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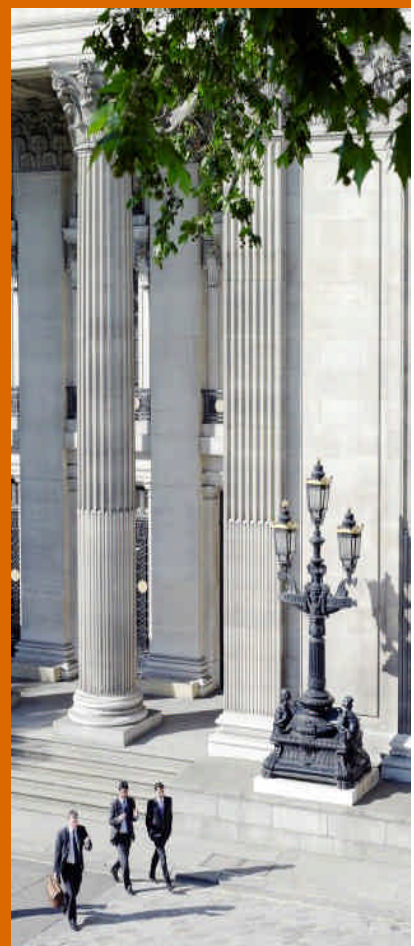
PwC Vietnam NewsBrief

Circular 26 guiding various tax changes



The Ministry of Finance issued Circular 26/2015/TT-BTC on 27 February 2015 ("Circular 26") providing guidance on the value added tax and tax administration changes as promulgated under Decree 12/2015/ND- CP (please refer to our News Brief dated 27 February 2015) and amending, supplementing some provisions under Circular 39/2014/TT-BTC on invoicing. A separate Circular will be issued to provide guidance on corporate income tax.

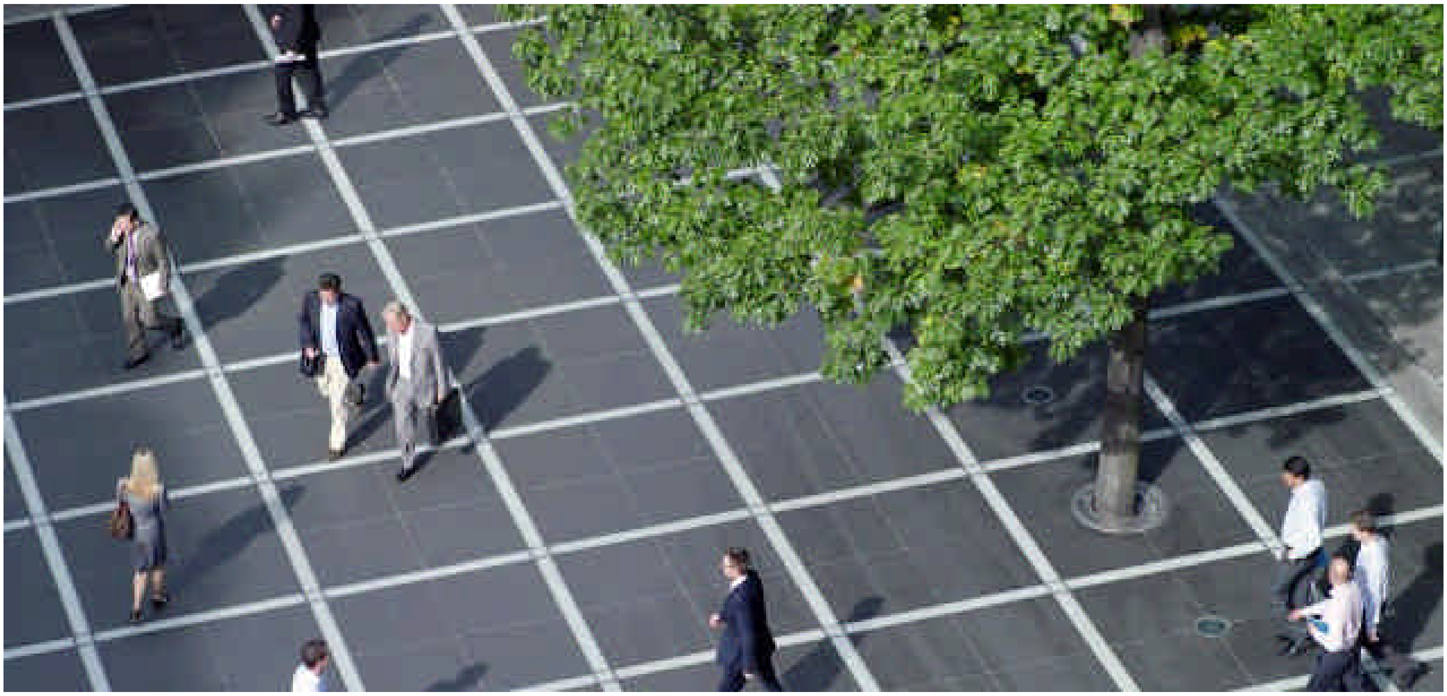
Circular 26 is applicable from 1 January 2015. Key points of Circular 26 are as follows:

