PERSONAL INCOME TAX AND FOREIGN- INVESTED COMPANIES

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On Feb. 23, 2000, the Ministry of Finance issued Circular 15 providing some amendments to the Circular 39 (dated June 26, 1997) and guidelines on realization of the Ordinance of Income Tax on High-Income Earners. This circular, expected to come into effect as from July 1, 2000, contains many unreasonable regulations causing a lot of controversy.

According to this circular, rates of personal income tax on Vietnamese citizens and other nationals are as follows:

Personal income tax on Vietnamese citizens and foreigners working in Vietnam

Grade	Average monthly income (VND)	Rate (%)	Tax payment (VND)
1	up to 2,000,000	0	0
2	from 2,000,000 to 3,000,000	10	Taxable income x 10% - 200,000
3	from 3,000,000 to 4,000,000	20	Taxable income x 20% - 500,000
4	from 4,000,000 to 6,000,000	30	Taxable income x 30% - 900,000
5	from 6,000,000 to 8,000,000	40	Taxable income x 40% - 1,500,000
6	from 8,000,000 to 10,000,000	50	Taxable income x 50% - 2,300,000
	over 10,000,000	60	Taxable income x 60% - 3,300,000

Personal income tax on foreigners living in Vietnam and Vietnamese guest workers in foreign countries

Grade	Average monthly income (VND)	Rate (%)	Tax payment (VND)
1	up to 8,000,000	0	0
2	from 8,000,000 to 20,000,000	10	Taxable income x 10% - 800,000
3	from 20,000,000 to 50,000,000	20	Taxable income x 20% - 2,800,000
4	from 50,000,000 to 80,000,000	30	Taxable income x 30% - 7,800,000
5	from 80,000,000 to 120,000,000	40	Taxable income x 40% - 15,800,000
6	over 120,000,000	50	Taxable income x 50% - 27,800,000

Thus, the tax threshold for foreigners rises from VND5 million to 8 million while that for Vietnamese citizens stays at VND2 million. This amendment aims at helping companies employing foreign workers reduce costs. In fact, foreign-invested companies, when contracting with a laborer, usually state take-home pay and they will cover income tax and other fees. When the tax threshold for foreign workers rises and that for local laborers remains unchanged, foreign-invest companies are encouraged to employ foreign workers because of a lower labor cost.

Consider, for example, the labor cost that a foreign-invested company has to cover when employing a laborer whose take-home pay is VND9,000,000.

- A foreign worker:

+ Take-home pay: 9,000,000

+ Income tax: (9,000,000 x 10%) – 800,000 = 100,000

+ Labor cost: 9,100,000.

- A Vietnamese worker:

+ Take-home pay: 9,000,000

+ Income tax: (9,000,000 x 50%) – 2,300,000 = 2,2000,000

+ Labor cost: 11,200,000

Other unreasonable regulations about the personal income tax are as follows:

- There is no measure to assess income of professionals, and thus failing to ensure tax equity.

- The marital status of taxpayer isn't taken into consideration: a married worker has to pay the same tax rate as a single worker does.

- The tax threshold of VND2 million may be acceptable to laborers in certain localities (big cities for example) but it may be too high for a laborer in depressed areas.

In our opinion, the following problems should be solved in order to make the personal income tax a useful instrument for regulating the foreign sector:

(1) To prevent foreign-invested companies from preferring foreign workers to local ones, the tax authorities had better apply the direct taxation.

At present, the personal income tax could be collected either directly (the taxpayer makes tax declaration and pays to the tax agency) or indirectly (tax payments by laborers are collected by employers). The direct taxation ensures tax equity and reduces tax loss but it requires a lot of time and energy. The tax authorities, however, had better use this way of taxation in the future and encourage employers to cooperate with tax agencies in collecting income tax.

When the direct taxation is applied, the employer needs only state the total pay in the labor contract, the workers will make tax declaration by themselves and pay to either the tax agency or the employer as required by the tax authorities.

(2) As for workers in foreign-invested companies whose taxable income is VND2 million, the tax authorities should pay attention to the two following matters:

- taxpayer's marital status: the married workers with dependants will be allowed to enjoy more tax-free allowances.

- differences in living standards between localities: different tax thresholds should be set for big cities and rural areas with a view to ensuring tax equity.■