

GENERAL TAX BUREAU
Hanoi Tax Department

No.: 351/CT-TNCN

THE SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom - Happiness

Hanoi, January 08, 2010

*Subj.: PIT for foreign individuals
working in NGO Offices*

To: VUFO-NGO Resource Centre

Hanoi Tax Department have received letter dated December 09, 2009 from VUFO-NGO Resource Centre asking about PIT for foreign individuals working in NGO Offices, and would like to orderly answer as follows:

Question 1: It is mentioned in Part 1, Chapter VIII, Article 73, Item II of the Tax Management Law as follows: *"Tax management agency, tax management officers, former tax management officers, agencies providing services relating to tax procedures must keep confidential all the information relating to the tax payers. Tax management agency is liable to provide information relating to the tax payers to the following authorities: investigation agencies, procuracy, law court, inspection agency, government auditing agency, other management agencies belonging to the government in compliant with regulation, foreign tax management agency in compliant with international tax conventions where Vietnam is a member"*. Taxation agency is liable to keep confidential and provide information according to the above mentioned stipulation.

Question 2 & 11: It is mentioned in Part 2, Item 2, Sub-item e of Circular 84/2008/TT-BTC dated September 30, 2009 issued by the Ministry of Finance as follows: *"The incomes for determining tax payable value is the one before PIT deduction (income before tax). If the income excluding PIT (income after tax), it must be converted to the income before tax"*. Therefore, the income for tax declaration includes tax.

Item 2 of the Correspondence 13231/BTC-TCT dated September 18, 2009 issued by the Ministry of Finance have stated about the tax exemption incomes as follows: *"Salary or allowance originated from outside source and do not get from the budget for project performed in Vietnam"*.

- Persons subjected to PIT exemption are the ones who bear foreign citizenships (including both foreign nationality and Vietnamese nationality).

- Fixed-term tax exemption is based on the agreement about the term signed by the Vietnamese Government or Committee for Foreign NGO Affairs - COMINGO (if being authorized by the Vietnamese Government) and the INGO in Vietnam.

Question 3: Based on Item 3 of the Correspondence 13231/BTC-TCT *"Representative offices of INGO in Vietnam is liable to submit the list of foreign staff recruited who is subjected to PIT exemption according to the form of Appendix attached to this document, etc."*, tax exempted income is one of the contents to be declared.

Question 4: Part I, Chapter IX, Article 71 of the Tax Management Law stipulates about information providing liability of the tax payer. The tax payer must *"provide information relating to the determination of tax liability according to the requirements from tax management agency"*.

Item 3 of the Correspondence 13231/BTC-TCT states that *"Representative offices of INGO in Vietnam is liable to submit the list of foreign staff recruited who is subjected to PIT exemption according to the form of Appendix attached to this document, etc."*, including name, position, tax code, passport number, income to be exempted from tax, contract period.

Therefore, representative offices should clearly declare information regarding the income to be exempted from tax strictly in accordance with stipulations of the Tax Management Law.

Question 5, 6, 10: Item 2 of the Correspondence 13231/BTC-TCT dated September 18, 2009 issued by the Ministry of Finance states that persons to be declared for tax exemption are foreign individuals working at representative offices, project offices of INGOs performing based on commitments of the Government in international conventions signed with INGOs. Following conditions must be satisfied:

- *"Salary or allowance originated from outside source and do not get from the budget for project performed in Vietnam"*.
- *"Persons subjected to PIT exemption are the ones who bear foreign citizenships (including both foreign nationality and Vietnamese nationality)"*.
- *"Fixed-term tax exemption is based on the agreement about the term signed by the Vietnamese Government or COMINGO (if being authorized by the Vietnamese Government) and the INGO in Vietnam"*.

Therefore, any foreign staff who meets the above mentioned conditions should be declared and considered for PIT exemption. There is no difference in PIT exemption for foreign staff working in representative offices and the one working in project offices if they meet the above mentioned conditions.

Question 7: Item 3 of the Correspondence 13231/BTC-TCT states that *"Representative offices of INGO in Vietnam is liable to submit the list of foreign staff recruited who is subjected to PIT exemption according to the form of Appendix attached to this document, and the agreement signed by the Vietnamese Government or COMINGO (if being authorized by the Vietnamese Government) and the INGO in Vietnam to the the tax bureau of the province or city where such office locates"*.

Question 8: Item 2, Item 3 of the Correspondence 13231/BTC-TCT states that the persons who are subjected to PIT exemption declaration includes *"foreign individuals working at representative offices, project offices of INGOs performing based on commitments of the Government in international conventions signed with INGOs"* and being recruited by such offices.

Question 9: Item 2 of the Correspondence 13231/BTC-TCT states that *"Fixed-term tax exemption is based on the agreement about the term signed by the Vietnamese Government or COMINGO (if being authorized by the Vietnamese Government) and the INGO in Vietnam"*.

In case the agreement signed by COMINGO (if being authorized by the Vietnamese Government) and the INGO in Vietnam before January 01, 2009 is still in effect which available with the article of PIT exemption for foreigners, then such agreement shall be continuously performed.

Therefore, any office who satisfy these stipulations shall be subjected to be considered for PIT exemption. Any office who is not available with agreement may contact relevant authority of Vietnam for further information.

Question 12: you may contact relevant authorities for information regarding Insurance Regulation.

Our answers here is for your information and please co-operate with tax agency for performance.

Receiving places:

- As mentioned above
- Filed Admin., TNCN

For the Director

NGUYEN VAN MO
Deputy Director