

**CIRCULAR
GUIDING
REGIME ON MANAGEMENT, USE AND CALCULATION OF
DEPRECIATION OF FIXED ASSETS**

Pursuant to the 2008 *Law on Corporate Income Tax*;

Pursuant to Decree 124-2008-ND-CP of the Government dated 11 December 2008 implementing the *Law on Corporate Income Tax*;

Pursuant to Decree 118-2008-ND-CP of the Government dated 27 November 2008 stipulating the functions, duties, powers and organizational structure of the Ministry of Finance;

The Ministry of Finance hereby provides the following guidelines on management, use and calculation of depreciation of fixed assets:

PART A

General Provisions

Article 1 *Applicable entities and governing scope*

1. This Circular applies to enterprises established and operating in Vietnam in accordance with law.

Expenses being depreciation of fixed assets calculated in accordance with this Circular shall be used to fix deductible expenses when assessing corporate income tax.

2. Calculation and allocation of depreciation in accordance with this Circular shall be made for each fixed asset of an enterprise.

Article 2 *Interpretation of terms used in this Circular*

1. *Tangible fixed assets* means working assets which are essentially in a material form [and] which satisfy the criteria for tangible fixed assets, and which are involved in business cycles but still retain their original material form such as houses, buildings, machinery, equipment, means of transportation and so forth.
2. *Intangible fixed assets* means assets which are in a non-material form and which express a fixed sum of investment, which satisfy the criteria for intangible fixed assets, and which are involved in business cycles such as a number of expenses directly relating to land use, and expenses for publishing rights, patents, copyright and so forth.
3. *Finance leased fixed assets* means fixed assets which are leased to the enterprise by a finance leasing company. Upon expiry of the term of the lease contract, the lessee has the option to

purchase such assets or to renew the lease on the conditions set out in the lease. The total lease payments for any one type of asset specified in the lease contract must be at least equal to the value of such asset at the time when the lease contract was signed.

Where a contract for the lease of fixed assets fails to satisfy the above conditions, then the assets shall be deemed to be *operationally leased fixed assets*.

4. *Similar fixed assets* means fixed assets with a similar usage within the same business sector and with the same value.

5. *Historical cost price of fixed assets:*

Historical cost price of a tangible fixed asset means the total expenses incurred by the enterprise in order to possess such fixed asset, calculated up until the date such asset is put into a useable state.

Historical cost price of an intangible fixed asset means the total expenses incurred by the enterprise in order to possess such intangible fixed asset, calculated up until the date such asset is put into use as planned.

6. *Reasonable value of a fixed asset* means the value of a fixed asset which could be exchanged between parties with full knowledge during an equal value exchange.

7. *Duration of use of a fixed asset* means the duration for which the enterprise plans to use the fixed asset in production and business activities, or fixed according to the volume or quantity of products proposed to be produced from use of the fixed asset in accordance with current regulations, in normal conditions, and in conformity with the eco-technical specifications of the fixed asset and other factors relevant to its operation.

8. *Wear of fixed asset* means the gradual decrease in the use value and the value of such fixed asset due to its participation in production and business activities, natural wear and tear, or technological advancement during the process of operating such fixed asset.

9. *Value of accumulated wear of a fixed asset* means the aggregate total value of wear of the fixed asset calculated up to the date of the report.

10. *Depreciation of a fixed asset* means the systematic calculation and allocation of the historical cost price of the fixed asset to production and business expenses over the duration of use of such fixed asset.

11. *Amount of accumulated depreciation of a fixed asset* means the aggregate total sum for depreciation included in production and business expenses in all business cycles of such fixed asset calculated up to the date of the report.

12. *Residual value of a fixed asset* means the balance after deducting the amount of accumulated depreciation (or value of accumulated wear) of the fixed asset calculated up to the date of the report, from the historical cost price of such fixed asset.

13. *Repair of fixed asset* means restoration, maintenance, replacement and repair of breakdowns occurring during the operating process with a view to recovering the operational capability of such fixed asset in accordance with its initial standard operating state.

14. *Fixed asset upgrading* means activities of additionally improving, constructing and assembling, and equipping fixed assets in order to enhance productivity, to raise product quality and the operating

functions of fixed assets to a higher level than their initial state or to prolong their duration of use; and the use of new production technologies which reduce the operating expenses of fixed assets.

