



WHITE PAPER

Recommendations for the
implementation of the Income Tax Law
No.67/NA

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Introduction

The European Chamber of Commerce and Industry in Laos (“European Chamber”, “ECCIL”) refers to the Invitation Letter No.1847/MOF dated 08 September 2020 following which the Ministry of Finance has organized the 11 September 2020 at Tax Department office a discussion meeting on a Draft Instruction on Implementation of Income Tax Law 2019 where it has gathered Government representatives from Accounting Department, Tax Department, Bank of Lao PDR, and representatives of Companies and Banks operating in Lao PDR.

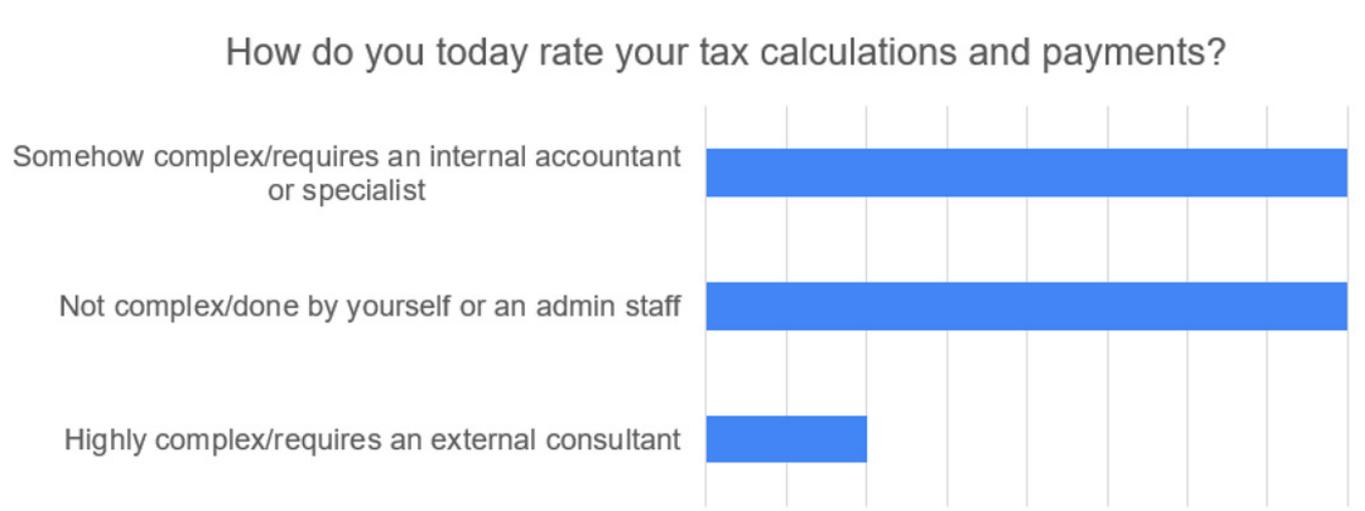
During this meeting, Tax Department has requested comments from companies operating in Lao PDR for consideration in drafting the new Instruction for Implementation of Income Tax Law No.67/NA dated 18 June 2019.

The European Chamber represents the European business community in Laos and advocate the interests of its members towards Lao Government through Advocacy. The European Chamber engages constructive dialogue with Lao Ministries and other Lao Authorities to raise issues and voice opinions on behalf of its members. We also participate to Trade and Public Sector Working Group meetings, including Lao Business Forum, and yearly submit our Annual White Papers Book to the Government of Lao PDR.

We have been informed about the meeting held the 11 September 2020 and we would like to share with you the recommendations gathered from our members through internal consultations and meetings in relation to the new Income Tax Law.

Recommendation No.1: Offer support service to taxpayers

We have questioned our members on the complexity in calculating and paying taxes in Lao PDR. While many of our members have no issue in calculation and payment, we found that a more than half of our members hires accountants or external tax advisors to do the tax preparation and support in tax payments. In that extent, it means that our members are likely to increase their operating costs to comply with Lao Income Tax Law No.67/NA.



