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The background image shows a shipping terminal with numerous stacked shipping containers in various colors (white, red, blue). A large yellow chevron shape is overlaid on the left side of the image, containing the text 'Tax Update'. In the background, a blue structure with the words 'NER TERMINAL' in yellow is visible.

# Tax Update

**This issue of our report covers updates in relation to:**

- ▶ **Foreign Contractor Tax (FCT) in respect of bank remittance service fees;**
- ▶ **Exporters' ability to claim a Value Added Tax (VAT) refund with respect to imported goods;**
- ▶ **VAT refund where a tax payer has outstanding input VAT for 12 consecutive months before July 2016 or Quarter 3/ 2016;**
- ▶ **VAT on transportation subsidy;**
- ▶ **License Tax on Representative Offices (ROs); and**
- ▶ **Deductibility of expenses paid by employees' credit cards.**

**Official Letter 695/NHNN-PC (OL 695) dated 9 February 2017 and Official Letter 209/TCT-DNL (OL 209) dated 17 January 2017 regarding FCT for remittance service fees generated from transactions performed in Vietnam banks**

Under OL 695, the State Bank of Vietnam (SBV) agrees with the General Department of Taxation (GDT)'s view that remittance service fees earned by overseas banks is not subject to FCT given its nature is similar to training services, sharing telecommunication, and postal services with overseas parties. Three types of outbound monetary transfer fees are specifically mentioned in this OL:

- OUR fee: the senders in Vietnam are fully responsible for all remittance fees incurred in Vietnam and overseas;
- SHARE fee: the senders in Vietnam are responsible for remittance fees incurred in Vietnam, the overseas receivers are responsible for the remaining bank charges of the overseas bank; and
- BEN fee: the senders in Vietnam do not pay any fee, the overseas receivers are fully responsible for all transfer charges upon receiving payment.

It is confirmed that none of these fees are subject to FCT.

**Official Letter 379/TCT-CS (OL 379) dated 7 February 2017 regarding disallowing exporters applying a VAT refund for its input VAT relating to imported goods even when they are locally purchased**

The GDT issued OL 379 to clarify that exporters are not eligible for a VAT refund in relation to imported goods even when they are locally purchased.

Exporters should carefully review the list of imported goods before submitting the VAT refund dossier to the authorities in order to mitigate risk of reducing the requested VAT refund amount or rejection the VAT refund dossier by the local tax authorities.

**Official Letter 373/TCT-KK (OL 373) dated 6 February 2017 on VAT refund of enterprises having outstanding input VAT for 12 consecutive months before July 2016 or Quarter 3/ 2016 tax period**

From 1 July 2016, VAT refund of enterprises having outstanding input VAT for 12 consecutive months is no longer applicable under Law 106/2016/QH13. However, OL 373 issued by the GDT clarifies the concern that enterprises under the same above circumstances still qualify for apply VAT refund dossiers when having outstanding input VAT incurred before July 2016 or Quarter 3/ 2016 tax period.

The OL states the following comments:

- Enterprises need to declare the requested VAT refund amount in VAT returns of June or 2<sup>nd</sup> Quarter of 2016 tax period and not to offset the outstanding input VAT with the VAT payable in the subsequent periods;
- Tax authorities shall carry out inspection before refund for application dossiers categorized as high risk according to VAT regulations.

**Official Letter No. 208/TCT-DNL (OL 208) dated 17 January 2017 on the VAT treatment of transportation subsidy**

OL 208 states that agents are required to issue VAT invoices and declare output VAT on support activity transportation subsidies received from the principal given the subsidy has attached conditions and is subject to VAT.

The views of the local tax authorities on this matter are varied. We therefore suggest enterprises which incur many transactions similar with the above subsidy to discuss the VAT treatment with their local tax authority and request agents to issue VAT invoices (if necessary) in order to mitigate risk of non-deductible Corporate Income Tax (CIT) expenses and non-creditable input VAT credits.

**Official Letter No. 1200/BTC-TCT (OL 1200) dated 24 January 2017 and Official Letter 15865/BTC-CST (OL 15865) dated 7 November 2016 on license tax of ROs**

The Ministry of Finance (MOF) issued OL 15865 stating that ROs not conducting business activities are not subject to license tax.

Later on, the MOF issued OL 1200 with clearer guidance that the RO is not subject to license tax if its activities are within the licensed scope (e.g. market research, liaison, and promotional sales activities of its head office).

From the above, it is understood that a RO with its activities in compliance with the regulations is not required to pay license tax.

**Official Letter No. 5465/TCT-KK (OL 5465) dated 25 November 2016 on VAT and CIT relating to the purchase of goods and services settled by employee's personal credit card**

OL 5465 states that payments of goods and services relating to an enterprise's business activities and paid with an employee's personal credit card qualify as CIT deductible expenses and VAT creditable inputs if the following documents are available:

1. The Company's policy stating the payment method or decision to authorize employees settling payments;
2. Sufficient supporting documents to prove the business purpose of the goods or services. Invoices with the company's name and tax code are required;
3. Authorized letters issued by the company allowing the employees to settle payments to suppliers then get reimbursed later; and
4. Payment vouchers from the employee's personal bank to suppliers and proof of money transferring from the company's bank account to its employee's bank account in which the company's bank account is registered with the local tax authority.

Additionally, the list of bank account of the authorized employees should be available to be provided to the tax authority where requested.

## Contact

For more information on this update or our Tax & Advisory Services of Ernst & Young Vietnam Limited please contact our professionals from Ernst & Young Vietnam Limited as the below list:

### Hà Nội office

**Huong Vu** Partner  
huong.vu@vn.ey.com

**Trang Pham** Partner  
trang.pham@vn.ey.com

### Japanese Business Service

**Junichi Harada** Manager  
junichi.harada@vn.ey.com

### Korean Business Service

**Kyung Hoon Han** Manager  
kyung.hoon.han@vn.ey.com

### Hồ Chí Minh office

**Robert King** Partner  
robert.m.king@vn.ey.com

**Thinh Xuan Than** Partner  
thinh.xuan.than@vn.ey.com

**Phat Tan Nguyen** Partner  
phat.tan.nguyen@vn.ey.com

### Japanese Business Service

**Takahisa Onose** Partner  
takahisa.onose@vn.ey.com

### Korean Business Service

**Kyoung Bae Han** Director  
kyoung.bae.han@vn.ey.com

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