PART B

Provisions on Management and Use of Fixed Assets

Article 3 *Criteria and recognition of fixed assets*

1. Production tools means tangible assets with independent structures or a system of separate parts of an asset which are linked to each other in order to fulfil, as a whole, one or several certain functions and which cannot operate as an entire system if any part thereof is missing; and such tangible asset shall be deemed to be a fixed asset if it satisfies all the following three criteria:

- (a) It is certain that in the future economic benefit will be derived from use of the fixed asset;
- (b) The duration of use is one year or more;
- (c) The historical cost of the asset has been fixed in a reliable way and the value is 10,000,000 (ten million) VND or more.

In the case where a system comprises many separate sections of assets linked to each other, in which each constituent component has a different duration of use, and where the system as a whole still fulfils its main operational functions even if one part of the system is missing; but where each section of assets is required to be separately managed due to requirements of managing and using fixed assets, then so long as each such section of assets satisfies all the three criteria it shall be deemed to be one independent tangible fixed asset.

With respect to working animals providing labour and/or products, so long as each animal satisfies all the three criteria then it shall be deemed to be one tangible fixed asset.

With respect to perennial orchards, each plot of orchard or tree which satisfies all the three criteria shall be deemed to be one tangible fixed asset.

2. Criteria and recognition of intangible fixed assets:

All actual expenses paid out by an enterprise and which satisfy all three conditions stipulated in clause 1 above without creating tangible fixed assets, shall be deemed to be intangible fixed assets.

If such expenses do not satisfy all three conditions stipulated in clause 1 above, then they shall be directly charged or gradually allocated to business expenses of the enterprise.

Expenses arising in the initial operational stage shall be recognized as intangible fixed assets created by internal sections of the enterprise if they satisfy the following seven criteria:

- (a) Their technical feasibility ensures they will be completed and brought into use as planned or in order to be sold;
- (b) The enterprise intends to complete the intangible assets in order to use or sell them;
- (c) The enterprise is able to use or sell such intangible assets;

- (d) Such intangible assets will create economic benefits in the future;
- (dd) There are adequate technical, financial and other sources in order to complete the stages of initial operation, sale or use of such intangible assets;
- (e) There is the ability to fix in a certain way the total costs in the initial operational stage of creating such intangible assets;
- (g) The estimates satisfy the standards on duration of use and value in accordance with the regulations on intangible fixed assets.

Expenses for establishment of the enterprise, expenses for staff training, advertising expenses incurred prior to establishment of the enterprise, expenses for the research stage, expenses for moving location and commercial advantages are not intangible fixed assets but shall be gradually allocated to business expenses for a maximum period of three years as from the date the enterprise commences operation.

Article 4 *Determination of the historical cost price of fixed assets*

1. Determination of historical cost price of tangible fixed assets:

(a) Tangible fixed assets in the form of purchased items:

The historical cost price of tangible fixed assets in the form of purchased items (including both brand-new and second-hand) shall be the actual price payable plus (+) taxes (excluding tax refunds) and directly related expenses payable up to the date the fixed assets were put into a useable state such as interest on any loan arising during the process of investment in fixed assets, costs of transportation and discharge, costs of upgrading, costs for installation and trial operation, registration fees and other directly related expenses.

In a case where tangible fixed assets are purchased on deferred payment or on instalment, their historical cost price shall be the price as if payment was made immediately on the date of purchase plus (+) taxes (excluding tax refunds) and directly related expenses payable up to the date the fixed assets were put into a useable state such as costs of transportation and discharge, costs of upgrading, costs for installation and trial operation, and registration fees (if any).

If tangible fixed assets being a house or buildings on the land [for which the enterprise has] the land use right are purchased, then the value of the land use right must be separately calculated and recorded as an intangible fixed asset, while the tangible fixed assets being the house and buildings shall have an historical cost price being their purchase price actually payable plus expenses directly relating to commissioning the tangible fixed assets into use.

If after the purchase of tangible fixed assets being a house/buildings on land for which the enterprise has the land use right, the enterprise dismantles or destroys such fixed assets in order to put up a new construction, then the value of the land use right must be separately calculated and recorded as an intangible fixed asset; and the historical cost price of the newly built fixed assets shall be the price paid on accounting finalization of the construction works in accordance with current regulations on management of investment in construction. The assets which were dismantled or destroyed shall be cost accounted for, in accordance with current regulations applicable to liquidation of fixed assets.

