27 February 2015

PwC Vietnam NewsBrief

Decree 12 guiding the new amended tax law

The Government issued Decree 12/2015/ND-CP on 12 February 2015 ("Decree 12") providing guidance on the tax changes approved by the National Assembly under Law 71/2014/QH13 (please refer to our News Brief dated 26 November 2014). Decree 12 is effective from 1 January 2015.

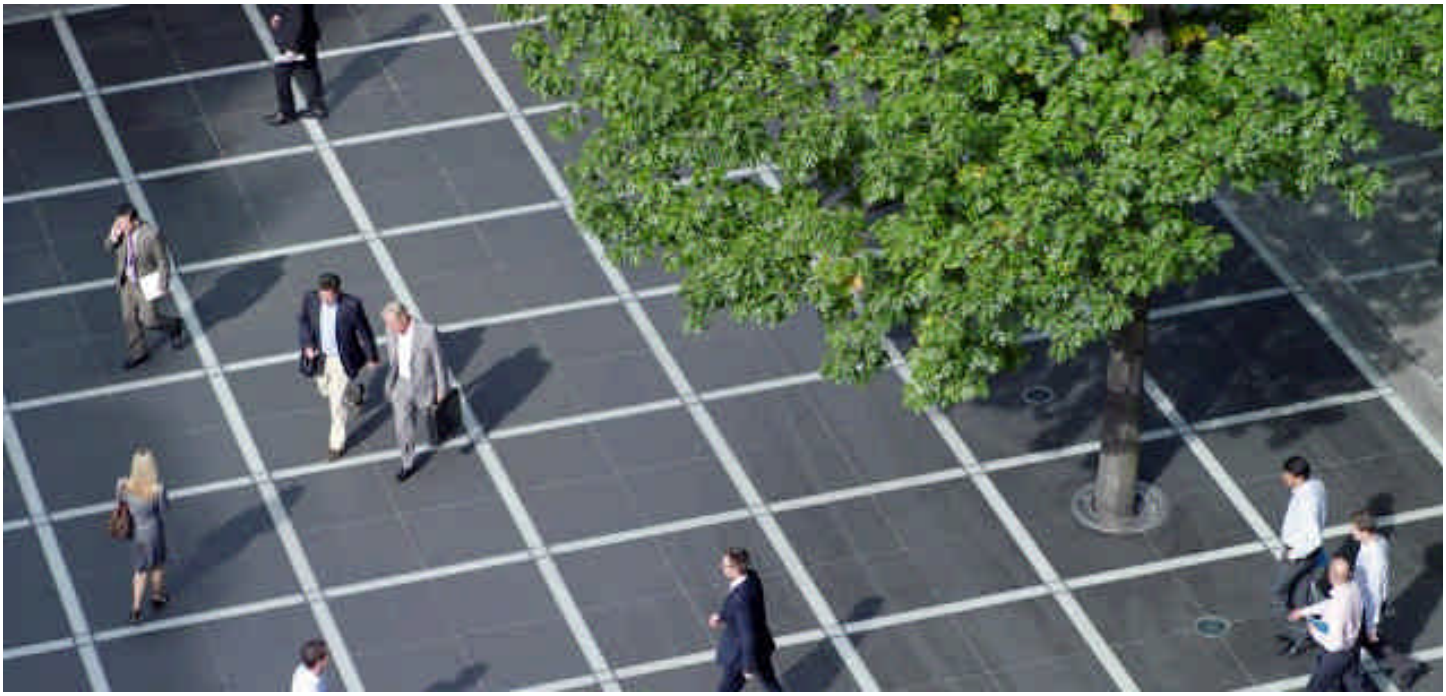
1. Corporate income tax ("CIT")

CIT deductible expenses

- Decree 12 reconfirms that the cap on the deductibility of advertising and promotion expenses is abolished.
- Life insurance is excluded from the list of schemes subject to the cap of VND 1m/ person/month.
- Vocational training in accordance with regulations is fully tax deductible.
- Interest incurred on loans to invest in other companies will be tax deductible to the investor company provided that charter capital of the investor company has been fully contributed.

