

Hanoi, 27 February 2015

## CIRCULAR

PROVIDING GUIDELINES ON VALUE ADDED TAX AND TAX MANAGEMENT IN DECREE 12-2015-ND-CP DATED 12 FEBRUARY 2015 OF THE GOVERNMENT MAKING DETAILED PROVISIONS FOR IMPLEMENTATION OF THE LAW ON AMENDMENT OF AND ADDITION TO A NUMBER OF ARTICLES OF THE LAWS ON TAXATION, AMENDMENT OF AND ADDITION TO A NUMBER OF ARTICLES OF THE DECREES ON TAXATION, AND AMENDMENT OF AND ADDITION TO A NUMBER OF ARTICLES OF CIRCULAR 39-2014-TT-BTC DATED 31 MARCH 2014 OF THE MINISTRY OF FINANCE ON INVOICES FOR GOODS SALES AND SERVICE PROVISION

*Pursuant to the Law on Tax Management 78-2006-QH1 and Law 21-2012-QH13 on amendment of and addition to a number of articles of the Law on Tax Management;*

*Pursuant to the Law on Value Added Tax 13-2008-QH12 and Law 31-2013-QH13 on amendment of and addition to a number of articles of the Law on Value Added Tax;*

*Pursuant to Law 71-2014-QH13 on amendment of and addition to a number of articles of the laws on taxation; Pursuant to Decree 51-2010-ND-CP dated 14 May 2010 and Decree 04-2014-ND-CP dated 17 January 2014 of the Government stipulating invoices for goods sales and service provision;*

*Pursuant to Decree 83-2013-ND-CP dated 22 July 2013 of the Government making detailed provisions for implementation of a number of articles of the Law on Tax Management and the Law on amendment of and addition to a number of articles of the Law on Tax Management;*

*Pursuant to Decree 209-2013-ND-CP dated 18 December 2013 of the Government making detailed provisions and guiding the implementation of a number of articles of the Law on Value Added Tax;*

*Pursuant to Decree 12-2015-ND-CP dated 12 February 2015 of the Government making detailed provisions for implementation of a number of articles of the Law on amendment of and addition to a number of articles of the Laws on Taxation and on amendment of and addition to a number of articles of the Decrees on Taxation;*

*Pursuant to Decree 215-2013-ND-CP dated 23 December 2013 of the Government providing for the functions, duties, powers and organizational structure of the Ministry of Finance;*

*At the proposal of the General Director of the General Department of Taxation,*

*The Minister of Finance provides guidelines for implementation of Value Added Tax (VAT), tax management and invoices for goods sales and service provision as follows:*

**Article 1** To amend and supplement a number of articles of Circular 219-2013-TT-BTC dated 31 December 2013 of the Ministry of Finance providing guidelines for implementation of the Law on Value Added Tax and Decree 209-2013-ND-CP dated 18 December 2013 of the Government making detailed provisions and providing guidelines for implementation of a number of articles of the Law on Value Added Tax (as amended and added under Circular 119-2014-TT-BTC dated 25 August 2014 and Circular 151-2014-TT-BTC dated 10 October 2014 of the Ministry of Finance) as follows:

**1. Article 4.1 is amended as follows:**

- "1. Products of cultivation (including forestry cultivation), husbandry, aquaculture or fishing which have not yet been processed into other products or which have only been generally semi-processed by organizations or individuals producing, catching and selling products at the import stage. Products which have been generally semi-processed are products which have only been cleaned, sun-dried, industrially dried, husked, grinded, rubbed, shelled, stoned, stemmed, cut, salted or cold preserved (iced or frozen), preserved by sulphurous gas, preserved by chemicals to avoid decay, or soaked in a sulphur solution or other preservative solution and are preserved in other normal ways.

**Example 2:** Company A signs a contract for breeding pigs with Company B whereby Company B provides breeding stock, feed and veterinarian medicines to Company A, and Company A delivers or sells pigs as products to Company B. In this case, the remuneration for breeding pigs received from Company B and products being pigs sold by Company A to Company B shall not be subject to VAT.

Products being pigs received by Company B from Company A: if Company B sells whole pigs or fresh pork, such products when sold shall not be subject to VAT; if Company B processes pigs into products such as sausages, ham, salami or other processed products, such products when sold shall be subject to VAT according to regulations."

**2. Clause 3(a) is added to article 4 as follows:**

- "3a. Fertilizers being organic and inorganic fertilizers such as phosphate fertilizer, nitrogenous fertilizer (urea), NPK fertilizers, mixed nitrogenous fertilizer; phosphatic fertilizer, potash fertilizer; microbiotic fertilizer and other types of fertilizers;

Feed for cattle, poultry, aquatic creatures and other livestock, comprising various types of processed or unprocessed products such as bran, offal, mill cakes of all types, fish powder, bone powder, shrimp powder and other types of feed for cattle, poultry, aquatic creatures and other livestock, feed additives (such as premix, active ingredient and carriers) as prescribed in article 3.1 of Decree 08-2010-ND-CP dated 5 February 2010 of the Government on management of animal feed and articles 1.2 and 1.3 of Circular 50-2014-TT-BNNPTNT dated 24 December 2014 of the Ministry of Agriculture and Rural Development;

Offshore fishing boats means boats with the main engine capacity of 90CV or over which are engaged in marine product exploitation or provision of logistics services for marine product exploitation; specialized machinery and equipment servicing exploitation and preservation of products for fishing boats with the main engine capacity of 90CV or over engaged in marine product exploitation or provision of logistics services for marine product exploitation;

Specialized machinery and equipment servicing agricultural production comprising: ploughs; harrows; milling machines; scarifiers; grubbers; field levelling devices; sowing machines; [rice seedling] transplanting machines; sugarcane planting machines; bedding rice seedling production machine systems; crop row cultivators, hillers, fertilizer spreaders, fertilizer dispensers, fertilizer distributing machines; plant protection drug sprayers and machinery; reapers for rice, corn, sugarcane, coffee and cotton; harvesters for tubers, fruit and roots; tea chopping machines, tea harvesting machines; rice threshing machines; corn leaf removers and shellers; corn shellers; soya bean threshing machines; peanut shelling machines; coffee bean hulling machines; wet rice and coffee semi-processing equipment and machines; dryers for agricultural products (rice, corn, coffee, peppercorn, cashew nut, etc.) and aquatic products; machines for collecting and loading sugarcane, rice and hay on the field; poultry egg hatching machines; grass harvesting machines; baling machines; milking machines and other types of specialized machines."

**3. Article 4.8(a) (already amended in article 8 of Circular 151-2014-TT-BTC dated 10 October 2014 of the Ministry of Finance) is amended and supplemented as follows:**

(a) Services of credit extension comprise the following forms:

- Lending;
- Discounting and re-discounting negotiable instruments and other valuable papers;
- Providing bank guarantees;
- Finance leasing;
- Issuing credit cards;

Where a credit institution collects charges relating to the issue of credit cards, the charges collected from clients belonging to the process of credit extension services (charges for issue of cards) in accordance with the regulations on lending of the credit institution in respect of clients such as charges for prepayment, fines for late payment, debt restructuring or loan management and other charges belonging to the process of credit extension are non-taxable objects

Charges for normal card transactions not belonging to the process of credit extension such as charge for re-issue of a personal identification number (PIN) for a credit card, charge for issue of a copy of a bank statement, charge for claim of indemnification upon use of a card, charge for notification of a lost or missing credit card, charge for cancellation of a credit card, charge for conversion of the type of a credit card and other charges are subject to VAT.

- Domestic debt factoring; and international debt factoring with respect to banks permitted to make international payments;
- Sale of assets being security for a loan conducted by a credit institution or by the judgment execution agency or by the borrower as authorized by the lender to repay a secured loan, in particular:
  - + The loan security asset to be sold is an asset belonging to the security transaction which has been registered with a competent authority in accordance with the law on registration of security transactions.

- + Dealing with loan security assets is carried out in accordance with the law on security transactions.

Upon the expiration of the debt payment time limit, if the person having the loan security asset is still unable to pay the debt and has to hand over the asset to the credit institution for handling in accordance with law, the parties shall carry out procedures for handover of the security asset under regulations and a VAT invoice is not required to be issued.

In the case where a credit institution receives the security asset in lieu of performance of the debt payment obligation, it shall account an increase in the value of assets used for production or business under regulations. When the credit institution sells an asset to serve its business operation, if such asset is subject to VAT, it must declare and pay VAT under regulations.

**Example 3:** In March 2015, Enterprise A, which is a business establishment paying VAT by the credit method, mortgages a machinery and equipment chain to borrow from Bank B a loan of a 1-year term (the debt payment deadline is March 31, 2016). On March 31, 2016, Enterprise A is unable to pay its debt and has to hand over the asset to Bank B. Enterprise A shall, upon handing over the asset, not be required to prepare an invoice. If Bank B sells the loan security asset to recover the debt, the sold asset is not liable to VAT.

**Example 3a:** In December 2014<sup>1</sup>, Enterprise B, which is a business establishment paying VAT by the credit method, mortgages buildings on land and the land use right to borrow from Bank C a loan of a 1-year term (the debt payment deadline is 15 December 2016). Commercial Bank C and Enterprise B have registered the security transaction (mortgage of buildings on land and the land use right) with the competent authority.

On 15 December 2016, as Enterprise B is unable to pay its debt, Commercial Bank C issues a document agreeing to release the mortgage so that Enterprise B can sell the buildings to repay the bank loan.

When Enterprise B sells its building in January 2017 to repay the bank loan, such building sold is not liable to VAT.

- Credit information provision service provided by units or institutions of the State Bank to credit institutions for use in their credit extension activities in accordance with the Law on the State Bank.

**Example 4:** Organization X is a unit of the State Bank and licensed by the State Bank to provide the credit information service. In 2014, Organization X signs contracts on provision of credit information to a number of commercial banks to serve their credit extension activities and other activities. In this case the turnover from the provision of credit information to serve credit extension activities is not liable to VAT, while the turnover from the provision of credit information to serve other activities of these commercial banks not in accordance with the Law on the State Bank is liable to VAT at the rate of 10%.

- Other forms of credit extension provided by law."

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<sup>1</sup> Translator note: This might be a typo of the Vietnamese version.