(b) Tangible fixed assets purchased in the form of an exchange:

The historical cost price of tangible fixed assets purchased in the form of an exchange for a dissimilar tangible fixed asset or other asset shall be the reasonable price of the asset which is received, or the reasonable price of the asset which was exchanged (after adding extra items payable or deducting items receivable) plus (+) taxes (excluding tax refunds) and directly related expenses payable up to the date the fixed assets were put into a useable state such as costs of transportation and discharge, costs of upgrading, costs for installation and trial operation, and registration fees (if any).

The historical cost price of tangible fixed assets purchased in the form of an exchange for a similar tangible fixed asset or which may be formed as the result of a sale with payment in the form of ownership of a similar tangible fixed asset shall be the residual value of the tangible fixed asset which was exchanged.

(c) Tangible fixed assets formed from construction or production by the enterprise itself:

The historical cost price of tangible fixed assets formed from construction shall be the price of the works on accounting finalization when the works are commissioned. If a fixed asset is commissioned for use before accounting finalization has been completed, then the enterprise shall account for a provisional historical cost price and then adjust it after accounting finalization has been completed.

The historical cost price of tangible fixed assets formed from production by the enterprise itself shall be the actual prime cost of the fixed asset plus costs for installation and trial operation, and other directly related expenses calculated up to the date the fixed assets were put into a useable state (excluding internal interest, the value of products withdrawn during trial operation, and unreasonable expenses such as materials which were a waste of money, or labour or other expenses exceeding the stipulated levels during construction or production).

(d) Historical cost price of tangible fixed assets resulting from investment in construction:

The historical cost price of tangible fixed assets resulting from investment in capital construction in the form of assigning a contractor, shall be the actual price of the finalized construction work in accordance with the provisions of the currently applicable regulations on management of investment in construction, plus registration fees and other directly related expenses. If a fixed asset is commissioned for use before accounting finalization has been completed, then the enterprise shall account for a provisional historical cost price and then adjust it after accounting finalization has been completed.

With respect to fixed assets being animals which provide labour and/or products, and perennial orchards, the historical cost price shall be the total actual expenses incurred for such animals and perennial orchards from the time when they are created to the time they are exploited or put into use.

(dd) Tangible fixed assets which are donated or which are found to be in excess:

The historical cost price of tangible fixed assets which are donated or which are found to be in excess shall be the value actually estimated by the hand-over committee or professional valuer.

(e) Tangible fixed assets which are allocated or transferred to the enterprise:

The historical cost price of tangible fixed assets which are allocated or transferred to the enterprise shall be the residual value of the fixed assets recorded in the accounting books of the original agency or unit allocating or transferring such fixed assets or the value actually estimated by the hand-over committee or professional valuer in accordance with law, plus directly related expenses the recipient must pay calculated up to the date the fixed assets were put into a useable state such as costs of hiring the professional valuer, costs for upgrading, installation, trial operation and so forth.

- (g) Tangible fixed assets which are capital contributions received, or capital contributions returned to the contributor:

The historical cost price of tangible fixed assets which are capital contributions received or capital contributions returned to the contributor shall be the value unanimously agreed by the founding members or shareholders; or as set by a professional valuer in accordance with law and approved by the founding members or shareholders.

2. Determination of historical cost price of intangible fixed assets:

- (a) Intangible fixed assets in the category of purchased items:

The historical cost price of intangible fixed assets in the category of purchased items shall be the actual price payable plus (+) taxes (excluding tax refunds) and directly related expenses payable and calculated up to the date the fixed assets were put into a useable state.

In a case where intangible fixed assets are purchased on deferred payment or on instalment, the historical cost price shall be the price as if payment was made immediately on the date of purchase (excluding interest on deferred payment).

- (b) Intangible fixed assets purchased in the form of an exchange:

The historical cost price of intangible fixed assets purchased in the form of an exchange for a dissimilar tangible fixed asset or other asset shall be the reasonable price of the intangible fixed asset which is received, or the reasonable price of the asset which was exchanged (after adding extra items payable or deducting items receivable) plus (+) taxes (excluding tax refunds) and directly related expenses payable and calculated up to the date the fixed assets were put into a useable state as planned.