CIT incentives

- A large manufacturing project with investment capital of at least VND 12,000 billion (equivalent to approximately USD 560 million), disbursed within 5 years of being licensed and using certified technology is entitled to incentives of 10% CIT rate for 15 years, 4 years of CIT exemption and 9 years of CIT reduction.
- New investment projects included in the list of industrial products prioritized for development are entitled to incentives of 10% CIT for 15 years, 4 years of CIT exemption and 9 years of CIT reduction if they meet one of the following conditions:
  - ✓ The products support the high technology sector; or
  - ✓ The products support the garment, textile and footwear, IT, automobile assembly, mechanics sector and are not produced domestically as at 1 January 2015, or if produced domestically, they meet the quality standards of the EU or equivalent.



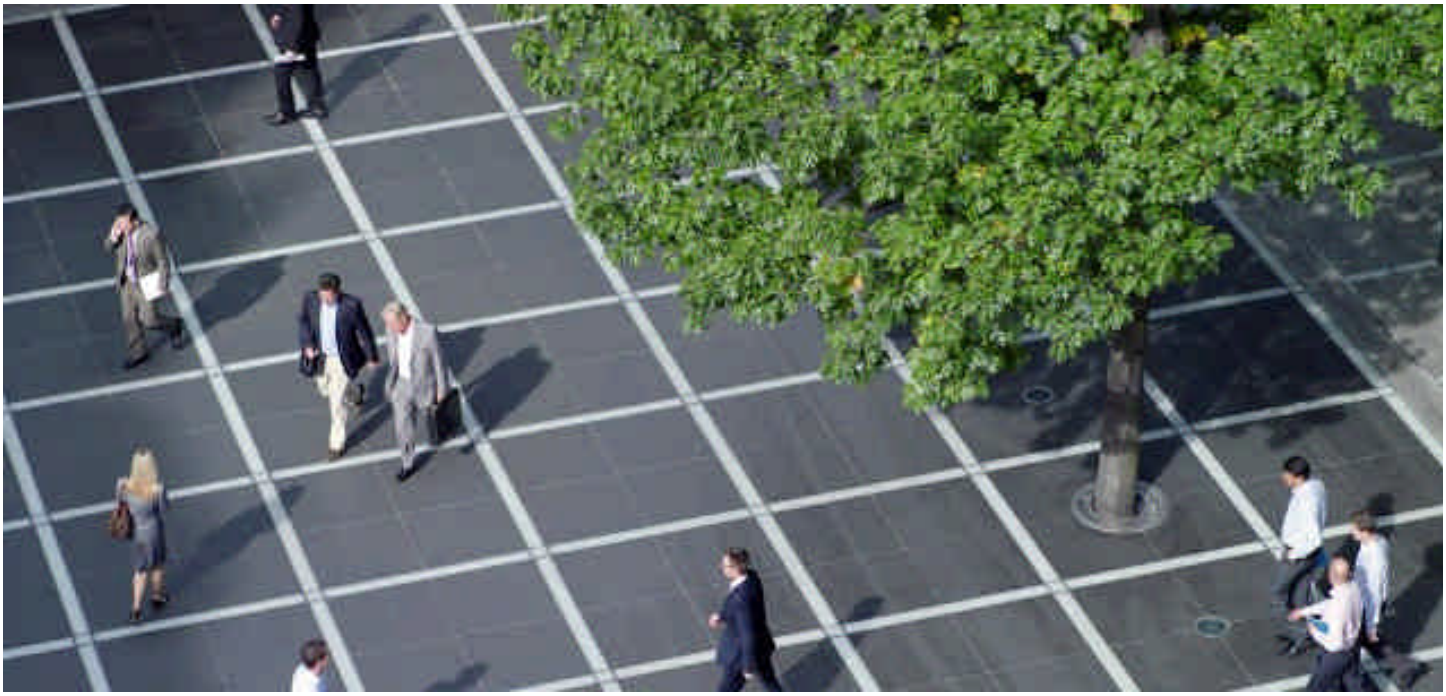
CIT incentives (cont.)

