Our May 2020 publication of Domicile’s Tax and Accounting Updates looks at a Draft Resolution to decrease 2020 Corporate Income Taxes for SMEs, along with reductions of other taxes and statutory fees and further support for businesses impacted by COVID-19. The Draft Resolution also looks at entry (immigration) requirements for foreign employees. We also look at a Resolution on allowances for individuals / employees subject to reduction or loss of income due to the COVID-19 pandemic, along and our regular review of recent Official Letters released by Tax Authorities.

DRAFT RESOLUTION TO DECREASE 2020 CORPORATE INCOME TAX FOR SMEs, REDUCE OTHER TAXES AND STATUTORY FEES, AND SUPPORT FOR BUSINESSES IMPACTED BY COVID-19

The Government recently released a Draft Resolution implementing solutions to deal with difficulties for production and business in response to the COVID-19 pandemic, which cover proposed regulations on decreasing a number of taxes and statutory fees for affected enterprises.

In Order to Reduce Production and Business Costs and relax difficulties for enterprises, the Government undertook:

1. The Ministry of Finance was assigned to seek and report feedback to the Government and submit to both the Standing Committee of the National Assembly and the National Assembly in April 2020 regarding:
   i. Adjusting (increasing) the personal deduction and dependent deductions for Personal Income Tax ("PIT"), to increase take-home salaries of employees;
   ii. Reducing Corporate Income Tax ("CIT") by 50% for small and medium enterprises for the 2020 tax year;
   iii. Exempting or reducing the VAT rate by 50% for goods and services suffering difficulty, and for goods and raw materials used in production, to reduce input costs of enterprises;
   iv. Temporarily reducing and exempting CIT and PIT for household businesses for the 2020 tax year;
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v. Considering VAT refunds in 2020 for sectors heavily impacted by COVID-19 (e.g. aviation and tourism).

vi. Researching and reporting to the Government to extend the payment deadline by 1 year for 2019 deferred CIT, VAT, PIT and land rental fees (the current deferral period stipulated in Decree 41/2020/ND-CP is 5 months); and

vii. Reviewing and reporting to the Government on the payment deferral for a portion of export taxes for 5 months (until the end of Quarter 2, 2020) to encourage exports from enterprises.

2. The State Bank of Vietnam was assigned to co-ordinate with Ministries, central and local agencies, banks and credit institutions to:

i. Exempt and reduce interest rates, costs for new loans and existing loans of businesses by 2%, especially for loans issued prior to the COVID-19 outbreak; and

ii. Provide loans with preferential interest rates for:
   - Medium and large-sized enterprises suffering heavy losses due to COVID-19 (turnover in Quarter 1 and Quarter 2 of 2020 having decreased by more than 50%, and the number of employees subject to social insurance being over 100 employees), with loan terms from 6-9 months through commercial banks; and
   - Small and micro-enterprises with loan terms of 3-6 months through the Social Policy Bank and the Small and Medium Enterprise Development Fund.

Entry of Foreign Experts, Managers, and Technical Workers

1. The Ministry of Public Security, in co-operation with the Ministry of Defense and the Ministry of Health, were asked to develop and apply special entry procedures for experts, business managers, and technical labour in foreign-invested projects to be allowed to enter Vietnam to maintain production and business activities of enterprises.

2. The Ministry of Labour, War Invalids and Social Affairs were instructed to extend work permits for foreign experts and technicians working in foreign-invested enterprises, and to grant work permits to new foreign experts and technicians to replace foreign experts who are not allowed to enter or not return to Vietnam. Until the Draft Resolution is finalised, the current process for foreign individuals for visas and immigration for special cases of foreign individuals who are regarded as “experts, managers, and highly-skilled technicians” is as follows:

a) The Vietnamese sponsor company is required to submit a formal request to the Government Office for approval for entry for the individual;

b) With the approval from the Government Office, the Vietnamese sponsor company sends the request letter to the Ministry of Police seeking entry approval/visa issuance and is to send the letter to the Ministry of Health seeking guidance on medical testing and quarantine requirements;

c) With approval letters from the three authorities above, the Vietnamese sponsor company is to send notification to the People's Committee of the destination to arrange for quarantine requirements.

