

# Update on new regulations and important tax

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# Content

In this newsletter, Grant Thornton Vietnam would like to update recent important regulations and important tax policies including:

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Transition of incentives for projects manufacturing products in supporting industries



Enterprise valuation



Deductible expenses for foreign workers without work permit



Response on securities companies' suggestion on application of Clause 3, Article 8 of Decree No. 20/2017/ND-CP



# 1. Transition of incentives for manufacturing projects for supporting industrial products



On 18 March 2019, the General Department of Taxation provided a responding opinion in Official Letter 896/TCT-CS regarding the application of Corporate Income Tax incentives for expansion of investment projects before 01 January 2015 manufacturing products for supporting industries.



Specifically, according to the General Department of Taxation, although there are regulations on the right to choose CIT incentives when the regulations change, however, the law does not specify the transition of incentives for the projects carried out before 1 January 2015, in certain sectors entitled to incentives as supplemented by Law No. 71/2014/QH13 including projects manufacturing products for supporting industries.

## 2. Enterprise valuation

The Ministry of Finance issued Official Letter No. 2679/BTC-QLG dated 11 March 2019 guiding the contents of enterprise valuation, in general and as well as other particular cases related to enterprises with state capital, according to Vietnam valuation standards No. 12 on enterprise valuation, which was issued together with Circular No. 122/2017/TT-BTC dated 15 November 2017, to ensure the accurate determination of enterprise's market value.

Thus, in the context of the merger and acquisition (M&A) market becoming increasingly dynamic, the authorities are taking steps to ensure the close management and improve the quality of enterprise valuation activities to reduce risk of state budget loss. Enterprises that are and about to participate in M&A deals should take note of this issue and plan for implementation in accordance with current regulations.

# 3.

## Deductible expenses for foreign workers without work permit



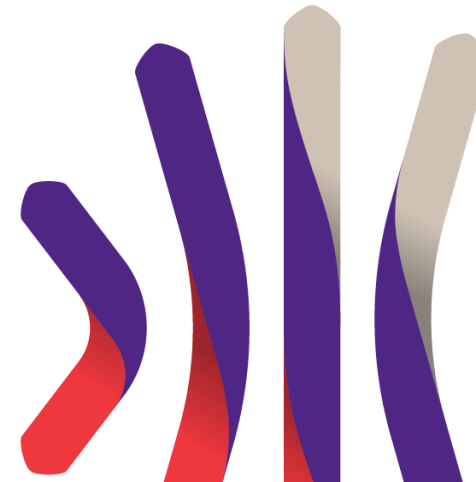
On 15 February 2019, Hanoi Tax Department issued Official Letter No. 6351/CT-TTHT providing guidance on expenses for foreign workers whom are not granted work permits.

According to this official letter, in case the companies hire foreign labourers to perform jobs, in Vietnam, but they have not been granted work permits by the competent authorities in Vietnam under the Labor Code, the salary expense, bonuses and other expense in nature of wages and remuneration paid by the enterprise to the labourers will not have sufficient basis to be qualified as deductible expenses, when determining taxable income for CIT purpose. Additionally, the input VAT on expenses paid by enterprises to the above-mentioned labourers will not meet the requirements to be considered as creditable input VAT.

# 4. Response on securities companies' suggestion on application of Clause 3, Article 8 of Decree No. 20/2017/ND-CP

The General Department of Taxation has just responded to the recommendations of the Vietnam Securities Trading Association and Vietcombank Securities Company, in Official Letter No. 310/TCT-DNL dated 28 January 2019 on the application of regulations on determining deductible interest expenses, when determining taxable income for Corporate Income Tax (CIT) in accordance with Clause 3, Article 8 of Decree No. 20/2017/ND-CP. Accordingly, the subjects of application stipulated in Clause 3, Article 8 of Decree No. 20 are taxpayers involved in related party transactions, as prescribed in Article 5 of Decree No. 20, unless taxpayers are subject to the Law on Credit Institutions and the Law on Insurance Business. The total deductible interest expense of the taxpayers, when determining the income subject to CIT under the provisions of Clause 3, Article 8 of Decree No. 20, is calculated based on the total interest expense incurred in the period, regardless whether the interest expense arose from loan transactions with related parties or independent parties.

Currently, the General Department of Taxation is in the process of receiving, summarizing issues and recommendations of taxpayers related to the implementation of Decree No. 20 in general and the provisions of Clause 3, Article 8 of Decree No. 20 in particular, to report to the Ministry of Finance for submission to the Prime Minister for direction on implementation. However, before the official amendments are available, the determination of deductible interest expenses for CIT taxable income determination will continue to comply with current regulations.



# Contacts

Please contact our professional advisors at Grant Thornton Vietnam for assistance with taxation, accounting, transfer pricing, labour, investment and customs as well as other legal issues you may have during your business operation.

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