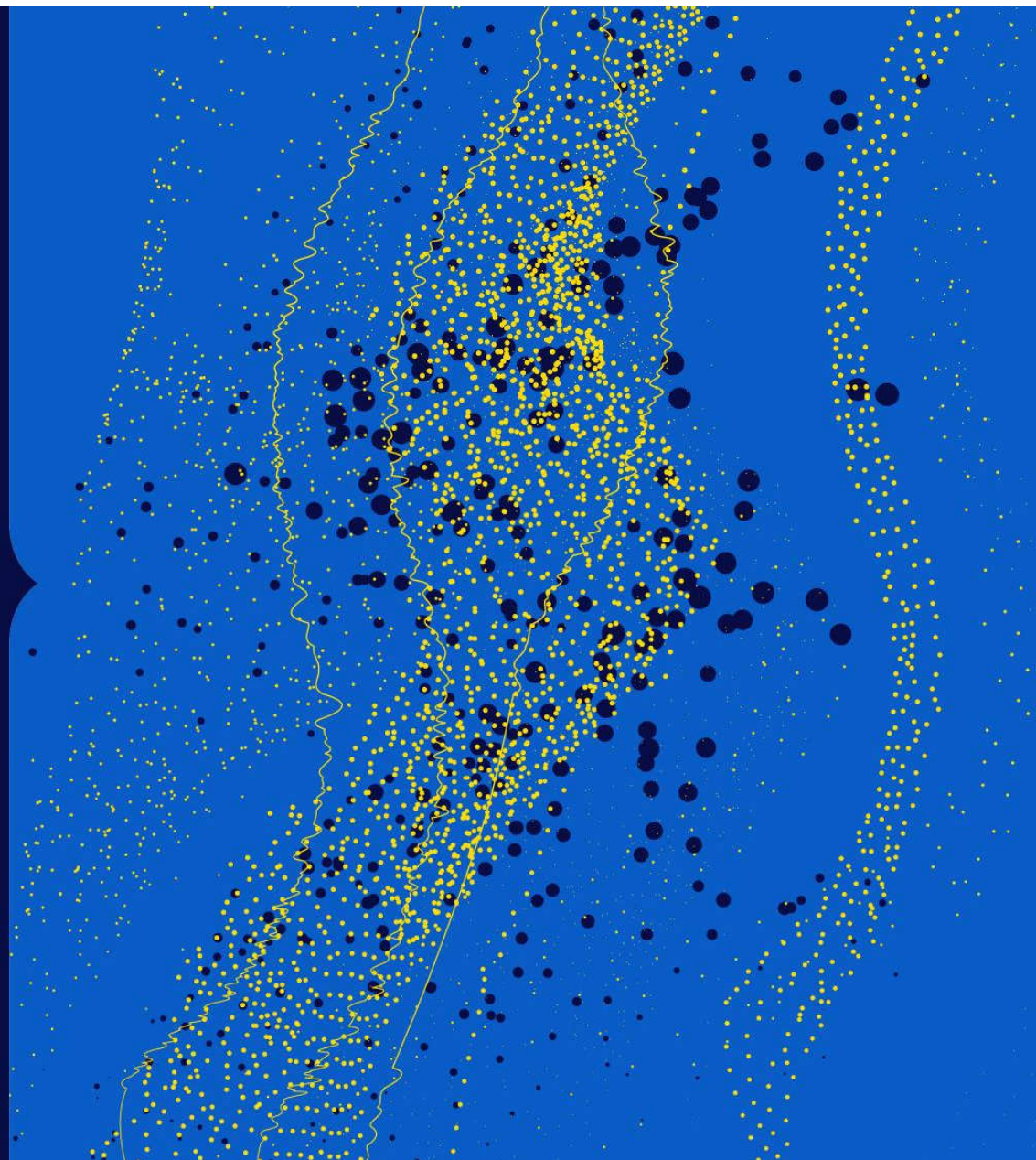


Vietnam Tax Update 2022



MR NAM NGUYEN FCPA (Aust.)
Managing Director | Kreston NNC
Chairperson of CPA Australia South Vietnam
Advisory Committee

