

LEGAL UPDATES ABOUT PERSONAL INCOME TAX ACCORDING TO CIRCULAR NO. 92/2015/TT-BTC

On June 15, 2015, the Ministry of Finance issued Circular No. 92/2015/TT-BTC ("Circular 92"), amending and supplementing a number of changes in Personal Income Tax ("PIT") and Value Added Tax ("VAT"). Here are some important changes related to PIT which enterprises should note:

I. AMENDMENT OF VAT, PIT FOR INDIVIDUAL BUSINESS INCOME:

Sales revenues of individual businesses of VND100 million or less are VAT and PIT exempt. Otherwise, the sales revenues are subject to VAT and PIT payment.

VAT rates and PIT rates on revenues vary according to business categories, between 0.5% and 5%. In particular lease businesses, including leases on houses, land, shops...a VAT rate of 5% and PIT rate of 5% is applied as stipulated in Circular 92.

II. SUPPLEMENTS AND AMENDMENTS TO INCOME SUBJECT TO PIT - EXEMPT AND CONCESSIONAL TREATMENT:

1. One-off relocation allowance

A one-off relocation allowance is not included in the taxable income of overseas-resident Vietnamese returning to work in Viet Nam.

Previously, in accordance with Circular 111, a one-off relocation allowance was PIT exempt for foreigners coming to work in Viet Nam, for Vietnamese going to work overseas, or for individuals who commuted to work in extremely poor areas.

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All information in this document is for
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only.*

*Kindly contact to Talentnet consultant to
apply with respect to specific cases:*

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2. Taxable house rent, and utility payments

Circular 111 stipulated that house rent paid by employers was taxable, with the provision that the maximum amount taxable should not exceed 15% of total taxable income. Utility and ancillary services payments excluded from house rent were included in the taxable incomes of employees.

Circular 92 now stipulates that utility and ancillary services payments will be added to actual house rent when calculating the 15% maximum limit of total taxable income.

3. Non-compulsory Insurance

According to Circular 92, in cases where an employer offers their employees **non-compulsory and non-accumulative insurance premiums** (including those from insurers who are non-resident enterprises but permitted to sell insurance in Viet Nam), such insurances are **not included in the employees' taxable income**.

As stipulated in Circular 92, non-compulsory and non-accumulative insurance products include **health insurance, term life insurance** (excluding premium-return term life insurance) in which the policy-owners are not eligible for cumulative premiums during the coverage period, except for insurance claims or indemnity payments as in the policies.

4. The expenditure for employees to commute to work place

The expenditure for employees to commute from home to the work place and vice versa as per employer's general policy is PIT exempt.

Previously, according to Circular 111, the expenditure for employees to commute to work place was regarded as taxable income, unless the expenditure is for large number of employees.

5. Wedding and funeral allowances for employees

Wedding and funeral allowances for employees and their family members, when made in line with an employer's general policy and in accordance with corporate income tax regulations, are PIT exempt.

6. Contribution to voluntary pension funds, and purchase of voluntary pension insurance products

Employee contributions to voluntary pension funds, and purchase of voluntary pension insurance products, as defined in guidance from the Ministry of Finance, are excluded from taxable income provided the payment does not exceed 1 million dong per month **including the actual contributions of both employer and employee (if any)**, even in case of contribution to multiple funds. The exempt amount is determined according to the contribution (or premium) receipts issued by voluntary pension funds or insurers.

Previously, Circular 111 did not clearly stipulate a maximum exempt amount of 1 million dong including employer and employee contributions.

III. TAX WITHHOLDING AND PAYMENT FOR LIFE INSURANCE AND OTHER ACCUMULATIVE PREMIUM INSURANCE

Tax at the rate of 10% on paid premiums must be deducted by employers on an employee's income prior to salary payment, in cases where there is employer-provided life insurance (excluding voluntary pension insurance), or other non-compulsory insurance with accumulative premiums from insurers who are non-resident enterprises but permitted to sell insurance in Viet Nam.

IV. SUPPLEMENT TO REGULATIONS ON HYPOTAX AND ASSUMED HOUSING DEDUCTION

In cases where the employer applies hypo tax and assumed housing deduction, the income base used for converting to assessable income does not include such hypo tax and housing deduction.

V. REGULATIONS ON TAXABLE INCOME CONVERSION INTO VIETNAM DONG

Taxable incomes in foreign currencies must be converted to Vietnam Dong ("VND"), using the **buying exchange rate of the commercial bank where the individual's personal account is maintained** at payment time.

If the tax payer has no bank account in Viet Nam, foreign currencies must be converted into VND at **the buying exchange rate of Vietcombank** at payment time.

For foreign currencies without an exchange rate into VND, conversion is according to the exchange rate of another foreign currency with an exchange rate into VND.

Previously, Circular 111 stipulated that the interbank exchange rate at payment time would be applied for conversion into VND.

VI. AMENDMENTS RELATED TO PIT FINALIZATION

1. PIT finalization for foreign tax residents' repatriation

Foreigners who are tax residents of Vietnam and end their employment contracts in Viet Nam must complete PIT finalization with the Tax Department prior to leaving the country.

Foreign tax residents who end their employment contracts in Viet Nam but are unable to complete PIT finalization with the Tax Department prior to exit can authorize their employer, or other organization/individual as stipulated in Civil Law, to do so on their behalf, provided that the individual or organization commits to being responsible for the PIT payable as required by law. In this situation, the deadline for submission of the PIT finalization dossier is day 45 from the resident's exit.

Therefore, any enterprise unable to submit PIT finalization dossiers for foreign employees prior to their exits must collect a proxy from the foreign residents, and the enterprise must commit to being responsible for the PIT payable as required by law when submitting the PIT finalization dossiers.

2. Tax finalization responsibility for enterprises changing business types

In cases where the type of business changes, if the successor takes over the entire tax responsibility of the enterprise prior to the change of business type, the enterprise is no longer responsible for PIT finalization up to the time of change. The successor is responsible for completing PIT finalization.

3. Processing PIT finalization dossiers for individuals whose previous employers are no longer operating

In cases where certificates of PIT withholding were not issued to individuals because their previous employers were no longer operating, reference will need to be made to the database in the Tax Department for processing PIT finalization dossiers without certificates of PIT withholding.

4. Changes in naming, amendments of contents of quarterly / monthly PIT clarification forms and PIT finalization

In parallel with PIT policy changes, PIT declaration/finalization forms have been revised. As yet, tax software from the Tax Department has not yet been updated with the revised forms as per Circular 92.

Circular 92 is effective from **July 30, 2015, and applies to the PIT tax year of 2015.**