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S&S's Newsletter – JULY 2016

Dear our Readers,

Below are S&S's Newsletter for July 2016.

We trust that you will enjoy this edition and welcome any feedback or queries that may arise to our email address: 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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OFFICIAL LETTER NO.10315/BTC-TCT DATED 25/7/2016 ON VAT REFUND

According to the amendment in Clause 3 Article 1 of Law No. 106/2016/QH13, input VAT on goods sold and purchased in the country is only deducted and transferred for complete deduction rather than is refunded.

However, this provision has just taken effect from July 1st, 2016. As the result, in principles, it only applies to input VAT incurred **from July 2016 or Quarter 3/2016 onwards**. For input VAT which is incurred **before 1 July 2016** and met the provisions of Clause 1 Article 18 of Circular No. 219/2013/TT-BTC, it is still considered the refund.

Regarding interest on late payment, at Clause 3 Article 3 of Law No. 106/2016/QH13, the late payment interest rate is reduced from 0.05%/day to 0.03%/day. This provision also takes effect from July 1st, 2016. However, with regard to tax arrears incurred before July 1st, 2016 but have not been paid after July 1st, 2016, they are also eligible for applying the late payment interest rate of 0.03%/day from July 01st, 2016, even they are detected through examination, inspection.

DECREE NO.80/2016/NĐ-CP ON NON-CASH PAYMENT

This Decree is to amend, supplements to a number of provisions on payment intermediary services, non-cash payment instruments and subjects eligible for opening bank accounts.

Accordingly, this Decree allows commercial banks, branches of foreign banks to provide the payment intermediary services. However, these commercial banks, branches of foreign banks are only permitted to provide digital wallets.

With regard to non-cash payment instruments, just these instruments are accepted: cheque, payment order, payment authorization, collection order, collection authorization, bank card and other payment instruments as prescribed by the State Bank of Vietnam. The use of payment instruments other than the aforementioned ones is considered illegal payment.



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In addition, according to the amendments in this Decree, persons aged 15 to under 18 shall be allowed to open bank accounts (payment accounts), even if they do not have their own properties.

Legally incapacitated persons, limited legal capacity persons, person with limited recognition and behavior control may also open payment accounts via their guardians or legal representatives.

This Decree [takes effect from 1 July 2016](#).

OFFICIAL LETTER NO.44646/CT-HTr DATED 5/7/2016 GUIDANCE ON REFUND PIT

According to point a.5 Clause 2 Article 21 of Circular No. 92/2015/TT-BTC, in the case foreign experts are residents in Vietnam, when their labor contracts expire and they leave Vietnam for their home country, [they must make PIT REFUND](#). The foreign experts may either directly make the tax accounting before their departure or delegate the making of tax accounting to income payers or other organizations/individuals according to the Civil Code within 45 days as from the departure. However, if there is overpaid tax and the foreign experts wish the tax refund, they [must directly make the tax finalization rather than delegating the tax finalization](#).

In another case, if the foreign experts arrive in Vietnam for the first time and are present in Vietnam for more than 183 days in the first calendar year, they are considered the residents in Vietnam in such year.

If they are entitled to delegate the making of PIT accounting according to Article 21 of Circular No. 92/2015/TT-BTC, they may delegate the income payers to make the tax accounting on their behalf. Concurrently, if the tax is overpaid, they may also delegate the tax refund to the income payers (Article 28 of Circular No. 111/2013/TT-BTC).

If the foreign experts are present in Vietnam for fewer than 183 days in the first calendar year, but they are present in Vietnam for more than 183 days in 12 consecutive months from the first day of arrival in Vietnam, the determination of time for making the PIT accounting shall comply with Point a.5 Article 21 of Circular No. 92/2015/TT-BTC.

According to point e Clause 1 Article 10 of Circular No. 156/2013/TT-BTC, currency used for tax declaration in Vietnam is [Vietnam dong](#). Accordingly, when the foreign experts submit the application for PIT refund, they [must declare their personal accounts in Vietnam dong](#).



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CIRCULAR NO.95/2016/TT-BTC GUIDANCE ON TAX REGISTRATION

On 28 June 2016, the Ministry of Finance issued Circular No.95/2016/TT-BTC guidance on tax registration.

Similar with previous guidance, all tax payers (including individual, enterprise, contractor, government unit, ...) **have the same structure of Tax Code** (MST) with Form 10 or 13 numerals and for the enterprise, **enterprise code is also the Tax Code** (Article 4).

However, following new guidance at this Circular, besides tax payers arising tax duties, **the dependent person** also must obtain the Tax Code.

The issuing Tax Code for dependent person is the basic of deduction for family deduction for the tax payers who has income from salaries and wages.

If after that dependent person incurred the tax duty, his/her Tax Code will become the Tax Code for tax payment (Article 5).

In terms of Tax Code with 13 numerals, from now onwards only apply for Branch and Representative Office of the Company, in stead of issuing for business location, direct unit of the company which incurred tax duties (item 1 Article 5).

For the case of maintain Tax Code, besides the conversion form of company, selling company, the case of given to, inherit also maintain the Tax Code (Article 5).

According to this Circular, deadline for announcement the temporary stop operation or early operation increases from 05 days to 15 days (Article 21).

This Circular **takes into effectively from 12 Aug 2016** and replaced Circular 80/2012/TT-BTC dated 22 May 2012.

OFFICIAL LETTER NO.43272/CT- HTr ON FAMILY DEDUCTION FOR DEPENDENT PERSON

According to guidance at Circular No.111/2013/TT-BTC, individual is counted the deduction for dependent person from the month incurred the responsibility for take are that person.

Following that, If the employee of the Company has incurred the increment of number of dependent person is their child, the deduction is counted from the month incurred the responsibility for take care.

However, the documents for proven the increased of dependent person must submit within 03 months, **from the date of submission application for increase number of dependent person**.



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CIRCULAR NO.99/2016/TT-BTC DATED 29/6/2016 ON MANAGEMENT VAT REFUND

This Circular guidance the procedure for VAT refund at Tax Department, including reclassification the documents, define the amount of VAT refund and issuing the Decision for VAT refund.

Following that, having 07 cases listed under the form of checking first and refund later, detailed as:

1. Refund follow the International Memorandum, excluding application for refund of oversea logistic;
2. First time getting the refund;
3. Suggestion for refund in 02 years, since the period of penalty for tax evader;
4. Suggestion for refund of export products in 02 years, since the period of penalty for smuggling, trade fraud;
5. Object to submit the refund is the merge company, separate, liquidation, bankrupt, convertible the ownership, stop operation; handover, selling, renting of state owned enterprise;
6. Object to submit for refund is high risk object;

7. Application for refund first – checking later but don't submit the explanation, supplement the documents on time (within 10 days from the date of required).

This Circular takes into **effectively from 13 Aug 2016**, replaced Circular No.94/2010/TT-BTC, Decision No 2404/QĐ-BTC and Circular No. 150/2013/TT-BTC.

Should you have any query, please do not hesitate to contact with our company – S&S Auditing and Consulting Co., Ltd

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