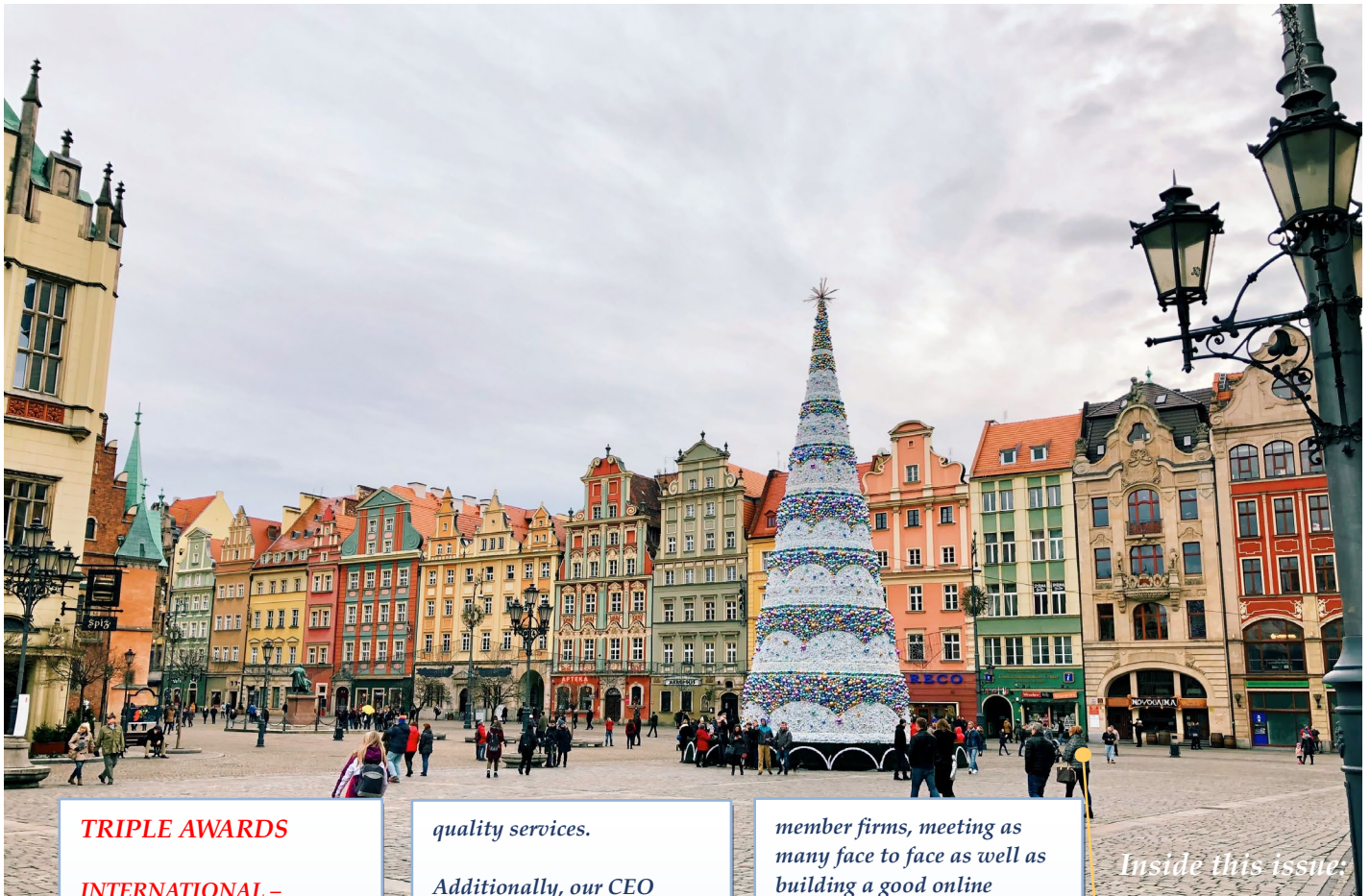




Russell Bedford
taking you further

APAC News

31 December 2019
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TRIPLE AWARDS

INTERNATIONAL – AWARDS x 2

Russell Bedford International was awarded the title of Network of the Year at the 2019 International Accounting Bulletin Awards ceremony held in London in October 2019. In winning the award, we have demonstrated the successful execution of growth strategies and the building of a reputation brand of consistent high-

quality services.