The historical cost price of intangible fixed assets purchased in the form of an exchange for a similar intangible fixed asset or which may be formed as the result of a sale in order to exchange and take ownership of a similar intangible fixed asset shall be the residual value of the intangible fixed asset which was exchanged.

- (c) Intangible fixed assets which are allocated, donated or transferred to the enterprise:

The historical cost price of intangible fixed assets which are allocated or donated to the enterprise shall be the reasonable original value plus directly related expenses the recipient must pay calculated up to the date the fixed assets were put into a useable state as planned.

The historical cost price of intangible fixed assets which are transferred to the enterprise shall be the historical cost price recorded in the accounting books of the enterprise transferring such fixed assets, and the enterprise receiving them must conduct cost accounting for the historical cost price and value of wear of the fixed asset, and for its residual value in accordance with regulations.

(d) Intangible fixed assets created internally within the enterprise:

The historical cost price of intangible fixed assets created internally within the enterprise shall be the expenses payable which are directly related to the stages of construction and test production calculated up to the date the fixed assets were put into a useable state as planned.

With respect to expenses arising internally in order for the enterprise to have trademarks and/or the right to issue [i.e. copyrights and patents], lists of customers, expenses arising in the stage of research and similar items which do not satisfy the criteria for and recognition as intangible fixed assets shall be accounted for in business expenses in the related period.

(dd) Intangible fixed assets which are land use rights:

If an enterprise is allocated land with collection of land use fees, the historical cost price of the intangible fixed asset being the allocated land use right shall be the total amount paid to acquire the lawful land use right, costs being compensation paid for site clearance, costs of ground levelling, and registration fees (but excluding costs incurred to construct works on the land); or the value of the land use right received as capital contribution.

- In cases where an enterprise leases land then the land rent shall not be recorded as an intangible fixed asset but shall be gradually allocated to business expenses, specifically as follows:
 - + If the enterprise leases land with payment of rent on one occasion for the entire lease term, then the expenses shall be gradually allocated to business expenses over the number of years of the land lease.
 - + If the enterprise leases land and pays annual rental, then the expenses shall be allocated to business expenses for the period corresponding to the annually paid rental.
- (e) The historical cost price of tangible fixed assets being copyright, industrial property rights and rights to plant varieties in accordance with the *Law on Intellectual Property* shall be the total actual expenses paid by the enterprise in order to obtain such rights in accordance with the *Law on Intellectual Property*.
- (g) The historical cost price of software programs shall be the total expenses actually paid by the enterprise in order to obtain such software program in a case where the software program is able to separated from the relevant hardware [or from] the design of semi-conducting integrated circuit layout in accordance with the *Law on Intellectual Property*.

3. Finance leased fixed assets:

The historical cost price of finance leased fixed assets reflected in [the books of] the lessee shall be the value of the finance leased asset at the date of commencement of the lease or the current value of the minimum rent (if the value of the leased asset is higher than the current value of the minimum rent) plus initially arising expenses directly related to the finance leasing activity.

4. The historical cost price of fixed assets of an enterprise shall only be permitted to vary [or be changed] in the following circumstances:

(a) Revaluation of fixed assets in the following cases:

- Re-evaluation pursuant to a decision of a competent State authority.
 - On implementation of restructure of the enterprise, conversion of its form of ownership, or conversion of the form of enterprise by merger, de-merger, consolidation, equitization, sale or contractual lease, or conversion of a limited liability company into a shareholding company or vice versa namely conversion of a shareholding company into a limited liability company.
 - Use of assets in order to invest outside the enterprise.
- (b) Investment in upgrading the fixed assets.
- (c) Dismantling [or removal] of one or more sections of a fixed asset where such section/sections are managed in accordance with the criteria of one tangible fixed asset.

When an enterprise changes the historical cost price of a fixed asset, it must prepare minutes specifying the bases for the change and redefining the criteria [for determining] the historical cost, residual book value, amount of accumulated depreciation and use term of the fixed asset, and conduct accounting in accordance with regulations.

Article 5 *Principles of management of fixed assets*

1. Each fixed asset in an enterprise shall have its own separate file set (each file set shall consist of a record of the hand-over of the fixed asset, the contract, the purchase invoice for the fixed asset and other relevant documents). Each fixed asset must be classified, numbered and have its own separate card; fixed assets shall be monitored in detail according to specific groups of fixed assets and described in a fixed assets record book.
2. Each fixed asset shall be managed according to its historical cost price, the value of accumulated wear of the fixed asset, and its residual book value:

The residual book value of a fixed asset = Historical cost price of the fixed asset less (-) value of accumulated wear of the fixed asset.