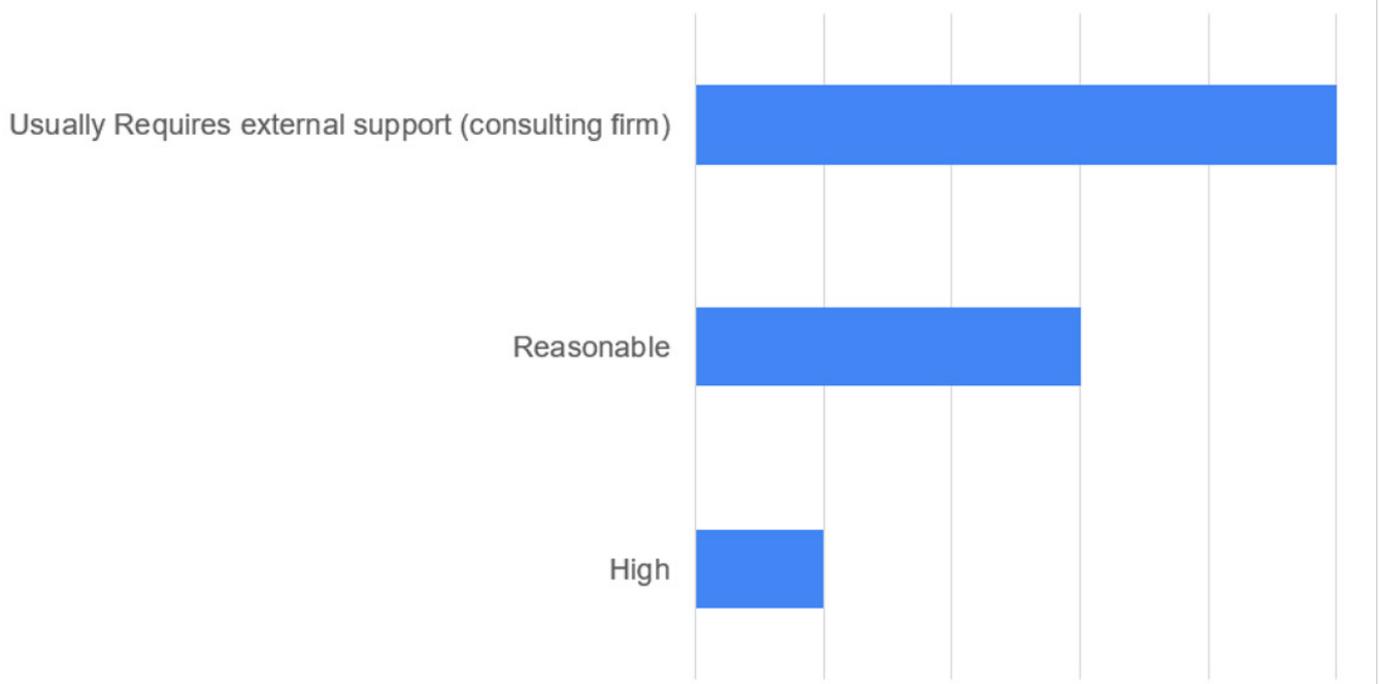
Our Advocacy Working Group has worked on the question of Tax Calculation and Payment. Based on our members' shared experience of dealing with Taxes in Lao PDR, we have the below recommendations to improve the implementation of the Income Tax Law No.67/NA:

- 1. Tax Authority shall open or create a specific Support Unit to welcome, meet and guide companies in their taxes, in particular on their tax calculations and payments. This Support Unit could work on a schedule basis (appointment system), counter basis (a team of tax officials available for discussion during working days) or online/telephone basis (by internet or telephone assistance).**
- 2. Improve the relationships between tax officials and companies in requesting tax officials to provide more tax information to companies;**
- 3. Improve tax officials' knowledge and skills on Accounting to facilitate the review of the companies' financial reports and easier the discussion with the accountants;**
- 4. Increase the number of public events on Taxes, such as seminars or workshops for companies to train their staff and get updates from Tax Authority on new tax regulations.**

Recommendation No.2: Improve Tax Audit

We have questioned our members on the time spent in answering Tax Audit requests and follow-up with officers of Tax Authority in Tax Audit closure. The majority of our members expresses difficulty in Tax Audit due to either its excessive duration (some members reported 3 years as the time necessary to close a Tax Audit) or the necessity to hire a consulting firm such as accounting firm or tax advisory firm to support in Tax Audit.