Additionally, our CEO Stephen Hamlet took the award of Personality of the Year, in recognition of his leadership and contribution to the profession. In relation to Stephen's award, the judges' comments included "the winner has developed a strong presence within the industry over the last year and has worked tirelessly to build the brand and profile of the network...He also took a special interest in appealing to younger people in its

member firms, meeting as many face to face as well as building a good online presence."



BUSINESS EMINENCE AWARDS 2020

Meanwhile, the Singapore firm, Steven Tan Russell Bedford PAC, was conferred the

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Business Eminence Awards 2020 by Dun & Bradstreet Singapore. The award recognizes the firm's efforts and commitment to client service and business excellence.

Dun & Bradstreet Singapore's Business Eminence Awards is an initiative to celebrate

Singapore's vibrant tradition of entrepreneurship and showcase the achievements of small and medium enterprises that have been critical in shaping the business landscape in Singapore.

It also aims to raise the

regional and international profile of promising Singapore companies which have displayed exemplary business excellence.



CHINA

CHINA'S FIRST EVER IIT ANNUAL FILING TO COME



The new Individual Income Tax Law ("the IIT Law") published in 2018 marks a key step of China's IIT reform: the transformation from classified tax system to comprehensive tax system. The comprehensive income currently includes income from wages and salaries, labor remuneration, remuneration for contributions, and royalties. Related comprehensive income IIT annual filing requirements are also introduced by the IIT Law. Effective from 1 January 2019, China resident individuals should perform an annual reconciliation filing between 1 March and 30 June following the end of the respective tax year, if certain conditions are met.

On 14 December 2019, the Ministry of Finance and the State Taxation Administration jointly released "Announcement on Relevant Policy Issues

Concerning the Comprehensive Income IIT Annual Filing" ("the Announcement"). According to the Announcement, for the comprehensive income obtained by individual residents during years from 1 January 2019 to 31 December 2020, if the annual comprehensive income is not more than RMB 120,000 Yuan and it is necessary to settle and pay additional tax, or the annual settlement and payment amount of the additional tax is not more than RMB 400 Yuan, individual residents are exempt from the annual reconciliation filing.

At the same time, the State Taxation Administration is soliciting opinions on issues concerning 2019 comprehensive income IIT annual filing. According to their public notice, individual residents are also exempt from the annual reconciliation filing if the taxpayer's prepaid tax

amount is consistent with the annual tax payable or the taxpayer does not apply for the annual final tax refund. The taxpayer needs to perform an annual IIT filing if the prepaid tax in 2019 is greater than the annual tax payable and the tax refund is applied for, or

- the comprehensive income in 2019 is more than RMB 120,000 Yuan and the amount of additional tax payment is more than RMB 400 Yuan.

The taxpayer can choose the following ways of performing an annual IIT filing:

- DIY
- The withholding agent from whom the income from wages and salaries or continuous labor remuneration is obtained (the employer), or
- Appointing a professional tax service provider (tax agent) or another individual.

"...additional tax is not more than RMB 400 Yuan, individual residents are exempt from the annual reconciliation filing"



To encourage more enterprises to conduct R&D locally and promote technological innovation and economic development in Hong Kong, enhanced tax deduction was introduced by the Inland Revenue (Amendment) (No. 7) Ordinance 2018. The new law applies to R&D activities conducted as from 1 April 2018.

The expenditures are classified into Type A and Type B as follows:

(a) Type A expenditures qualify for 100% tax deduction; and

(b) Type B expenditures have a two-tiered deduction structure – the first \$2 million qualifying expenditures qualifies for 300% deduction and the remaining balance qualifies for 200% deduction.

