

The Brief

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NEWS FLASH

Vietnam

Update On Personal Income Tax

On 1 January 2009 the Law on Personal Income Tax ("Law on PIT") (Law No. 04/2007/QH12) and its supporting Decree 100/2008/ND-CP and Circular No. 84/2008/TT-BTC (further amended by Circular 62/2009/TT-BTC issued on 27 March 2009, which is applicable for income earned from 2009) came into effect. While the new PIT regime brings changes, for example the tax regimes of local employees and expatriate employees have been unified, some matters still require clarification.

Individuals liable for PIT

All tax residents and tax non-residents with taxable income in Vietnam are subject to PIT.

Tax residents

Under the Law on PIT an individual will be considered a tax resident if he meets at least one of the following two criteria: (i) tax payer's physical presence in Vietnam for at least 183 days in a twelve-month period; (this remains from the previous PIT law); or (ii) a "permanent residence" in Vietnam. Such permanent residence would be evidenced by (i) having a permanent registration address; or (ii) renting an apartment or a house within the term of 90 days or more in a tax assessable year. Expatriates who spend less than 183 days/year in Vietnam, but have a resident card, or a temporary resident card, or live in a rented house/hotel room/office with the lease term of 90 days or more in such tax assessable year, will consequently be considered as Vietnamese tax residents. The same criteria shall be applied to Vietnamese nationals working abroad.

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Tax non-residents

Individuals not meeting the above criteria are considered “tax non-residents”. In particular, expatriates spending less than 183 days in a twelve-month period, not holding resident cards/temporary cards and without a lease agreement within a term of 90 days or more in Vietnam shall be treated as tax non-residents.

Taxable income

PIT will be applied on both employment income and non-employment income, which includes income from business operation, capital investment, capital assignment, property transfer, lottery winnings, royalties, franchises, inheritances, and gifts.

PIT on employment income

PIT rates for tax residents

Taxable income includes worldwide cash payments and benefits in kind, such as: non-mandatory insurance contributions; personal membership fees, etc. This is a change from the previous PIT regime where benefits in kind were not taxable. Under a recent change in Circular 62/2009/TT-BTC, certain benefits in kind, such as tuition fees for expatriate’s children paid to schools in Vietnam, airfare for expatriate’s home leave, and one-off relocation allowance remain non taxable. Housing benefits paid by employers is now taxable based on the actual expenses but not exceeding 15% of the total taxable income of the tax payer (excluding the housing benefits). This is in line with the previous PIT regime.

The single rate system of taxation follows:

Yearly taxable income in million VND	Yearly taxable income in USD	Tax rate
Up to 60	Up to 3,399	5%
Between 60 and 120	Between 3,399 and 6,799	10%
Between 120 and 216	Between 6,799 and 12,238	15%
Between 216 and 384	Between 12,238 and 21,756	20%
Between 384 and 624	Between 21,756 and 35,354	25%
Between 624 and 960	Between 35,354 and 54,391	30%
Over 960	Over 54,391	35%

Exchange rate: USD1.00 = VND17,650

Furthermore, the Law on PIT introduces a series of deductions from pre-tax income, including: personal deduction (VND4,000,000 / person / month, equivalent to USD227 / person / month); dependent person deduction (VND1,600,000 / person / month, equivalent to USD91 / person / month), deductions for payment of compulsory insurance contribution, and deductions for donations to approved charities.

PIT rate for tax non-residents

Tax non-residents will be taxed on total income generated in Vietnam at a flat rate of 20%, regardless of where income is paid.

PIT on non-employment income

PIT rates for tax residents

The PIT Law introduced significant changes to non-employment income. For the first time the following are taxable in Vietnam:

Non-employment income	Rate
Dividends	5%
Royalties and franchise fees	5%
Winnings or prizes	10%
Inheritances and gifts	10%
Gain on capital assignment	20% on gain (or 0.1% on assignment price)
Gains on transfer of real estate	25% on gain (or 2% on selling price)

PIT rates for tax non-residents

Tax non-residents are also taxed on their business activities at the rate of 1% for trading in goods, 5% for services, and 2% for manufacture, construction and others. Income from capital investment is taxed at the rate of 5%, while income from capital assignment is taxed at 0.1% on gross sale proceeds, and income from property transfers is taxed at 2% on gross sale proceed.

Timing for filing tax returns

Employers must withhold PIT monthly and finalize tax at year end for its employees. As for non-employment income, individual taxpayers must also finalize their tax declaration by the end of the calendar year. In the event of under-declaration, non-declaration, late declaration, and late tax payment the tax authorities may automatically calculate penalties without prior notification.



Temporary PIT deferment

Recently, in order to increase individual consumption in Vietnam, the Ministry of Finance temporarily deferred PIT payment for the period from 1 January 2009 through 31 May 2009 (“**Deferred Period**”) in accordance with Circular 27/2009/TT-BTC on 6 February 2009, and Official Letter No. 1823 on 18 February 2009.

PIT declaration

During the Deferred Period, taxpayers or income payers must submit PIT returns for such deferred PIT amounts and submit the returns to relevant tax authorities.

Tax payers entitled to PIT deferment

- Resident individuals with income from business activities; salary and wages; capital investment; capital transfer (including the transfer of securities); royalties; and transfer of trading rights.
- Non-resident individuals having income from capital investment, capital transfer (including the transfer of securities); royalties; and transfer of trading rights.

Tax payers not entitled to PIT deferment

- Resident and non-resident individuals with income sourced from real estate transfers; winnings or prizes.
- Non-resident individuals with income sourced from business activities; salary and wages; inheritances; and gifts.
- Individuals not present in Vietnam; individuals leaving Vietnam prior to 30 June 2009; and
- Individuals present in Vietnam from 1 January 2009 with no definite date of departure, without permanent residence registration address or with no lease agreement within duration of 90 days or more in Vietnam.

Return of paid PIT

Employers are required not to withhold any PIT amount of its employees for the period from 1 January 2009 to 31 May 2009. Any withheld PIT amount which has not yet been paid to the State Treasury should have been returned to employees prior to the end of February at the latest.

With regards to PIT amounts withheld and paid to the State Treasury, employers shall submit an application file requesting PIT returns from the tax authorities. The paid PIT amount shall be returned within 5 days from the date of the submission of the application.

Deferred versus waived PIT

By May 2009, the National Assembly will decide whether the Deferred PIT will be waived permanently and completely, or partially or fully paid to the tax authorities retroactively as of 1 January 2009.



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