

LEGAL UPDATE

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Personal Income Tax on Capital and Securities Transfers – From Regulatory Updates to M&A Implications

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The Law on Personal Income Tax 2025 (hereinafter, the “**PIT Law 2025**”) will enter into force on 01 July 2026, replacing the Law on Personal Income Tax 2007 and the amended Law on Personal Income Tax 2012. The issuance of decree and circular detailing and guiding the implementation of the PIT Law 2025 has been promptly carried out to provide the legal framework for the implementation of the newly enacted legislation. As of the current date, the Government has issued Decree No. 253/2026/ND-CP detailing certain articles and measures for the implementation of the Law on Personal Income Tax (hereinafter, the “**Decree 253**”) and Circular No. 87/2026/TT-BTC detailing certain articles of the Law on Personal Income Tax and Decree No. 253/2026/ND-CP of the Government detailing certain articles and measures for the implementation of the Law on Personal Income Tax (hereinafter, the “**Circular 87**”). This article summarizes the regulations governing the transfer of capital, shares, and securities under the PIT Law 2025, Decree 253, and Circular 87 within the context of the upcoming implementation of the new tax policy.

A. REGULATORY UPDATES ON PERSONAL INCOME TAX FOR INCOME FROM CAPITAL TRANSFERS

A noteworthy update under the PIT Law 2025 and Decree 253 is the detailed guidance on the classification of capital transfer income in accordance with the PIT Law 2025. Accordingly, capital transfer income comprises: (i) income derived from the transfer of a portion or the entirety of the contributed capital in limited liability companies, partnerships, business cooperation contracts, cooperatives, unions of cooperatives, people's credit funds and other organisations; (ii) income derived from the transfer of securities; (iii) income arising from the contribution of capital by way of contributed capital or securities for the establishment of an enterprise or the increase of an enterprise's charter capital; and (iv) income derived from capital transfers in other forms.¹

¹ Article 3.4 of the Law on Personal Income Tax 2025; Article 10 of Decree No. 253/2026/ND-CP.

Moreover, for capital transfer income, resident individuals are subject to PIT at a rate of 20% on assessible income or, where the purchase price and related expenses cannot be determined, at a rate of 2% on the transfer price.² For non-resident individuals, the determination of PIT on income derived from capital transfers and securities transfers is subject to the same rules applicable to resident individuals.³ Decree 253 also requires individuals to fulfil their PIT obligations in respect of the transferred capital before carrying out the procedures for updating the register of capital-contributing members or the register of shareholders of the enterprise in which the capital transfer takes place. Where an enterprise proceeds with such registration procedures before the transferor has fulfilled its PIT obligations, that enterprise is responsible for filing the tax declaration and paying the tax on behalf of the transferor.⁴

Provided below is a summary of the regulations on personal income tax applicable to income derived from capital transfer and securities transfers under the PIT Law 2025, Decree 253 and Circular 87.

1. Income from capital transfers

Income from capital transfer refers to income derived from the transfer of a portion or the entirety of the contributed capital in limited liability companies, partnerships, business cooperation contracts, cooperatives, unions of cooperatives, people's credit funds and other organisations.⁵

Personal income tax on income from capital transfers is calculated using the following formula:⁶

$$\begin{aligned}\text{PIT} &= \text{Assessible income} \times 20\% \\ &= (\text{transfer price} - \text{purchase price and reasonable expenses related to the} \\ &\quad \text{generation of income from capital transfer}) \times 20\%\end{aligned}$$

In the event that the purchase price and related expenses concerning the capital transfer cannot be determined, the following formula shall apply:

$$\text{PIT} = \text{Transfer price} \times 2\%$$

Wherein,

- Transfer price means the amount of money received by an individual under the capital transfer contract.
 - In the event that the capital transfer contract provides for payment by instalments or deferred payment, the transfer price shall exclude any interest arising from such

² Article 23 of the Law on Personal Income Tax 2025; Article 53.1 of Decree No. 253/2026/ND-CP.

³ Article 65 of Decree No. 253/2026/ND-CP.

⁴ Article 56.5 of Decree No. 253/2026/ND-CP.

⁵ Article 10.1 of Decree No. 253/2026/ND-CP.

⁶ Articles 53.1, 53.2, 53.3 of Decree No. 253/2026/ND-CP

instalment or deferred payment arrangement; such interest shall be subject to personal income tax as investment income.