**4. Sub-clauses (a.8) and (a.9) are added to article 7.10 as follows:**

- "(a.8) In the case where a business establishment receives capital contribution by the land use right of an organization or an individual in accordance with law, the land price deductible to calculate value added tax is the price recorded in the capital contribution contract. Where the price for transfer of the land use right is lower than the land price received as capital contribution, the deductible price is the transfer price.
- (a.9) Where a real property business establishment enters into a contract with a family household or an individual having agricultural land to exchange such agricultural land for residential land, and such exchange complies with the law on land, upon allocation of residential land to such family household or individual, the price to calculate value added tax is the transfer price minus (-) the deductible price under regulations. The transfer price is the compensation price corresponding to the area of agricultural land resumed under the plan approved by the relevant authority."

**5. The first dash of article 9.3 is amended as follows:**

3. Cases ineligible for the 0% tax rate comprise:

- Offshore reinsurance; offshore transfer of technologies or intellectual property rights; offshore capital transfer, credit extension or securities investment; derivative financial services; outbound post and telecommunications services (including post and telecommunications services provided to organizations and individuals in non-tariff zones; and provision of prepaid mobile phone scratch cards with codes and par value overseas or in non-tariff zones); exported products being unprocessed natural resources or minerals; imported tobacco, alcohol and beer then exported; goods and services provided to individuals without business registration in non-tariff zones, except for other cases provided by the Prime Minister.

Imported tobacco, alcohol and beer then exported are not subject to output VAT upon export and are not entitled to credit of input VAT."

**6. Article 10.2 is amended as follows:**

"2. Ores for fertilizer production; pesticides and plant and animal growth stimulants, including:

- (a) Ores for fertilizer production are those used as materials for fertilizer production such as apatite for phosphorus fertilizer production, humus for microbial fertilizer production;
- (b) Pesticides comprising plant protection drugs under the List of plant protection drugs issued by the Ministry of Agriculture and Rural Development and other types of pesticides;
- (c) Growth stimulants for reared animals and planted crops."

**7. Articles 10.3 and 10.10 are repealed.**

**8. Article 10.11 is amended and supplemented as follows:**

- "11. Medical equipment and devices, comprising specialised machinery and devices for medical use such as: all types of scanning, endoscopic and tomography machinery for diagnosis and treatment of diseases; specialised equipment and devices for surgery and injury treatment, ambulances; blood pressure, heart and pulse metering devices, blood transfusion devices; syringes; contraception devices and other specialised medical devices and equipment as certified by the Ministry of Health.

Cotton, plasters, medical cloth and medical napkins; disease preventative and treatment medicines comprising finished medicine products, raw materials for medicines, except for functional foods; vaccines; medical biological products, distilled water to prepare injection or perfusion; hats, clothes, masks, surgical towels, gloves, lower limb covers, shoe covers, towels, specialised medical gloves, breast implants and dermal fillers (excluding cosmetics); supplies and chemicals for medical testing and sterilization as certified by the Ministry of Health."

**9. Article 14 is amended and supplemented as follows:**

- (a) Article 14.2 is amended as follows:

- "2. In the case of input VAT levied on goods and services (including fixed assets) used for production and business in both value added taxable goods and services and non-taxable goods and services, only the amount of input VAT levied on the goods and services used for production and business in taxable goods and services may be credited. Business establishments must separately account for creditable input VAT and for non-creditable input VAT, and if they are unable to do so then creditable input VAT shall be calculated as ratios (%) of VAT taxable turnover and turnover not subject to declaration and payment of VAT over total turnover from goods and services sold, including the turnover not subject to declaration and payment of VAT which is unable to be separately accounted.

Every month/quarter, establishments conducting business in goods and services both subject and not subject to VAT shall temporarily allocate deductible VAT applicable to goods, services and fixed assets purchased in the month/quarter; and at the end of the year, they shall calculate and allocate the deductible input VAT in the year to declare and adjust the input VAT which was temporarily allocated or deducted in the month/quarter."

- (b) Clause 14a is added to article 14 as follows:

- "14a. The amount of input VAT of goods, services and fixed assets servicing production such as fertilizers, specialised equipment and machinery servicing agricultural production, offshore fishing boats, feed for cattle, poultry and aquatic creatures and feed for other raised animals for domestic consumption shall not be declared or credited, but shall be included in deductible costs upon determination of income subject to corporate income tax, except for the amount of value added tax of goods, services and fixed assets purchased as demonstrated on value added invoices and source documents for VAT payment at the stage of importation arising before 1 January 2015 which satisfy the conditions for crediting and tax refund, and fall under the category of tax refund as prescribed in article 18 of Circular 219-2013-TT-BTC dated 31 December 2013 and this Circular."

- 10. Article 15 (already amended and supplemented in Circular 119-2014-TT-BTC dated 25 August 2014 and Circular 151-2014-TT-BTC dated 10 October 2014 of the Ministry of Finance) is amended and supplemented as follows:**

**"Article 15 Conditions for credit of input VAT**

1. Having a lawful added value invoice for goods or services purchased or a receipt for VAT payment at the stage of importation or a receipt for VAT payment on behalf of a foreign party pursuant to guidelines of the Ministry of Finance applicable to any foreign organization not being a legal entity in Vietnam and foreign individuals doing business or having income earned in Vietnam.
2. Having source documents for payment without use of cash for goods or services purchased (including imported goods) with a value of twenty (20) million dong or more, except where the value of goods or services which are imported on each occasion is less than twenty (20) million dong, goods or services which are purchased on each occasion is less than twenty (20) million dong at the VAT-inclusive price, and where the business establishment imports goods being gifts or presents of organizations and individuals overseas.

Source documents for payment without use of cash comprise source documents for payment via a bank and other source documents for payment without use of cash as guided in clauses 3 and 4 of this article.

3. Source documents for payment via a bank means having source documents as evidence of the transfer of money from the account of the purchaser to the account of the seller (the account of the purchaser and the account of the seller must be accounts which have been registered with or notified to the tax office. The purchaser is not required to register with or notify the tax office of loan accounts at credit institutions used for payment to suppliers) opened at an organization providing payment services in the forms of payment compliant with applicable law such as cheques, authorized payment orders or payment orders, authorized collection orders, collection, bank cards, credit cards, telephone sim cards (electronic wallets) and other forms of payment in accordance with regulations (including the case where the purchaser makes a payment from the account of the purchaser to the account of the seller in the name of the owner of a private enterprise or the purchaser makes payment from the account of the purchaser in the name of the owner of a private enterprise to the account of the seller if such accounts have been registered for transactions with the tax office).

- (a) Source documents for payment in cash to the account of the seller by the purchaser or source documents for payment in forms which do not comply with applicable laws shall not satisfy conditions for credit and refund of VAT on goods and services purchased at a price of twenty (20) million dong or more.
- (b) Goods or services which are purchased at a VAT-inclusive price on each occasion for which the payment is twenty (20) million dong or more pursuant to an invoice shall not be entitled to a credit [of VAT] if there is no source document for payment via a bank.
- (c) In the case of goods and services purchased with deferred payment or payment by instalments whose value is twenty (20) million dong or more, the business establishment shall, on the basis of the written contract for purchase of goods or services, the value added invoice and the source document for payment via a bank for goods or services purchased with deferred payment or payment by instalments, declare and credit input VAT. If there is not yet any source document for payment via a bank because the contractual due date has not occurred, the business establishment is still entitled to declare and credit input VAT.

If there is no source document for payment via a bank upon payment, the business establishment must declare and reduce the credited amount of input VAT on the value of goods or services for which there is no source document for payment via a bank in the tax calculation period during which the payment in cash arose (including the case where the tax office and relevant agencies have made a decision on inspection and examination of the tax calculation period during which the declared and credited input VAT arose).

4. Other cases of payment without use of cash for the purpose of credit of input VAT shall comprise:

- (a) Where goods or services are purchased for which payment is made by way of set-off of the value of goods or services purchased against the value of goods or services sold or borrowed, and such payment method is specified in the contract, then the minutes of data verification and the confirmation by the two parties of payment by way of set-off of goods or services purchased against goods or services sold or borrowed shall be required. In the case of set-off of liabilities via a third party, the minutes of set-off of liabilities between the three parties shall be required to provide the basis for tax credit.
- (b) Where goods or services are purchased for which payment is made by way of set-off of liabilities such as borrowing of money, or set-off of liabilities via a third person, and such payment method is specified in the contract, then there must be a contract for borrowing of money previously made in writing and a receipt for transfer of money from the account of the lender to the account of the borrower in respect of a loan in cash, including the case of set-off of the value of goods or services purchased against the amount of money to assist the purchaser by the seller or paid by the purchaser on behalf of the seller.
- (c) Where goods or services are purchased for which payment is made by authorizing a third party via a bank (including the case in which the seller requests that the purchaser make payment via a bank to a third party designated by the seller), the authorized payment or the payment to the third party as designated by the seller must be specified in the contract in writing and the third party must be a legal entity or a natural person currently operating under the law.

Where, after a payment is made by the aforesaid methods, the remaining value which is paid in cash is 20 million dong or more, tax credit shall be permitted only where there are source documents for payment via a bank.

- (d) Where payment for purchased goods or services is made via a bank into an account of a third party opened at the State treasury in order to enforce by way of collecting money or assets currently held by another organization or individual (under the decision of a competent State body), input VAT is also credited.

**Example 68:**

Company A purchases goods from Company B and Company A currently owes payment for goods to Company B. However, Company B currently owes tax to the State budget. Pursuant to the Law on Management of Tax, the tax office shall collect the money and assets of Company B held by Company A in order to implement a tax administrative decision, then when Company A transfers money to the turnover account of the State budget, it shall be deemed as payment made via a bank and the amount of input VAT corresponding to the sales of purchased goods may be declared and credited.

**Example 69:** Company C signs an economic contract with Company D for supply of goods and Company D still owes payment for goods to Company C.

To implement the decision of the competent State body requiring collection of all the amounts of money which Company D currently owes to Company C in order to transfer them into an account of the competent State body opened with the State Treasury in order to resolve "a dispute over a goods purchase and sale contract" between Company C and a counterparty;

When Company D transfers an amount of money into the account of the competent State body (this transfer of money is not specified in the purchase and sale contract between Company C and Company D), this case shall be deemed to be payment via a bank and the amount of input VAT corresponding to the turnover of purchased goods may be declared and credited.

