



서우회계법인 베트남

SEOU VIETNAM ACCOUNTING COMPANY LIMITED

NEWSLETTER

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VAT REFUND FOR INVESTMENT PHRASE

Pursuant to current Value Added Tax (“VAT”) regulations, enterprises under investment phrase, having not been in operation and applying deduction method for VAT declaration, will be eligible for refund of input VAT yearly on goods and services used for investment activities if investment period lasts at least 1 year. Meanwhile, in case the accumulated VAT on services and goods purchased for investment activities is VND 300 million or more, VAT shall be refundable.

On 13 February 2019, the General Department of Taxation issued Official Letter No. 475/TCTCS providing specific guidance on this issue. Enterprises in the investment period with accumulated input VAT used for investment activities of VND 300 million or more are entitled to VAT refund, regardless of time of the investment period.

DEADLINE FOR VAT SUBMISSION AND REFUND FOR MACHINERY AND EQUIPMENT IMPORTED TO CREATE FIXED ASSETS FOR INVESTMENT PROJECTS

Previously in Circular 134/2014/TT-BTC, enterprises in investment phase or operating enterprise with new or expansion of projects were allowed to extend deadline for VAT payment (within 60 days after VAT deadline) and refund without payment of importation VAT of machinery and equipment to create assets for investment projects providing to meet certain conditions as follows:

1. the enterprise registers for deduction method to declare VAT; and
2. imported machinery and equipment with value from VND100b or more and output of investment project is subject to VAT).

However, Circular 18/2019/TT-BTC was issued in April 2019 to rescind Circular 134/2014/TT-BTC guiding the procedures to extend the deadline for VAT submission and refund in association with machinery and equipment imported to create fixed assets for investment projects. The Circular will be effective from 20 May 2019.

Before 20 May 2019, application for extension of VAT submission and VAT refund are still processed as regulated under Circular 134.

GUIDANCE ON VAT AND CIT WHEN BUYING HOUSE AS ACCOMODATION FOR EMPLOYEES

On 26th February 2019, Hanoi Tax Department has issued an Official Letter No. 7539/CT-TTHT about tax policy as regards the following case: A company buys an apartment (which the company has directly signed contract with the building investment owner, has legal VAT invoice and pays via bank) as accommodation for its employee.

Guidance of Hanoi Tax Department are as below:

1/ VAT

- For the input VAT of goods and services that form fixed assets as houses and medical stations for workers working in industrial parks, the total VAT is fully deducted.
- In case the company buys houses outside industrial parks for workers working in industrial parks, which comply with the law on the standards of houses designated for industrial park workers, the VAT of Buying houses for workers are fully deducted.

2/ CIT

Depreciation expenses of apartments for direct housing for employees at the Company in accordance with the regulations of the Ministry of Finance that are managed, monitored and accounted for in the accounting books of the company under the current regime of managing fixed assets and accounting are calculated into deductible expenses when determining CIT.

SOCIAL INSURANCE FOR FOREIGN EMPLOYEES

In 2018, Decree 143/2018/ND-CP was released to stipulate social insurance (“SI”) contribution for expats working in Vietnam. After months of implementing the insurance scheme, enterprises encounter difficulty in determination of foreign employees subject to SI scheme. On 18 Mar 2019, the Ministry of Labor, Invalids and Social Affairs issued Official Letter No. 1064/LDTBXH-BHXH to further clarify SI contribution requirement for foreigners. Accordingly, a foreign employee working in Vietnam subject to SI scheme must satisfy all of the following conditions:

- ✓ Possess either work permit, practicing certificate or practicing license granted by competent bodies in Vietnam.
- ✓ Possess indefinite term labour contract or definite term contract of at least 01 year with employers in Vietnam
- ✓ Have been under 60 years old for men and 55 years old for women
- ✓ Have not been an intra-corporate assignee

A foreign employee is qualified as an intra-corporate assignee if he/she is a manager/executive director/specialist/technician working at an overseas entity located outside Vietnam at least 12 months prior to being assigned to the overseas entity's commercial presence in Vietnam.

EXPENSES FOR FOREIGN EMPLOYEES WORKING IN VIETNAM WITHOUT WORK PERMIT

On 15 Feb 2019, Hanoi Tax Department issued Official Letter No. 6351/CT-TTHT with regard to expenses for foreign employees working in Vietnam without work permits. Accordingly, if a company employs expats working in Vietnam without work permits, all expenses and value added tax related to these employees are ineligible for being deductible expense and creditable VAT respectively.

*The above information is for reference only, not specific consulting advice.
For more detailed guidance, please do not hesitate to contact our Office.*

SEOU VIETNAM ACCOUNTING COMPANY LIMITED

Hanoi Head office: 10th floor, Charmvit Tower, No. 117 Tran Duy Hung, Trung Hoa Ward, Cau Giay District, Hanoi

Tel: (+84) 24 3776 7049/50

Saigon branch: 3F CF Building 2Bis-4-6 Le Than Ton, Ben Nghe Ward, District 1, Ho Chi Minh City