- The incentive regime is amended to align with the Law on Investment, by allowing investment projects to access any more favorable tax incentives available under an amended or new Law on CIT for the remaining project period. Crucially, this entitlement is specifically applicable to the following cases:
  - ✓ Expansion projects licensed or carried out during the period from 2009 to 2013 which were not entitled to any CIT incentives previously.
  - ✓ Investment projects carried out in industrial zones during the period from 2009 to 2013 which were not entitled to any CIT incentives previously.
  - ✓ Investment projects located in areas which were not previously considered as encouraged.
- Enterprises engaged in processing of agricultural and aquatic products are eligible for preferential tax rate of 15% for the project life or 10% for the project life if carried out in locations of difficult social economic condition or CIT exempt if certain conditions are met.

2. Value Added Tax ("VAT")

- Fertilizer, feed for livestock, poultry, seafood and other animals are now VAT exempt instead of 5%. The Ministry of Finance shall issue further guidance in this regard.
- An investment project that is liquidated without having any taxable revenue is not yet required to repay input VAT that has been refunded or credited. Decree 12 states that VAT will be dealt with later when the investment project is transferred or the investment purpose is changed creating some uncertainty as to whether the tax authority will in fact seek to claw back any refunded VAT.

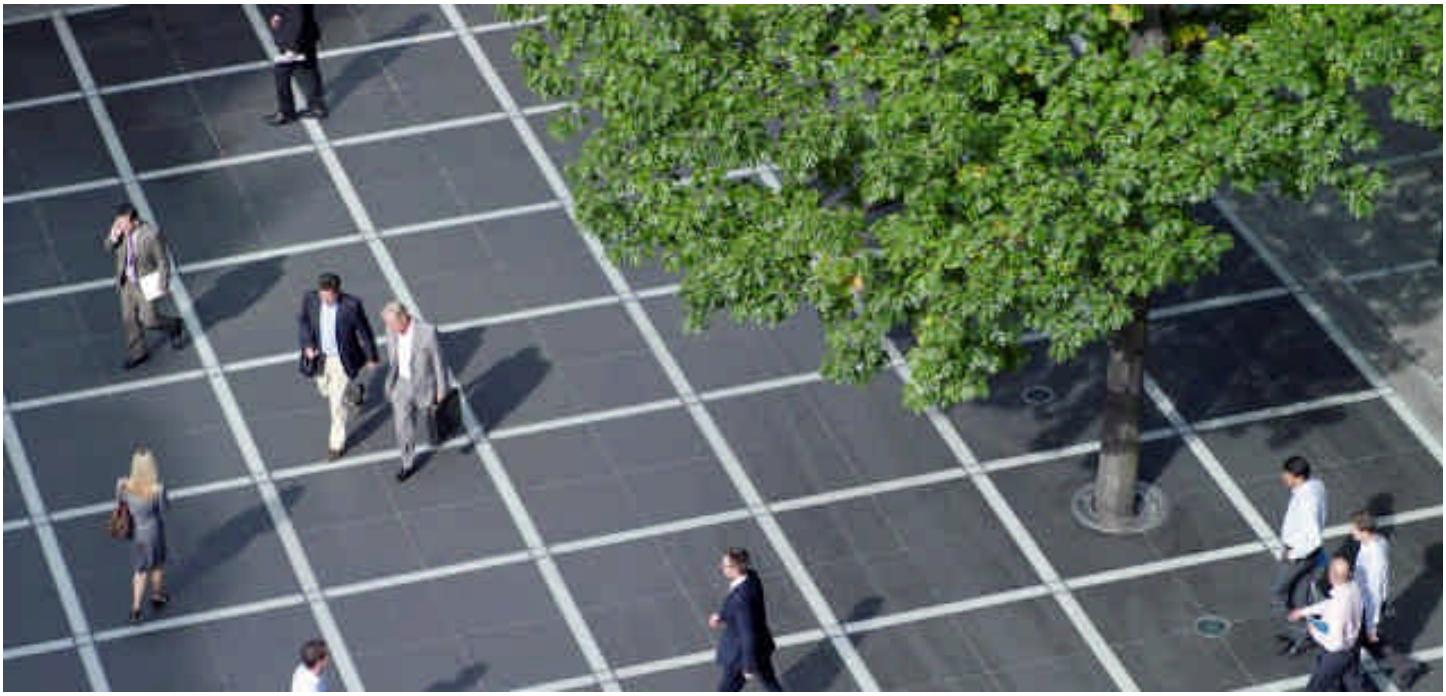
pwc



3. Personal Income Tax ("PIT")

- Income of Vietnamese vessel crew members working for foreign shipping companies or Vietnamese international transportation companies will be PIT exempt.
- Income from winnings at casinos is not subject to PIT.
- Income from selling securities and real estate are now subject to PIT at deemed rates of 0.1% and 2% respectively, on sales proceeds. The former option to pay PIT on net profit is abolished.
- Income from business activities is no longer subject to the progressive PIT rates. Instead such income is now subject to PIT at a flat rate on revenue if the annual revenue exceeds VND100 million. The requirement for finalisation of business income together with employment income is removed.
- Employer and employee contributions to voluntary pension insurance schemes are deductible (subject to a cap of VND1million/month). The Decree is not clear as to whether the deduction also apply to overseas voluntary scheme.
