In this Issue

Official Letter 4064/BHXH-THU dated 17 December 2014 on significant changes of Employment Law and Health Insurance Law, effective since 1 January 2015

The National Assembly has approved the new Law on Social, Health and Employment. Pending the Decree and Circular providing detailed guidance on the new Laws, on 17 December 2014 the Ho Chi Minh City Social Security authority (HCMC SS) issued Official Letter No. 4064/BHXH-THU (OL 4064) to provide detailed guidelines on the implementation of the new Laws.

Law on Social Insurance No. 58/2014/QH13 dated 20 November 2014

On 20 November 2014, the National Assembly has passed the Law on Social Insurance which will take effect from 1 January 2016. This Law broadens application scope of compulsory social insurance and makes some significant changes with respect to employee’s benefits.

Official Letter No. 17862/BTC-TCT dated 9 December 2014 (OL 17862) on Foreign Contractor Tax (FCT) exemption on reimbursement of employment cost to overseas companies

The OL 17862 confirms that the reimbursement of employment cost of assignees working in Vietnam made to overseas company shall be FCT exempted if the conditions stated therein are met.

Official Letter No. 5722/TCT-CS dated 19 December 2014 (OL 5722) on FCT to goods sold at bonded warehouse

Pursuant to OL 5722, direct sale of goods via bonded warehouse to a Vietnamese company, even if the company is located in the non-tariff zone, is considered as distribution activities within Vietnam and subject to FCT.

Official Letter No. 5806/TCT-CS dated 24 December 2014 (OL 5806) on bank payment vouchers for VAT refund purposes

Bank payment vouchers lacking of information required by respective State bank’s regulations shall not be eligible for VAT creditability or VAT refund, as guided in the OL 5806.

Official Letter No. 206/BCT-TCT dated 7 January 2015 (OL 206) on tax incentives applicable to income generated during extended project life

According to OL 206, income generated during project period which is extended from that stated in the initial Investment Certificate shall not be entitled to preferential tax rate.
Official Letter 4064/BHXH-THU dated 17 December 2014 on significant changes of Employment Law and Health Insurance Law, effective since 1 January 2015

In accordance with this OL, there are notable changes on the Social, Health and Employment Law which will be applied from 1 January 2015, as below:

Scope of application:

► From 1/1/2015, employees working under labor contracts with the term of 3 months or more are subject to Social Insurance, Health Insurance and Unemployment Insurance. Therefore, even enterprises employ only one person must now contribute unemployment insurance for the employee.

Contribution rates:

► The total contribution rate is 32.5%, of which 22% is contributed by the employer and 10.5% is contributed by the employee. The detailed rate for each type of insurance is illustrated as below:

<table>
<thead>
<tr>
<th></th>
<th>Social Insurance</th>
<th>Health Insurance</th>
<th>Unemployment Insurance</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee</td>
<td>8%</td>
<td>1.5%</td>
<td>1%</td>
<td>10.5%</td>
</tr>
<tr>
<td>Employer</td>
<td>18%</td>
<td>3%</td>
<td>1%</td>
<td>22%</td>
</tr>
<tr>
<td>Total</td>
<td>26%</td>
<td>4.5%</td>
<td>2%</td>
<td>32.5%</td>
</tr>
</tbody>
</table>

Base salary for contribution:

► For Social and Health Insurance, the base salary to calculate the contribution is the actual contractual salary indicated in the labor contract but capped at 20 times of the common minimum salary.

► For Unemployment Insurance, the base salary to calculate the contribution is the actual contractual salary indicated in the labor contract but capped at 20 times of the minimum regional salary. The current minimum regional salary is ranging from VND2.15 million to VND3.1 million, applied differently for each region.

Other notes:

► Employees assigned to work/study overseas are not required to contribute Health Insurance during this period. However, such period is included in the health insurance period until his/her work resumption.

► The calculation of unemployment benefit will be as below:
   ► 03 months of benefit for contribution period from 12 months to 36 months, calculated at 60% of the average salary for the last 6 months of contribution but capped at 5 times of the region minimum salary;
   ► 1 more month for each additional year of contribution after 36 months;
► Maximum benefit: not exceeding 12 months.

► Employees on the maternity leave are still entitled to the Health Insurance benefit. The contribution rate is 4.5% of the monthly salary of the month before the maternity leave, which will be contributed by the social insurance fund.

► Employees on sick leave from 14 days within a month or currently receiving unemployment benefit are not required to contribute the Health Insurance but still enjoy the Health Insurance benefit.

**Law on Social Insurance No. 58/2014/QH13 dated 20 November 2014**

On 20 November 2014, the National Assembly passed the Law on Social Insurance which will take effect from 1 January 2016. Below are some important provisions:

► Seasonal employees with labor contracts between 1 to 3 months are required to contribute the compulsory Social Insurance;

► From 1 January 2018, expatriate employees with Work Permit or the service license in Vietnam are required to contribute the compulsory Social Insurance. However, there has been no specific guidance yet on how to contribute and how to receive the benefit for the expatriate employees;

► There are changes in calculating the monthly retirement allowance effective from 1 January 2018, especially longer contribution period is required to enjoy the maximum rate of the monthly retirement allowance as compared to the current regulations.

**Official Letter No. 17862/BTC-TCT dated 9 December 2014 (CV 17862) on Foreign Contractor Tax (FCT) exemption on reimbursement of employment cost to overseas companies**

Reimbursement to overseas company for employment cost of assignees working in Vietnam shall be FCT exempted provided that:

► The overseas company only make the payment on behalf of Vietnamese company;

► The reimbursement is made on a dollar-for-dollar basis;

► Vietnamese Personal Income Tax (PIT) of those assignees are fully calculated and paid on the reimbursed amount.

The above guidance clarifies the General Department of Tax (GDT)’s point of view on employment cost reimbursement to overseas company which was usually interpreted as payment for management services for FCT by local tax authorities.
Official Letter No. 5722/TCT-CS dated 19 December 2014 (CV 5722) on FCT to goods sold at bonded warehouse

Pursuant to OL 5722, direct sale of goods via bonded warehouse to a Vietnamese company, even if the company is located in the non-tariff zone, is considered as distribution activities within Vietnamese territory and subject to FCT.

The OL confirms the FCT position of sale via bonded warehouse on the basis that bonded warehouse and non-tariff zones are still considered as Vietnamese territory for FCT purpose.

Official Letter No. 5806/TCT-CS dated 24 December 2014 (OL 5806) on via bank payment vouchers for eligibility of creditable VAT and VAT refund

According to OL 5806, bank payment vouchers missing one of the below information shall not be eligible for VAT credit and VAT refund:

► Name, number order of payment vouchers;
► Date of payment vouchers;
► Information of transferor: name, address, ID number/Passport number, account number, name and address of transferor's bank;
► Information of beneficiary: name, address, ID number/Passport number, account number, name and address of beneficiary bank;
► Detailed transaction information;
► Signature of payment voucher maker and approver.

The above guidance may have some negative impacts on enterprises using internet banking services where presentation of all above information is hardly possible.

Official Letter No. 206/BCT-TCT dated 7 January 2015 (OL 206) on tax incentives applicable to income generated during extended project life

Under OL 206, preferential tax rate during investment period is only applicable within the period licensed in the initial Investment Certificate. Hence, income of investment projects generated after such period shall not be subject to the preferential tax rate.

The treatment in this OL is consistent with some recent guidance from local tax authorities.
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