How do you rate the time spent in being audited by Tax Authority



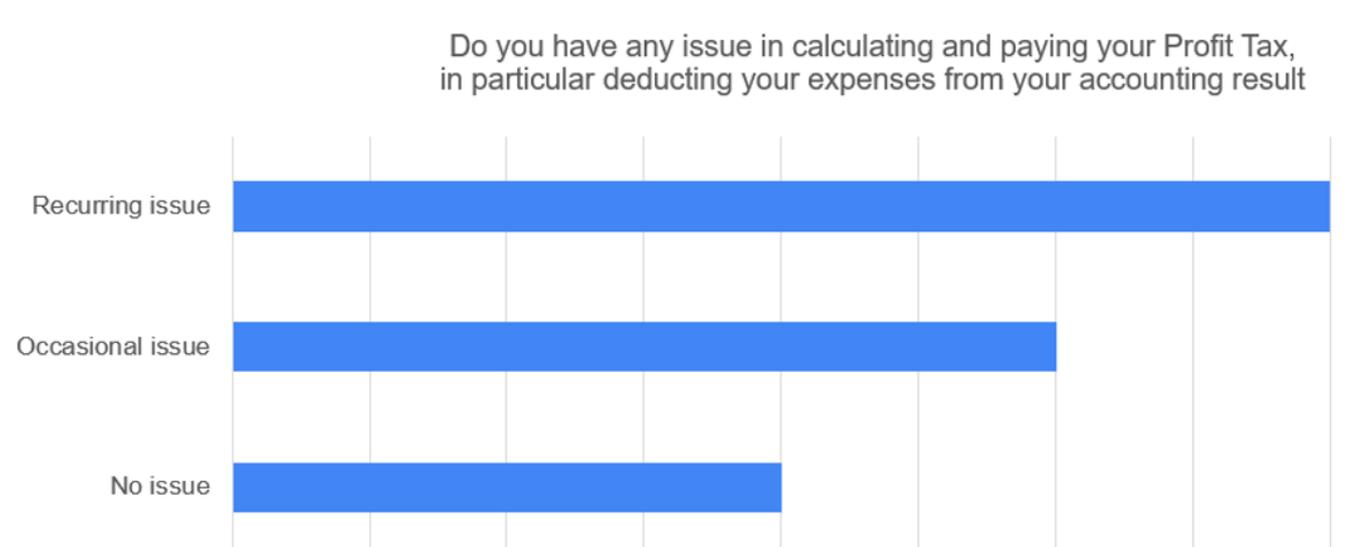
Our Advocacy Working Group has worked on the question of Tax Audit. Based on our members' shared experience of dealing with Tax Audit in Lao PDR, we have the below recommendations to improve the implementation of the Income Tax Law No.67/NA:

1. **Improve the planning of tax audit with clear work steps and guidance for officials to follow;**
2. **Narrow the scope of audited companies by selecting companies subject to Tax Audit. The selection can be based on risk-approach and considering objective criteria such as size of company, business activity or level of turnover;**
3. **Limit the time necessary for Tax Audit to 6 months to avoid tax officials to delay or postpone Tax Audit works at companies' office or at Tax Authority office. In that extent, companies shall receive an official notice about the start of Tax Audit with a clear mention about the end day.**

Recommendation No.3: Promote Electronic Tax Invoicing

We have questioned our members on the issue encountered when bookkeeping their purchases in Lao PDR for reporting them for tax purposes. Most of our members have difficulties in reporting their expenses for tax purposes, these difficulties appear to be either recurring (frequently or every year) or occasional (during tax audit for example). Our members have concerned that their expenses are rejected by Tax Authority due to the fact that many suppliers in Lao PDR do not provide official VAT or Tax Invoices.