Ho Chi Minh, 17 June 2022



Agenda

1. 2022 tax payment deferrals
2. 2022 VAT & CIT Relief
3. New limits on overtimes work hours
4. Rent subsidies for employees
5. Changes in tax administration rules
6. Changes in taxation of e-commerce rules
7. Taxation of non-resident foreign suppliers
8. New important rules on invoices
9. New penalties for invoice-related offences
10. Impacts of new minimum salaries and wages
11. Q & A

Tax payment deferrals

Decree 34/2022/ND-CP

Decree 34/2022 – Tax payment deferrals

Eligible businesses:

- Manufacturers
- Service providers
- Manufacturers in supporting industries
- Manufacturers of key mechanical engineering products
- Medium & small enterprises
- Banks and financial institutions supporting businesses affected by the Covid-19 pandemic



Decree 34/2022

Eligible manufacturers: (the same as Decree 52/2021/ND-CP)

- Agriculture, forestry and aquaculture
- Food production and processing; textile & garments, including production of leather products; wood product processing and manufacturing; production of paper, rubber, plastic, non-metallic minerals; metal production and coating; mechanical processing; manufacturing of electronic components, computers, optical products, automobiles and motor vehicles.
- Construction
- Publishing, movie, television, music production;
- Exploitation of crude oil and natural gas;
- Manufacturing of drinks & beverages, chemicals, prefabricated products (except for machinery and equipment), motors/motorbikes;
- installation/maintenance of machinery and equipment;
- Coal production, petroleum refinement;
- Operation of drainage and wastewater treatment systems.

Decree 34/2022

Eligible service providers: (the same as Decree 52/2021/ND-CP)

- Logistics, accommodation and catering;
- Education, training, healthcare;
- Social distancing activities;
- Real estate
- HR, tourism and travel services
- Creative, artistic and entertainment services;
- Library, archival/museum and cultural services;
- Sport and entertainment, including cinemas
- Radio/television, consultancy and IT services;
- Services supporting the mineral mining industry;

Eligibility is determined per Prime Minister's Decision 27/2018/TTg dated 6 July 2018 which defines the system of classification of Vietnam's economic sectors.

Decree 34/2022

Eligible SMEs: (per Decree 80/2021/ND-CP, effective 15 October 2021)

| Business sector | Size of business | No. of employees paying social insurance (A) | Annual revenue VND (B) | Paid-up capital VND (C) |
|---|------------------|--|------------------------|-------------------------|
| Agriculture, forestry, aquaculture, industry, or construction | Medium | <=100/year | <= 50 billion | <=20 billion |
| | Small | <=10/year | <=3 billion | <=3 billion |
| Trading or services | Medium | <=50/year | <=100 billion | <=50 billion |
| | Small | <=10/year | <=10 billion | <=3 billion |

Eligibility condition = (A) and (B) or (C)

Decree 34/2022

VAT payment deferral (except for import VAT)

| Mode of VAT filing | Period of filing | Regular deadline | Extended deadline | Number of month deferral |
|--------------------|------------------|------------------|-------------------|--------------------------|
| Monthly | March/2022 | 20/04/2022 | 20/10/2022 | 6-month |
| | April/2022 | 20/05/2022 | 20/11/2022 | 6-month |
| | May/2022 | 20/06/2022 | 20/12/2022 | 6-month |
| | June/2022 | 20/07/2022 | 20/12/2022 | 5-month |
| | July/2022 | 20/08/2022 | 20/12/2022 | 4-month |
| | August/2022 | 20/09/2022 | 20/12/2022 | 3-month |
| Quarterly | Q1/2021 | 30/04/2022 | 30/10/2022 | 6-month |
| | Q2/2021 | 30/07/2022 | 31/12/2022 | 5-month |

Decree 34/2022

3-month deferral of CIT payments

| Type of CIT payment | Regular deadline | Extended deadline |
|-------------------------|------------------|-------------------|
| Interim CIT for Q1/2022 | 30/04/2022 | 30/07/2022 |
| Interim CIT for Q2/2022 | 30/07/2022 | 30/10/2022 |

Decree 34/2022

Rules for claiming tax deferrals:

- A formal tax deferral request must be lodged by 30 September 2022 (online submission is acceptable);
- Taxpayers are required to self-access their eligibility and tax offices are not required to inform taxpayers of their approval;

