

CLIENT UPDATE 2016 OCTOBER

TAX

MEF Exempts Workers'/Employees' Allowances from Tax on Salary and Tax on Fringe Benefits

The Ministry of Economy and Finance (“MEF”) has issued new Circular No. 011 dated 06 October 2016 on the Implementation of Obligation to Withhold Tax on Fringe Benefits (“**Circular**”). This Circular is a replacement to Circular No. 002 dated 20 January 2015 on the Implementation of Obligation to Withhold Tax on Salary and Tax on Fringe Benefits.

Based on this new Circular, the following benefits that workers / employees receive from their work shall be exempt from tax on salary and shall not be subject to tax on fringe benefits:

1. Transport allowance from residence to workplace and from workplace to residence, as well as housing allowance, or the provision of housing facilities within the compound of the workplace in accordance with the Labour Law;
2. Meal allowance provided to all workers / employees regardless of their position or function;
3. National social security fund or social welfare fund within the limit as stipulated in the law;
4. Health insurance or life insurance premium provided to all workers / employees regardless of their position or function;
5. Baby allowance or expense on child-day care centre (nursery) stipulated in the Labour Law; and
6. Severance pay for employment termination or indemnity for layoff within the limit as stipulated in the Labour Law.

To avail of the above exemption, all factories and enterprises are required to submit their policy or any documents relating to allowances and benefits for workers / employees for each specific period of time to the General Department of Taxation.

The preceding Circular 002 encompassed equivalent exemptions, but were generally presumed to be limited to factory employees / workers. Circular No. 011 expressly provides that the employee allowances and benefits apply to “workers and employees of all factories or enterprises”, thus embracing all sectors. However, with respect to Circular 002, a ruling letter was issued in April 2016 to the Garment Manufacturers Association in Cambodia restricting the meal allowance exemptions to only Cambodian nationals. Circular No. 011 MEF is silent on any restriction of nationality, as was Circular 002, but given the previous ruling letter, further clarification is probably necessary before such exemptions are applied to non-Cambodian nationals.

This Circular No. 011 is effective from 06 October 2016.

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ASEAN Economic Community Portal

With the launch of the ASEAN Economic Community (“AEC”) in December 2015, businesses looking to tap the opportunities presented by the integrated markets of the AEC can now get help a click away. Rajah & Tann Asia, United Overseas Bank and RSM Chio Lim Stone Forest, have teamed up to launch “Business in ASEAN”, a portal that provides companies with a single platform that helps businesses navigate the complexities of setting up operations in ASEAN.

By tapping into the professional knowledge and resources of the three organisations through this portal, small- and medium-sized enterprises across the 10-member economic grouping can equip themselves with the tools and know-how to navigate ASEAN’s business landscape. Of particular interest to businesses is the “Ask a Question” feature of the portal which enables companies to pose questions to the three organisations which have an extensive network in the region. The portal can be accessed at <http://www.businessinasean.com/>.

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