5. In the case of purchase of goods or services from a supplier with a value of less than twenty (20) million dong, but the aggregate value of goods or services purchased on several occasions within the same day is twenty (20) million dong or more, VAT will only be creditable if there are source documents for payment via a bank. The supplier is a taxpayer having a tax code who directly declares and pays VAT.

Where the taxpayer is a business establishment with shops being its subsidiary units sharing its tax code and invoice forms, and each invoice has the words "Shop No." to distinguish between the shops of the business establishment and bears a seal of each shop, then each shop is a supplier."

**11. Article 16.3(b.7) is amended and supplemented as follows:**

- "(b.7) Where the foreign party (except where the foreign party is an individual) makes payment from its current account opened with a credit institution in Vietnam, this payment must be specified in the export contract (in an appendix or in any addendum to the contract). The source document for payment shall be the credit advice issued by the bank of the exporter, notifying the amount of money received from the current account of the contracting foreign purchaser.

In the case of export for a foreign purchaser being a private enterprise and where the payment is made via a current account of the owner of the private enterprise opened at a credit institution in Vietnam and is stipulated in the export contract (in an appendix or in any addendum to the contract), it shall be determined as payment via a bank.

When the tax office inspects the credit and refund of tax on export goods for which payment is made via a current account, it should co-ordinate with the credit institution at which the foreign purchaser opened an account in order to ensure that the payment and the money transfer are made for correct purposes and in accordance with law. People entering [Vietnam] and carrying cash across the border must declare the amount of cash carried specifically for each contract for sale and purchase of goods and declaration form of goods export; and at the same time present the contract(s) for sale and purchase of goods and declaration form(s) of goods export for customs officers to check and verify. Where the person entering [Vietnam] is not a representative of the foreign enterprise directly signing the contract for sale and purchase with a Vietnamese enterprise, there must be a written power of attorney (with a copy of the translation into Vietnamese or English and an original copy in the language of the neighbouring country with the border gate [through which entry is made]) of the foreign organization or individual signing such contract for sale and purchase. This power of attorney may be used once only for cash brought into Vietnam and must specify the amount of cash brought in under the specific contract for sale and purchase."

**12. Article 18 is amended and supplemented as follows:**

**(a) Clause 3 is amended and supplemented as follows:**

**"3. Refund of VAT in respect of investment projects**

- (a) Where a business establishment currently operating and paying tax by the tax credit method carries out an investment project (except for investment projects for construction of housing for sale) in the same province or city [as its head office, and] is in the period of investment, it shall separately declare for the investment project and must transfer input VAT of the investment project for set-off against the declaration of VAT on its current production and business activities. The maximum amount of VAT of the investment project allowed to be transferred shall equal the amount of VAT payable of the production and business activities of the business establishment in the period

If, after set-off, the remaining amount of input VAT not yet fully credited in respect of the investment project is 300 million dong or more, a refund of VAT shall be made for the investment project.

If, after set-off, the remaining amount of input VAT not yet fully credited in respect of the investment project is less than 300 million dong, such amount of input VAT shall be carried forward to the amount of input VAT of the investment project in the subsequent declaration period.

Where in a declaration period, a business establishment has a remaining amount of input VAT of its production and business activities which has not yet been fully credited and an amount of input VAT of the investment project, the business establishment shall be entitled to a refund of VAT as guided in clauses 1 and 3 of this article in accordance with regulations.

**Example 74:** Company A has its head office in Hanoi. In March 2014, the Company has an investment project in Hanoi and the project is in the period of investment. Company A separately declares input VAT of this investment project. In April 2014 the amount of input VAT of the investment project is 500 million dong; and the amount of VAT payable on the production and business activities currently conducted by the Company is 900 million dong. Company A must set off 500 million dong of input VAT of the investment project against the amount of tax payable on its current production and business activities (900 million dong). As a result, the amount of VAT payable by Company A in the tax assessment period for April 2014 is 400 million dong.

**Example 75:** Company B has its head office in Hai Phong. In March 2014, the Company has an investment project in Hai Phong and the project is in the period of investment. Company B separately declares input VAT of this investment project. In April 2014 the amount of input VAT of the investment project is 500 million dong; and the amount of VAT payable on the production and business activities currently conducted by the Company is 200 million dong. Company B must set off 200 million dong of input VAT of the investment project against the amount of tax payable on its current production and business activities (200 million dong). As a result, in the tax assessment period for April 2014, Company B has the remaining amount of input VAT of the investment project, which has not yet been fully credited, being 300 million dong. Company B will be considered for a refund of VAT for the investment project.

**Example 76:** Company C has its head office in Ho Chi Minh City. In March 2014, the Company has an investment project in Ho Chi Minh City and the project is in the period of investment. Company C separately declares input VAT of this investment project. In April 2014 the amount of input VAT of the investment project is 500 million dong; and the amount of VAT payable on the production and business activities currently conducted by the Company is 300 million dong. Company C must set off 300 million dong of input VAT of the investment project against the amount of tax payable on its current production and business activities (300 million dong). As a result, in the tax assessment period for April 2014, Company C has a remaining amount of input VAT of the investment project, which has not yet been fully credited, being 200 million dong. Company C is not entitled to consideration for VAT refund for its investment project. Company C shall carry forward 200 million dong to the amount of input VAT of the investment project in the declaration period for May 2014.

**Example 77:** Company D has its head office in Da Nang City. In March 2014, the Company has an investment project in Da Nang City and the project is in the period of investment. Company D separately declares input VAT of this investment project. In April 2014 the amount of input VAT of the investment project is 500 million dong; and the amount of VAT not yet fully credited of the production and business activities which are currently conducted by the Company is 100 million dong. Thus, in the tax assessment period for April 2014, the amount of input VAT of the investment project (500 million dong) is a case considered for a refund of VAT for the investment project. The remaining amount of VAT not yet fully credited in respect of the current production and business activities (100 million dong) shall be considered for refund in accordance with clause 1 of this article.

- (b) Where a business establishment currently operating and paying value added tax by the tax credit method carries out a new investment project (except for investment projects for construction of housing for sale) in a province or city under central authority other than the province or city in which its head office is located, is within the period of investment, has not commenced operations, and has not made business registration or tax registration, the business establishment shall prepare a separate tax declaration file for the investment project and at the same time, must transfer input VAT of the investment project for setoff against the declaration of VAT of its current production and business activities. The maximum amount of VAT of the investment project allowed to be transferred shall equal the amount of VAT payable of the production and business activities of the business establishment in the period.

If, after set-off, the remaining amount of input VAT not yet fully credited in respect of the new investment project is 300 million dong or more, a refund of VAT shall be made for the investment project.

If, after set-off, the remaining amount of input VAT not yet fully credited in respect of the new investment project is less than 300 million dong, such amount of input VAT shall be carried forward to the amount of input VAT of the investment project in the following declaration period.

Where in a declaration period, a business establishment has a remaining amount of input VAT of its production and business activities which has not yet been fully credited and an amount of input VAT of the new investment project, the business establishment shall be entitled to a refund of VAT as guided in clauses 1 and 3 of this article in accordance with regulations.

In the case of national important projects for which the National Assembly makes a decision on investment policy and provides project standards, [the input VAT] shall not be transferred but shall be subject to separate regulations of the Ministry of Finance.

Where a business establishment makes a decision on establishing project management units or branches located in provinces and cities under central authority other than the province or city in which its head office is located in order to manage directly one or more investment projects in various localities on behalf of the taxpayer; and the project management units or branches have a seal in accordance with law, keep books and source documents in accordance with the laws on accounting, have a deposit account at a bank, have made tax registration and are issued with a tax code, the project management unit or branch must prepare a separate tax declaration or tax refund file [for submission to] the tax office of the locality in which the tax registration was made. When the investment project for establishment of a new enterprise and the procedures for business registration and tax payment registration have been completed, the business establishment being the investment project owner must compile the amount of VAT arising, the amount of VAT refunded and the amount of VAT not yet refunded of the project in order to hand over to the newly established enterprise for the new enterprise to declare, pay tax and request a refund of VAT with the directly managing tax office in accordance with regulations.

An investment project entitled to VAT refund in accordance with clauses 2 and 3 of this article means an investment project which is approved by a competent body in accordance with the law on investment. Where an investment project is not required to obtain approval as stipulated in the law on investment, there must be an investment plan approved by the person authorized to make the investment decision.

**Example 78:** Company A has its head office in Hanoi. In March 2014, the Company has a new investment project in Hung Yen. The project is in the period of investment, has not yet been commissioned, and business registration and tax registration have not yet been made. Company A separately declares input VAT of this investment project in Hanoi on the VAT declaration form for the investment project. In April 2014 the amount of input VAT of the investment project is 500 million dong; and the amount of VAT payable on the production and business activities currently conducted by the Company is 900 million dong. Company A must set off 500 million dong of input VAT of the investment project against the amount of tax payable on its current production and business activities (900 million dong). As a result, the amount of VAT payable by Company A in the tax assessment period for April 2014 is 400 million dong.

**Example 79:** Company B has its head office in Hai Phong. In March 2014, the Company has a new investment project in Thai Binh. The project is in the period of investment, and has not yet been commissioned and business registration and tax registration have not yet been made. Company B separately declares input VAT of this investment project in Hai Phong on the VAT declaration form for the investment project. In April 2014 the amount of input VAT of the investment project is 500 million dong; and the amount of VAT payable of the production and business activities currently conducted by the Company is 200 million dong. Company B must set off 200 million dong of input VAT of the investment project against the amount of tax payable on its current production and business activities (200 million dong). As a result, in the tax assessment period for April 2014, Company B has the remaining amount of input VAT of the investment project, which has not yet been fully credited, being 300 million dong. Company B will be considered for a refund of VAT for the investment project.

**Example 80:** Company C has its head office in Ho Chi Minh City. In March 2014, the Company has a new investment project in Dong Nai. The project is in the period of investment, has not yet been commissioned and business registration and tax registration have not yet been made. Company C separately declares input VAT of this investment project in Ho Chi Minh City on the VAT declaration form for the investment project. In April 2014 the amount of input VAT of the investment project is 500 million dong; and the amount of VAT payable on the production and business activities currently conducted by

the Company is 300 million dong. Company C must set off 300 million dong of input VAT of the investment project against the amount of tax payable on its current production and business activities (300 million dong). As a result, in the tax assessment period for April 2014, Company C has a remaining amount of input VAT of the investment project, which has not yet been fully credited, being 200 million dong. Company C is not entitled to consideration for VAT refund for its investment project. Company C shall carry forward 200 million dong in the amount of input VAT of the investment project in the declaration period for May 2014.

