



# S&S AUDITING AND CONSULTING COMPANY

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## S&S's Newsletter – APRIL 2018

Dear our Readers,

Below are S&S's Tax and Legal update Newsletter for [April 2018](#).

We trust that you will enjoy this edition and welcome any feedback or queries that may arise to our email address: [samuel230@hanmail.net](mailto:samuel230@hanmail.net)

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***Enjoy your reading! And we would be happy to meet up with you to discuss how best we can assist your company in this regard.***





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## 1. OFFICIAL LETTER NO. 13409/CT-TTHT DATED 2/4/2018 ISSUED BY HA NOI TAX DEPARTMENT REGARDING TO FOREIGN CONTRACTOR WITHHOLDING TAX

In accordance with this guidance, in case a company signs a contract with a foreign contractor, in which value of machinery is **separated** from value of services of transport, installment, warranty, etc. and revenue does not include value added tax (VAT) and enterprise income tax (EIT), it is required to **convert** the revenue into tax – inclusive revenue upon declaring and paying withholding tax.

The percentage for calculation of withholding tax shall be as follows:

- *With regard to special - use machinery, equipment, devices and provisions for warranty: To pay only 1% EIT. Particularly, VAT shall be paid at the customs office upon carrying out customs procedure.*
- *With regard to transport service: To pay 2% EIT and 3% VAT.*
- *With regard to services of construction, installment: To pay 2% EIT and 5% VAT (if these services do not include materials, machinery, and equipment) of pay 2% VAT (if these services include materials, machinery, and equipment).*
- *With regard to services of construction design, testing and trial operation, training, warranty, package management and other services: To pay 5% EIT and 5% VAT.*

## 2. OFFICIAL LETTER NO. 11950/CT-TTHT DATED 27/3/2018 REGARDING TO EXCHANGE RATE USING FOR CALCULATION FOREIGN CONTRACTOR WITHHOLDING TAX

According to Clause 4 Article 2 of Circular No. 26/2015/TT-BTC , from January 1st, 2015, exchange rate for conversion of revenue for calculation of withholding tax shall be based on buying exchange rate of the commercial bank where a foreign contractor's account is opened.

If the foreign contractor does not have a banking account in Vietnam, revenue subject to withholding tax shall be converted according to any of these exchange rates:

- **The inter-bank average exchange rate** announced by the State Bank of Vietnam during the period between January 1st, 2015 and before January 4th, 2016 (the effective date of Decision No. 2730/QD-NHNN).



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- **The central rate** of VND versus USD announced by the State Bank of Vietnam under Decision No. 2730/QD-NHNN, if transaction is generated from January 4<sup>th</sup>, 2016.

With regard to revenue in other foreign currencies converted into VND, it is required to use cross rates of VND versus other foreign currencies in order to determine taxable value according to the regulations in Article 3 of the aforesaid Decision No. 2730/QD-NHNN.

In case an enterprise has declared, paid withholding tax but then the payable tax amount is increased or reduced because of adjustment to exchange rate for calculation of tax, it is allowed to make a dossier of additional declaration according to Clause 5 Article 10 of Circular No. 156/2013/TT-BTC.

### **3. OFFICIAL LETTER NO. 11502/CT-TTHT DATED 26/3/2018 REGARDING TO PIT EXEMPTION FOR FOREIGN EXPERTS PERFORMING ODA PROJECTS IN VIETNAM**

According to the regulations of Joint Circular No. 12/2010/TTLT-BKHDT-BTC, one of the conditions for PIT exemption for foreign experts performing ODA projects in Vietnam is that they are named in the list of experts enclosed with the bidding dossier.

However, in case the foreign experts are not included in the bidding dossier but they are able to present the written approval of the Vietnamese party and foreign party (the ODA donor) regarding they are changed/added, they shall be also exempt from PIT.

### **4. OFFICIAL LETTER NO. 13054/CT-TTHT DATED 30/3/2018 ADDITIONAL FINALIZATION PERSONAL INCOME TAX (PIT)**

In accordance with this guidance, in case of individual declares additional finalization PIT and cause the decrease PIT payable or increase PIT refund, it will be solved as follows:

- *In case of decrease PIT payable: There is a need to further declare follow Form 02/QTT-TNCN, individual declares at the first time (follow Receipt Voucher Form) at item 38 – temporary paid in order to have basic for define the variance of refund amount.*
- *In case of increase PIT refund: Tax Department will base on the additional PIT finalization dossier and dossier submit at the first time to define the variance for additional refund.*



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### **5. OFFICIAL LETTER NO. 2181/TCHQ-CNTT DATED 23/4/2018 ON REGISTRATION ACCOUNT TO ACCESS INFORMATION PORTAL OF CUSTOM DECLARATION FORM**

In accordance with this Official Letter, subject to access information portal of custom declaration form according to guidance at Decision 33/2016/QĐ-TTg haven't included the company, only including Government Office, Credit Institution and Organization for issuing C/O.

Following that, the Company cannot register account to access information portal of custom declaration form.

In case of the Company wants to track the information of electronic custom declaration form, the Company can use either of following methods:

- Using button "tracking information of custom declaration form" which is declared via this website [www.customs.gov.vn](http://www.customs.gov.vn):
- Using SMS services sending to 0869600633 issued by General Department of Custom. In order to register this service, there is a need to log in website: [tkhqdt.customs.gov.vn/doanhnghiep.aspx](http://tkhqdt.customs.gov.vn/doanhnghiep.aspx) and follow the instructions.

Beside that, if there is a need of support from General Department of Custom, the Company can contact:

- Through hot line of helpdesk belong o General Department of Custom;
- Sending email to address: [bophanhotrotchq@customs.gov.vn](mailto:bophanhotrotchq@customs.gov.vn)

### **6. OFFICIAL LETTER NO. 620/GSQL-GQ4 DATED 6/3/2018 REGARDING TO QUERY ON ELECTRONIC C/O FORM D**

Relating electronic C/O form D, the document provides these guidelines:

- *For the case of marking at box "Normal": apply to C/O which is issued when the country of origin is the country issuing the C/O and is also the country using the invoice (not apply to the cases of third party invoice or back – to – back C/O).*
- *For the case of marking at box "Drawback": apply to C/O which is issued to replace the C/O rejected by customs offices.*
- *In case an electronic C/O lacks information because of technical errors/mistakes, customs offices shall receive the paper-based C/O issued in accordance with regulations of the ASEAN Trade in Goods Agreement in order to consider.*