There is no cap on the amount of enhanced tax deduction.

Type B expenditures include those for (i) out-sourced activities conducted by designated local research institutions" (DLRIs); and (ii) activities by the enterprise's employees and in-house consumable items.

Type B expenditures must

be for activities conducted in Hong Kong.

Accordingly, where an enterprise contracts out a R&D project to a DLRI which sub-contracts part of the project to a research institute outside Hong Kong, only that part of the payment attributed to the qualifying activities in Hong Kong is eligible for Type B expenditure.

For in-house staffing costs, the tax law provides that they include salary and wages, contributions to recognized retirement plans and any other benefits that constitute a cash outlay paid by the enterprise as the employer but they do not include remunerations to a director.

If a staff is only involved in a qualifying R&D activity for part of his time, an apportionment method must be used to separate eligible from ineligible expenditures. Such apportionment must be supportable by audit trail of source documents and working papers. For example, if the apportionment is based on time- incurred, it should be supported by timesheets.

For persons not directly engaged in the qualifying R&D activity but only play supporting functions, e.g. accounting and HR staff, their

remunerations cannot be included as qualifying R&D expenditures.

To be a DLRI, the service providers are required to apply to the Innovation and Technology Commission (ITC) for the designation.

The following statistics as at the end of October 2019 have been released by the ITC and the Inland Revenue Department (IRD):

(1) The ITC has received 5 applications for designation as DLRIs. Among these applications, 3 have been approved, one was withdrawn by the applicant and the remaining one was not approved mainly because the R&D activities conducted by the applicant did not meet the definition of "qualifying R&D activity". These applicants were in addition to the 30 local universities, colleges and public research institutions already designated as DLRIs by the IRD. In other words, there were 33 DLRIs in total by October 2019.

(2) Among the profits tax returns received for 2018/19, there were 60 taxpayers claiming R&D tax deduction in the amounts as per the table set out below.

"...no cap on the amount of enhanced tax deduction"

HONG KONG

(Continued)

Category	In-house R&D (\$ million)	Outsourcing R&D (\$ million)	Total (\$ million)
Type A Expenditures	82.0	32.4	114.4
Type B Expenditures	825.6	40.3	865.9
Total claims received for 2018/19 up to October 2019:	907.6	72.7	980.3

JAPAN

信成国際税理士法人
SHINSEI INTERNATIONAL TAX CO.

THE NUMBER OF TRANSFER PRICE EXAMINATION CASES INCREASED RAPIDLY BY 44% COMPARED TO THE PREVIOUS YEAR

1. Published Content

On November 8, the National Tax Agency ("NTA") released a summary of corporate tax examination results for the fiscal year ("FY") 2018. According to the report, the number of examination cases was 257 (178 in the previous FY 2017), a significant increase of 144.4% compared with FY 2017, 105.3%.

2. Analysis

1. Have the transfer pricing examinations used local files effectively?

In FY 2018, the transfer price documentation was introduced in Japan by the 2016 tax reform. It was the first year to examine corporations under the new documentation system.

In other words, the NTA was able to conduct examinations after checking local files prepared by taxpayers as

necessary.

By the taxpayers' preparations of local files in advance, it seems that the NTA's examiners were much more accessible to the examinations. Because it became clear at a glance if examiners looked at the local file where the foreign-related parties were doing, what kind of business they were doing, and what kind of transactions were going on.

On the contrary, it is possible to grasp without questioning how much the appropriate profit rate was and what the taxpayer's actual value was, and as a result, whether or not the actual profit value was included within the appropriate profit rate range.

2. How many corporations under the jurisdiction of Tax Offices were examined?

Before FY 2017, transfer

pricing examinations had been conducted mainly for medium and large corporations under the jurisdictions of the Regional Taxation Bureaus. However, if corporations prepare local files, it is easy to consider whether there is a transfer pricing problem that happened, as mentioned above.