- In the event that the capital transfer contract specifies a transfer price, or where the tax authority has grounds to determine that the transfer price is not consistent with the prevailing market price, the tax authority is entitled to examine the transaction and assess the transfer price in accordance with the laws on tax administration.
- Purchase price means the value of the capital contribution at the time of the capital transfer, which equals the total value of the initial capital contribution and any subsequent contributions or additional purchases.
 - In the event that the capital is contributed to establish an enterprise: the purchase price shall be the cumulative value of the capital contribution up to the time of the capital transfer, determined on the basis of accounting books, invoices, and source documents.
 - In the event that the capital is acquired through a repurchase: the purchase price shall be the value of the capital at the time of purchase, determined on the basis of the capital repurchase contract and payment documents.

The time for determination of assessable income shall be the time of completion of the transaction as prescribed by law or the time of completion of the procedures for updating the register of capital-contributing members, except where capital is contributed in the form of contributed capital.⁷

2. Income from securities transfers

Income from securities transfers refers to income derived from the transfer of share, stock purchase rights, bonds, treasury bills, fund certificates, and other securities as prescribed by the laws on securities; income derived from the transfer of shares by individuals in joint-stock companies in accordance with the Law on Securities and the Law on Enterprises.⁸

Personal income tax on income from security transfers is calculated using the following formula:⁹

$$\text{PIT} = \text{Transfer price} \times 0,1\%$$

Wherein:

- Transfer price shall be determined based on the following cases:
 - In the event of listed securities, securities registered for trading on the Stock Exchange: the actual selling price (matching price or put-through price) as notified by the Stock Exchange.

⁷ Article 53.5, 54.2 of Decree No. 253/2026/ND-CP

⁸ Article 10.2 of Decree No. 253/2026/ND-CP

⁹ Articles 54.1, 54.2, 54.3 of Decree No. 253/2026/ND-CP

- In the event of derivative securities in the form of futures contracts, the transfer price shall be the transfer price of each futures contract. The transfer price of each futures contract is determined by multiplying the settlement price of the futures contract at the time of determining assessable income by the contract multiplier, the number of contracts and the initial margin ratio, and then dividing the result by two (2). The initial margin ratio shall be as announced by the Vietnam Securities Depository and Clearing Corporation in accordance with applicable regulations.¹⁰
- In the event of remaining securities: the price specified in the transfer contract, the actual transfer price, or the book value of the entity whose securities are being transferred at the time of the most recent financial statement prepared in accordance with regulations prior to the time of transfer.

The time for determination of assessable income:

- For listed securities and securities registered for trading on the Stock Exchange, the time at which the taxpayer receives the transfer proceeds.
- For securities of public companies that are not traded on the Stock Exchange but are transferred through the securities ownership transfer system of the Vietnam Securities Depository and Clearing Corporation, the time at which ownership of the securities is transferred through the Vietnam Securities Depository and Clearing Corporation.
- For derivative securities in the form of futures contracts, the time at which the investor's purchase or sale order is matched on the Stock Exchange's trading system or the time at which the relevant futures contract matures.
- For all other cases (including transfers of shares by individuals in joint-stock companies in accordance with the Law on Enterprises), the effective date of the transfer agreement.

3. PIT declaration; deduction, declaration, and payment of PIT on behalf of individuals

For capital transfer income, individuals transferring capital shall personally declare and pay the applicable tax in accordance with the regulations. Individuals must fulfil tax obligations in respect of the transferred capital before carrying out the procedures for updating the register of capital-contributing members or the register of shareholders of the enterprise in which the transferred capital is held. In the event that the enterprise proceeds with such registration procedures before the transferor has fulfilled its tax obligations, the enterprise in which the transferred capital is held is responsible for filing the tax declaration and paying the tax on behalf of the transferor.¹¹

For securities traded through the trading system on Stock Exchange, the organizations responsible for deducting PIT and remitting the deducted tax to the tax authority are the securities company, the commercial bank where the individual opens a depository account, or fund management companies where the individual entrusts their investment portfolio.¹²

For securities not traded through the trading system on Stock Exchange, the organizations responsible for deducting PIT and remitting the deducted tax are: (i) the securities company or the commercial bank where the individual opens a securities depository account, in the event of shares

¹⁰ Article 5 of Circular No. 87/2026/TT-BTC

¹¹ Article 56.5 of Decree 253/2026/ND-CP

¹² Article 56.4(a) of Decree No. 253/2026/ND-CP

of public companies registered with the Vietnam Securities Depository and Clearing Corporation; or (ii) the securities company authorised by the issuing company to manage its register of shareholders, in the case of securities issued by a joint-stock company that is not a public company. In all other cases, the transferor is required to file the tax declaration directly with the tax authority (including transfers of shares by individuals in joint-stock companies in accordance with the Law on Enterprises).¹³

