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## I. VALUE ADDED TAX

### **Official Letter No. 12247 / BTC-CST dated October 05th, 2018 of the Ministry of Finance on VAT refund regarding using imported raw material to manufacture or process exported goods.**

In accordance with Clause 6, Article 1 of Decree No. 100/2016 / ND-CP of July 01, 2016, for the period from July 01th, 2016 to February 01th, 2018, the goods which are imported then exported is subject not to be refunded VAT.

In accordance with this Official Letter, the Ministry of Finance states that imported raw material used to manufacture or process exported goods can be applied VAT refund because such raw material is converted to other distinct at time of exporting, not be kept as original one.

In addition, following the Clause 20, Article 5 on the VAT Law No. 13/2008/QH12, imported raw material used to manufacture or process exported goods are not subject to VAT. Therefore, if the Company paid such VAT when importing, it can be treated as overpayment and the Company can request Custom Department to refund such amount in accordance with Clause 64, Article 1 of Circular No. 39/2018 / TT-BTC.

*(This Official Letter clarifies Point 3 of Official Letter No. 16836 / BTC-TCHQ which was previously instructed by Ministry of Finance:*

*3. For export declarations arising from 01<sup>st</sup> July 2016, the VAT treatment for goods which are imported then exported (including imported material used to manufacture exported goods) is implemented in compliance with the the supplementary Law, the Law on Value Added Tax, the Law on Special Consumption Tax and Law on Tax Administration No. 106/2016 / QH13, Decree No. 100/2016 / ND-CP dated 01<sup>st</sup> July 2016 of the Government, Circular No. 130/2016 / TT-BTC dated 12 August 2016 of the Ministry of Finance and guiding documents on amendments and supplements.)*

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## II. PERSONAL INCOME TAX

### **Official Letter No. 3545/TCT-TNCN dated September 20th, 2018 of General Tax Department on the expenses related to get work permit**

In case the enterprise recruited foreigner employee and incurs expenses related to get work permit such as health checking, color photograph, consular legalization, etc. which are pursuant to the provisions of Article 10, Decree 11/2016 / ND-CP on labor permit dossiers, the payment for such expenses is the responsibility of enterprise, it is not benefits of employee and the tax treatment should be as following:

- About PIT: it is excluded in taxable income
- About CIT: it is deductible expenses if it satisfies the conditions under CIT regulation.



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### III. FOREIGN CONTRACTOR TAX

#### **Official letter No. 13409/CT-TTHT dated April 02nd, 2018 of Hanoi Tax Department about FCT policy**

If the Company signs the main contract that the value of machinery and equipment is separated from the value of transportation, installation and warranty service, etc. and the contract price is NET basis, the Company has to convert to GROSS price for calculating FCT purpose and the tax rate of FCT is determined as follows:

- + For specialized machinery, equipment and spare parts: 1% CIT, and no VAT because it is paid once at the Customs at the time of importing.
- + For transportation services: 2% CIT and 3% VAT.
- + For construction and installation services: 2% CIT and 5% VAT (if the price excluded raw materials, machinery and equipment) or 3% of VAT (if the price included raw materials, machinery and equipment).
- + For construction design, testing, trial operation, training, warranty, bid package management and other services: 5% CIT and 5% VAT.

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### IV. OTHERS

#### **Decree No. 143/2018/ND-CP on compulsory social insurance for foreigners**

On October 15<sup>th</sup>, 2018, Vietnamese Government hereby promulgates the Decree elaborating on Law on Social Insurance and Law on Occupational Safety and Hygiene regarding compulsory social insurance for foreign employees who are working in Vietnam.

##### **I. Subjects of application**

Under Clause 1, Article 2 of this Decree, foreign employees who are working in Vietnam shall be subject to compulsory social insurance if they work in Vietnam under work permits, practicing certificates, practicing licenses which issued by Vietnamese Authorities and sign permanent labor contract or 1 year labor contract with employer.

But above employee shall be not subject to compulsory social insurance only if at least on of below conditions is satisfied:

- + They are foreign worker who are internally reassigned as stipulated in clause 1 Article 3 of the Government's Decree No. 11/2016/ND-CP

*(Foreign workers internally reassigned in the company are the managers, chief executive officers, experts and technicians of a foreign enterprise which has established a commercial presence in Vietnam, are temporarily reassigned to its commercial presence in Vietnam and have been employed by the foreign enterprise for at least 12 months.)*

- + They reach retirement age under clause 1 Article 187 of the Labor Code.



## II. Social Insurance contribution rates

### 1. The period from 01 Dec 2018 to 31 Dec 2021

+ For employee: No have to pay.

+ For employer: 3.5% of the monthly salary (Included: 3% paid into the sickness and 0.5% paid into the occupational accident and disease benefit fund)

### 2. The period from 01 Jan 2022 onward

+ For employee: 8% of the monthly salary into the retirement and death benefit fund.

+ For employer: 17.5% of the monthly salary (Included: 3% paid into the sickness and parental insurance benefit fund, 0.5% paid into the occupational accident and disease benefit fund and 14% of the abovementioned payroll paid into the retirement and death insurance benefit fund)

This Decree will take effect on December 01st, 2018. Particularly for the retirement and death insurance benefit provided for in Articles 9 and 10 of this Decree, including the payment of 22% of the retirement and insurance benefit fund (of which the employer pays 14% and the employee pays 8%) will take effect from January 01st, 2022.

## **Decree No. 148/2018/ND-CP dated October 24th, 2018 of Government about amendments to some articles of Decree no. 05/2015/ND-CP dated January 12th, 2015 of Government on elaboration of some contents of the Labor Code.**

Accordingly, the seniority to calculate severance allowance previously (if any) will no longer be used to calculate job loss allowance. In addition, for the severance allowance, the following periods of time will no longer be eligible for severance allowances: probationary, apprenticeship period; the temporary detention period, even if then be concluded innocent.

However, there are some new periods of time that will be calculated for severance allowances, such as: time-off for treatment, rehabilitation after occupational accidents; time-off to fulfill obligations citizens and be paid salary.

This Decree takes effect from **December 15th, 2018**.

If the labor contract is terminated before the effective date of this Decree and the Company have not yet paid severance and job loss allowance to employees, the work period for calculating severance and job loss allowance shall be determined according to current legislative documents when terminating the employment contract.

If the labor contract is signed before the effective date of Labor Code in 2012 and includes the probation period, the work period for calculating severance and job loss allowance shall include the probation period specified in the labor contract.



## Abbreviation

CIT	Corporate Income Tax	JVC	Joint Venture Company
PIT	Personal Income Tax	Ltd.	Limited
VAT	Value Added Tax	PC	People's Committee
FCT	Foreign Contractor Tax	MOF	Ministry of Finance
FA	Fixed Asset	MOIT	Ministry of Industry and Trade
GDT	General Department of Taxation	MOLISA	Ministry of Labor, Invalid and Social affairs
EPE	Export Processing Exporting Company	DPI	Department of Planning and Investment
EPZ	Export Processing Zone	OL	Official Letter
UAL	Usage of Agricultural Land	SBV	The State Bank of Vietnam
IZ	Industrial Zone	FC	Foreign Contractor
SB	State Budget	SI	Social Insurance
SI	Social Insurance	UI	Unemployed Insurance



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