



# S&S AUDITING AND CONSULTING COMPANY

8<sup>th</sup> Floor, 41 Nguyen Thi Minh Khai Street, District 1, Ho Chi Minh City

Tel: 028-3910.4996 – 3910.4997

Email: [SAMUEL230@HANMAIL.NET](mailto:SAMUEL230@HANMAIL.NET)

Fax: 028-3910.4998

[SAMUEL230@SSAUDIT.COM](mailto:SAMUEL230@SSAUDIT.COM)

## S&S's Newsletter – Feb 2019

Dear our Readers,

Below are S&S's Tax and Legal update Newsletter for [February 2019](#).

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)

### S&S Auditing and Consulting Co., Ltd

#### Head office:

8th Floor, Yoco Building  
41 Nguyen Thi Minh Khai St, Ben Nghe Ward,  
District 1, TP. HCM, Viet Nam

Tel: 84 (28) 39 104 996

Fax: 84 (28) 39 104 998

Web: <http://www.ssaudit.com>

#### Hanoi office:

7th Floor, Vinaconex 9 Building,  
Pham Hung St., Me Tri Ward, Tu Liem Dist,  
Hanoi, Viet Nam

Tel: 84 (24) 62 512 199

Fax: 84 (24) 62 512 201

*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.*





## CONTENTS ●●●●●

1. OFFICIAL LETTER NO. 68/TCT-CS DATED 05 JAN 2019 REGARDING TO E-INVOICE  
- Page 3
2. OFFICIAL LETTER NO. 817/CT-TTHT DATED 7 JAN 2019 REGARDING TO AIRFARES, HOTEL CHARGES TO FOREIGN EXPERTS  
- Page 3
3. OFFICIAL LETTER NO. 6351/CT-TTHT DATED 15 FEB 2019 REGARDING EXPENSES PAID TO FOREIGN EMPLOYEES WITHOUT WORK PERMIT  
- Page 4
4. OFFICIAL LETTER NO. 1755/CT-TTHT DATED 14 JAN 2019 REGARDING TAX POLICY FOR CAPITAL TRANSFER ACTIVITY  
- Page 4
5. OFFICIAL LETTER NO. 2978/CT-TTHT DATED 18 JAN 2019 REGARDING ISSUANCE OF INVOICES IN CASE A REPRESENTATIVE OFFICE CARRIES OUT LIQUIDATION SALES OF ASSETS  
- Page 4
6. OFFICIAL LETTER NO. 1750/CT-TTHT DATED 14 JAN 2019 REGARDING OFFSHORE REMITTANCE OF PROFIT BY DEBT OFFSETTING  
- Page 5
7. OFFICIAL LETTER NO. 797/TCHQ-TXNK DATED 1 FEB 2019 ISSUED BY GENERAL DEPARTMENT OF CUSTOM ON DEFINE CUSTOMS VALUE  
- Page 5
8. REMINDER ON TAX FINALIZATION FOR YEAR 2018  
- Page 5





# **S&S AUDITING AND CONSULTING COMPANY**

8<sup>th</sup> Floor, 41 Nguyen Thi Minh Khai Street, District 1, Ho Chi Minh City

Tel: 028-3910.4996 – 3910.4997

Email: [SAMUEL230@HANMAIL.NET](mailto:SAMUEL230@HANMAIL.NET)

Fax: 028-3910.4998

[SAMUEL230@SSAUDIT.COM](mailto:SAMUEL230@SSAUDIT.COM)

## **1. OFFICIAL LETTER NO. 68/TCT-CS DATED 05 JAN 2019 REGARDING TO E-INVOICE**

In accordance with General Department of Taxation, "E-invoice" is a set of electronic messages, notes on selling goods, services, unlimited of row on invoice, therefore e-invoice is not allowed to be issued without the list of sold goods and services. The list of sold goods and services must be presented in the e-invoice, if not, such e-invoice is not valid.