- Employer contributions to non-compulsory insurance schemes (except pension insurance) under accumulated mechanism offered by insurance companies which are established and operating in accordance with the law of Vietnam are taxable at the time the insurance company pays insurance compensation to the employee. The insurance companies are required to withhold 10% PIT on the accumulated premium contributed by employers from 1 July 2013 onwards before payment. The 10% PIT withheld is the final tax.
- Employer contributions to non-compulsory insurance schemes (except pension insurance) under accumulated mechanism offered by insurance companies which are not established and operating in accordance with the law of Vietnam are taxable at contribution. The employer is required to withhold 10% PIT on premium contributed before making payment of income to the employee. The 10% PIT withheld is the final tax.

pwc



To get in touch please contact:

Ho Chi Minh City:

David Fitzgerald – Partner
+84(8) 3824 0116
david.fitzgerald@vn.pwc.com

Richard Irwin – Partner
+84 (8) 3824 0117
r.j.irwin@vn.pwc.com

Nguyen Thanh Trung – Partner
+84 (8) 3824 0103
nguyen.thanh.trung@vn.pwc.com

Ha Noi

Dinh Thi Quynh Van – Partner
+84 (4) 3946 2231
dinh.quynh.van@vn.pwc.com

Nguyen Huong Giang – Partner
+84 (4) 3946 2237
n.huong.giang@vn.pwc.com

4. Tax administration

- The requirement to submit the list of invoices for sales and purchases, and other supporting documents, in monthly and quarterly tax declarations is removed.
- The principle that the taxpayer should not be required to resubmit any documents that a governmental authority has already received is re-emphasized. The Government shall issue detailed guidance based on the actual circumstances and information technology platform.
- Guidance on exchange rates under various tax laws is now consolidated into the Law on Tax Administration and amended to be in line with the accounting principle that the actual prevailing exchange rate on the transaction date will be used to determine the taxable revenue in VND.
- The 25% interest rate per annum on payment of overdue tax more than 90 days late is abolished. This means that interest on late payment of tax is imposed at a flat rate of approximately 18% per annum.
- The implementation of online filing and application of technology in the tax administrative procedures is accelerated by the tax authorities e.g. enterprises 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 and 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 to be issued regarding implementation.

*****

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

pwc