Examiners could examine in the short term. There is no need to create a bias. They can audit not only medium and large corporations but also small corporations. That means the NTA policy for the transfer pricing examination had just changed.

3. Why has "The Additional Amount Income by Transfer Pricing Examinations" decreased?

Depending on the examination cases, the transfer price may be corrected by several

"...NTA was able to conduct examinations after checking local files prepared by taxpayers ..."

billion yen or 10 billion yen in terms of income. Therefore, if there is one large-scale case, the impact is so huge for the amount per case in the year. Thus, the analysis with a weight on this point would not be instrumental. One of the most important things is what is worrisome, the corrected contents.

The data reported by the NTA compiled full-scale transfer price examination cases, intra-group services (so-called "IGS") cases, and loan interest rate cases.

A full-scale transfer pricing case is different from IGS and interest rate cases, because of the volume of each trade. Therefore, we are worried about what the target transaction was. Considering the number of additional amount

income per case, which was over one million yen, and the total amount was 36.5 billion yen, it may have included many IGS and interest rate cases.

3. Prospects

The concept of transfer pricing is simple in itself, by recalculating controlled transactions to uncontrolled transactions by an independent third-party. For transfer pricing specialists, we think that it is complicated to judge and evaluate what factors will affect transfer pricing issues such as the transactions indeed.

It is a significant matter when examiners under the Tax Offices impose small corporations. Because if they are lacking experiences and knowledge about transfer pricing examination procedures as mention

above, they will only impose them with high or low rates compared to the actual corporations' prices or rates.

We should focus on these matters.

JAPAN

(Continued)

"It is a significant matter when examiners under the Tax Offices impose small corporations ..."

MALAYSIA – BUDGET 2020

On 11 October 2019, the 2020 National Budget was tabled by our Finance Minister bearing the theme "Driving Growth and Equitable Outcomes Towards Shared Prosperity".

The 2020 Budget allocates RM297 billion for Operating Expenditure and Development Expenditure

and aims to achieve an overall growth rate of 4.8% as compared to 4.7% in 2019 despite global uncertainties. Private sector remains the key growth driver supported by the manufacturing and services sectors. The Government's revenue collection in 2020 is expected to be RM244.5

billion an increase of RM11.2 billion from 2019.

We set out below the key budget proposals announced in Budget 2020:

MALAYSIA



(Continued)

“...revised
concessionary tax
rate is given only to
a taxpayer having
gross business
income of not more
than RM50 million
...”

