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AmCham HR Committee Employment related tax updates

Ho Chi Minh, 21 June 2013

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Presentation outline

Personal Income Tax (PIT)

Labour

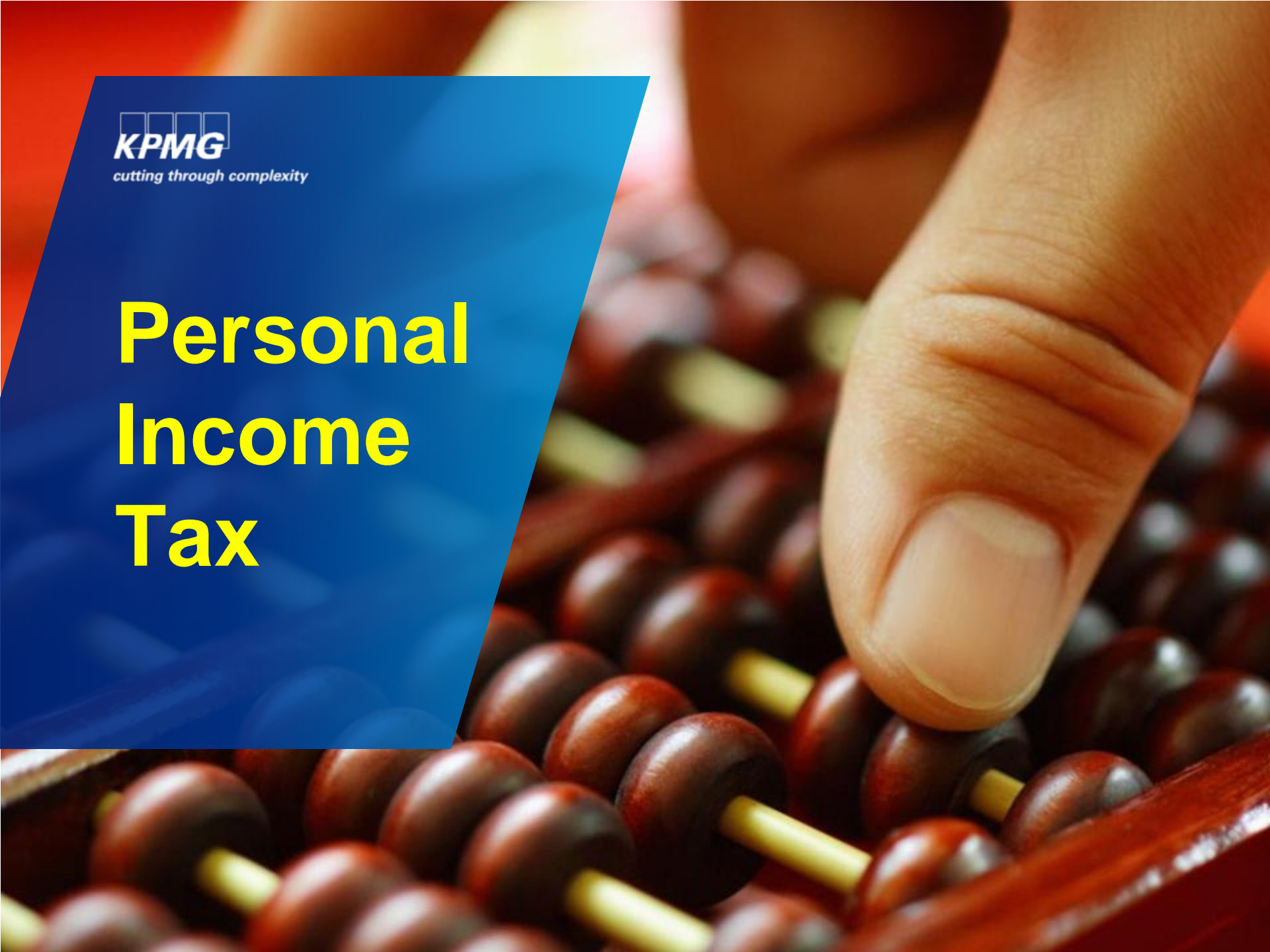
Specific guidance/ rulings

Q & A



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Personal Income Tax



New Law on PIT

(effective from 1 July 2013)

No.	Major change	Current Law on PIT	New Law on PIT
1	Monthly tax relief	<ul style="list-style-type: none"> VND4m/ taxpayer VND1.6m/ dependant 	<ul style="list-style-type: none"> VND9m/ tax payer VND3.6m/ dependant These deductions will be adjustable if the inflation rate fluctuates by more than 20%
2	Exempt income	Not regulated	Retirement pension paid out of a voluntary pension fund
3	Allowable deductions	Not regulated	Voluntary pension contributions, subject to cap of VND1m/month <i>(draft new Circular on PIT)</i>
4	Income from transfer of real estates	Tax treatment was unclear some cases	Taxable regardless of the form of transfer
5	Tax assessment for resident security traders	Per transaction or per annual filing – Registration of annual filing is required at the beginning of each tax year.	Per transaction or per annual – No registration for annual filing is required

Proposed changes on PIT in the draft new Decree/Circular (effective from 1 July 2013) (cont'd)

No.	Major change	Current Decree/Circular	Draft new Decree/Circular
1	Tax residence	Leasing a residence at least 90 days within a tax year	The minimum period of lease is extended to 183 days
2	Dependant's income threshold	Max. VND0.5million /month	Max. VND1million /month
3	Qualified dependant	Not regulated	(Adult) dependant's tax code may be required for claims of deductions.
4	Exempt in-kind benefit of Vietnamese employees on overseas assignment	Not regulated.	<ul style="list-style-type: none"> • One-off relocation • School fees for students from kindergarten to high-school.