Applying E-invoice in accordance with new guidance at Decree 119/2018/NĐ-CP, and also announced detailed guidance via Official Letter No.14192/BTC-TCT dated 15/11/2018, OL No. 4311/TCT-CS dated 5/11/2018 and OL No. 4763/TCT-CS dated 29/11/2018.

## **2. OFFICIAL LETTER NO. 817/CT-TTHT DATED 7 JAN 2019 REGARDING TO AIRFARES, HOTEL CHARGES TO FOREIGN EXPERTS**

In accordance with guidance by Ha Noi Tax Department, in case a company in Vietnam pays airfares, hotel charges to foreign experts who are seconded by a foreign group to provide business and production support for the company, if these experts are non-residents, the expenses of airfares, hotel charges shall be subject to the personal income tax (PIT) withholding at the tax rate of 20% (Article 18 of Circular No. 111/2013/TT-BTC).

If the foreign experts are exempt from PIT under Agreements on double taxation avoidance, Article 13 of Circular No. 156/2013/TT-BTC shall be complied with.

If the airfares, hotel charges paid to the foreign experts who are invited to Vietnam to support the company meets the conditions provided in Article 4 of Circular No. 96/2015/TT-BTC, they shall be accounted into deductible expenses.

In case the Company in Vietnam pays accommodation charges, travel expenses to cadres, experts of its joint venture group outside Vietnam that are invited to Vietnam by the Company to provide support for business and production of the Company. In the agreements between the Company and its joint venture group outside Vietnam regulate that the Company in Vietnam shall pay such charges and expenses to the cadres, experts of its joint venture group outside Vietnam during their working in Vietnam, such expenditure shall be accounted into deductible expenses upon calculation of EIT - liable incomes if the conditions regulated at Article 4 of the aforesaid Circular No. 96/2015/TT-BTC of the Ministry of Finance are met.



# **S&S AUDITING AND CONSULTING COMPANY**

8<sup>th</sup> Floor, 41 Nguyen Thi Minh Khai Street, District 1, Ho Chi Minh City

Tel: 028-3910.4996 – 3910.4997

Email: [SAMUEL230@HANMAIL.NET](mailto:SAMUEL230@HANMAIL.NET)

Fax: 028-3910.4998

[SAMUEL230@SSAUDIT.COM](mailto:SAMUEL230@SSAUDIT.COM)

## **3. OFFICIAL LETTER NO. 6351/CT-TTHT DATED 15 FEB 2019 REGARDING EXPENSES PAID TO FOREIGN EMPLOYEES WITHOUT WORK PERMIT**

According to this Official letter, in case an enterprise employs a foreign worker to work in Vietnam but such foreign worker has not yet granted the work permit as prescribed, there are not enough grounds to include the expenses paid to the foreign worker into deductible expenses upon determination of CIT - liable incomes and deduct input VAT on such expenses: house rental fee, travelling expense, administration expense, salary, etc.

## **4. OFFICIAL LETTER NO. 1755/CT-TTHT DATED 14 JAN 2019 REGARDING TAX POLICY FOR CAPITAL TRANSFER ACTIVITY**

Following that, Ha Noi Tax Dept guidance tax duties on capital transfer activity as follows:

In case investors that transfer capital contributed at a company are organization, non-resident individual, the Company shall be responsible for withholding and paying taxes on behalf of the organization, non-resident individual. Detailed as:

- ✓ With regarding to the organization, the withholding of EIT on income from capital transfer shall be carried out according Article 14 of Circular No. 78/2014/TT-BTC and Clause 7 Article 16 of Circular No. 151/2014/TT-BTC.
- ✓ With regarding to the individual, the withholding of PIT on income from capital transfer shall be carried out according to the guidelines at Article 11, Article 20 of Circular No. 111/2013/TT-BTC and Clause 2 Article 21 of Circular No. 92/2015/TT-BTC

If the price stated in the contract is not conformable with the market price, the tax authority may impose a transfer price in accordance with legislation on tax administration.