Note: At present the most important issue for foreign individuals seeking to enter Vietnam for employment is to obtain approval at point a) above. Individuals should be a key person in a project vital to Vietnam for the Government Office to consider approving any request.

RESOLUTION ON ALLOWANCES FOR INDIVIDUALS / EMPLOYEES SUBJECT TO REDUCTION OR LOSS OF INCOME, AND SUPPORT FOR ORGANISATIONS IMPACTED BY THE COVID-19 PANDEMIC

On 9 April 2020, the Vietnamese Government released Resolution 42/NQ-CP on allowances for individuals, and for loan support for enterprises which are affected by the COVID-19 pandemic.

Applicable Individuals and Entitlements

i. Employees who have had their contract suspended due to the impact of COVID-19 pandemic and have ceased working without salary for one month or more from 1 April 2020, are entitled to VND1,800,000 per month; and

ii. Employees who have their labour contract terminated and are ineligible for unemployment benefits, along with labourers who do not have a labour contract and lose their jobs, are entitled to VND1,000,000 per month.

The entitlement period is based on the actual suspension period of the labour contract, and is dependent on the situation of the pandemic, but is for not more than 3 months. The current applicable period is from April to June 2020.

Applicable Enterprises/Organisations and Entitlements

i. Organisations who have financial difficulties and have paid at least 50% of salaries for employees during the suspension period (as per Clause 3, Article 98 of the Labour Code) from April 2020 to June 2020 are allowed to seek unsecured loans up to 50% of the minimum regional salaries at 0% interest rate for 12 months from the Vietnam Social Policies Bank to pay remaining salaries on a monthly basis; and

ii. Individual household businesses that have a tax return of less than VND100 million per year, and which temporarily suspend their business from 1 April 2020 are entitled to VND1,000,000 per month depending on the actual situation of the pandemic but for not more than 3 months.

Other impacted parties are also defined in the Resolution (for social protection beneficiaries, poor households, people with meritorious services to the revolution) and their entitlements are detailed within.

Guidance on Implementation

The Government issued Decision 15/2020/QD-TTg on 24 April 2020, providing guidance in implementing the support stipulated in the Resolution. Detailed conditions and processes are further clarified in the Decision.
OFFICIAL LETTERS RELEASED

Official Letters are releases showing the Tax and other Authorities' interpretation and application of Vietnam's Taxation Laws, providing guidance to taxpayers in Vietnam.

VAT Rate when Providing Services to Foreign Parties

On 6 April 2020, the General Department of Taxation issued Official Letter 3472/CT-TTHT regarding the applicable VAT rate when providing services to foreign parties.

According to Clause 1b, Article 9 Circular 219/2013/TT-BTC of the Ministry of Finance, the VAT rate of 0% is applicable for exported goods and services sold to organisations or individuals in foreign countries, which must be consumed outside Vietnam.

When a Vietnam company engages in a contract with a foreign organisation to provide research and information collection services, liaise with Vietnamese suppliers on their behalf and perform necessary tasks to promote trading between suppliers and foreign customers then these services are considered as being consumed in Vietnam. Therefore, they are subject to a standard VAT rate of 10%.

Applicable Foreign Contractor Tax ("FCT") Rate for Machinery, Equipment Imported from an Foreign Vendor, and FCT for Per Diem for Experts of the Foreign Contractor sent to Vietnam to Install Imported Goods

On 14 April 2020, the Hanoi Department of Taxation issued Official Letter 23242/CT-TTHT providing guidance on Foreign Contractor Tax ("FCT") applicable to per diem payments made to experts of a foreign contractor who has been sent to Vietnam to install imported machines.

Where a Vietnamese company signs a contract to purchase machinery and equipment from an foreign vendor, for on-selling to customers in Vietnam, then the foreign vendor is potentially subject to FCT. Where the contractor does not meet the conditions (according to Article 8, Section 2, chapter 2 of Circular 103/2014/TT-BTC) to self-declare any applicable FCT, then the Vietnamese company is responsible for declaring and paying any FCT on behalf of the vendor.

FOR FURTHER INFORMATION CONTACT:

Matthew Lourey, Managing Partner  
email: matthew.lourey@domicilecs.com

Thao Do, Manager, Accounting & Tax Services  
email: thao.do@domicilecs.com

Phung Nguyen, Manager, Accounting & Tax Services  
email: phung.nguyen@domicilecs.com

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