

Tax Alert

VIETNAM

February 2010

More Guidance on 2009 Corporate Income Tax (CIT) Finalisation

As expected, the GDT has issued more guidance on 2009 CIT finalisation, per Official Letter No. 353/TCT-CS dated 29 January 2010. Below are key points:

Confirmed:

- Other income is not entitled to CIT incentive and subject to tax at the standard rate of 25%. Other income includes foreign exchange gains, interest income from deposits, reversing of provisions, receipt of subsidies, etc
- Of note, where a business has loss from incentive activities and income from activities without tax incentives or vice versa, it will be allowed to offset income against loss among different activities. The CIT payable will be calculated based on the tax rate of the remaining income after offsetting
- Compensation for violation of economic contracts are tax deductible costs, subject to usual supporting document requirements
- Both realised and unrealised foreign exchange losses for accounts payable will be tax deductible pursuant to the provisions of Circular 177/2009/TT-BTC
- OL 353 also reiterates tax treatment for textile businesses, export oriented businesses and tax incentives under the 2009 economic stimulus program. These matters have been reported in various KPMG newsletters issued in 2009.

Clarification needed:

- Per OL353, school fees for an employee's children paid by the company are not allowed as tax deductible, even though such payments are mentioned in the labour contract. The guidance does not distinguish local and expatriate employees, nor does it elaborate the level of schooling of the children. Further practical guidance in this respect is needed
- OL 353 allows certain pre-determined and accrual expenses to be tax deductible under the revenue-expense matching principle. However, the OL requires that such expenses be supported by legitimate invoices and supporting documents, while pre-determined expenses and accruals are usually undocumented items by nature. It is therefore not clear what are the exact requirements of legitimate supporting documents
- OL 353 also provides that failure to meet any one of the incentive conditions, a business shall pay tax at 25%. The OL does not state what if the business satisfies conditions for lesser tax incentives

Please contact your usual KPMG tax advisors should you have any questions on the above.

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