

# Update new legal documents and important tax policies

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In this newsletter, Grant Thornton Vietnam would like to update our valued customers the relevant legal policies and guidelines in the field of compulsory insurance, foreign exchange management, and newly issued tax policies.

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# 1. Amended Social Insurance Law No. 41/2024/QH15 issued on June 29, 2024

The Social Insurance Law No. 41/2024/QH15, passed by the National Assembly on June 29, 2024, will take effect from July 1, 2025, replacing Law No. 58/2014/QH13 and Resolution No. 93/2015/QH13 dated June 22, 2015. The law includes several notable points as follows:

- i. Expanding subjects participating in compulsory social insurance
- ii. The minimum and maximum salary used as the basis for calculating mandatory social insurance contributions will be based on the 'reference level' instead of the current 'basic salary.'
- iii. The minimum contribution period to be eligible for a pension is reduced from 20 years to 15 years.
- iv. Adding maternity benefits to the group of benefits that voluntary social insurance participants enjoy
- v. Participants joining the social insurance from July 1, 2025 will not be allowed to withdraw their social insurance in a lump sum unless they meet specific conditions.
- vi. Regulations on social pension benefits guaranteed by the state budget are introduced, inheriting and developing parts of the current monthly social allowance for the elderly.
- vii. New regulations on management of social insurance collection and payment; clarify the connotation and handling of late payment and evasion behavior.
- viii. More specific regulations on the investment and management of the social insurance fund, including the approval and auditing of expenditure for the organization and operation of social insurance.
- ix. Simplifying administrative procedures on social insurance, electronic transactions in the field of social insurance and assessing people's satisfaction with the organization and implementation of social insurance policies and regimes.

The changes in the new Social Insurance Law aim to enhance social protection for a large segment of the workforce.

## 2. Circular No. 3305/VBHN-BLĐTĐBXH detailing the implementation of certain provisions of the Employment Law on Unemployment Insurance

On July 25, 2024, the Ministry of Labor, Invalids, and Social Affairs issued Circular No. 3305/VBHN-BLĐTĐBXH providing guidance on the implementation of Article 52 of the Employment Law and certain provisions of Decree No. 28/2015/ND-CP dated March 12, 2015, which details the implementation of certain provisions of the Employment Law on unemployment insurance. The circular has notable points as below:

- In cases where an employee has multiple labor contracts and is participating in unemployment insurance under the first effective contract, if this contract is terminated or modified leading to the employee no longer being required to participate in unemployment insurance, the employer of the subsequent labor contract must prepare and submit the unemployment insurance enrollment documents to the Social Insurance Organization within 30 days from the date of termination or modification of the aforementioned contract.
- For contracts concluded before January 1, 2015, where the employer had seasonal or fixed-term contracts ranging from 3 to less than 12 months with the employee, and these contracts were still in effect as of January 1, 2015, with at least 3 months remaining, the employer must provide unemployment insurance for the employee from January 1, 2015 onwards.

- For employees with unemployment insurance contributions exceeding 36 months but less than 144 months, the unutilized period for receiving unemployment benefits will be preserved. For employees with over 144 months of contributions, any unutilized period for receiving unemployment benefits will not be preserved. The preserved contribution period is recorded in the decision regarding unemployment benefits.
- If an employee fails to collect the benefits and does not notify the Social Insurance Authority in writing within 3 months from the expiration of their unemployment benefit entitlement, the insurance contribution period corresponding to the months of unclaimed benefits will be preserved.

This Circular retrospectively takes effect from September 15, 2015.

### 3. Circular No. 46/2024/TT-BTC amending and Supplementing Provisions on Electronic Transactions in the Tax Sector

On July 9, 2024, the Ministry of Finance issued Circular No. 46/2024/TT-BTC, providing guidance on electronic transactions in the tax sector as below:



The circular permits the use of Level 2 electronic identification accounts as a substitute for presenting ID cards, passports, or citizen identity cards for continuing the registration process and obtaining electronic tax transaction accounts.



The circular modifies the procedures for submitting documents and receiving results for taxpayers registering for electronic tax services directly with the tax authorities.