3. In the case of fixed assets not required for use and/or awaiting liquidation but which have not been depreciated to the full extent, an enterprise must manage, monitor and preserve such assets in accordance with current regulations and conduct depreciation of them in accordance with the provisions in this Circular.
4. Enterprises must manage fixed assets which have been depreciated to the full extent but which are still involved in production and business activities, the same as they manage ordinary fixed assets.

Article 6 *Classification of fixed assets of an enterprise*

Enterprises shall classify fixed assets based on their use purpose in accordance with the following criteria:

1. *Fixed assets used for business purposes* means fixed assets managed and used by an enterprise for its business purposes.
- (a) Tangible fixed assets shall be classified by enterprises according to the following categories:

Category 1: *Houses and buildings* means fixed assets of an enterprise formed after the completion of construction works such as office buildings, storehouses, fences, water-towers, yards, decorative

works of buildings, roads, bridges and locks [sluices], railways, air tarmacs, piers and wharves, and slipways.

Category 2: *Machinery and equipment* means all kinds of machinery and equipment used for business activities of the enterprise such as special purpose machinery, working facilities, drilling platforms in the petroleum sector, technology lines and single machines and so forth.

Category 3: *Means of transport and transmitting facilities* means all types of means of transportation including rail, sea, road, and air; pipelines and other transmitting facilities such as communication systems, power line systems, water pipes and conveyer belts.

Category 4: *Equipment and instruments for management* means equipment and instruments used during management of business activities of the enterprise such as computers servicing management; electronic equipment, instruments for measurement and quality control, dehumidifiers, vacuum cleaners, wood-worm and termite fighting equipment.

Category 5: *Perennial plantations and animals providing labour and/or products*: *Perennial plantations* means coffee and tea plantations, rubber trees, orchards, lawn and parkland and so forth; and *animals providing labour and/or products* means herds of elephants, horses, buffaloes, cows and so forth.

Category 6: *Other kinds of fixed assets* means all other fixed assets which are not included in the five categories above such as photographs, paintings and art works.

- (b) Intangible fixed assets means land use rights, rights to issue [i.e. copyrights and patents]; literary, artistic and scientific works and products; results of artistic performances; audio and visual tapes and discs [audio and visual fixation]; broadcasts; satellite signals carrying coded programs; industrial designs, and designs of semi-conducting closed circuits; trade secrets [business secrets]; trade marks; geographical indications; and plant varieties and their reproductive materials.
- 2. *Fixed assets used for the purpose of welfare, administrative affairs, security and national defence* means fixed assets managed and used by the enterprise for the purpose of welfare, administrative affairs, security and national defence in such enterprise. These fixed assets shall also be classified according to the provisions in clause 1 above.
- 3. *Fixed assets maintained, kept and held on trust for the State* means fixed assets which an enterprise maintains, keeps and stores for other units or for the State in accordance with regulations of the competent State body.
- 4. Depending on the particular management requirements of each enterprise, enterprises may carry out a more detailed classification of their fixed assets within each category as appropriate.

Article 7 *Investment in upgrading and repair of fixed assets*

- 1. Expenses incurred by an enterprise for investment in upgrading a fixed asset shall be reflected as an increase in the historical cost price of such fixed asset and shall not be charged to production and business expenses within the period.
- 2. The cost of repairing a fixed asset shall not be calculated as an increase in its historical cost price but shall be directly charged to or gradually allocated to business expenses within the period for a maximum of three years.

With respect to large costs of repairing fixed assets on a cyclical basis, an enterprise shall be permitted to charge such expenses to business expenses in advance on the basis of an annual expenses budget. If actual expenses of repairs are higher than the advanced expenses in accordance with the budget, then the difference shall be directly charged to reasonable expenses. If the actual expenses of repairs are lower than the advanced expenses, then the difference shall be accounted for as a reduction in business expenses within the period.