B. IMPACTS OF THE NEW PIT LAW ON M&A TRANSACTIONS AND RELATED RECOMMENDATIONS

The provisions introduced under Decree 253 will have a direct impact on the structuring and implementation of M&A transactions in Vietnam. Provided below are several key considerations that parties should take into account:

1. Tax calculation methods for income from capital transfers:

Decree 253 maintains two separate methods for calculating PIT on capital transfer income and securities transfer income. Accordingly, PIT on capital transfer income is imposed at the rate of 20% of the assessable income, or 2% of the transfer price where the purchase price and related expenses cannot be determined.¹⁴

For M&A transactions structured as transfers of capital contributions in limited liability companies or other economic organisations, Decree 253 continues to require the parties to maintain adequate documentation evidencing the purchase price and related expenses for the purpose of determining the assessable income. In the event that the purchase price or deductible expenses cannot be substantiated, the transferor will be subject to PIT at 2% of the transfer price, which may significantly increase the tax cost of the transaction.

In addition, Decree 253 provides more detailed guidance on the determination of the transfer price, purchase price and deductible expenses, while also empowering the tax authorities to examine and reassess the transfer price where the declared price is inconsistent with the prevailing market price. These provisions reflect a stronger emphasis on transparency and enhanced tax oversight of capital transfer transactions.¹⁵

Accordingly, when structuring M&A transactions, the parties should pay particular attention to maintaining comprehensive records of the purchase price, payment documents and supporting evidence of deductible expenses. Proper documentation will help mitigate the risk of disputes with the tax authorities and ensure that the tax liability is determined based on the actual taxable gain.

2. Regulations on purchase price in the PIT calculation method for capital transfers:

To clarify the basis for determining assessable income, Decree 253 has introduced strict regulations regarding the purchase price for capital transfer transactions. Accordingly, for capital contributions made upon the establishment of an enterprise, the purchase price is determined based on the cumulative value of the capital contribution up to the time of transfer, as evidenced by the accounting records, invoices and supporting documents. For capital interests acquired by purchase, the purchase price is determined based on the capital transfer agreement and the relevant payment

¹³ Article 56.4(b) of Decree No. 253/2026/ND-CP

¹⁴ Article 53.1 of Decree No. 253/2026/ND-CP

¹⁵ Article 53.2(b) of Decree No. 253/2026/ND-CP

documents.¹⁶ These provisions enhance the clarity of the tax framework governing capital transfers, while providing a basis for both the purchaser and the tax authorities to verify the reasonableness of the purchase price and mitigate tax risks arising from previous transactions.

However, the new rules also present practical challenges for transferors in maintaining and substantiating the documentation required to establish the purchase price. In the event that the target company no longer retains adequate supporting documents or its historical accounting records are incomplete, reconstructing the relevant documentation may delay the execution of an M&A transaction. In practice, transfers of capital contributions or shares conducted privately, rather than through a centralized trading market, are often not supported by comprehensive documentation, while internal records may lack sufficient objectivity, making it more difficult for the tax authorities to verify the purchase price and determine the corresponding tax liability.

Accordingly, in M&A transactions, reviewing documentation relating to the purchase price, payment records and other supporting documents should form an integral part of the tax due diligence process to minimise the risk of subsequent tax adjustments or tax reassessments by the tax authorities. In the event that the purchase price and related expenses cannot be substantiated in accordance with the applicable regulations, the parties should also carefully consider the implications of applying the alternative tax calculation method at the rate of 2% of the transfer price during the transaction valuation and structuring stage.

3. Definition of income from securities transfers:

Income from securities transfers continues to be subject to PIT at the rate of 0.1% of the transfer price. Decree 253, however, provides further guidance on the scope of income regarded as securities transfer income, expressly including income derived from the transfer of shares by individuals in joint-stock companies in accordance with the Law on Enterprises. Accordingly, securities transfer income includes income derived from the transfer of shares, share subscription rights, bonds, treasury bills, fund certificates and other securities as prescribed by the laws on securities, as well as income derived from the transfer of shares by individuals in joint-stock companies under the Law on Enterprises.¹⁷ By clarifying the scope of securities transfer income, Decree 253 enables parties to identify more readily the applicable tax treatment for each category of financial assets, thereby facilitating transaction structuring and ensuring compliance with the relevant tax regulations.

