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## **TAX BULLETIN NO. 01 November 2021**

### **1. PIT applied to gifts given by enterprises to their employees**

Currently, the guidance on PIT applied to gifts given to employees varies among provincial tax departments. Therefore, we need to pay attention when similar cases arise in our companies.

- In its Official Letter No. 34268/CTHN-TTHT dated 8<sup>th</sup> September 2021, Hanoi Tax Department instructs Sun Asterisk Vietnam Co., Ltd. as follows: In case the company uses gifts in kind for employees, which is not belonging to the incomes from receiving gifts specified in Para. 10, Article 2, Circular No. 111/2013/TT-BTC dated 15<sup>th</sup> August 2013 of the Ministry of Finance, they are not required to declare and pay PIT for these gifts.
- In Official Letter No. 4188/CT-TTHT dated 29<sup>th</sup> April 2020 sent to TMF Accounting Services Company, Ho Chi Minh City Tax Department provides instruction that: In case the Company gives gifts in kind to employees through prize drawing and to reward employee loyalty, the gifts are considered as other benefits that the employee is entitled to; therefore, they are included in the personal taxable income of the employee.

### **2. VAT on payments made on behalf of an entity overseas (Official letter No. 12492/CTBDU-TTHT dated 13<sup>th</sup> August 2021 of Binh Duong Tax Department)**

Remote Solution Vietnam Co., Ltd. makes payments of logistic services on behalf of an entity located outside Vietnam.

- If invoices are issued by the logistic service supplier to the entity overseas, upon receiving the payments are reimbursed by this entity, the Company is not required to issue VAT invoices, declare and pay VAT, but will prepare receipts instead.
- If invoices are issued by the supplier to the Company, upon receiving the reimbursement by the entity overseas, the Company shall issue VAT invoices, declare and pay VAT at the rate of 0% if the Company meets provisions as provided for in Para. 1 and 2, Article 9 and does not fall within Para. 3, Article 9, Circular No. 219/2015/TT-BTC dated 31<sup>st</sup> December 2015 of Ministry of Finance (being supplemented in Para. 2, Article 1, Circular No. 130/2016/TT-BTC dated 12<sup>th</sup> August 2016 of Ministry of Finance, otherwise VAT of 10% will be applied.

### **3. Guidance on preparation of a statement of the use and inventory of imported materials/supplies and exported goods in case of changing financial year (Official letter No. 4305/TCHQ-GSQL dated 6<sup>th</sup> September 2021 of General Department of Customs)**

According to provisions in Article 60, Circular No. 38/2015/TT-BTC, which was supplemented, amended in Clause 39, Article 1 of Circular No. 39/2018/TT-BTC dated 20<sup>th</sup> April 2018 of Ministry of Finance, and Article 103, Circular No. 200/2014/TT-BTC dated 22<sup>nd</sup>

February 2014 of Ministry of Finance, in case where T.A Industry Vietnam Co., Ltd. changes is fiscal year ending 31<sup>st</sup> December to 31<sup>st</sup> March, the Company has to prepare a separate statement of the use and inventory of imported materials/supplies and exported goods for the period from the day after ending day of the old financial year to the day before the starting day of the new financial year (i.e. from 1<sup>st</sup> January 2021 to 31<sup>st</sup> March 2021) and submit it to Custom Sub-department in charge of managing the Company.

**4. Taxes applied in case of dispatching expats to work in Vietnam (Official letter No. 3168/CTBNI-TTHT dated 6<sup>th</sup> September 2021 of Bac Ninh Tax Department)**

Phuc Son Technology One Member Limited liability Company (Phuc Son Company) signs an agreement with its Parent Company located in Japan under which the Parent Company dispatches its technical employees (expats) to work in Phuc Son Company from 21<sup>st</sup> May to 31<sup>st</sup> October 2021 as quality control technicians. According to this agreement, all the expenses for travelling, accommodation, foods, Covid-19 testing and other related costs incurred by expats are borne by Phuc Son Company and salaries and other benefits will be firstly paid by the Parent company to the expats, and then 50% these remuneration costs will be reimburse by Phuc Son Company to the Parent Company.

Upon the instruction of Bac Ninh Tax Department, this, in nature, is a technical support agreement between the Phuc Son Company and Parent Company, under which the Parent Company provides technical support to Phuc Son Company by dispatching expats to work at Phuc Son Company (the expats are still employees of Parent Company and do not sign labor contracts with Phuc Son Company). Therefore, Phuc Son Company's tax liabilities arising from this agreement are as follows:

- Foreign contractor tax: Phuc Son Company shall be responsible for filing and paying the foreign contractor tax on behalf of the Parent Company in accordance with provisions as provided for in Articles 11, 12 and 13 of Circular No. 103/2013/TT-BTC dated 6<sup>th</sup> August 2013 of Ministry of Finance.
- Corporate Income Tax: Phuc Son Company can claim for deduction of expenses in relating to the dispatched expats for CIT purpose provided that the Company has sufficient invoices and non-cash payment documents in accordance with Article 4, Circular No. 96/2015/TT-BTC dated 22<sup>nd</sup> June 2015 of Ministry of Finance.
- Personal Income Tax: Phuc Son Company is required to inform the Parent Company on PIT obligations of the expats and its own responsibility for providing expats' personal information including name, nationality, passport number, working period, and income to Phuc Son Company so that Phuc Son can provide this information to the tax authority before the 7<sup>th</sup> day from the date when the expats start working in Vietnam at the latest. At the same time, Phuc Son Company shall declare and pay PIT withheld on benefits paid to the expats.