3. Expenses relating to any intangible fixed asset which arise after the initial record of it was made [in the books], which can be assessed in a certain [i.e. sure] way and which increase the business benefit of such intangible fixed asset compared with the initial operating objective, must be accounted for as an increase in the historical cost price of such fixed asset. Other expenses relating to any intangible fixed asset which arise after the initial record of it was made [in the books] shall be accounted for in production and business expenses.

Article 8 *Leasing, pledging, mortgaging, assigning and liquidating fixed assets*

1. All activities of leasing, pledging, mortgaging, assigning or liquidating fixed assets must comply with current regulations.
2. With respect to leasing fixed assets:
 - (a) Operational leasing fixed assets:
 - Any enterprise being a lessee must manage and use the fixed assets leased to it in accordance with the provisions in the lease contract, and expenses for leasing the fixed assets shall be accounted for in business expenses within the period.
 - The enterprise being the lessor, in its capacity as owner, must monitor and manage the leased fixed assets.
 - (b) Finance leased fixed assets:
 - Any enterprise being a lessee must monitor, manage and use the fixed assets leased to it in the same way as if the assets belonged to the enterprise, and the enterprise must fulfil all undertakings made in the finance lease contract.
 - The enterprise being the lessor, in its capacity as owner, must monitor and fulfil all undertakings made in the finance lease contract.
 - (c) If the lease (both in a case of operational leasing fixed assets and in a case of finance leased fixed assets) stipulates the lessee is responsible for repairs during the lease term, then the cost of repairing the fixed asset may be directly charged to or gradually allocated to business expenses within the period for a maximum of three years.
4. With respect to transactions being the sale and sub-lease of fixed assets:
 - Where an enterprise sells and sub-leases fixed assets for operational purposes, it must comply with regulations the same as stipulated above for a lessee of fixed assets for operational purposes. Any difference arising when an agreed sale price or sub-lease rental is more or less than a reasonable value shall immediately be accounted for as income in the period [if a profit] or shall be gradually allocated to expenses [if a loss] in accordance with regulations.

- Where an enterprise sells and sub-leases finance leased fixed assets, it must comply with regulations the same as stipulated above for a lessee of finance leased fixed assets. Any difference arising between income from sale and residual value shall be accounted for as income in accordance with regulations.

PART C

Provisions on Calculation of Depreciation of Fixed Assets

Article 9 *Principles for calculating depreciation of fixed assets*

1. All current fixed assets of an enterprise must be subject to depreciation, except for:
 - Fixed assets which have been depreciated to the full extent but which are still involved in production and business activities.
 - Fixed assets which have not been depreciated to the full extent and which are lost.
 - Fixed assets which the enterprise manages but does not own (except for finance leased fixed assets).
 - Fixed assets which the enterprise does not manage or monitor or account for in its books.
 - Fixed assets used to service the welfare of employees (except for the following assets which also service employees working at the enterprise namely resting rooms between shifts, restaurants for mid-shift meals, changing rooms, toilets, clean water facilities, parking facilities, medical stations, vehicles for transporting employees to and from work, training establishments, and residences for employees which the enterprise constructed).
 - Fixed assets being housing and residential land for which the State originally granted a long term land use right but which were then purchased by the enterprise, in which case the value of the land use right need not be subject to depreciation.
 - Fixed assets funded by non-refundable aid which were handed over to the enterprise by the competent authority for purposes of scientific research.
 - Intangible fixed assets being land use rights.
2. Expenses for depreciation of fixed assets as stipulated in clause 2.2 of Section IV in Part C of Circular 130-2008-TT-BTC of the Ministry of Finance dated 26 December 2008 implementing the *Law on Corporate Income Tax*, shall not be included in reasonable expenses when assessing corporate income tax.
3. In the case of fixed assets used to service the welfare of employees as prescribed in article 9.1 of this Circular which are also used for the production and business operation of the enterprise, then depending on the duration and nature of use of such assets, the enterprise shall depreciate them in its business expenses and notify the tax office directly managing the enterprise for purposes of monitoring and management.
4. In the case of fixed assets not yet fully depreciated and which are lost or destroyed and are unable to be repaired or remedied, the enterprise must determine the reasons for the loss or destruction and liability of any collective or individual to pay compensation. The enterprise shall use its financial

reserve to cover the difference between the residual value of the asset and the amount of any money paid [to it] by way of compensation or the value of any amount recovered. If the financial reserve of the enterprise is insufficient to cover this difference, then the enterprise may include the difference in its reasonable expenses when determining its corporate income tax.