**Example 81:** Company D has its head office in Da Nang City. In March 2014, the Company has a new investment project in Quang Nam. The project is in the period of investment, and has not yet been commissioned and business registration and tax registration have not yet been made. Company D separately declares input VAT of this investment project in Da Nang City on the VAT declaration form for the investment project. In April 2014 the amount of input VAT of the investment project is 500 million dong; and the amount of VAT not yet fully credited of the production and business activities currently conducted by the Company is 100 million dong. Thus, in the tax assessment period for April 2014, the amount of input VAT of the investment project (500 million dong) is a case considered for a refund of VAT for the investment project. The remaining amount of VAT not yet fully credited in respect of the current production and business activities (100 million dong) shall be considered for refund in accordance with clause 1 of this article."

(b) Article 18.4 is amended and supplemented as follows:

- "4. A business establishment exporting goods or services in a month (in the case of monthly declaration) or in a quarter (in the case of quarterly declaration) with input VAT on export goods or services not yet credited of 300 million dong or more shall be entitled to a refund of VAT for the month or for the quarter; where the amount of input VAT on the export goods or services not yet credited is less than 300 million dong in a month or in a quarter, [such amount of input VAT] shall be credited in the following month or quarter.

Where a business establishment exports goods or services and also sells goods or services domestically in a month or in a quarter, such business establishment shall be entitled to a refund of VAT on export goods or services if the amount of input VAT on the export goods or services not yet credited is 300 million dong or more.

The amount of input VAT on export goods or services to be refunded shall be calculated as follows:

$$\text{Remaining amount of VAT not yet fully credited in the month or quarter} = \frac{\text{Output VAT on goods and services sold domestically}}{\text{Total amount of input VAT credited in the month or quarter (comprising input VAT servicing export activities or servicing domestic business activities which are taxable in the month or quarter and the remaining amount of VAT not yet fully credited and carried forward from the previous month or quarter)}}$$

$$\text{Amount of input VAT on export goods or services} = \frac{\text{Remaining amount of VAT not yet fully credited in the month or quarter}}{\frac{\text{Total turnover from export in the month or quarter}}{\text{Total turnover from taxable goods and services sold and turnover not subject to tax declaration or payment (including turnover from export) in the month or quarter}}} \times 100\%$$

If the input VAT of export goods and services allocated above and not yet credited is less than 300 million dong, the business establishment is not considered for tax refund for the month/quarter but such amount of input VAT shall be carried forward to the following tax assessment period; if the input VAT of export goods and services not yet credited is 300 million dong or more, VAT is refunded to the business establishment for the month/quarter.

**Example 82:**

The VAT declaration form for March 2014 of Enterprise X contains the following data:

- VAT carried forward from the previous period: 0.15 billion dong.
- Input VAT servicing export activities and servicing domestic business activities which are taxable arising in the month: 4.8 billion dong.
- Total turnover is 21.6 billion comprising turnover of 13.2 billion dong from export and turnover of 8.4 billion dong from taxable domestic sales.

Ratio (%) of the turnover from export to the total turnover =  $13.2/21.6 \times 100\% = 61\%$

- Output VAT on goods and services sold domestically is 0.84 billion dong.

The amount of VAT on export goods to be refunded for the month shall be calculated as follows:

$$\begin{aligned} \text{Remaining amount of} \\ \text{VAT not yet fully} &= 0.84 \text{ billion dong} - (0.15 + 4.8) \text{ billion dong} \\ \text{credited in the month} \\ &= - 4.11 \text{ billion dong.} \end{aligned}$$

Thus the amount of VAT not yet fully credited in the month is 4.11 billion dong.

The amount of input VAT on export goods shall be calculated as follows

$$\begin{aligned} \text{Amount of input VAT} \\ \text{on export goods} &= 4.11 \text{ billion dong} \times 61\% \\ &= 2.507 \text{ billion dong.} \end{aligned}$$

As the remaining amount of input VAT on export goods (after setoff and allocation) not yet fully credited is 2.507 billion dong, which is larger than ( $>$ ) 300 million dong, the enterprise is entitled to a refund of 2.507 billion dong of VAT for the month/quarter. The amount of input VAT on goods and services sold domestically which is not refunded for the month is 1.603 billion dong ( $4.11 \text{ billion} - 2.507 \text{ billion} = 1.603 \text{ billion}$ ) and is carried forward to the following period for further credit.

Entities entitled to a refund in several cases of export are as follows: The principal establishment authorizing the export in the case of goods exported by an authorized agent; the establishment which signs a contract for processing of goods for export with a foreign party in the case of transitional processing; the enterprise having goods or materials exported for implementation of construction works overseas in the case of goods exported for implementation of construction works overseas; or the business establishment with goods for on-the-spot export in the case of goods for on-the-spot export."

(c) Article 18.5 is amended and supplemented as follows:

- "5. Business establishments paying VAT by the tax credit method shall be entitled to a refund of VAT upon conversion of ownership, conversion of enterprise, merger, consolidation, division, demerger, dissolution, bankruptcy, or termination of operation when they have an excess amount of VAT paid or any amount of input VAT not yet credited in full.

Where a business establishment which is at the stage of investment and has not commenced operations is dissolved or bankrupt, or terminates operations without incurring any output VAT on the main business activities in accordance with the investment project, it shall not be required to adjust the amount of VAT already declared, credited or refunded. The business establishment must inform the directly managing tax office on its dissolution, bankruptcy or termination of operation in accordance with regulations.

After completing all the procedures stipulated by the laws on dissolution and bankruptcy, the amount of VAT already refunded shall be dealt with in accordance with the laws on dissolution, bankruptcy and tax management; and the amount of VAT not yet refunded shall not be refunded.

Where a business establishment terminates its operations without incurring any output VAT on the main business activities, it must repay the refunded tax to the State Budget. Where value added taxable assets are sold, adjustment of the corresponding input VAT on the assets sold is not required.

**Example 83:** In 2015, Enterprise A is at the stage of investment and has not commenced operations. Enterprise A has an amount of input VAT of the stage of investment refunded by the tax office in August 2015 of 700 million dong. Due to difficulties, in February 2016, Enterprise A decides to dissolve and sends a document to the tax office on its planned dissolution. During the period when Enterprise A has not yet completed the legal procedures for dissolution, the tax office does not recover the refunded VAT. Twenty (20) days before Enterprise A completes all legal procedures for official dissolution in October 2016, the enterprise sells one (1) invested asset. Enterprise A shall not be required to adjust the corresponding input VAT of the asset sold (the amount of tax which has been refunded by the tax office). For assets which are not sold, Enterprise A must make declarations and adjustments to repay the amount of VAT already refunded."

**Article 2** *To amend and supplement Circular 156-2013-TT-BTC dated 6 November 2013 of the Ministry of Finance providing guidance for implementation of a number of articles of the Law on Tax Management; the Law amending and adding to a number of articles of the Law on Tax Management and Decree 83-2013-ND-CP dated 22 July 2013 of the Government (already amended and supplemented under Circular 119-2014-TT-BTC dated 25 August 2014 of the Ministry of Finance and Circular 151-2014-TT-BTC dated 10 October 2014) as follows:*

**1. Article 11 (already amended and supplemented under Circular 119-2014-TT-BTC dated 25 August 2014 of the Ministry of Finance) is amended and supplemented as follows:**

(a) Article 11.1(dd) is amended as follows:

"(dd) Where a taxpayer engages in extra provincial [outside the province of its head office], infrequent activities of construction, installation or sale of goods and the VAT-inclusive value of such extra provincial, infrequent work of construction, installation or sale of goods is one billion dong or more, or extra provincial real property transfer not in the case prescribed in clause 1(c) of this article without establishing a subsidiary unit in a provincial locality other than where the head office of the taxpayer is situated (hereinafter referred to as extra provincial, infrequent construction, installation, sale of goods

and real property transfer), the taxpayer must submit the tax declaration file to the managing tax office in the locality where there are extra provincial construction, installation, sale of goods and real property transfer activities.

Based on the actual situation in the locality under its management, the Director of the local Department of Taxation is assigned with making a decision on the tax declaration location for extra provincial, infrequent construction, installation and sale of goods and extra provincial real property transfer.

**Example 16:** Company A, which has its head office in Hai Phong, signs a contract to sell cement to Company B, which has its head office in Hanoi. According to the contract, goods shall be delivered by Company A to Company B's construction site in Hanoi. This sale is not considered an extra provincial, infrequent sale. Company A shall declare VAT in Hai Phong and is not required to declare VAT in Hanoi on the turnover from the sale contract with Company B.

**Example 17:** Company B has its head office in Ho Chi Minh City and warehouses in Hai Phong and Nghe An, which do not have a trading function. When Company B sells goods from the warehouse in Hai Phong to Company C in Hung Yen, Company B is not required to declare VAT in the localities where the warehouses are situated (Hai Phong and Nghe An)

**Example 18:**

- Where Company A, which has its head office in Hanoi, signs a contract with Company B only for consultancy, survey and design of a construction work in Son La of which Company B is the developer, such activity is not an extra provincial construction or installation business activity. Company A shall declare VAT for this contract at its head office in Hanoi and is not required to declare VAT in Son La.
- Company A, which has its head office in Hanoi, signs a contract with Company C to implement a construction work in Son La (including survey and design activities) of which Company C is the developer with the VAT-inclusive value of more than 1 billion dong. Company A shall declare VAT on extra provincial construction in respect of this contract in Son La.
- Company A, which has its head office in Hanoi, signs a contract with Company Y to implement a construction work in Yen Bai (including survey and design activities) of which Company C is the developer with the VAT-inclusive value of 770 million dong. Company A shall not be required to declare VAT on extra provincial construction in respect of this contract in Son La.

**Example 19:** If Company B, which has its head office in Hanoi, sells air-conditioners to a customer in Hoa Binh Province (including installation), Company B is not required to declare VAT in Hoa Binh.

**Example 20:** Company A, which has its head office in Hanoi, purchases 10 houses under a project of Company B in Ho Chi Minh City. Afterwards, Company A sells these houses and issues an invoice to its Customer C. Company A must declare and pay VAT on extra provincial real estate transfer as a percentage of its turnover at the tax office in Ho Chi Minh City."

