

Vietnam News Brief*

A special update on Personal Income Tax ("PIT") in Vietnam

24 October 2008

NEW PERSONAL INCOME TAX CIRCULAR

The detailed regulations implementing the new PIT Law in Vietnam have just been issued.

Circular 84 reiterates many of the provisions of the PIT Law and Decree – please refer to our Newsbriefs of 22/11/07 and 8/9/08 for more background on this.

We summarise some of the key points in the Circular below:

1. Who is liable to PIT?

Tax residents

- Vietnamese individuals working/traveling overseas will be taxed as residents based on them having a registered address in Vietnam.
- The definition of "house lease" for establishing tax residency is now clarified as including hotels, guest houses, office stays, etc., regardless of whether the lease is under the individual's name or the company's name.
- As noted previously, this widening of the definition of tax residency will result in PIT liabilities for the first time, and increased tax liabilities, for a wide range of individuals, especially regionally based expatriates who perform duties in Vietnam on a fly – in basis.
- Fortunately, in some cases applicable double tax treaties will override this definition, and provide protection from Vietnam PIT.

2. What is taxable?

Employment income

- The current concessional taxation of employer provided housing will no longer be applicable in 2009. Employer provided housing will now be taxed on a \$ for \$ basis, and where the PIT thereon is borne by the employer, the rental cost will need to be grossed up in arriving at taxable income.

This publication is intended for general guidance only and should not form the basis of specific decisions. Please contact us for further information and details of our services. In Ho Chi Minh City: contact David Fitzgerald or Richard Irwin (Tax), Phan Thi Thuy Duong (Legal), Kenji Murayama (Japanese Business), Ian Lydall (Audit), Steve Gaskill (Advisory) at phone (84-8) 38230796, fax (84-8) 38251947. In Ha Noi: contact Dinh Thi Quynh Van (Tax), Le Anh Tuan (Legal), Eisuke Kofugata (Japanese Business), Nguyen Phi Lan (Audit), Simon Calvert (Advisory) at phone (84-4) 39462246, fax (84-4) 39460705.

- Likewise, benefits such as airfares, school fees, relocation allowance are not included in the list of non taxable benefits under the Circular. These changes will have material cost implications for employers and/or their employees.
- New exemptions from PIT are introduced including office stationery fees, telephone fees and staff uniforms.
- Some good news is that statutory severance allowances carried forward into 2009 will not be taxable when paid out.
- The Circular confirms that stock awards are taxable as a bonus in kind

Non employment income

- Further definitional guidance is provided in respect of each type of investment income.

Personal allowances

- The Circular sets out the supporting documents required in order to be entitled to personal allowances and dependent allowances, for both Vietnamese and expatriate individuals.

3. When is income taxable?

- The Circular reiterates when employment income will be recognized for PIT purposes, which will generally be when employers pay wages or salaries.
- However, in a new provision, the Circular states that in certain cases income paid after a year end, but before the annual PIT return filing deadline (i.e. 31 March), must be declared in the PIT return for the prior year.

4. Tax filing and administration

- In line with the Law, expatriate tax residents will have to declare their investment income derived overseas. Foreign tax credits can be claimed if certain conditions are met. Again this is a dramatic widening of the scope of PIT on for example dividends and interest earned overseas. And this will apply regardless of whether such income is remitted to Vietnam.
- An interesting issue here is whether expatriates will, under their employer's HR policies, be responsible for filing returns for such investment income, or whether the employer will handle these returns for its expatriate staff.
- Circular 84 retains the direct filing method, which is required to be made on a monthly basis. This is however only applicable to individuals receiving employment income

from overseas head offices and Vietnamese employees working for international organizations, embassies, and general consulates in Vietnam.

- For individuals staying in Vietnam less than 183 days in a calendar year (non tax residents) the first annual filing can be done 12 months after the first day of arrival, when residency status can be established.

Just two months to go: so how can PwC help you prepare?

We have developed a PIT Preparation Package (“PPP”) to assist our clients get ready for 1 January 2009. Our PPP includes the following key services:

- **Analysis of impact of new PIT law on employment costs and take-home pay**
- **Analysis of impact of the new mandatory Unemployment Insurance (UI) contributions, which apply to Vietnamese employees from 1 January**
- **Review existing compensation structures and identify potential tax planning opportunities**
- **Assist in adapting IT systems to cope with new PIT / UI rates, new personal allowances and tax return forms, and the widened scope of the PIT**
- **Conduct presentations (in Vietnamese or English) for employers and / or employees on the new PIT Law**
- **Assist in obtaining PIT codes for employers and employees**
- **HR departments with staff on gross packages are going to be fielding a lot of questions come February 09, when the January paychecks are sent out. In order to preempt some of this, we can help HR depts. prepare explanatory proforma calculations which can be issued ahead of the new year, so staff know what to expect in advance**
- **Analysis of whether this new Law may make a switch from net to gross (or possibly vice versa) employment packages may be beneficial**