Unlike last year, Taxpayers are not required to settle all outstanding tax debts and penalties before in order to claim the tax deferrals



VAT & CIT Relief

Decree 15/2022/NĐ-CP
Effective 1 February 2022

VAT rate reduction

All goods and services subject to the standard 10% VAT will enjoy VAT rate reduction, except for the following groups of goods/services:

1. Telecommunication, financing activities, banking, securities, insurance, real estate, metal products, mining products (other than coal mining), refined petroleum, chemical products.
2. Goods/services that are subject to special sales tax (SST)
3. IT products/services as defined by IT laws.

Rate reductions:

- For businesses paying VAT under the normal deduction method, the 10% VAT rate is reduced to 8%.
- For businesses paying VAT under the direct/deemed method, their VAT payable is reduced by 20%.

VAT rate reduction

- The reduced VAT rates are applicable from 1 February to 31 December 2022.
- Businesses must prepare a separate invoice for goods/services that are eligible to the reduced VAT rate.

Transitional rules (GDT's Official Letter *2688/BTC-TCT* dated 23 March 2022):

- All invoices issued prior to 1 February 2022, including invoices for prepayments for goods delivered/services completed on or after that date are not eligible to the reduced rates.
- All payments made/invoiced on or after 1 February 2022 will be eligible to the reduced rates.
- Pre-February 2022's revenue that is deferred to be invoiced on or after 1 February 2022 will not be eligible to the reduced VAT rates.
- New invoices issued on or after February 2022 that amends or replaces a pre-February 2022 invoice will also not be eligible to the reduced VAT rates.

CIT deductions for Covid-19 donations

- For the 2022 tax year, a taxpayer may claim a CIT deductions for donations made to approved organisations or funds for Covid-19 fighting and prevention.
- Approved organisations include medical unites, the arm forces, agencies handling quarantines, educational institutions, press/media agencies, government's ministries, communist party organisation, youth associations, trade union, local governments, charity organisation etc.
- Companies that made donations through their parent company may also claim CIT deductions of such donations.

New limits on overtimes work hours

Resolution 17/2022/UBTVQH15

Effective 1 April 2022

Resolution 17/2022/UBTVQH15

| Changes | Resolution 17/2022/UBTVQH15 Effective 1 April 2022 | 2019 Labour Codes & Decree 145/2020/ND-CP |
|-----------------------------------|---|--|
| No. of overtimes hours in a year | <p>200 < No. of overtimes hours < 300, subject to mutual agreement between employer and employees, except for the following:</p> <ul style="list-style-type: none"> - Minor employees (15-18 years old) - Employees with disability of 51% or more - Work of heavy lifting, in hazardous environment etc. - Females in 7th month of pregnancy or later - Females with a child below TV 12 months of age. <p>This rule is effective from 1 January 2022.</p> | <p>200 < No. of overtimes hours < 300, if the business is in the following sectors/circumstances:</p> <ul style="list-style-type: none"> - Manufacturing/processing of textiles, garments, leathers, electrical/electronic products, agricultural/fishery products etc. - Production/supply of electricity, telecommunication, oil refinery, water supply - Shortage of highly technical expertise; - Emergency work that cannot be delayed etc. |
| No. of overtimes hours in a month | 40 < No. of overtimes hours < 60, for employers who are permitted to employ overtimes employees for up to 300 hours per year. | Max. 40 hours. |

Rent subsidies for employees

Decision 08/2022/QĐ-TTg
Effective 28 March 2022

Decision 08/2022/QĐ-TTg

Eligibility

Employees working in industrial zones, export processing zones, or special economic zones who meet the following criteria:

- They had rented accommodation in the period from 1 January 2022 to 30 June 2022;
- They were employed under a labor contract with indefinite period, for at least 1 month and they had started work before 1 April 2022;
- They participated in compulsory social insurance schemes in the month prior to the month that their employer listed them for rent subsidy;
- If they did not participate in the compulsory social schemes, they must be in the payroll in the month prior to the month that their employer listed for rent subsidy.