1. Corporate Tax

Proposal	Details	Effective date											
Review of corporate income tax treatment for small and medium enterprises (“SMEs”)	<table border="1"> <tr> <th rowspan="2">Income tax rate</th><th colspan="2">Statutory income</th></tr> <tr> <th>Current</th><th>Proposed</th></tr> <tr> <td>17%</td><td>Up to RM500,000</td><td>Up to RM600,000</td></tr> <tr> <td>24%</td><td>> RM500,000</td><td>> RM600,000</td></tr> </table> <p>❖ The revised concessionary tax rate is given only to a taxpayer having gross business income of not more than RM50 million.</p>	Income tax rate	Statutory income		Current	Proposed	17%	Up to RM500,000	Up to RM600,000	24%	> RM500,000	> RM600,000	Year of Assessment (“YA”) 2020
Income tax rate	Statutory income												
	Current	Proposed											
17%	Up to RM500,000	Up to RM600,000											
24%	> RM500,000	> RM600,000											
Review of special allowances for small value assets	<p>❖ Value of assets qualifying for special allowance of 100% be increased from RM1,300 to RM2,000 for each asset.</p> <p>❖ Limit of special allowance for non-SMEs be increased from RM13,000 to RM20,000.</p>	YA 2020											
Review of income tax treatment for expenses incurred on secretarial fees and tax filing fees	<table border="1"> <tr> <th rowspan="2">Nature of expenses</th><th colspan="2">Maximum deduction allowed</th></tr> <tr> <th>Current</th><th>Proposed</th></tr> <tr> <td>Secretarial fees</td><td>RM5,000</td><td rowspan="2">Combined limit of RM15,000</td></tr> <tr> <td>Tax filing fees</td><td>RM10,000</td></tr> </table>	Nature of expenses	Maximum deduction allowed		Current	Proposed	Secretarial fees	RM5,000	Combined limit of RM15,000	Tax filing fees	RM10,000	YA 2020	
Nature of expenses	Maximum deduction allowed												
	Current	Proposed											
Secretarial fees	RM5,000	Combined limit of RM15,000											
Tax filing fees	RM10,000												
Tax deduction on cost of listing in Bursa Malaysia	<p>❖ Tax deductions of up to RM1.5 million for technology-based companies and SMEs to list their shares in the ACE or LEAP markets.</p> <p>❖ Allowable listing expenses</p> <ul style="list-style-type: none"> ✓ Fees to authorities ✓ Professional fees ✓ Underwriting, placement and brokerage fees 	YA 2020 until YA 2022											
Changes to tax penalties	<p>The penalties for late payment of tax be reviewed as follows:</p> <table border="1"> <tr> <th></th><th>Current penalty</th><th>Proposed penalty</th></tr> <tr> <td>Within 60 days after due date of payment</td><td>10%</td><td rowspan="2">10%</td></tr> <tr> <td>More than 60 days after due date of payment</td><td>A further 5% on the aggregate tax payable and 10% initial penalty</td></tr> </table>		Current penalty	Proposed penalty	Within 60 days after due date of payment	10%	10%	More than 60 days after due date of payment	A further 5% on the aggregate tax payable and 10% initial penalty	1 January 2020			
	Current penalty	Proposed penalty											
Within 60 days after due date of payment	10%	10%											
More than 60 days after due date of payment	A further 5% on the aggregate tax payable and 10% initial penalty												

2. Individual Tax

Proposal	Details	Effective date														
Expansion of relief on medical expenses for serious diseases	Tax relief of RM6,000 for medical expenses incurred for treatment of serious diseases be expanded to <i>include cost of fertility treatment for taxpayer or spouse.</i>	YA 2020														
Donation for charitable and sports activities and projects of national interest	<ul style="list-style-type: none"> ❖ Tax deduction increased from 7% to 10% of aggregate income. ❖ Expanded to include cash wakaf and cash endowment contribution to religious authorities and public universities. 	YA 2020														
Review of income tax rate and income tax structure	<table> <tr> <th rowspan="2">Taxable income (RM)</th><th colspan="2">Tax rate</th></tr> <tr> <th>Current</th><th>Proposed</th></tr> <tr> <td>1,000,001 to 2,000,000</td><td>28%</td><td>28%</td></tr> <tr> <td>Above 2,000,000</td><td>28%</td><td>30%</td></tr> <tr> <td>Non-resident</td><td>28%</td><td>30%</td></tr> </table>	Taxable income (RM)	Tax rate		Current	Proposed	1,000,001 to 2,000,000	28%	28%	Above 2,000,000	28%	30%	Non-resident	28%	30%	YA 2020
Taxable income (RM)	Tax rate															
	Current	Proposed														
1,000,001 to 2,000,000	28%	28%														
Above 2,000,000	28%	30%														
Non-resident	28%	30%														

MALAYSIA

(Continued)

"Expansion of relief on medical expenses for serious diseases...to include cost of fertility treatment for taxpayer or spouse ..."

