

Vietnam News Brief*

A special update on Vietnam Personal Income Tax (PIT)

30 March 2009

CIRCULAR 62 – another change to the Vietnam PIT regime

As anticipated in our News Brief dated 20 February 2009, the Ministry of Finance has now released a new PIT Circular 62, dated 27 March, which makes a number of changes to the PIT regime.

In a number of cases, Circular 62 reverts the PIT treatment back to that which applied in 2008, and thus reverses the changes made in the new PIT law, which came into effect on 1 January. Circular 62 also makes a number of clarifications of the existing Circular 84.

Circular 62 will come into effect mid May, but will apply to all income generated from 1 January 2009.

This is broadly a welcome development, but HR departments will need to move quickly to adapt to and take advantage of these changes. For the 2009 monthly PIT returns already filed, adjustments to take advantage of these changes will need to be made in the 2009 annual returns.

Key changes include:

1. Restoration of some of the previous PIT exemptions and concessions

Tax exemptions are restored for:

- One off relocation allowances
- Annual airfare for the expat to visit home
- Children's education
- Training

It should be noted that there are a range of conditions and restrictions applicable to these exemptions: some are similar to what we had in 2008, but some are new. Care will need to be taken to ensure that these conditions are met, and this will in some cases necessitate changes to labour contracts / policies.

In addition, the concessional taxation of employer provided accommodation is reinstated (the “15%” rule). This can generate significant savings (i.e., versus the position under the new PIT law and Circular 84, whereby accommodation was taxed based on the full rentals paid by the employer). Again however, conditions apply, and rental & labour contracts may need to be revised to access these benefits.

2. Clarification of taxation of other benefits in kind

Circular 62 introduces a new concept whereby if benefits are provided without stating who is eligible for them, then the benefit will be tax free. Examples are given of membership fees, health care, transportation etc.

The Circular clarifies the circumstances and extent to which certain benefits will be tax free, including mid shift meals, stationery, business trip expenses, telephone and clothing allowances.

3. Payments to individuals other than employees

Under the old PIT regime, payments to, for example, agents and other individuals providing services, were subject to a 10% withholding. The new PIT law changed this such that withholding tax applied at 10% for those who have an individual tax code, and 20% for those who do not have an individual tax code.

Circular 62 restores the flat 10% rate, except in cases where specific regulations provide a different rate for payments to certain classes of recipients.

4. Other points

Circular 62 provides amendments and clarifications in a number of other areas, and will be relevant to many companies. Some of the areas changed include:

- (i) Dependent allowances – definition of dependants, including step-parents, changes to documentation requirements.
- (ii) Deductibility of insurance premiums – the Circular confirms which contributions will be deductible.
- (ii) Transfer price of unlisted securities.
- (iv) Stock dividends, scrip issues.

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