4. Determination of the transfer price for listed securities and the remaining categories of securities:

Parties should pay particular attention to the rules governing the determination of the transfer price for different categories of securities. For securities listed or registered for trading on the Stock Exchange, the transfer price is determined based on the actual selling price (whether the matching price or put-through price) as announced by the Stock Exchange. Circular 87 also provides detailed guidance on the implementation of personal income tax to transactions involving derivative securities. These provisions provide greater clarity on the basis for calculating PIT and promote a consistent approach to determining the transfer price.¹⁸

For securities that do not fall within the above categories, the transfer price is determined based on the price stated in the transfer contract, the actual transfer price or the book value of the

¹⁶ Article 53.3 of Decree No. 253/2026/ND-CP

¹⁷ Article 54.1 of Decree No. 253/2026/ND-CP

¹⁸ Article 54.2(a) of Decree No. 253/2026/ND-CP

securities recorded in the accounting books of the issuing entity as of the date of its most recent financial statements prepared prior to the transfer in accordance with the accounting regulations. Accordingly, parties should ensure that transaction documentation is properly prepared and that the agreed transfer price accurately reflects the substance of the transaction in order to minimise the risk of challenges by the tax authorities during a tax inspection or audit.¹⁹

5. PIT declaration; deduction, declaration, and payment of PIT on behalf of individuals:

Decree 253 sets out detailed rules on tax declaration, tax deduction, tax declaration on behalf of, and tax payment on behalf of individuals in respect of income derived from capital transfers and securities transfers. For capital transfers, the transferor is responsible for filing the personal income tax declaration and paying the applicable tax. In addition, the transferor must fulfil its tax obligations in respect of the transferred capital before carrying out the procedures for updating the register of capital-contributing members or the register of shareholders of the enterprise in which the transferred capital is held. In the event that the enterprise proceeds with such registration procedures before the transferor has fulfilled its tax obligations, the enterprise in which the transferred capital is held is responsible for filing the tax declaration and paying the tax on behalf of the transferor.²⁰

For securities transfers, Decree 253 specifies the entities responsible for withholding PIT and remitting the withheld tax, including securities companies, commercial banks and fund management companies, depending on the method of transfer and the type of securities being transferred. In addition, the securities transferor is responsible for filing the personal income tax declaration if the transferred securities are not subject to the cases where the entities are responsible for withholding PIT and remitting the withheld tax.²¹

These provisions provide greater clarity on the respective responsibilities of the parties involved in the transaction while strengthening the tax authorities' oversight of capital and securities transfer transactions. By clearly allocating responsibilities among the transferor, the enterprise and relevant intermediary institutions, the new rules help reduce the risk of non-compliance arising from the late or non-fulfilment of tax obligations and facilitate the smoother implementation of M&A transactions from a tax compliance perspective.

C. RELATED RECOMMENDATIONS

In light of the new rules introduced under Decree 253/2026/ND-CP on personal income tax applicable to capital transfers and securities transfers, parties involved in M&A transactions should proactively review and standardise their documentation relating to the purchase price, capital contribution records, transfer contracts and payment documents at an early stage of the transaction. Maintaining comprehensive documentation will not only facilitate tax compliance but also provide the necessary evidence to substantiate the purchase price and related expenses in the event of a tax inspection.

Businesses and investors should also strengthen the tax due diligence process for capital transfer transactions. Where the tax liability is determined based on assessable income, the accurate determination of the purchase price and deductible expenses is critical to calculating the actual tax payable. If the purchase price and related expenses cannot be substantiated in accordance with the applicable regulations, the transferor will be subject to PIT at the rate of 2% of the transfer price.

¹⁹ Article 54.2(b) of Decree No. 253/2026/ND-CP

²⁰ Article 56.5 of Decree No. 253/2026/ND-CP

²¹ Articles 56.4, 65.4(b) of Decree No. 253/2026/ND-CP

In addition, parties should pay close attention to the effective date of the transfer agreement, the timing of the tax liability, the allocation of tax filing and payment obligations among the relevant parties, and the payment mechanism for the transfer consideration to ensure that the transaction is implemented in accordance with the applicable procedures and to minimise the risk of delays arising from non-compliance with tax obligations.

As the Vietnamese tax authorities continue to strengthen their oversight of capital transfer and securities transfer transactions, early tax planning, well-structured transactions and comprehensive tax due diligence will be essential to managing tax costs effectively and mitigating potential tax and legal risks following completion of the transaction.

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