

# **Newsletter Nr. 103 (EN)**

## **Recent Developments in Vietnamese Personal Income Tax Law**

September 2009

## Recent Developments in Vietnamese Personal Income Tax Law

A deep breath many expatriates can take now, who are subject to personal income tax in Vietnam.

Substantial disadvantageous changes concerning the determination of earned income that were planned for the beginning of the year 2009 have been cancelled in the meantime. Circular 62<sup>1</sup> issued by the Ministry of Finance (MOF) dated 2009 which contained certain guidelines for the application of the Personal Income Tax Law<sup>2</sup>, annuls some of the tightening contained in Circular 84<sup>3</sup>, which was published in 2008. However, some less favourable rules for the tax payer remain.

### 1. Determination of Income Subject to Tax

Out of the earned income, the following income components remain tax free:

- One-off relocation allowance for expatriates arriving in Vietnam (amount per labour contract);
- Air fare for one round-trip home leave for employee only (not for family members);
- Mid-shift meal allowances in accordance with limits set by Ministry of Labour, War Invalids and Social Welfare;
- School fees for children of expatriate employees (not including costs for tertiary education) paid by the employer;
- Housing allowance that exceeds 15% of total taxable income (without housing allowance). Where the monthly income is 6,000.00 EUR, the taxable allowance is 900.00 EUR, any allowances exceeding this amount, are tax free;
- Mandatory employer's share to social security contributions
- Corporate / group club or recreation memberships for "collective use";

<sup>1</sup> Circular 62/2009/TT-BTC vom 27. März 2009

<sup>2</sup> Law on Personal Income Tax vom 21. November 2007

<sup>3</sup> Circular 84/2008/TT-BTC vom 30. September 2008

- Collective transportation to or from work, where a car is used that is not particularly allocated to the employee or to a certain group of employees.
- Per diem (regulated amounts);
- Training expenses for knowledge and improvement of skills;
- Overtime and night shift compensation.

It is of importance, that all components borne by the employer must be agreed upon in the employment contract, otherwise the tax free rule lapses.

## 2. Tax Rates

### *a) Earned income*

The tax rates for *resident* tax payers graduated range from 5% to 35% according to the income earned, where the top rate of 35% already is due for an income above 3,600.00 EUR monthly approximately.

Where the tax payer is a *non-resident*, the income is subject to a flat tax rate of 20%.

### *b) Taxation of other income*

Dividends, interest and licence fees now are taxed with 5% flat, regardless, whether the tax payer is a *resident* or a *non-resident*.

Furthermore, capital gains are being taxed. Assessment basis is the difference between the sales price and the acquisition costs. Capital gains on real property are taxed at 25% and on securities and company investments at 20% plus a further tax of 0.1% of the sales price. Where the acquisition costs of real estate or securities and company investments cannot be determined, the sales price is taxed at a flat tax of 2%. *Non-residents* only pay the 0.1% on the sales price of securities and investments and a 2% tax on the sale price of real estate.

*Non-residents* also have to pay tax on business profits, which is 1% on the sale of goods, 5% on services and 2% on production, building and transport.

### **3. Tax at Source**

Circular 62 also determines further details of the tax assessment. Not only the employer has the obligation to withhold and pay the income tax of the employee to the revenue service. Also the customer of a service provider (including real estate brokers, agents), who pays a fee of more than around 20.00 EUR need to withhold and pay a tax at source at a rate of 10% of the agreed fee. This tax rate is applicable if the recipient of the payment possesses a tax identification number. For a provider without such tax identification number the tax at source is 20%.

### **4. Résumé**

The recently published new regulations result in a noticeable reduction of the tax rate, on the other hand however in a broadening of the tax assessment base and in taxation of certain income that has been tax free before, particularly income of capital. Furthermore the tax at source needs to be observed.

The intended taxing of additional payments from the employer to the employee has been revoked. However, it is recommended to have employment contracts reviewed for tax optimization purposes. For the clearing of a service provider contract, it needs to be determined, whether tax at source has to be withheld and paid to the revenue service.

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**5. Summary review**

<b>Tax rates</b>	<b>Tax free income</b>
<b>Residents:</b> Graduated tax of 5% – 35%	one-off relocation allowance for expatriates arriving in Vietnam;  It is of importance, that all components borne by the employer must be agreed upon in the employment contract, otherwise the tax free rule lapses.
<b>Non-Residents:</b> Flat rate of 20%	air fare for one round-trip home leave for employee
	mid-shift meal allowances in accordance with limits set by Ministry of Labour, War Invalids and Social Welfare
	school fees for children of expatriate employees
	Mandatory employer's share to social security contributions
	housing allowance that exceeds 15% of total taxable income
	collective transportation to or from work
	corporate / group club or recreation memberships for "collective use"
	per diem (regulated amounts)
	training expenses for knowledge and improvement of skills
	overtime and night shift compensation

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*We hope that the information provided in this brochure was helpful for you. If you have any further questions please do not hesitate to contact us.*

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