1. Value Added Tax ("VAT")

- The supply of fertilizer, feed for livestock, poultry, seafood and other animals is VAT exempt instead of subject to 5% VAT. Input VAT in relation to the purchase of goods and services is still creditable if the VAT invoices are issued or the payments of import VAT (for imported goods) are made before 1 January 2015.
- For an investment project that is liquidated without having generated any taxable revenue, the input VAT previously incurred is dealt with as follows:
  - (i) if a refund for input VAT credit has not been claimed, such input VAT credit is forfeited at the time of liquidation;
  - (ii) for any VAT refund granted pre-liquidation, only the input VAT related to the disposal of VATable assets post liquidation are not subject to VAT claw-back. All other input VAT must be returned to the tax authority.

2. Tax administration

- Circular 26 reconfirms the removal of the requirement to submit the list of invoices for sales and purchases, and other supporting documents, in monthly and quarterly VAT declarations.
- Guidance on exchange rates under various tax laws is now consolidated into the regulations on Tax Administration and indicated to be in line with Circular 200/2014/TT-BTC on accounting.
- Interest on late payment of tax is imposed at a flat rate of approximately 18% per annum from 1 January 2015. For overdue tax incurred prior to 1 January 2015 but not yet settled as at 1 January 2015, the late payment interest will be calculated by applying the previously legislated interest rates (up to 25%) for the period to 31 December 2014 and the 18% rate for the period thereafter. Under- declared tax relating to the period prior to 1 January 2015 but discovered afterwards upon tax audit or by the taxpayers themselves will be subject to late payment interest at a flat rate of 18% per annum.



2. Tax administration (cont.)

- Circular 26 introduces a number of changes to simplify tax administrative procedures for foreign shipping lines. Major changes are as follows:
  - ✓ Agents in Vietnam of foreign shipping lines are no longer required to submit foreign contractor tax ("FCT") declarations on a quarterly basis. The agents shall be required to make quarterly provisional FCT payments, but only submit a FCT return on an annual basis.
  - ✓ Under the previous tax administration regulations, vessel documentation is one of the key documents required to support a claim for tax exemption under a Double Taxation Agreement ("DTA"). Circular 26 has removed this requirement. It is however required that the agents keep all documents in accordance with the Accounting Law, Maritime Law and present to the tax authorities as and when requested.
  - ✓ The documents required for FCT refund claim under DTA have, to a certain extent, been simplified by removal of tax payment receipts and written confirmation of the Vietnamese party regarding the actually working period under the contract of the foreign shipping lines. Especially, the foreign shipping lines can be refunded first and tax audited later.

3. Invoicing

- The requirement to register the use of Vietnamese language without diacritics and a comma (,) after the thousandth, millionth, billionth, etc. and a dot (.) after the unit digit on invoices have been abolished.
- The tax department no longer has the authority to limit the number of invoices allowed to be used by enterprises for a period from 3 to 6 months as per each invoice issuance notification.
- The tax department is required to approve or otherwise a taxpayers eligibility to use self- printed/ pre-printed invoices within 5 working days upon receipt of the application. Circular 26 emphasizes that no response from the tax authorities will be regarded as approval.