**(b) Clause 1(e) is amended as follows:**

"Where a taxpayer has an extra provincial construction or installation project that relates to multiple localities such as construction of roads, power transmission lines, or water, oil or gas pipelines, etc. and is unable to determine the turnover earned from the work in each provincial locality, the taxpayer shall

declare VAT on turnover from the extra provincial construction or installation together with the VAT declaration file at its head office and pay VAT to the provinces through which where the works run. The amount of VAT payable to the provinces shall be calculated as a percentage (%) of the investment value of the works in each province as determined by the taxpayer itself multiplied (x) by 2% of the turnover not including VAT of the construction works activity.

The amount of VAT already paid (according to tax payment source documents) of extra provincial work construction is deducted (-) from the amount payable on the VAT declaration form (Form No. 01-GTGT) of the taxpayer at its head office.

The taxpayer prepares an allocation table of the VAT payable to the localities where there is the extra provincial construction or installation work (form No. 01-7-GTGT issued with this Circular) and attach a copy to the VAT declaration form to send to the Departments of Taxation where VAT is payable."

(c) Article 11.3(b) is amended as follows:

(b) Monthly or quarterly VAT declaration file using the tax credit method:

- The VAT declaration form on Form No. 01-GTGT issued with this Circular (replacing the VAT declaration form on Form No. 01-GTGT issued with Circular 119-2014-TT-BTC dated 25 August 2014 of the Ministry of Finance).

Where the taxpayer has infrequent sale, installation or construction business activities or an extra provincial real estate transfer, or has subsidiary production establishments in a location other than where its head office is located, the taxpayer shall submit the following documents with the VAT declaration form:

- The table of VAT already paid on the turnover from infrequent sale, installation or construction business activities or extra provincial real estate transfer (if any) on Form 01-5-GTGT issued with Circular 156-2013-TT-BTC dated 6 November 2013 of the Ministry of Finance.
- The table of VAT distribution between the locality of the head office and the localities where there are subsidiary production establishments that do not carry out cost accounting (if any) on Form 01-6-GTGT issued with Circular 156-2013-TT-BTC dated 6 November 2013 of the Ministry of Finance.
- The allocation table of the VAT payable to the localities where there is the extra provincial construction or installation work (if any) on Form No. 01-7-GTGT issued with this Circular."

(d) Article 11.5(b) is amended as follows:

"(b) The monthly/quarterly VAT declaration file using the method of direct calculation on turnover is the VAT declaration Form No. 04-GTGT issued with Circular 156-2013-TT-BTC dated 6 November 2013 of the Ministry of Finance."

(e) Article 11.6 is amended as follows:

"6. VAT declaration in respect of infrequent sale, installation or construction business activities or extra provincial real estate transfer not falling under the case guided in clause 1(c) of this article.

- (a) A taxpayer engaged in infrequent sale, installation or construction business activities or an extra provincial real estate transfer shall provisionally declare VAT at 2% in respect of goods subject to 10% VAT rate, or at 1% in respect of goods subject to 5% VAT rate on the VAT-excluded turnover from such goods to the tax office managing the locality where there are infrequent sale, installation or construction business activities or the extra provincial real estate transfer.
- (b) The VAT declaration file for infrequent sale, installation or construction business activities or extra provincial real estate transfer is the VAT declaration Form No. 05-GTGT issued with Circular 156-2013-TT-BTC dated 6 November 2013 of the Ministry of Finance.
- (c) The VAT declaration file for infrequent sale, installation or construction business activities or extra provincial real estate transfer shall be submitted on each occasion turnover arises. If more than one occasion of tax declaration arises in any one month, the taxpayer may register with the tax office where tax declaration files are submitted to submit VAT declaration files on a monthly basis.
- (d) Upon declaring tax at the directly managing tax office, the taxpayer must include the turnovers earned and the VAT paid on the turnover from infrequent sale, installation or construction business activities or extra provincial real estate transfer/s in the tax declaration file at the head office. The amount of tax paid (according to tax payment source documents) on the turnover from infrequent sale, installation or construction business activities or extra provincial real estate transfer/s shall be deducted from the amount of VAT payable according to the VAT declaration form of the taxpayer in the locality where the head office is situated."

**2. Article 13.3 is amended as follows:**

"3. Special sales tax declaration file

- The special sales tax declaration form on Form 01-TTDB issued with Circular 156-2013-TT-BTC dated 6 November 2013 of the Ministry of Finance."

**3. Article 20 is amended as follows:**

(a) Article 20.3(d) is amended as follows:

"(d) Tax declaration by foreign carriers

Shipping agents or goods forwarding agents of foreign carriers (hereinafter referred to as carrier's agent) are responsible to withhold and pay tax on behalf of foreign carriers.

Tax declaration files in respect of a foreign carrier are submitted to the tax office directly managing such carrier's agent.

Tax declaration in respect of foreign carriers are for quarterly provisional payments and annual finalisation."

(b) Article 20.3(d2) is amended as follows:

"(d.2) File for notice of [eligibility for] tax exemption or reduction according to Agreements:

If a foreign carrier is eligible for tax exemption or reduction according to a double taxation avoidance agreement between Vietnam and another country/territory, the following additional procedures below shall be carried out:

The foreign carrier or its agent must include with the tax declaration of the foreign carrier a file for notice of [eligibility for] tax exemption or reduction according to such Agreement. The file comprises:

- Notice of [eligibility for] tax exemption or reduction according to an Agreement on Form 01-HTQT issued with this Circular;
- Consularized original (or certified copy) of the residence certificate issued by the tax office of the country/territory where the foreign carrier resides for the tax assessment year immediately preceding the year in which there is a notice of [eligibility for] tax exemption or reduction according to an Agreement.

The agent of the foreign carrier in Vietnam or the representative office of the foreign carrier is responsible to keep files, documents and source documents in accordance with the Law on Accounting and the Decrees guiding implementation of the Law on Accounting and the Maritime Code, and to present them upon request by the tax office.

Where a foreign carrier or its agent authorises a legal representative to carry out the procedures for application of an Agreement, the original copy of the power of attorney must also be submitted.

At the end of the year, the foreign carrier or its agent sends to the tax office the consularized residence certificate of the carrier for that year.

If there was already a notice of [eligibility for] tax exemption or reduction according to an Agreement in the previous year, then in the subsequent years the foreign carrier or its agent shall only be required to notify any change to the information already provided on Form 01-HTQT of the previous year and to supply the documents corresponding to such change.

If a foreign carrier has multiple agents in various locations of Vietnam, or the agent of a foreign carrier has multiple branches or representative offices (hereinafter referred to as branches) in various locations of Vietnam, the foreign carrier or its agent shall submit the original (or certified copy) of the consularized residence certificate to the local Department of Taxation where the head office of the agent of the foreign carrier is situated; and copies of the consularized residence certificate to the local Departments of Taxation where branches of the foreign carrier are situated, specifying the place where the original (or certified true copy) is submitted in the notice of [eligibility for] tax exemption or reduction according to an Agreement."

#### **4. Article 27 is amended and supplemented as follows:**

**"Article 27.** Currency for tax payment and determination of turnover, expenses, assessable price and payments to the State budget.

1. Taxpayers make tax payments and payments to the State budget in Vietnamese Dong, except for cases where tax payment in foreign currencies is permitted by law.

2. If a taxpayer has the obligation to pay tax in a foreign currency but is permitted by a competent authority to pay tax in Vietnamese Dong, the taxpayer and the tax management office shall convert the amount of Vietnamese Dong on the source document for payment to the State budget at the exchange rate prescribed in this clause into the amount in the foreign currency to pay for the obligation required in such foreign currency, in particular as follows:

Where payment is made at a commercial bank, credit institution or State Treasury, the buying rate of the commercial bank or credit institution where the taxpayer opens an account at the time of payment by the taxpayer to the State budget shall apply.

**For example:** Company X, as a taxpayer, has an obligation to pay tax in a foreign currency, but is permitted by a competent authority to pay tax in Vietnamese Dong. Company X has accounts at three banks namely Bank A, Bank B and Bank C. On 21 March 2015, the buying rate for USD at Bank A is 21,300 VND/USD, at Bank B, 21,310 VND/USD, and at Bank C, 21,305 VND/USD. When Company X pays tax in Vietnamese Dong at Credit Institution D or the State Treasury in E District on 21 March 2015, Company X may apply the buying rate of any one of the three banks A, B or C. If Company X pays tax in Vietnamese Dong at Bank A, the applicable rate shall be 21,300 VND/USD.

3. Where a turnover, an expense or an assessable price arise in a foreign currency, such amount must be converted to Vietnamese Dong at the actual transaction exchange rate as guided by the Ministry of Finance in Circular 200-2014-TT-BTC dated 22 December 2014 providing guidelines on corporate accounting regimes as follows:

- The actual transaction exchange rate used to account for turnover is the buying rate of the commercial bank where the taxpayer opens an account.
- The actual transaction exchange rate used to account for expenses is the selling rate of the commercial bank where the taxpayer opens an account at the time the transaction involving foreign currency payment arises.
- Other specific cases shall be implemented according to the guidelines of the Ministry of Finance in Circular 200-2014-TT-BTC dated 22 December 2014."

5. **Articles 31.1(a) and 31.1(d) (already amended and supplemented in article 21.1 of Circular 151-2014-TT-BTC) are amended and supplemented as follows:**

"1. Articles 31.1(a) and 31.1(d) are amended and supplemented as follows:

- (a) Suffering from physical [material] damage directly affecting production or business caused by natural disasters, fires, or unexpected accidents.

Physical damage means losses of property of the taxpayer, which can be expressed as a sum of money such as: machinery, equipment, facilities, supplies, goods, buildings, working offices, money and papers having monetary value.

Unexpected accident means an unfortunate incident which occurs beyond the will of the taxpayer, is caused by an external factor and directly affecting production and business activities of the taxpayer, and which is not caused by a breach of law. Cases considered as unexpected accidents include: traffic accidents; working accidents; contracting a fatal disease; contracting an epidemic disease during the

periods and in the areas where a competent authority has declared the epidemic; and other events of force majeure.

The list of fatal diseases shall be as prescribed in legal instruments".

"(d) Being unable to pay tax on time due to another special difficulty."