3. Real Property Gains Tax

Proposal	Details	Effective date
Determination of acquisition price for disposal of real property acquired prior to 1 January 2013	For purposes of computing gain / loss from the disposal of real property acquired prior to year 2013, the acquisition price is the market value of the real property as of 1 January 2013.	Disposal of real properties made from 12 October 2019

4. Investment Incentives

Proposal	Details	Effective date
Special investment incentive for electrical and electronic ("E&E") sector	<ul style="list-style-type: none"> ❖ Income tax exemption of up to 10 years for E&E companies investing in selected knowledge-based services. ❖ For companies that have exhausted reinvestment allowance incentive eligibility period <ul style="list-style-type: none"> ✓ Special Investment Tax Allowance of 50% on qualifying capital expenditure incurred within a period of 5 years to set off against 50% of statutory income. 	Applications received by MIDA from 1 January 2020 to 31 December 2021

MALAYSIA

(Continued)

"Sales Tax Act 2018... Full sales tax exemption on taxable goods imported, transported from designated areas ..."

5. Indirect Taxes

Proposal	Details	Effective date
Introduction of approved major exporter scheme under Sales Tax Act 2018	<ul style="list-style-type: none"> ❖ Full sales tax exemption on taxable goods imported, transported from designated areas or special areas or purchased from a registered manufacturer. ❖ Conditions: <ul style="list-style-type: none"> ✓ Taxable goods must be exported, or transported to designated areas or special areas; or ✓ Taxable goods are used as raw materials, packing and packaging materials or components to be manufactured. The manufactured taxable goods must be exported, or transported to designated areas or special areas. 	1 July 2020
Improvement on group relief facility under Service Tax Act 2018	<p>Provision of taxable services under Group G (professional services) by a company to another group company is exempted even if the services are also provided to third parties outside the group.</p> <p>Provided:</p> <p>Value of services provided to third parties shall not exceed 5% of the total value of services provided by the company within a period of 12 months.</p>	1 January 2020

PHILIPPINES

MFP
M. F. Padernal and Co.

ADDITIONAL REQUIREMENTS FOR OTHER CORPORATIONS- GUIDELINES ON THE REVIVAL OF EXPIRED CORPORATIONS

In November 2019, the Securities and Exchange Commission (SEC) promulgated the guidelines on the revival of expired corporations. Under the Revised Corporation Code of the Philippines, which was approved in February 2019, the term of existence of a corporation shall be perpetual unless its articles of incorporation provide

otherwise. Further, a corporation whose term has expired may apply for the revival of its corporate existence, together with all the rights and privileges under its certificate of incorporation and subject to all its duties, debts and liabilities existing prior to its revival.

Applicability

The following corporations may file a Petition for Revival of Corporate Existence:

- generally, a corporation whose term has expired;
- an expired corporation whose Certificate of Registration has been revoked for non-filing of reports;

PHILIPPINES

(Continued)

- (c) an expired corporation whose Certificate of Registration has been suspended; and
- (d) an expired corporation whose corporate name has already been validly re-used, and is currently being used by another existing corporation duly registered with the SEC, provided that the former shall change its corporate name within 30 days from the issuance of its Certificate of Revival of Corporate Existence.

Who May Not Apply for Revival?

The following, among others, are not allowed to file a Petition of Revival of Corporate Existence:

- (a) an expired corporation which has completed the liquidation of its assets; and
- (b) a corporation whose Certificate of Registration has been revoked for reasons other than non-filing of reports.

Required Vote to Initiate Revival

At least majority of the board of directors, and the vote of at least majority of the outstanding capital stock is required for the Revival of an Expired Stock Corporation. For nonstock corporation, at least a majority vote of the board of trustees, and the vote of at least majority of the members is required.

Additional Requirement for Certain Corporations

The SEC shall not approve the application for revival of certificate of incorporation of banks, banking and quasi-banking institutions, preneed, insurance and trust companies, pawnshops, corporations engaged in money service business, and other financial intermediaries, unless accompanied by a favorable recommendation of the appropriate government agency.

The Petitioner or its duly authorized representative shall file a verified Petition for the Revival of Corporate Existence, in accordance with the SEC Rules of Procedure.

" ... apply for the revival of its corporate existence, together with all the rights and privileges ... subject to all its duties, debts and liabilities existing prior to its revival..."