Proposed changes on PIT in the draft new Decree/Circular (effective from 1 July 2013)

No.	Major change	Current Decree/Circular	Draft New Decree/Circular
5	Withholding PIT rates in specific industries	<ul style="list-style-type: none"> • Insurance agents: <ul style="list-style-type: none"> ➢ Up to 4m: 0% ➢ Over 4m-15m: 5% ➢ Over 15m: 10% • Lottery agents: <ul style="list-style-type: none"> ➢ Up to 4m: 0% ➢ Over 4m: 5% 	<ul style="list-style-type: none"> • Insurance/Lottery/Multi-Level marketing agents: <ul style="list-style-type: none"> ➢ Up to 9m: 0% ➢ Over 9m – 20m: 5% ➢ Over 20m: 10%
6	Deemed assessable business income	Regulated by local authorities	Regulated nationally: <ul style="list-style-type: none"> • Trading: 10% • Manufacturing; transportation; services; construction with supply of materials/machinery: 15% • Services; construction without supply of materials/machinery: 30% • Others: 12%



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Labour



New Labour Code effective from 1 May 2013

No.	Major change	Current Labour Code	New Labour Code
1	Maternity leave for female employees	<ul style="list-style-type: none"> 4 months 	<ul style="list-style-type: none"> 6 months
2	Retirement ages	<ul style="list-style-type: none"> 60 for male and 55 for female 	<ul style="list-style-type: none"> 60 for male and 55 for female Extendable up to 5 years, for employees with special expertise or management skills
3	Salary and minimum rates	<ul style="list-style-type: none"> No less than 70% salary during probation period Requirement on registration of salary scale 	<ul style="list-style-type: none"> No less than 85% salary during probation period Notification (instead of registration) of salary scale
4	Definite labor contract	Automatically expires without advance notice by employer	Advance notice by employer is required
5	Expat's work permit	Max. 3 years	Max. 2 years
6	Public holidays	9 days	10 days

New Labor Code effective from 1 May 2013

No.	Major change	Current Labour Code	New Labour Code
7	Overtime on normal working day (after the 1 st 8 hours)	150%	The same
8	On normal weekly day-off	200%	The same
9	Overtime night-shift rate	130% x 150%	130% x 150% + 20%
10	Overtime on public holidays/paid leave days	300% (inclusive of base salary)	400% (inclusive of base salary)

Statutory insurance contributions

Contribution rates

Year	Employer				Employee			
	SI (%)	HI (%)	UI (%)	Total (%)	SI (%)	HI (%)	UI (%)	Total (%)
2009	15	2	1	18	5	1	1	7
2010 – 2011	16	3	1	20	6	1.5	1	8.5
2012 – 2013	17	3	1	21	7	1.5	1	9.5
2014 onwards	18	3	1	22	8	1.5	1	10.5

- Currently, max. gross salary to calculate SI, HI, UI equals 20 times (eg. VND21million) of the min. salary set by the government (currently VND1,050,000 per month).
(OL 3686/BHXH-BT dated 14 October 2009 of VN Social Insurance Agency)
- The min. salary increase from VND1,050,000 to VND1,150,000, effectively from 1 July 2013
(Resolution 32/2012/QH13 dated 10 November 2012 of National Assembly)
- Expatriates in are subject to health insurance only.
(OL 3104/BHXH-PTHU dated 23 October 2009 of HCMC Social Insurance Agency)
- Contributions of SHI or the likes by expatriates in their home countries are exempt from Vietnamese PIT, provided that they are compulsory under the laws of their home country.



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Specific guidance/ rulings



Update on specific guidance/rulings

Provision for severance allowance	<ul style="list-style-type: none"> The balance as at 31 December 2012 must be treated as “other income” and not to be carried over to subsequent years. Where tax losses were incurred due to settlement of severance allowance, they can be amortised up to 3 years, for CIT deductions. <p style="text-align: right;"><i>(Circular 180/2012/TT-BTC dated 24 October 2012 of the MOF)</i></p>
Maternity allowances	<ul style="list-style-type: none"> All maternity allowances paid from the social insurance fund are exempt from PIT <p style="text-align: right;"><i>(OL3667 dated 24 September 2012)</i></p>
Payments out of after-tax-profits	<ul style="list-style-type: none"> Payments to employees for hardship, sickness and personal allowances (except for fatal illness treatment) paid from in-house employee welfare funds made of after-tax-profits are subject to PIT. <p style="text-align: right;"><i>(OL1419 dated 25 April 2012)</i></p>
Employee’s life insurance	<ul style="list-style-type: none"> Benefits are taxable to the employees Costs are tax deductible to the employers, provided that the benefits are specified in the employment contract or HR policy <p style="text-align: right;"><i>(Cir 123/2012/TT-BTC dated 27 July 2012)</i></p>
Per diems for business trip excluding accommodation and transportation	<ul style="list-style-type: none"> Domestic trips: VND300,000/day Overseas trips: new rates ranging from US\$50 to \$US75 (increased by \$US10-\$US15) RO, NGO: no cap (internal policies) => maybe challenged by local tax authority <p style="text-align: right;"><i>(Cir 97 & Cir 102 effective from 20 August 2010 and 10 August 2012, respectively)</i></p>



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Questions & Answers





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