

PwC Vietnam NewsBrief

Foreign contractor tax (“FCT”) treatment of royalties

The FCT treatment of payments for the right to use intellectual property (“IP”), e.g. trade marks, has been subject to some inconsistency.

Under the VAT regulations, a VAT exemption applies to transfers of IP, but not to payments for the right to use IP. However, the practice applied by some companies has been that all royalties, including payments for the right to use IP, are FCT – VAT exempt.

In recent tax audits, the tax authorities have challenged this VAT exemption of payments for the right to use IP and sought to impose 5% FCT-VAT (on the basis that the right to use the IP is a service rather than for the transfer of the IP).

This treatment has been formalized in recent official letters issued by the tax authorities. In the letter No. 3159/CT-TTHT issued by the Ho Chi Minh Tax Department on 15 April 2015 for example, a payment for the right to use IP is treated as a type of service subject to FCT – VAT at 5%.

Companies paying royalties to overseas IP should therefore review the current FCT treatment to ensure that the correct VAT treatment is applied.

Please contact us if you need further information on this issue.