Amend and supplement the process of handling administrative violations in electronic tax transactions



This circular takes effect from August 28, 2024.

## 4. Official Letter No. 2327/TCT-CS on determining Corporate Income Tax (CIT) incentives for investment projects



On June 3, 2024, the General Department of Taxation issued Official Letter No. 2327/TCT-CS to address taxpayers' inquiries regarding the determination of corporate income tax (CIT) incentives for investment projects as below:

The CIT law has regulations on CIT incentives for new investment projects and expansion investment projects. In case an enterprise has an investment project and is granted an Investment Certificate, but this investment project inherits the assets, business location, business lines, and uses old machinery and equipment of the ongoing operational project to continue production and business activities, this project will not be considered a new investment project under tax law provisions.



## 5. Official Letter No. 2677/TCT-CS on invoices and payment documents via E-wallets

On June 3, 2024, the General Department of Taxation issued Official Letter No. 2677/TCT-CS regarding the conditions under which payments made via e-wallets are considered as bank payments. Specifically:

In case the company uses payment through an intermediary company licensed by the State Bank to provide payment services through e-wallets according to legal regulations on non-cash payment with the following form:

- The buyer transfers money from the buyer's bank account or payment application to the account of an intermediary partner, Smart Net Trading and Service Joint Stock Company, through the payment support service SmartPay which is an application on the device, smartphone,
- Smart Net Trading and Service Joint Stock Company transfers the entire amount received to the seller's account at ANZ Bank in accordance with the License to provide payment intermediary services licensed by the State Bank of Vietnam.

The above form of payment is determined to be eligible for payment via bank in declaring and deducting VAT according to the instructions in Clause 3, Article 15 of Circular No. 219/2013/TT-BTC.



## 6. Official Letter No. 3128/TCT-CS on income from capital transfer abroad

On June 3, 2024, the General Department of Taxation issued Official Letter No. 3128/TCT-CS to clarify inquiries about income from capital transfer abroad as below:



**Personal Income Tax (PIT):** In cases where non-resident individuals do not have taxable income as prescribed in the Law on Personal Income Tax arising within the territory of Vietnam, they are not subject to personal income tax for capital transfer activities in Japanese enterprises.



**Corporate Income Tax (CIT):** For investors who are entities transferring capital in a company established and operating in Japan, which indirectly owns 100% of the charter capital of a Vietnamese company, any income arising from such transfers is subject to CIT in Vietnam. The Vietnamese company is responsible for declaring and paying the CIT due on the foreign entity's capital transfer activities in accordance with regulations.



## 7. Official Letter No. 3219/TCT-CS of the General Department of Taxation and Official Letter No. 3206/CTBNI-TTHT of the Bac Ninh Provincial Tax Department regarding Corporate Income Tax (CIT) incentives for supporting industry products (1/2)

Corporate income tax (CIT) incentives for supporting industry products are guided as follows:

- *According to the guidance of the General Department of Taxation in Official Dispatch No. 3219/TCT-CS dated July 26, 2024*