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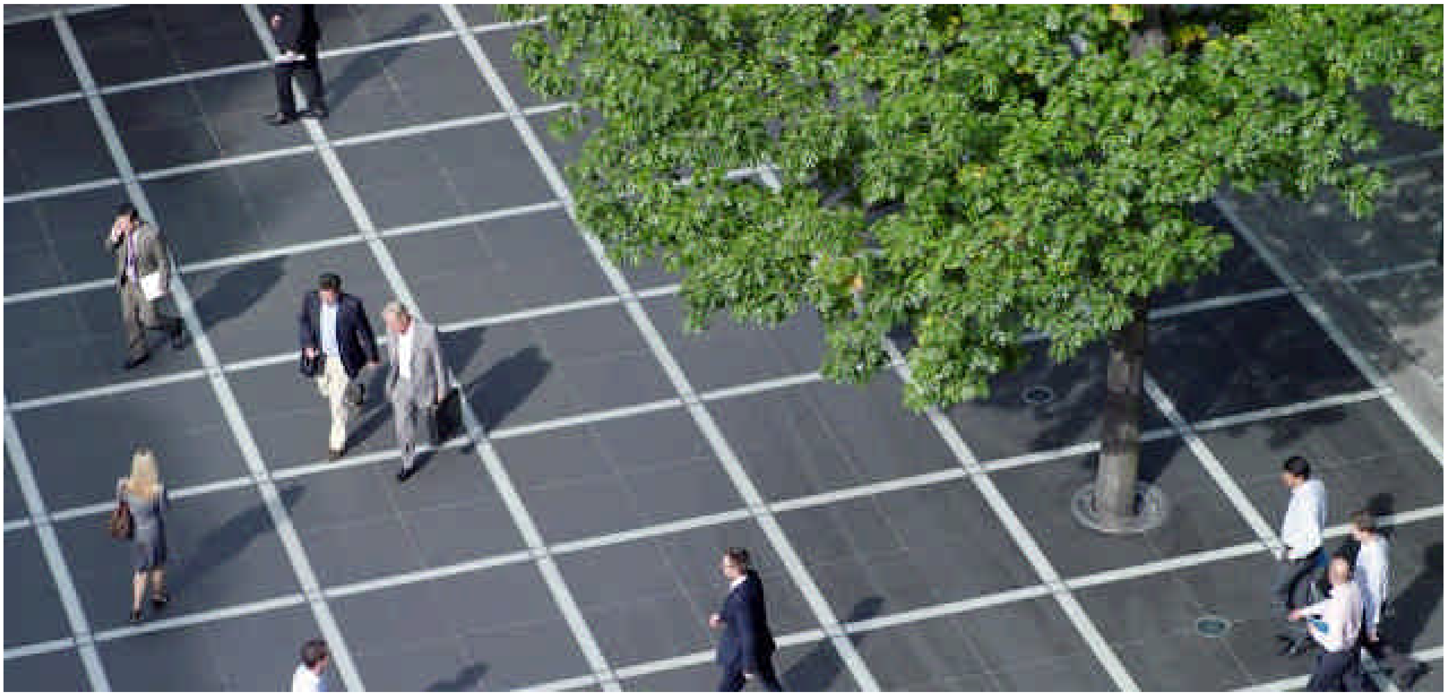

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3. Invoicing (cont.)

- Circular 26 reiterates that organisations/ individuals which use cashiers, selling management systems for receipt of/ making payments such as restaurants, hotels, supermarkets etc. are required to have their systems connected to the tax authorities'; organisations/ individuals classified as high tax risk are required to issue electronic invoices and obtain a code for verification purpose from the tax authorities. Further guidance is expected to be issued for implementation.
- VAT invoices are no longer required for the lending or return of machinery, equipment, goods. This is consistent with what has been guided under Circular 119/2014.
- Invoices are not required for internal consumption for continuation of the production process.
- An adjustment invoice is not required to be issued in case of the wrong buyer's name/ address provided that the buyer's tax code is correctly recorded on the invoice. Only a minute signed by both parties and rectifying the information is required.

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Please contact us if you need further information on these important changes.