**6. Articles 31.1(c), 31.2(c) and 31.3(c) of Circular 156-2013-TT-BTC dated 6 November 2013 of the Ministry of Finance and article 21.2 of Circular 151-2014-TT-BTC dated 10 October 2014 of the Ministry of Finance are repealed.**

In the cases of tax payment extension as prescribed in article 31.1(c) of Circular 156-2013-TT-BTC dated 6 November 2013 of the Ministry of Finance, if the tax office already issued a decision on tax payment extension before 1 January 2015, such decision shall continue to be implemented until the expiry of its effectiveness.

**7. Article 31.3(d) is amended and supplemented as follows:**

"(d) In the case mentioned in article 31.1(d) of Circular 156-2013-TT-BTC:

- Written request for tax payment extension of the taxpayer on Form 01-GHAN issued with Circular 156-2013-TT-BTC;
- Written document from the directly managing tax office to the superior tax office, which certifies the special difficulty and the causes therefor which makes the taxpayer unable to pay on time the owing amount of tax as explained and requested by the taxpayer in its written request for tax payment extension;
- Copy of the documents on extension, debt write-off, tax reduction or tax exemption for the taxpayer issued by the tax office during the previous two years (if any);
- Decision of a competent State authority affecting the production or business of the taxpayer upon implementation of such decision (if any)."

**8. Article 32.2(b.2) is amended as follows:**

"(b.2) To pay on behalf of the taxpayer in the case a monthly instalment of tax payment has been overdue but has not been made by the taxpayer, comprising the amount of tax instalment and the late payment charge at the rate of 0.05% per day."

**9. Article 34.2 is amended and supplemented as follows:**

"2. Determination of late payment amount on tax payment:

- (a) In respect of owing tax amounts arising from 1 January 2015, the late payment charge is calculated at the rate of 0.05% of the overdue tax amount for each day of late payment.
- (b) In respect of owing tax amounts arising before 1 January 2015 and not yet paid after 1 January 2015, calculation is made as follows: before 1 January 2015, late payment fines and late payment charges are calculated in accordance with the Law on Tax Management 78-2006-QH11 and the Law on

Amendments of and Additions to a Number of Articles of the Law on Tax Management 21-2012-QH13; and from 1 January 2015, late payment charges are calculated in accordance with the Law on Amendments of and Additions to a Number of Articles of the Laws on Taxation 71-2014-QH13.

**Example 44:** Taxpayer B owes 100 million dong of VAT under the VAT declaration form for August 2014 and the deadline for tax payment is 22 September 2014 (as 20 September 2014 and 21 September 2014 are holidays). On 20 January 2015, the taxpayer pays this amount of tax to the State budget. The number of days of late payment is calculated from 23 September 2014 to 20 January 2015, and the late payment charge payable is 6.2 million dong. In particular:

- Before 1 January 2015, the late payment charge is calculated as follows:
  - + From 23 September 2014 to 21 December 2014, the number of days of late payment is 90 days:  $100 \text{ million} \times 0.05\% \times 90 \text{ days} = 4.5 \text{ million dong}$ .
  - + From 22 December 2014 to 31 December 2014, the number of days of late payment is 10 days:  $100 \text{ million} \times 0.07\% \times 10 \text{ days} = 0.7 \text{ million dong}$ .
- From 01 January 2015 to 20 January 2015, the number of days of late payment is 20 days:  $100 \text{ million} \times 0.05\% \times 20 \text{ days} = 1 \text{ million dong}$ .

"(e) If a taxpayer declares an insufficient amount of tax of a tax period arising before 1 January 2015, which is discovered after 1 January 2015 by the competent State authority through inspection or checking, or by the taxpayer itself, a late payment charge at the rate of 0.05%/day on the shortfall amount of tax declared from the due date for payment as prescribed by law to the date the shortfall amount of tax is paid by the taxpayer to the State budget."

#### 10. Article 34a is added as follows:

##### **"Article 34a. No late payment charge**

1. A taxpayer supplying goods or services paid from the State budget who has not been paid by the entity using the State budget capital (hereinafter referred to as taxpayer) and thus cannot pay tax in time resulting in a tax debt shall not be required to pay a late payment charge on tax payment.

If a taxpayer supplying goods or services part of which are paid from the State budget and part paid from other sources has not been paid by the entity using the State budget capital and thus cannot pay tax in time resulting in a tax debt, the taxpayer shall not be required to pay a late payment charge on the amount of tax corresponding to the part paid from the State budget.

An entity using the State budget capital is an entity opening an account at the State Treasury which is allocated an estimated budget for expenses from the State budget in accordance with the Law on State Budget.

**For example:** Taxpayer A supplies goods X to Entity B (entity using the State budget capital) with the value of 100 million dong, of which 40 million is paid from the State budget and 60 million dong paid from other sources. Taxpayer A has not been paid 100 million dong by Entity B.

Taxpayer A owes 70 million dong in tax and shall not be required to pay a late payment charge on the tax amount of 40 million dong.

2. Scope of the tax amount and time for which no late payment charge on tax is due where a taxpayer supplying goods or services paid from the State budget has not been paid by the entity using the State budget capital:

- (a) No late payment charge shall be payable on the owing tax amount, which owing tax amount shall not exceed the amount not yet paid from the State budget to the taxpayer.

Where a taxpayer owes taxes of more than one tax declaration periods, the total amount of owing tax of all declaration periods shall not exceed the amount not yet paid from the State budget.

- (b) The period during which no late payment charge is payable on tax is calculated from the date on which tax must be paid by the taxpayer to the date the entity using the State budget capital pays the taxpayer and shall not exceed the period during which the taxpayer is not yet paid from the State budget.

3. Order and procedures for not calculating late payment charges:

- (a) A taxpayer who is not required to pay a late payment charge as prescribed in clause 1 of this article provides the directly managing tax office with written certification from the entity using the State budget capital that such taxpayer has not been paid on Form 01-TCN issued with this Circular.

- (b) The tax office issues a decision on examination at the office of the taxpayer with the maximum examination period of three working days. After examination, the tax office makes a determination:

- If the taxpayer's case is not subject to a late payment charge, the tax office issues a notice that the taxpayer is not required to pay a late payment charge.
- If the taxpayer's case is subject to a late payment charge, the tax office issues a notice that the taxpayer is required to pay a late payment charge (notifying the amount of owing tax, fine and late payment charge) and enforces a tax administrative decision in accordance with law.

**For example:**

On 20 February 2015, Taxpayer A submits a VAT declaration form with the tax amount payable of 30 million dong. At such time, the State budget has not paid the amount of 100 million dong to Taxpayer A. After examination, the tax office determines that Taxpayer A is not subject to a late payment charge on the VAT amount of 30 million dong until it is paid by the State budget.

On 31 March 2015, Taxpayer A submits its corporate income tax finalization with the amount of CIT payable being 80 million dong. At such time, the State budget has not paid the amount of 100 million dong to Taxpayer A. Taxpayer A is not subject to a late payment charge on the CIT amount of 70 million dong until it is paid by the State budget. A late payment charge shall be payable on the remaining tax amount of 10 million dong if it has not been paid by Taxpayer A to the State budget as regulated.

- (c) Upon being paid by the State budget, the taxpayer pays taxes to the State budget and notifies the tax office on Form 02-TCN issued with this Circular for the tax office to use as a basis to recalculate the owing tax amounts and late payment charge, and to determine accurately the number of days for which no late payment charge is payable by the taxpayer.

4. Responsibility of the taxpayer:

The taxpayer is responsible to pay tax to the State budget as soon as it is paid by the entity using the State budget capital.

5. Responsibility of the entity using the State budget capital:

The entity using the State budget capital is responsible to certify the status of payment to the taxpayer and is responsible before the law for this certification.

6. Responsibility of the tax office:

- (a) The tax office supervises the performance of tax obligations of taxpayers. Upon discovering that a taxpayer has been paid by an entity using the State budget capital but has not paid the owing tax to the State budget on a timely basis, the tax office shall issue a notice on the owing tax amount, fine and late payment charge where the late payment charge is calculated from the day subsequent to the day the taxpayer is paid, and enforces a tax administrative decision in accordance with law.
- (b) The tax office does not yet enforce a tax administrative decision in the cases where no late payment charge is payable in accordance with this article.

7. Responsibility of the State Treasury office:

The State Treasury office is responsible to coordinate with the tax office in providing information on the payment status of State budget capitals."

**11. Article 35 is amended and supplemented as follows:**

(a) Clause 2 is amended and supplemented as follows:

"2. Determination of the exempted late payment charge:

- (a) Where a taxpayer encounters a natural disaster, a fire, an unexpected accident or an epidemic: the late payment charge exempted is calculated on the owing tax amount at the time the natural disaster, fire, unexpected accident or epidemic occurs, which exempted amount shall not exceed the value of the damaged assets or goods.
- (b) Where a taxpayer suffers from a fatal disease: the late payment charge exempted is calculated on the owing tax amount at the time the fatal disease occurs, which exempted amount shall not exceed the value of the costs for disease examination and treatment."
- (c) Where a taxpayer encounters another event of force majeure: the late payment charge exempted is calculated on the owing tax amount at the time such other event of force majeure occurs, which exempted amount shall not exceed the value of the damaged assets or goods."

(b) Clauses 3(b.1) and 3(b.2) are amended and supplemented as follows:

"(b.1) In the case of a natural disaster, a fire, an unexpected accident or an epidemic, the following are required:

- Minutes determining the extent and value of assets damage by a competent authority such as the valuation council established by a Department of Finance, or by professional valuation companies providing valuation services under a contract, or the Valuation Centre of a Department of Finance;
- Written confirmation that the taxpayer suffers from damage in the location the natural disaster, fire, unexpected accident or epidemic occurs and the time the natural disaster, fire, unexpected accident or epidemic occurs from one of the following agencies or organizations: the police at the ward or commune level, or the people's committee of the ward or commune level, the management board of an industrial zone, an export processing zone or economic zone where the natural disaster, fire, unexpected accident or epidemic occurs, or a rescue or salvage organization;
- File for damage compensation accepted by an insurer for compensation (if any);
- File for determination of responsibilities of organizations or individuals to make compensation (if any).