Decision 08/2022/QĐ-TTg

Entitlements:

- VND500,000 per month for current employees; or VND1million per month for returning employees.
- Period of entitlement is maximum 3 months
- Frequency of payment is monthly

To claim entitlements:

- A claim form to be completed by the employee, certified by the landlord and lodged with the employer.
- The employer completes a form and have it certified by the social security office, or submit the payroll of the prior month (for employees who do not join compulsory social insurance schemes).
- The employer lodges the above documents with the local People's Committee office. The employer may apply for rent subsidies for up to 3 months.
- The deadline for lodgment of rent subsidy applications is 18 August 2022.



Changes in tax administration rules

(Circular 80/2021/TT-BTC)

Circular 80/2021/TT-BTC

| Changes | Circular 80/2021/TT-BTC Effective 1 January 2022 | Previously |
|---|--|---|
| Currency for tax reporting and tax payments | Petroleum businesses may pay taxes in any freely convertible currency (except for that sells crude oil, condensates or natural gas in Vietnam or where the government requires differently). | The currency for tax reporting was USD and the currency for tax payments was USD for exporter, and VND for all other cases. |
| | Foreign e-commerce suppliers that do not have a permanent establishment in Vietnam may report for taxation and pay taxes in any freely convertible currency. | Not regulated. |
| Allocation of tax payments | Taxpayers may submit one set of documents for tax payments and the State Treasury Office receiving such documents allocate the tax payments to the relevant provinces. | Taxpayers must submit a separate set of documents for tax payments to the State Treasury Office in each relevant province. |

Circular 80/2021/TT-BTC

| Changes | Circular 80/2021/TT-BTC Effective 1 January 2022 | Previously |
|--|--|---|
| Period for calculation of penalty for late tax payment | From the date following the date that a late tax payment penalty is triggered to the date prior to the date of payment. | From the date after the due date for tax payment to the date of payment. |
| Adjustment of penalty for late tax payments | Tax payers may reduce the applicable penalty for late tax payments when they amend a tax return to reduce their tax liabilities or when such liabilities are reduced as a result of a tax audit. | Tax payers were required to pay the applicable penalty for late tax payments which were accrued up the date of lodgement of the amended tax return. |
| VAT filing | The requirement has been abolished. | Taxpayers who had sales in a location outside of the province of their head office were required to file VAT returns in that location. |

Changes in taxation of e-commerce rules

Circular 100/2021/TT-BTC
Amending Circular 40/2021/TT-BTC
Effective 1 January 2022

Circular 100/2021/TT-BTC

Tax withholding/disclosure requirements:

- E-commerce platform operators are no longer required to provide information of individual e-commerce sellers if they are not required to withhold and pay taxes on behalf of the sellers.
- However, the local tax office will work with the e-commerce platform operators to obtain information shared by the latter, where there is an appointment of the latter to do so according to civil law.

Taxation of foreign suppliers

Circular 80/2021/TT-BTC
Effective 1 January 2022

Taxation of non-resident foreign suppliers

Foreign suppliers who have no permanent establishment in Vietnam must:

- Register online for taxation with the General Department of Taxation (GDT) thru GDT's web portal
- Lodge online tax returns for VAT and CIT (under the foreign contractor tax rules)
- Adopt tax office's code as e-signature to replace physical signature (paper returns are not required)

A non-resident foreign supplier may:

- Register and pay taxes directly online through the online account registered with the tax office, or
- Appoint a tax agent to handle the tax registration, tax returns and tax payments.
- Pay taxes in any freely convertible currency.
- Offset immediately the taxes overpaid against the tax liabilities of in any subsequent tax return.

Obligations of the Vietnamese parties

If a foreign supplier is not registered for taxation in Vietnam then:

- If the buyer/distributor/service agent in Vietnam is a corporate entity it is responsible for the following:
 - Register the foreign supplier for taxation, and
 - File tax returns and pay taxes on behalf of the foreign supplier.
- If the buyer in Vietnam is an individual then the intermediary bank or payment service provider is responsible for withholding the taxes, file tax returns and pay taxes on behalf of the foreign supplier. The GDT will notify the bank or the payment service provider (thru their head office) when they have the obligation to do so.

Important rules on e-invoices

Decree 123/2020/ND-CP
Effective 1 July 2022

Type of e-invoices

There are two types of e-invoices:

- e-invoices with tax office code; and
- e-invoices without tax office code.