This issue of non-receiving VAT or Tax Invoices from suppliers is found in all provinces of Lao PDR and can lead to additional taxes for our members to pay to Tax Authority, such as more Profit Tax and more VAT, but also penalties.



Our Advocacy Working Group has worked on the question of Tax Invoices. Based on our members' shared experience of dealing with Tax Invoices in Lao PDR, we have the below recommendations to improve the implementation of the Income Tax Law No.67/NA:

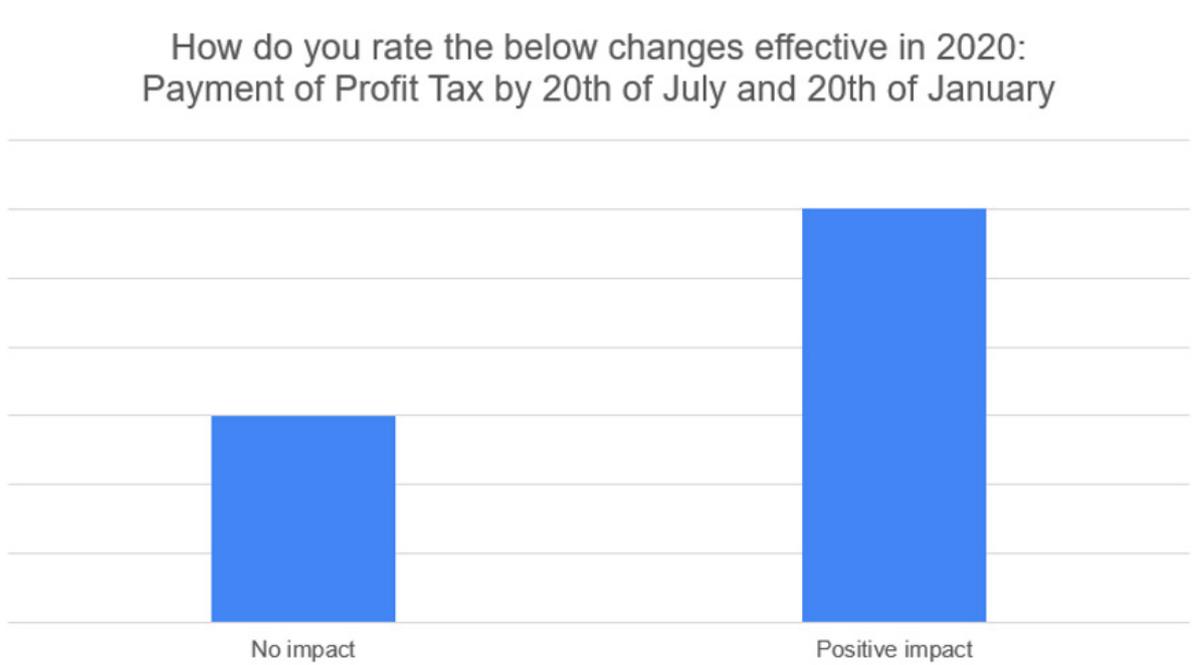
1. **Generalize the use of Electronic Invoices for tax purposes for all companies: Large companies and Small and Medium companies.**
2. **Allow expenses supported by standard invoices or simple receipts from suppliers;**
3. **Allow the companies to not be charge additional Profit Tax, VAT or penalty when their suppliers do not provide them with VAT or Tax invoices;**
4. **Encourage all companies in Lao PDR to implement Accounting and Invoicing regulations in all provinces of Lao PDR.**

Recommendation No.4: Generalize Tax System countrywide

We have questioned our members on the changes in paying Taxes under Income Tax Law No.67/NA and most of them agreed that the new Law has introduced some positive changes. Any reduction in the number of required tax payments or reduction of tax rates is much appreciated by the business community. It is also perceived as a positive signal to foreign investments who could enjoy in Lao PDR easier tax payments than in neighboring countries.