## **5. OFFICIAL LETTER NO. 2978/CT-TTHT DATED 18 JAN 2019 REGARDING ISSUANCE OF INVOICES IN CASE A REPRESENTATIVE OFFICE CARRIES OUT LIQUIDATION SALES OF ASSETS**

According to Clause 3 Article 5 of Circular No. 219/2013/TT-BTC and Clause 1 Article 2 of Circular No. 78/2014/TT-BTC , a non-business organization shall be exempt from declaration and payment of value added tax (VAT) and Corporate Income Tax (CIT) on the sale of their assets.

Accordingly, in case a foreign representative office that does not perform business and production activities carries out liquidation sale of assets which serve the representative office's operation, it shall be exempt from declaring, paying VAT, CIT.

Tax offices shall not provide unbound invoices for the activity of liquidation sale of assets of the representative office (Clause 1 Article 13 of Circular No. 39/2014/TT-BTC).



# **S&S AUDITING AND CONSULTING COMPANY**

8<sup>th</sup> Floor, 41 Nguyen Thi Minh Khai Street, District 1, Ho Chi Minh City

Tel: 028-3910.4996 – 3910.4997

Email: [SAMUEL230@HANMAIL.NET](mailto:SAMUEL230@HANMAIL.NET)

Fax: 028-3910.4998

[SAMUEL230@SSAUDIT.COM](mailto:SAMUEL230@SSAUDIT.COM)

## **6. OFFICIAL LETTER NO. 1750/CT-TTHT DATED 14 JAN 2019 REGARDING OFFSHORE REMITTANCE OF PROFIT BY DEBT OFFSETTING**

According to this Official letter, Ha Noi Tax Dept guidance that in case a foreign investor transfers profits to a parent company in his home country in the form of 3 –party debt offsetting (the parent company will directly receive money transferred to by a third party in the foreign country that is owing the investor), this case **shall be accepted** if the conditions on transfer of profits at Circular No. 186/2010/TT-BTC are met.

However, upon transferring profits to the foreign investor's home country in the form of debt offsetting, the foreign investor still has to send the notification of offshore remittance of profits at least 7 working days before the profit remittance according to Article 5 of Circular No. 186/2010/TT-BTC.

## **7. OFFICIAL LETTER NO. 797/TCHQ-TXNK DATED 1 FEB 2019 ISSUED BY GENERAL DEPARTMENT OF CUSTOM ON DEFINE CUSTOMS VALUE**

Delivery order (DO) fee, Container Imbalance Charge (CIC) and container cleaning charges (referred to local charges), the General Department of Vietnam Customs assures that these charges shall not be added to value of imports upon calculation of duty.

If these charges have been included in import price but enterprises have documents to correctly determine payable charges, such charges shall be also subtracted from dutiable value. However, if enterprises do not have documents to correctly determine payable charges, such charges shall not be subtracted from dutiable value.

## **8. REMINDER: TAX FINALIZATION FOR YEAR 2018**

We, S&S Auditing and Consulting Firm kindly be reminded that Enterprises are required to finalise 2018 Corporate Income Tax returns and associated schedules/appendixes with the authorities by no later than 90 days after year end (**31 March 2019**, for those taxpayers with a standard 31 December 2018 year-ended).

Individual taxpayers should also ensure that their tax finalisation matters for 2018 are in hand.

Individual (resident) taxpayers, are required to finalise annual taxes within 90 days from year end (ie, 31 March 2019), where (generally):

- They have a tax liability to the state, or
- They wish to claim a refund or credit

Taxpayers can authorise their employers to finalise on their behalf where the taxpayer has had only one single source of employment income during the tax year.

Those individuals residing in Vietnam and in receipt of consulting (service) income should be aware of the need to self-finalise, as the withholding tax (usually 10%) withheld from payments is only a pre-payment of taxes and the actual taxes due for the year is based upon the progressive tax scale (from 5%-35%), with available personal and dependent deductions.