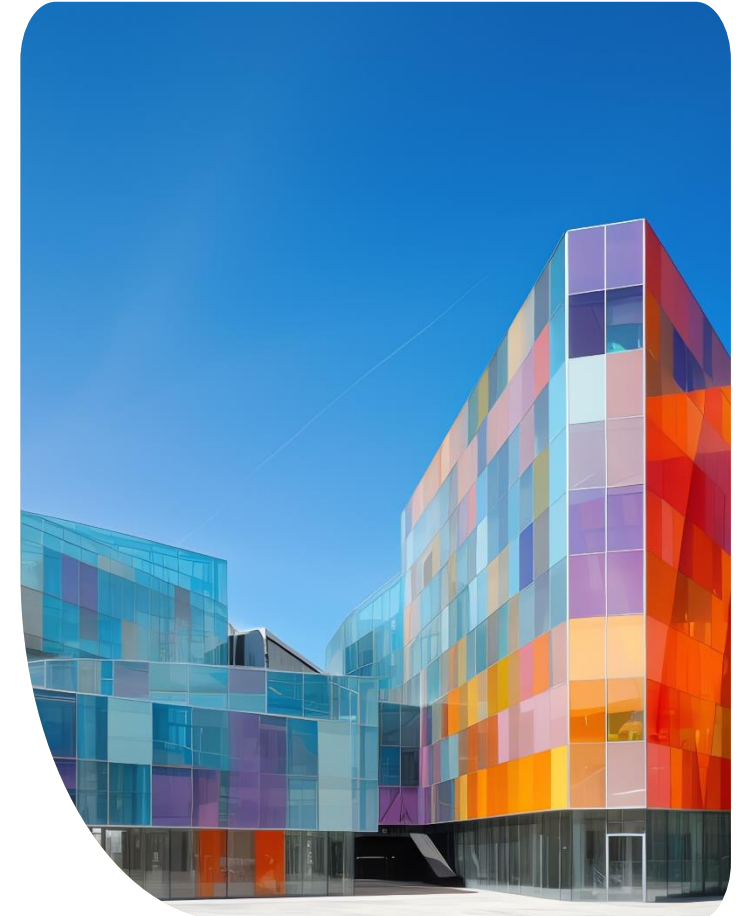
In the case where the Company's expansion investment project is enjoying incentives based on conditions other than those for supporting industry products, the expansion investment project will continue to enjoy CIT incentives under the conditions for producing supporting industry products for the remaining time from the tax period when the competent authority issued the Certificate of Incentives for Supporting Industry Production

- *According to the instructions of the Tax Department of Bac Ninh province in official dispatch 3206/CTBNI-TTHT dated June 18, 2024*

In case the Company has an investment project (including new investment projects and expansion investment projects) producing products on the List of priority supporting industrial products for development (SXSPCNHT). If the project meets the conditions of the supporting industrial products as prescribed in Law No. 71/2014/QH13 and is granted a Certificate of Incentives for supporting industrial products, it will be entitled to CIT incentives according to the conditions of the supporting industrial products for the remaining period from the tax period for which the Certificate of incentives for production of industrial products is issued. The remaining incentive period is determined according to the following principle:

### **Regarding preferential tax rates:**

- A preferential tax rate of 10% for a period of 15 years
- For new investment projects, the period of enjoying preferential tax rates is from the tax period for which the Certificate of preferential industrial product incentives is issued.



## 7. Official Letter No. 3219/TCT-CS of the General Department of Taxation and Official Letter No. 3206/CTBNI-TTHT of the Bac Ninh Provincial Tax Department regarding Corporate Income Tax (CIT) incentives for supporting industry products (2/2)

The remaining period of preferential tax rates is equal to the period of preferential tax rates according to the conditions of the project producing supporting industrial products minus the period of preferential tax rates already enjoyed under other preferential conditions.

- Expansion investment projects do not enjoy preferential tax rates.

### Regarding tax exemption and reduction periods:

- CIT exemption for 04 years and a 50% reduction of CIT payable for the next 09 years.
- The remaining tax exemption period is equal to the tax exemption period according to the conditions of the supporting production and processing industry project minus the tax exemption period already enjoying incentives according to other preferential conditions of each project (new investment project or expansion investment project).

The remaining tax reduction time is equal to the tax reduction time under the conditions of a project producing supporting industrial products minus the time already enjoying incentives under other preferential conditions of each project (new investment project or expansion investment project).

### Regarding income:

- At the same time, the Company enjoys many different levels of tax incentives for the same income, the Company chooses to enjoy the incentives according to the most favorable preferential conditions (manufacturing supporting industrial products). For the income generated from the Company's investment projects, income arising from products other than supporting industry products will not continue to enjoy CIT incentives under the conditions of new investment projects or expansion in the local industrial park.



# Contact

Please study the newly issued regulations and review the internal compliance procedures in order to comply with the regulations on customs tax as well as reduce errors in the process of filing and preparing documents that could lead to additional tax obligations or administrative penalty.

Please contact the experts of Grant Thornton Vietnam for in-depth advice if you have any inquiries during the implementation of tax and customs compliance.

Please visit our [Tax Hub](#) to view more information

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