legalised and notarised.
- If the authorisation letter is made in Vietnam and in Vietnamese:
 1. In case the Vietnamese authorised organisation or individual requests for the tax refund into such expatriate employee’s bank account, the authorisation letter is not required to be notarised.
 2. In case the Vietnamese authorised organisation or individual requests for the tax refund into a third party’s bank account, the authorisation letter must be notarised.

Employees should take the above regulations into account upon the preparation of PIT tax refund dossiers for their expatriate staff.

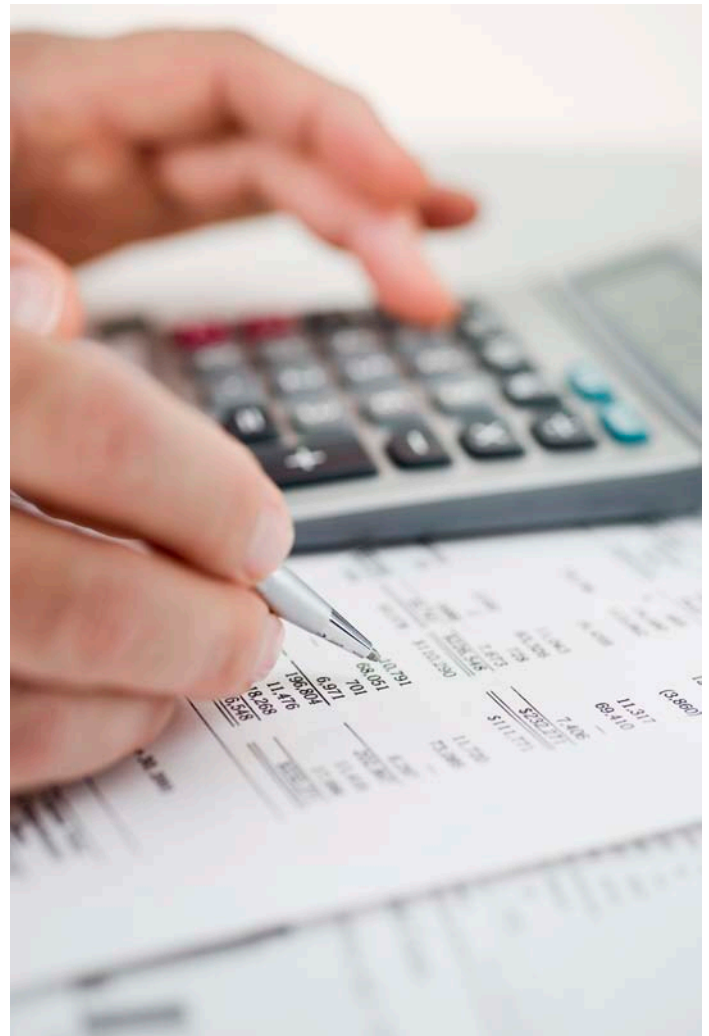
Guidelines on withholding of PIT under Resolution 08

On 12 August 2011, the Ministry of Finance issued the Official Letter 10790/BTC-CST guiding for the Resolution 08/2011/QH13 granting a number of tax relief measures in an effort to help businesses and individuals overcome difficulties, accordingly:

- From 1 August 2011, no withholding and collection of PIT on dividends earned by individuals from the investment into securities market and capital contributions to the enterprises (except dividends from investment into joint stock banks, finance investment funds, credit institutions).

- From 1 August 2011, withholding PIT at the rate of 0.05% on securities transfer activities by individuals (instead of 0.1% as before).
- From 1 August to 31 December 2011, no withholding and collection of PIT for individuals whose taxable income from salary, wages or business does not exceed VND5 million a month.

Based on the above, the enterprise should comply with such regulations to properly determine PIT obligations of its employees.



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Labour

Minimum wages by area to increase from 1 October 2011 to 31 December 2012

The Government recently issued Decrees No. 70/2011/ND-CP on 22 August 2011 promulgating an increase in minimum wage by location, applicable to labourers working for both Vietnamese domestic enterprises and FIE or other foreign employers in Vietnam.

Accordingly, from 1 October 2011 to 31 December 2012 inclusive, the levels of minimum wage by location for completely unskilled labourers working in normal working environments will be increased as follows:

Area	Location (non-exhaustive list)	Regional minimum wage
I	<ul style="list-style-type: none"> All urban districts and some suburban districts of Hanoi, Hai Phong and Ho Chi Minh City; Bien Hoa City and Nhon Trach, Long Thanh, Vinh Cuu, Trang Bom suburban districts of Dong Nai Province; Thu Dau Mot Town and Thuan An, Di An, Ben Cat, Tan Uyen suburban districts of Binh Duong and Vung Tau City 	VND2,000,000/month (approximately USD100)
II	<ul style="list-style-type: none"> Some suburban districts in Hanoi, Hai Phong, Ho Chi Minh and some cities under provinces like Ha Long, Thai Nguyen, Hue, Nha Trang, Dalat, My Tho, Rach Gia, Long Xuyen, Ca Mau v.v... 	VND1,780,000/month (approximately USD89)
III	<ul style="list-style-type: none"> Remaining cities under provinces and some remaining suburban districts of Hai Duong, Vinh Phuc, Phu Tho, Quang Ninh, Khanh Hoa, Ninh Thuan, Binh Thuan, Tay Ninh, Dong Nai, Binh Duong, Vung Tau, Long An, Can Tho, v.v... 	VND1,550,000/month (approximately USD78)
IV	<ul style="list-style-type: none"> Other remaining areas 	VND1,400,000/month (approximately USD70)

The lowest amount paid to skilled workers (including those trained by their employers) must be at least 7% higher than the minimum wage by location stated above.

The new levels of minimum wage will serve as the base for salary agreements between the employees and the employers.