Generally, all businesses may use e-invoices with tax office code regardless of the value of transaction unless they fall in one of the specific groups:

1. Businesses that must adopt e-invoices with tax office code; or
2. Businesses that may adopt e-invoice without tax office code

Businesses that must adopt e-invoices with tax office code

- A business owned by a household or individual that meets the highest criteria (in terms of revenue and number of employees) set for a “super small” enterprise and that maintains proper bookkeeping and is registered for VAT under the tax deduction method, and other businesses of this category where their sales revenue can be determined based on e-invoices with tax office code.
- A business owned by a household or an individual that does not meet the requirements for use e-invoices with tax office code, but it needs to issue e-invoices to customers, or businesses that are allowed by the tax office to e-invoices to customers. In these cases, the tax office will provide them with an e-invoice with tax office code on ad-hoc basis (i.e.. transaction-by-transaction), but they must file tax returns and pay the relevant taxes before the tax office provide them the invoices.

In addition, the Ministry of Finance regulates further that:

- All businesses owned by a household or an individual that is registered for VAT under the self-assessment scheme must adopt e-invoices.
- If a taxpayer this category pays taxes according to deemed revenue and it needs an e-invoice for any transaction, it may request the tax office to provide a single e-invoice for each transaction.

Businesses that may adopt e-invoices without tax office code

- (i) Businesses supplying electricity, petrol, postal and telecommunication services, clean water, banking and finance services, insurance, healthcare, e-commerce, supermarket, trading, transportation by air, road, railway, waterway;
- (ii) Businesses that interact with the tax office through electronic means, information technology infrastructure, accounting software or e-invoicing software which can prepare and retrieve e-invoices and e-invoice data, and which can allow buyers and the tax office to access to their e-invoices.

However, if a business in either group (i) or (ii) above is given a “high risk” rating by the tax office, then it will be subject to separate rules by the Ministry of Finance.

General rules on e-invoices

- When supplying goods or services, a supplier must issue an invoice to the buyer, including when goods or services are supplied for promotion, marketing, testing, gift, exchange for other goods or services, payment in lieu of salary, or internal consumption (except for internal movement of inventories for production).
- The invoice must include all compulsory information. If the invoice is electronic, it must be in the data format that is compatible with the format used by the tax office.
- Before using invoices, the invoice template must be registered with the tax office. A periodic invoice usage report must be lodged with the tax office.
- The registration, administration and use of e-invoices must comply with all relevant regulations on electronic transactions, accounting, tax administration.

Time to raise an invoice – General rules

- For sale of goods, the time to raise an invoice is when the ownership is transferred to the buyer, regardless of whether the buyer has made payment.
- For supply of services, the time to raise an invoice is when the services are completed fully or partly according to the agreed progress of completion, regardless of whether the customer has made payment. However, for pre-payments, an invoice must be raised when a prepayment is collected, except for the deposits for professional services including accounting, audit, financial consultancy, taxation, valuation, survey, technical design, consultancy, supervision, and preparation of construction project documents.
- Where deliveries of goods or services are in phases, the time to raise an invoice is when each delivery is made.
- A supplier may authorise a third-part to issue e-invoices on its behalf. However, such invoices must still be in the name of the supplier. The authorisation must be made in writing. The tax office must be notified of such authorisation. If an e-invoice does not have a tax office's code, the supplier must provide the invoice data to the tax office through its e-invoice service provider.

Time to raise an invoice – Specific rules

| Transaction | Time to raise an invoice |
|--|---|
| Transactions with bulk deliveries of goods or services | <p>An invoice must be raised when a delivery is made and accepted.</p> <p>For services that include frequent deliveries in mass volume where the business needs to time to consolidate billings, such as supply of utilities, television services, courier services, telecommunication services, logistics, or IT services etc., the time to raise an invoice is not later than the 7th day of the following month or the 7th day following the last day of each billing period agreed with the customers. In some cases, this 7-day period may be extended up to 2 months.</p> |
| Construction and installation work | <p>When the completed work is delivered to the customer, regardless of whether payment has been received.</p> |
| Sale of real estate by a developer | <p>If the ownership or leasing right has not been transferred, an invoice must be raised when a progress payment is collected or on the payment due date as specified in the sales agreement.</p> <p>If the ownership or leasing right has been transferred, an invoice must be raised when the ownership or leasing right is transferred, regardless of whether payment has been received.</p> |