NEW LAW ON TAX ADMINISTRATION EFFECTIVE FROM 1 JULY 2020

VIETNAM



In June 2019, the new law on tax administration Number 38/2019/QH14 was approved by the National Assembly of Vietnam, which will take effect from 1 July 2020, except for the provision for invoices and e-documents which will be in force from 1 July 2022. The new law provides risk-based principles to taxpayers and tax authorities, and focuses on taxes for "digital economy", with more rights for the tax authorities for illegal activities of taxpayers.

1. Tax risk management principles introduced with a focus on transfer pricing.

The Law introduced new principles of tax administration, including independent transactions rules, operation substance rules, principles for taxable prices determination in related party transactions and provisions related to advance pricing arrangements. The new

principles show an increasing application of "substance over form" recognition of tax authorities in Vietnam, after introduction of "substance over form" application in accounting practices.

The Law also gives the tax authorities more powers to determine taxes in cases taxpayers taking illegal activities to avoid tax, such as illegal use of invoices for purchase and exchange of goods, or entering into

" The Law also gives the tax authorities more powers to determine taxes in cases taxpayers taking illegal activities to avoid tax..."

(Continued)

transactions without business rationale, as well as they can exchange information with other international tax authorities.

2. The law focuses on taxing “digital transactions”

The law focuses on tax management of e-commerce activities with the State Bank of Vietnam and Commercial banks will play a role in the taxation of e-commerce activities. Up to date the application of the involvement of banks in the process is still a question, however, it seems the State Bank of Vietnam will build a nationwide payment system for collecting of taxes from e-commerce activities, while commercial banks will withhold and make payments on behalf of overseas parties which conduct e-commerce activities and derive income in Vietnam. The Ministry of Finance will provide circular to providing guidance on how to tax overseas suppliers without PE in Vietnam with activities of e-commerce, doing business based on digital platforms and other services.

The law also mentions about taxpayers and tax authorities will require to contact e-transactions for tax purposes, which currently most of the business taxpayers are encouraged to use the government software or website to submit tax declarations/ tax reports/tax payments. The law also has a section in E-invoices (which also aligns with the New Decree 119/2018 of the Government on e-invoicing. This decree provides guidance for businesses to start using e-

invoices since November 2019, while current businesses can still choose to use their paper-invoices until they finish the registered invoices). The section in e-invoicing in the new Law will be effective from 1 July 2022. The Government will provide more guidance on the application of e-invoices for all taxpayers in coming decrees.

3. New changes in administrative procedures

The new law has introduced various changes in the tax administration procedures, some of which will be welcomed by taxpayers, others less so. Some examples are:

- ✓ Taxpayers will not be subject to administrative penalties and late payment interest if they declared and paid taxes in accordance with rulings issued by the tax authorities at the time.
- ✓ Filing of annual PIT return will be extend 1 month from 3 to 4 months after fiscal year end.
- ✓ Taxpayers can submit revised tax returns up to 10 years after the filing deadline if mistakes in submitted tax returns find out, but must be done before the decision to commence tax audit for the years involved;
- ✓ Taxpayers are still allowed to submit revised tax returns even for years of which a decision for tax audit has

been announced, or which have already been tax audited (which previously disallowed).

- ✓ Tax refund timeline should be informed to the taxpayers and any denials should have legal basis by the tax authorities (this has not specified in the current law)
- ✓ Coercive measures applicable for tax authorities to apply if taxpayers do not follow administrative decisions. When applying for tax appeal/ litigation, taxpayers still have to pay the full tax amount, penalties late payments interests imposed by tax authorities.
- ✓ The legal representative of a company can be prohibited from leaving Vietnam if his/ her company/ employer has not paid its taxes due.

“ Taxpayers can submit revised tax returns up to 10 years after the filing deadline if mistakes in submitted tax returns find out ...”

Disclaimer

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act upon such information without appropriate professional advice after a thorough examination of the particular situation.

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