Lao PDR has made great improvements in paying Taxes thanks to the new online system TaxRIS that allows the companies to declare and pay online their taxes. It is now easier to follow-up and summarize the tax payments.

Yet, TaxRIS is used in main cities such as Vientiane. But it is not yet implemented across the country. In addition, many companies are still not registered in the tax system. As a consequence, many companies are still likely to not report their Taxes, in particular in provinces.



Our Advocacy Working Group has worked on the question of Tax Audit. Based on our members' shared experience of dealing with Tax Audit in Lao PDR, we have the below recommendations to improve the implementation of the Income Tax Law No.67/NA:

1. **Ensure the full implementation of TaxRIS system across Lao PDR (geographic implementation).**
2. **Ensure the full registration of all companies doing business in Lao PDR in TaxRIS system (taxpayer basis). In that extent, the register of the Minister of Industry and Commerce could be reconciled with the register of Tax Department to ensure that all companies with an Enterprise Registration Certificate have a proper Tax Identification Number with a related online tax account in TaxRIS;**
3. **Allow the submission of Year Financial Reports online through TaxRIS to speed up the submission process.**

Recommendation No.5: Strengthen the Lao VAT System

Through our members consultation, we have received comments from the European Embassies in relation with VAT as a key investment factor that shall be considered by the Lao Ministry of Finance and Tax Department in priority in order to bring more investors from overseas into Lao PDR, in particular investors from the European Union.

As you are aware, the Value Added Tax, or VAT, in the European Union is a general, broadly based consumption tax assessed on the value added goods and services. It applies more or less to all goods and services that are brought and sold for use or consumption in the European Union. EU Countries implement common rules set in the VAT Directive in their national legislation with common concepts and principles that are:

- As a general tax, VAT applies in principle to all commercial activities involving the production and distribution of goods and the provision of services;
- As a consumption tax, VAT is borne ultimately by the final consumer. **It is not a charge on businesses;**
- VAT is collected fractionally, via a system of partial payments whereby taxable persons (VAT registered businesses) deduct from the VAT they have collected the amount of VAT they have paid to other taxable persons on purchases for their business activities. **This mechanism ensures that the VAT is neutral regardless of how many transactions are involved.**
- VAT is paid to the revenue authorities by the seller of the goods, who is the “taxable person”, but it is actually paid by the buyer to the seller as part of the price. **It is thus an indirect tax.**

During the consultation, we have found that the Lao VAT System, as implemented by Lao Tax Authority under the Amended VAT Law No.48/NA dated 20 June 2020, is considered as not investor-friendly due to several issues and difficulties that we report to your attention:

- On one side, many foreign investors that are operating in Lao PDR are reporting **difficulties in paying their VAT**, in particular their inability to deduct from their Output VAT collected on their customers the Input VAT they have paid to their local suppliers. This inability is due:
 - First, to a recurring rejection by Tax Authority of deduction of Input VAT from local suppliers as non-business expenses, i.e. non-eligible for VAT deduction;
 - Next, to the non-issuance by local suppliers of mandatory VAT invoices that support payments of VAT to a VAT registered business. Due to the non-provision of VAT invoices, foreign investors are prohibited by Tax Authority to deduct the input VAT paid to local suppliers.
- On the other side, **the refund of VAT credit is still not effective**. On many situations, Ministry of Finance was not able to refund in cash the foreign investors their VAT credit. Difficulties have been found at every stage of the VAT credit refund process : difficulty to receive VAT invoices from local suppliers, non-performance of VAT inspection by Tax Authority, lack of reply to official requests for VAT refunds.
- At last but not least, **the VAT has not been applied harmoniously throughout the country** and is nowadays **applied effectively only by a small percentage of companies**, which creates market issues such as unfair competition and fiscal disadvantages, but also increases the cost of the companies that are willing to adhere to the VAT System.

As representative of the EU business community, **we strongly recommend Ministry of Finance to strengthen the Lao VAT System to attract investors, in particular those from the European Union.**



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