(b.2) If an individual suffers from a fatal disease, then examination or treatment of the disease must be certified in his or her medical record book, and the time of certification by the medical examination or treatment entity must be established in accordance with law; examination and treatment costs must have full supporting source documents as regulated; and there must be a file for payment of examination and treatment costs from the insurer (if any)."

(c) Clause 5 is added to article 35 as follows:

"5. Order for dealing with files for late payment charge exemption

- (a) Within sixty (60) days from the date the natural disaster, fire, unexpected accident, epidemic, fatal disease or another event of force majeure occurs, the taxpayer must prepare a file to request late payment charge exemption to send to the directly managing tax office.
- (b) Where a file for late payment charge exemption is insufficient as regulated, within three working days from the date of receipt of the file, the tax office must notify the taxpayer in writing and request explanation or supplement to the file. The taxpayer must explain or supplement the file within ten working days from the date the tax office issues the document [requesting] explanation or supplement to the file.

If a taxpayer fails to complete the file as requested by the tax office, such taxpayer shall not be entitled to late payment charge exemption.

- (c) In the case the file for late payment charge exemption is sufficient, within ten working days from the date of receipt of the file, the directly managing tax office shall issue a document to the taxpayer:
  - (c.1) Document rejecting the request of the taxpayer if the taxpayer fails to satisfy all the conditions for late payment charge exemption.

- (c.2) Decision on late payment charge exemption if the taxpayer is entitled to late payment charge exemption."

**12. Article 40 is amended as follows:**

"**Article 40** Completion of the tax payment obligation in the case of exiting from the country

1. Vietnamese exiting from the country to reside permanently overseas, Vietnamese residing permanently overseas and foreigners before exiting from Vietnam must complete their tax payment obligation.
2. The immigration management agency is responsible to stop the exit of an individual upon a notice in writing or electronic form from a tax management agency that [such] person intending to exit from the country has not completed his or her tax obligation in accordance with law before the exit."

**13. Article 54.2 is amended as follows:**

"2. Tax refund file

- Written request for tax refund under a double taxation avoidance agreement on Form 02-DNHT issued with this Circular.
- Consularized original copy (or certified copy) of the residence certificate issued by the tax office of the country of residence (specifying the tax year in which the taxpayer is a resident).
- Copy of the economic contract, service provision contract, agency contract, authorization contract, technology transfer contract or labour contract signed with a Vietnamese organization or individual, deposit certificate in Vietnam, certificate of capital contribution to a company in Vietnam (as appropriate to each case of income) certified by the taxpayer.
- Certification of the Vietnamese organization or individual signing the contract on the duration and actual operation status under the contract (except for the case of tax refund for foreign carriers).
- Power of attorney in the case an organization or individual authorises a legal representative to carry out the procedures for application of an Agreement. Where an organization or individual prepares a power of attorney to authorise a legal representative to carry out procedures for tax refund to the account of another entity, procedures for consularisation (if the authorisation is carried out overseas) or notarisation (if the authorisation is carried out in Vietnam) shall be required under regulations.

Where an organization or individual is unable to provide all the information or documents as required for a tax refund file under the [applicable] Agreement, specific explanation should be provided in the written request for tax refund under an Agreement on Form 02-DNHT mentioned above for the tax office to consider and make a decision."

**14. Article 58 is amended and supplemented as follows:**

(a) Clause 2 is amended and supplemented as follows:

"2. Cases subject to examination before tax refund

- Tax refund in accordance with an international treaty to which the Socialist Republic of Vietnam is a member. In the case of tax refund files under a double taxation avoidance agreement of foreign carriers, the guidelines in article 2.14(b) of this Circular shall be implemented.
- Taxpayers making the first tax refund request, except for requests for personal income tax refund.

Taxpayers making the first tax refund request who are subject to examination prior to tax refund are taxpayers sending tax refund request files to the tax office for the first time and falling under the category or cases entitled to tax refund. Where a taxpayer sends a tax refund request file to the tax office for the first time but does not fall under the category or cases entitled to tax refund, his or her next tax refund request shall still be considered as tax refund request for the first time.

- Tax refund requests made by a taxpayer within a period of two years from the time his or her act of tax evasion or tax fraud was dealt with.

Where a taxpayer makes multiple tax refund requests within a period of two years, if, for the first tax refund request after the time the act of tax evasion or tax fraud is dealt with, the tax office examines the tax refund file of the taxpayer and finds no wrong declaration leading to a shortfall in the tax amount payable or an increase in the amount of tax to be refunded as prescribed in article 1.33 of the Law on Amendment of the Law on Tax Management, or an act of tax evasion or tax fraud as prescribed in article 108 of the Law on Tax Management and article 1.34 of the Law on Amendment of the Law on Tax Management, then the tax refund files of such the taxpayer in subsequent tax refund requests shall not be subject to examination prior to tax refund. If it is discovered that in subsequent tax refund requests, a taxpayer still makes a wrong declaration in its tax refund file, or commits an act of tax evasion or tax fraud as prescribed in article 1.33 of the Law on Amendment of the Law on Tax Management, or an act of tax evasion or tax fraud as prescribed in article 108 of the Law on Tax Management and article 1.34 of the Law on of the Law on Tax Management, its tax refund files shall remain subject to examination prior to tax refund for the same period of two years from the time the act of tax evasion or tax fraud is dealt with.

- Goods and services in the tax refund file of the taxpayer were not paid for via a bank as regulated, including both goods and services sold and purchased domestically and goods and services exported and imported. This provision does not apply to VAT refund files, in particular: Where goods and services in a VAT refund file were not paid for via a bank as prescribed by the law on VAT, the tax office is not required to carry out an examination at the office of the taxpayer prior to tax refund and does not refund the VAT related to such goods and services.
- Enterprises merging, consolidating, dividing, separating, dissolving, going bankrupt, converting ownership form, terminating operations; or State owned enterprises allocated, sold, contracted out or leased out.
- The taxpayer fails to explain or supplement the tax refund file by the deadline notified in writing by the tax office; or the second time explanation or supplement fails to prove that the declared tax amount is correct. This provision does not apply to the part of goods or services satisfying all conditions and procedures for tax refund as regulated."

(b) Clause 4 is amended and supplemented as follows:

"4. Examination after tax refund in respect of files subject to tax refund first and examination later

(a) Examination after tax refund must be carried out within a period of one year from the date of the tax refund decision in the following cases:

- A business establishment declares losses in two consecutive years preceding the year of the tax refund decision or has losses exceeding its equity as of the year preceding the year of the tax refund decision. The amount of loss is determined according to the corporate income tax finalization file; or according to the inspection or examination result where there are inspection or examination minutes of a competent State administrative authority.
- A business establishment is refunded tax from business activities of real property or trading and services. Where a production or business establishment engaged in multiple lines of business is unable to separate the tax amount refunded from business activities of real property or trading and services and the ratio between the turnover from business activities of real property or trading and services and the total turnover from all production and business activities of such establishment in the period during which the tax amount requested for refund is 50% or more, examination after refund applies within a period of one year from the date of the tax refund decision.
- A business establishment changes its office two or more times within twelve (12) months preceding the date of the tax refund decision;
- A business establishment has abnormal changes in its assessable turnover and refunded tax amount within a period of twelve (12) months preceding the date of the tax refund decision;
- Foreign carriers requesting tax refund under a double taxation avoidance agreement.

(b) In the cases not covered by sub-clause (a) of this clause, examination after tax refund is carried out on the principle of risk management within a period of ten years from the date of the tax refund decision."

**Article 3** *To amend and supplement a number of articles of Circular 39-2014-TT-BTC dated 31 March 2014 providing guidelines for implementation of Decree 51-2010-ND-CP dated 14 May 2010 and Decree 04-2014-ND-CP dated 17 January 2014 of the Government stipulating invoices for goods sale and service provision as follows:*

1. **Article 4.1(k) is amended as follows:**

"(k) Invoices are expressed in Vietnamese. Where it is necessary to include foreign language words, those words must be put in brackets ( ) to the right of or just under the line of the [corresponding] Vietnamese words in a font size smaller than that of the Vietnamese words.

Figures written on an invoice are natural numerals: 0, 1, 2, 3, 4, 5, 6, 7, 8 and 9; The seller may select to place a dot (.) after the digits representing thousands, millions, billions, trillions, million billions and billion billions, and a comma (,) after any digit following the digit representing units; or to place a comma (,) to separate natural numerals after the digits representing thousands, millions, billions, trillions, million

billions and billion billions, and a dot (.) after any digit following the digit representing units on their accounting source documents;

The line of the total payable amount on the invoice must be written in words. Where the words on the invoice are Vietnamese without accent marks, such words without accent marks must ensure they do not lead to misunderstanding of the contents of the invoice.

An organization's or an individual's invoices of a given form must be of the same size (except that the length does not need to be fixed where automatic invoices are printed from cash registers on paper rolls; in this case, the length of the invoice depends on the length of the list of goods sold)."

**2. The last dash of article 6.1(b) is amended as follows:**

- "- Having send a written request for use of self-printed invoices (Form 3.14 in Appendix 3 issued with this Circular) and being certified by the directly managing tax office that it satisfies all conditions. Within five working days from the receipt of a written request from an enterprise, the directly managing tax office must give an opinion on the conditions for the enterprise to use self-printed invoices (Form 3.15 in Appendix 3 issued with this Circular).

Where the directly managing tax offices does not provide a written opinion within five working days, the enterprise is entitled to use self-printed invoices. The head of the tax office must be responsible for the failure to provide a written opinion in response to the enterprise."

**3. Clause 4 is added to article 7 as follows:**

- "4. Taxpayers (including organizations and individuals) doing business subject to high tax risks shall prepare electronic invoices and send information on invoices by electronic means to the tax office to receive invoice validation codes from the tax office. Cases requiring the use of electronic invoices with validation codes from the tax office shall be subject to separate guidelines of the Ministry of Finance."

**4. The last paragraph of article 8.1(b) is amended as follows:**

"Within five working days from the receipt of a written request from an organization or enterprise, the directly managing tax office must send a notice on the use of invoices printed on order (Form 3.15 in Appendix 3 issued with this Circular).

Where the directly managing tax offices does not provide a written opinion within five working days, the enterprise is entitled to use invoices printed on order. The head of the tax office must be responsible for the failure to provide a written opinion in response to the enterprise."