Time to raise an invoice – Specific rules

| Transaction | Time to raise an invoice |
|--|---|
| Retail and catering outlets | If a customer requests for an invoice, it must be issued instantly. Otherwise, a daily invoice must be issued on each business day. |
| Retail banking, security, insurance, money transfer thru e-wallets | <p>If a customer is an individual who does not require an invoice, then supplier must raise a daily or monthly invoice for each day or month, respectively. If a customer requires an invoice, then it must be issued instantly.</p> <p>For banking services, the date to raise invoice is the regular invoicing date as agreed by the bank and its customers but not later than the last date of the month. If the volume of banking transactions is large, the time to raise and invoice may be delayed until the 10th day of the following month.</p> |
| Health clinics | If a customer does not require an invoice, a daily e-invoice must be raise to record the daily revenue. If a customer requires an invoice, it must be issued instantly. |

Penalties for invoice-related offences

Decree 102/2021/ND-CP
amending Decree 125/2020/NĐ-CP
Effective 1 January 2022

Decree 102/2021/ND-CP

| Changes | New Decree 102/2021/ND-CP | Current Decree 125/2020/ND-CP |
|---|---|---|
| Statutory limitation | 2 years for invoice-related offences. | 1 year for invoice-related offences |
| Penalties for give-away or sale of invoices | VND20-50 million for give-away or sale of invoices, with some exceptions. | VND20-50 million for give-away or sale of invoices but they have not been used. |
| Penalties for invoices with missing details | VND4-8 million for invoices that are not filled in with all compulsory details. | Not regulated. |
| Penalties for lost/damaged invoices | VND4-8 for lost/damaged invoices that have not been reported for taxation. | Not regulated. |
| | VND5-10 million for lost/damaged invoices that have been reported for taxation. | The same. |

Impacts of new minimum salaries and wages

Decree 38/2022/NĐ-CP
Effective 1 July 2022

Impacts of new minimum salaries and wages

| Area | Monthly minimum salaries (VND million) Effective 1 July 2022 | | |
|------|---|-------|--------------|
| | Current | New | Increase (*) |
| I | 4.420 | 4.680 | 0.260 |
| II | 3.920 | 4.160 | 0.240 |
| III | 3.430 | 3.640 | 0.210 |
| IV | 3.070 | 3.250 | 0.180 |

(*) the average increase is ~6%

| Area | Hourly minimum wages (VND) Effective 1 July 2022 |
|------|---|
| I | 22.500 |
| II | 22.000 |
| III | 17.000 |
| IV | 15.600 |

| Contributions by | Social insurance | Health insurance | Unemployment insurance | Total |
|------------------|------------------|------------------|------------------------|-------|
| Employees | 8% | 1.5% | 1% | 10.5% |
| Employers | 17.5%** | 3% | 1% | 21.5% |

The contributions are based on the total remuneration including salaries, wages, and cash allowances, and capped at 20 times of:

- The standard minimum monthly salary, for social insurance and health insurance contributions; and
- The relevant area minimum monthly salary, for unemployment insurance contributions.

(**) From July 2021 to June 2022, employers pay their contribution for social insurance at the reduced rate of 17% (rather than 17.5%) and keep the difference (0.5%) as a fund for Covid-19 related expenditures or reliefs for their employees. This will cease from July 2022.





Kreston NNC
Nam Nguyễn, FCPA
Managing Partner

Level 46 Bitexco Financial Tower
2 Hai Trieu Street, District 1
Ho Chi Minh, Vietnam
Office: +84 8 6287 6085
Mobile: +84 9 3846 4763
Email: nam@kreston-nnc.com
Website: www.kreston-nnc.com

The information in this presentation was prepared for general guidance only and it does not constitute a professional advice. No reliance should be placed on this information without appropriate professional advice after a thorough examination of the particular situation. This general information should not be used as an alternative to seeking professional tax advice.

Thank you

CPA
AUSTRALIA

