

Summary of key changes under Decree 91/2014/ND-CP dated 1 October 2014

1. Corporate Income Tax (“CIT”)

1.1. Taxable Income

- Difference due to revaluation of assets in the case of equitization and restructuring of 100% state-owned enterprises will not be treated as other income;
- Income from science research and technology development will be subject to tax exemption for 3 years at maximum, instead of 1 year as previously provided under Decree 218;
- Income from sale of products manufactured by new technologies which are newly applied in Vietnam shall be exempt from CIT for 5 years at maximum, instead of 1 year as previously provided under Decree 218

1.2. Deductible expenses

- The following welfare expenses directly paid to employees shall be deductible at the cap of actual average monthly salary for a tax year:
 - Expenses for wedding and condolence of employees and their family;
 - Holiday travel activities;
 - Health care treatment;
 - Support for improvement of knowledge at training centers;
 - Support for employees’ families who are suffered from natural disasters, accidents or disease;
 - Awards to employees’ children having good performance at school;
 - Sponsor for travel on Tet and other public holidays
- Deductibility of depreciation expenses for sample car and car for trial driving with less than 9 seats of car businesses shall not be subject to the cap of VND1.6 billion of historical cost.

1.3. Tax incentives

- Industrial zones subject to CIT incentives shall also include the ones located in urban districts (quận) of the following cities and upgraded from “suburban districts” (huyện) from 1 January 2009:
 - Special grade urban centers (đô thị loại đặc biệt);
 - Centrally run urban centers of Grade I (đô thị loại I trực thuộc trung ương);
 - Provincially run urban centers of Grade I (đô thị loại I trực thuộc trung tỉnh);

Note: the Draft Circular guiding Decree 91 provides an example for this point as follows:

Tu Liem Industrial Zone is located in Tu Liem suburban districts of Hanoi City (i.e. special grade urban center). From 1 April 2014, Tu Liem suburban district is separated into two urban districts including Nam Tu Liem and Bac Tu Liem. As Nam Tu Liem and Bac Tu Liem urban districts are established after 1 January 2009, investment projects in Tu Liem Industrial Zone shall be still subject to tax incentives (i.e. 2 years of exemption and 4 year of 50% reduction)

- For an investment project whose investment capital amount, investment phases and project implementation progress have been registered with licencing authorities in the first investment

registration application, next stages of the project shall be treated as elements of the first-time licensed project and subject to tax incentives applicable to the first-time licensed project. For projects which were licensed before 2014, this treatment is applicable for the remaining tax incentive period from 1 January 2014.

Note: the Draft Circular guiding Decree 91 provides an example for this point as follows:

On 1 March 2014, Enterprise B is licenced for an investment project and registration the capital of USD200 million with licencing authorities, registration of investment phases including 3 phases with specific progress of construction. In this case, Phase 2 and Phase 3 shall be treated as element projects and enjoy the same incentive package of the first-time licenced project provided that they are implemented in accordance with the registered schedule.

- For enterprises who are currently enjoying tax incentives and have expansion investment projects (EIPs) in the period from 2009 to 2013, those EIPs shall be subject to tax incentives for the remaining tax incentive period.
- Enterprises who are still under the tax incentive period based on condition of export ratio but tax incentives have been repealed due to WTO commitments shall have the rights to apply different combination of preferential tax rate, and tax exemption and reduction to continue enjoying the tax incentives based on other conditions than export ratio. The combination shall apply for the remaining period calculating from 2007 (for textile and garment), or 2012 (for other activities).

1.4. CIT administration

- Requirement on quarterly CIT declaration is removed. Enterprises are required to declare CIT finalisation only. CIT declaration on each time of arising will apply to real estate businesses and other special cases.
- It is no longer required to submit quarterly CIT declarations; however, taxpayers are required to estimate and make quarterly CIT payment by the 30th day of the next quarter. Estimation of quarterly tax amount will be based on financial statements or previous year's CIT paid amount, depending on each case.
- In case the difference between CIT payable amount on the annual CIT finalisation return and total four quarterly CIT payments is 20% or more, enterprises shall be subject to interest penalty on the difference, calculating from the payment deadline for Quarter 4 until the actual payment date of outstanding CIT final amount.

2. Value Added Tax (“VAT”)

2.1. Non-taxable goods and services

- Decree 91 clarifies that in case borrowers sell guarantee assets based on the authorisation of lenders to repay guaranteed loans, this case shall not be subject to VAT

2.2. Credit of input VAT

- Credit of Input VAT for sample car and car for trial driving with less than 9 seats in car businesses shall not be subject to the cap of VND1.6 billion of historical cost

- If there is no payment voucher without use of cash when payment deadline of contract is due, tax payers are required to revise the credited input VAT amount. Previously, if the payment deadline is before 31 December, provision of payment voucher can be delayed to 31 December.

2.3. VAT administration

- Quarterly VAT declaration shall be applied to enterprises with previous year's annual revenue of VND50 billion or below, instead of VND20 billion like before.

3. Personal Income Tax (“PIT”)

- Free housing benefits which the houses are built by employers for employees working in industrial zones, economic zones, and areas with difficult socio-economic conditions shall be exempt from PIT.
- Individuals who are agents of insurance, lottery and multi-level marketing companies shall not be required to declare PIT finalisation if the income paying entities have already withheld PIT.

4. Taxation administration

- Taxpayers suspending business activities are required to submit notification to licensing authorities (instead of tax authorities like before) in order to stop submitting tax declarations. When the business activities are recovered, taxpayers are also required to notify licensing authorities instead of tax authorities.
- Within 15 working days from the date of receiving sufficient dossiers for the cases of merger, splitting, separation, business form conversion liquidation and cease of operation, tax authorities shall carry out tax audit at enterprises.
- For the cases of business liquidation or cease of operation, tax authorities will make order and utilise audit results carried out by independent auditors and tax consulting firms in order to carry out the tax audit quickly.