**5. Article 9.2 is amended as follows:**

- "2. The content of an invoice issuance notice contains: the name, tax code, address, telephone, types of invoice to be issued (name of type of invoice, code of invoice, code of invoice number form, date of use commencement, quantity of invoices notified to be issued (from number... to number...)), name and tax code of the invoice printing enterprise (for invoices printed on order), name and tax code (if any) of the invoice self-printing software supplier (for self-printed invoices), name and tax code (if any) of the intermediary organization providing e-invoicing solutions (for e-invoices); date of the issuance notice, name and signature of the legal representative and seal of the entity.

Where banks, credit institutions and their branches use self-printed transactions documents as service charge receipts, they shall send invoice issuance notices accompanied by specimen invoices to their managing tax offices and register the method of numbering invoices without having to register in advance the quantity of invoices to be issued.

For the unused invoice numbers already issued which are pre-printed with names and addresses, when a business organization changes its name or address but the tax code and directly managing tax office remain unchanged, if such business organization wishes to continue to use such invoices already printed on order, it shall apply a seal showing its new name and address next to the pre-printed name and address to continue using them, and send a notice on adjustment of information in the invoice issuance notice to the directly managing tax office (Form 3.13 in Appendix 3 issued with this Circular).

Where a business organization changes its business location, resulting in the change of the directly managing tax office, if such business organization wishes to continue to use the unused invoices already issued, it must submit a report on the use of invoices to the tax office of the locality from which it moves and apply a seal showing its new address on such invoices, and send a list of the unused invoices (Form 3.10 in Appendix 3 issued with this Circular) and a notice on adjustment of information in the invoice issuance notice to the tax office of the locality to which it moves (specifying the number of issued invoices not yet used and to be used). If the business organization does not wish to use the unused invoices already issued, it shall destroy such invoices and notify the destruction result to the tax office of the locality from which it moves and make a new invoice issuance notice to the tax office of the locality to which it moves.

Upon occurrence of a change to the contents of an invoice issuance notice, a business organization must make a new invoice issuance notice as guided under this clause."

**6. Clause 2 is added to article 14 as follows:**

- "2. Taxpayers (including organizations and individuals) engaged in the business of restaurants, hotels, supermarkets and certain other goods or services and using automatic billing systems or sales software installation system for payment shall connect with the tax office to send information to the tax office according to the implementation roadmap of the tax office."

**7. Article 16 is amended and supplemented as follows:**

- (a) Articles 16.1(b) (already amended and supplemented in article 5.3 of Circular 119-2014-TT-BTC) is amended and supplemented as follows:
- "(b) A seller must prepare an invoice when selling goods or services, including goods or services used for promotion or advertising or used as samples; goods and services used for donation, giving as gifts, exchange or in lieu of salary for employees (except for goods internally circulated or consumed to continue the production process).

An invoice must correctly reflect the arising economic operation; must be neither erased nor modified; must be written in a non-fadable ink of one colour other than red; figures and words must be written continually and uninterruptedly; pre-printed words must be neither overwritten nor overprinted, and any blank space must be crossed out. For a self-printed invoice or an invoice printed on order prepared by computer, any blank space on the invoice shall not be required to be crossed out."

(b) Article 16.2(b) is amended and supplemented as follows:

"(b) The criterion "Name, address and tax code of the seller," "name, address and tax code of the buyer"

The seller must correctly record the "tax code" criterion of both the purchaser and the seller.

The criterion of "name and address" of the seller and the purchaser must be written in full, if abbreviations are used, it must be ensured that the purchaser and the seller are correctly identified.

Where the name or address of the purchaser is too long, on the invoice the seller may shorten certain popular nouns such as: "Phuong" (Ward) to "P"; "Quan" (District) to "Q", "Thanh pho" (City) to "TP", "Viet Nam" to "VN" or "Co phan" (Joint Stock) to "CP", "Trach nham Huu han" (Limited Liability) to "TNHH", "khu cong nghiep" (industrial zone) to "KCN", "san xuat" (production) to "SX", "Chi nhanh" (Branch) to "CN", etc. but must ensure that the house number and the names of street, ward, commune, district and city are fully included to enable accurate identification of the name and address of the enterprise and conformation with the business registration and tax registration of the enterprise.

Where a selling organization has a subsidiary unit with a tax code which directly sells goods, the name, address and tax code of the subsidiary unit shall be included. If the subsidiary unit does not have a tax code, the tax code of the head office shall be used.

In the case of selling goods or providing services at 200,000 dong or more, if the purchaser does not require an invoice or does not provide the name, address and tax code (if any), an invoice must still be prepared, specifying "the purchaser does not require an invoice" or "the purchaser does not provide its name, address and tax code".

Particularly for petrol and oil retailers, if purchasers do not require invoices, at the end of each day, they must prepare one single invoice for the day's total sales to purchasers not requiring invoices during such day.

If a prepared invoice contains a mistake of the name or address of the purchaser but uses the correct tax code of the purchaser, the parties shall prepare minutes of adjustment and shall not be required to prepare an adjusted invoice. Other cases of mistakes in prepared invoices shall be implemented in accordance with the guidelines in article 20 of Circular 39-2014-TT-BTC of the Ministry of Finance."

**8. The following forms are issued with this Circular:**

- (a) Form of Invoice Issuance Notice (Form TB01-AC) for organizations and enterprises to replace the form of Invoice Issuance Notice (Form TB01-AC) issued with Circular 39-2014-TT-BTC of the Ministry of Finance.
- (b) Form of Invoice Issuance Notice (Form TB02-AC) for Departments of Taxation to replace the form of Invoice Issuance Notice (Form TB02-AC) issued with Circular 39-2014-TT-BTC of the Ministry of Finance.
- (c) Form of report on taking printing orders / providing self-printed invoice software (Form BC01-AC) to replace the Form of report on taking printing orders / providing self-printed invoice software (Form BC01-AC) issued with Circular 39-2014-TT-BTC of the Ministry of Finance.

**9. Clause 2.4 of Appendix 4 is amended and supplemented as follows:**

"2.4. Using invoices and source documents for goods or services used for promotion or advertising, as samples, for donation, or for giving as gifts, by organizations declaring and paying VAT by the credit method:

- (a) Invoices must be prepared for products, goods or services used for promotion in accordance with the law on commerce [commercial law], recording the name and quantity of goods, specifying that these are goods for promotion, advertising or samples, and complying with guidelines of the law on VAT.

VAT invoices (or sales invoices) must be prepared for goods and services used for donation, giving as gifts, exchange or in lieu of salary for employees, record all criteria in full and calculate VAT as with invoices issued for sale of goods or services to customers."

**Article 4 Effectiveness**

1. This Circular shall take effect on the effective date of Law 71-2014-QH13 on Amendment of and Addition to a Number of Articles of the Laws on Taxation and Decree 12-2015-ND-CP dated 12 February 2015 of the Government making detailed provisions for the implementation of the Law on Amendment of and Addition to a Number of Articles of the Laws on Taxation and amending and adding to a number of articles of the Decrees on Taxation.
2. In respect of contracts to purchase specialised machinery and equipment servicing agricultural production signed before the effective date of Law 71-2014-QH13 (the types of machinery prescribed in article 10.11 of Circular 219-2013-TT-BTC as amended and supplemented in article 1.2 of this Circular) but the time of transfer of the ownership or use right is after the effective date of Law 71-2014-QH13, the parties shall implement the provisions in article 1.2 of this Circular.
3. In respect of contracts for building offshore fishing boats signed before 1 January 2015 at a VAT-inclusive price and not yet completed or handed over at 31 December 2014 and the time of actual completion or hand-over is after 1 January 2015, the entire value of such offshore fishing boats shall be implemented in accordance with the provisions in article 1.2 of this Circular.
4. The provisions relating to the list of invoices and source documents for goods and services purchased and sold and provisions on exchange rates upon determination of turnovers and taxable prices [in the following legal instruments] shall be repealed:
  - Circular 05-2012-TT-BTC dated 5 January 2012 of the Ministry of Finance providing guidelines for implementation of Decree 26-2009-ND-CP dated 16 March 2009 and Decree 113-2011-ND-CP dated 8 December 2011 of the Government making detailed provisions for implementation of a number of articles of the Law on Special Sales Tax.
  - Circular 219-2013-TT-BTC dated 31 December 2013 of the Ministry of Finance providing guidelines for implementation of the Law on Value Added Tax and Decree 209-2013-ND-CP dated 18 December 2013 of the Government making detailed provisions and guiding implementation of a number of articles of the Law on Value Added Tax

- Circular 156-2013-TT-BTC dated 06 November 2013 of the Ministry of Finance providing guidance for implementation of a number of articles of the Law on Tax Management; and the Law amending and adding to a number of articles of the Law on Tax Management and Decree 83-2013-ND-CP dated 22 July 2013 of the Government.
  - Circular 119-2014-TT-BTC dated 25 August 2014 of the Ministry of Finance amending and adding to a number of articles of Circular 156-2013-TT-BTC dated 6 November 2013, Circular 111-2013-TT-BTC dated 15 August 2013, Circular 219-2013-TT-BTC dated 31 December 2013, Circular 08-2013-TT-BTC dated 10 January 2013, Circular 85-2011-TT-BTC dated 17 June 2011, Circular 39-2014-TT-BTC dated 31 March 2014 and Circular 78-2014-TT-BTC dated 18 June 2014 of the Ministry of Finance to improve and simplify administrative procedures for tax.
5. In respect of files for notice on tax exemption or reduction [eligibility] under an Agreement already submitted to a tax office before the effective date of this Circular, agents of foreign carriers in Vietnam or representative offices of foreign carriers shall archive files, documents and source documents in accordance with this Circular.
  6. During implementation, if the relevant documents mentioned in this Circular are amended, supplemented or replaced, the new amended, supplemented or replacing documents shall be implemented.

#### **Article 5      *Responsibilities for implementation***

1. People's committees of provinces and cities under central authority shall direct relevant agencies in their organization of implementation in accordance with regulations of the Government and guidance of the Ministry of Finance.
2. Tax offices at all levels shall be responsible for disseminating and guiding organizations and individuals in implementing the contents of this Circular.
3. Organizations and individuals regulated by this Circular shall implement the guidance in this Circular.

Any problem during implementation should be reported in a timely manner by organizations and individuals to the Ministry of Finance for study and resolution.

FOR THE MINISTER  
DEPUTY MINISTER  
Do Hoang Anh Tuan