5. Any enterprise being a lessor of fixed assets for operational purposes must charge depreciation on the leased fixed assets.
6. Any enterprise being a lessee of finance leased fixed assets must charge depreciation on the leased fixed assets the same as on fixed assets owned by the enterprise in accordance with current regulations. If at the commencement of the lease the enterprise being the lessee of the finance leased fixed assets undertakes in the lease contract not to purchase the leased assets, it must charge depreciation on the finance leased fixed assets for the whole term of such lease.
7. In a case of reassessing the value of a fixed asset which has been fully depreciated for the purposes of capital contribution or transfer to an enterprise on merger, de-merger, consolidation or conversion of enterprise form, then the value of such fixed asset must be reassessed by a professional valuer but the value may not be lower than 20% of its historical value. The time for depreciating such an asset shall be the time when the enterprise officially receives handover and commissions the asset into use, and the period of depreciation shall be from three to five years. The enterprise may itself decide this specific time, but must register it with the tax officer prior to implementation.
8. Where a 100% State owned enterprise undergoes valuation by the discounted cash flow method for equitization purposes and there is an increase in the actual value of the State portion compared to the value recorded in the books of account, such increase shall be deemed to be an intangible fixed asset and gradually allocated to production and business expenses during a period not to exceed 10 years. The time for commencing the allocation of expenses shall be the time when the enterprise officially converts to a shareholding company (as per its business registration certificate).
9. Commencement of charging depreciation or termination of charging depreciation shall take place from the date (following the number of days in a month) on which the fixed asset is increased or reduced. Enterprises must account for any increase or reduction of fixed assets in accordance with the current regulations on the enterprise accounting regime.

Article 10 *Determination of the duration of use of tangible fixed assets*

1. With respect to new (not second-hand) [tangible] fixed assets, enterprises shall determine the duration of use of the fixed assets by relying on the framework stipulated in Appendix 1 to this Circular.
2. With respect to second-hand [tangible] fixed assets, enterprises shall determine the duration of use of the fixed assets as follows:

Duration of use of tangible fixed asset shall equal (=) {Reasonable value of the fixed asset, divided by Selling price of a new asset of 100% same type (or market price of a similar fixed asset)} multiplied by (x) Duration of use of new fixed asset of the same type fixed in accordance with Appendix 1 to this Circular.

In which:

Reasonable value of the fixed asset is the actual purchase or exchange price (in a case of purchase or exchange), or residual value of the fixed asset or assessment of a professional valuer (in a case of donation, allocation or transfer) and other cases.

3. Changing the duration of use of fixed assets:

(a) If an enterprise wishes to determine the duration of use of its fixed assets both new and second-hand in some other way than by relying on the framework stipulated in Appendix 1, it shall prepare a Plan setting out the proposed bases for the determination, and explain the following items:

- Designed technical life-time of the fixed asset;
- Status quo of the fixed asset (for how long it has been in use, its generation, its current condition and so forth);
- Impact of the increase or reduction of depreciation on business results, and the funding source for repaying bank loans.

(b) Authority to approve a plan on changing the duration of use of fixed assets shall be regulated as follows:

- The Ministry of Finance shall approve the Plan of State owned companies comprising parent companies in economic groups and State corporations; subsidiary companies in which the state holds 100% charter capital; and any shareholding company in which the State holds 51% or more of the charter capital and such company is a subsidiary of an economic group or of a State corporation.
- The Department of Finance shall approve the Plans of any independent State company under a ministry or provincial people's committee, or of any enterprise in any other economic sector which has its main office within the locality of such Department.

Within 20 days from the date of approval of a Plan, the enterprise must register the Plan with the tax office directly managing the enterprise, for monitoring and management purposes.

(c) An enterprise may only change the duration of use of each fixed asset on one occasion. The extension of such time must ensure that the time does not exceed the technical life-time of the fixed asset, and does not change the business results of the enterprise from profit to loss or vice versa within the year of the decision to make the change. If any enterprise incorrectly changes the duration of use of a fixed asset without complying with the regulations, then both the Ministry of Finance and/or the tax office directly managing the enterprise may require it to re-determine the duration of use correctly in accordance with regulations.

4. If there are events (such as fixed asset upgrading, or dismantling one or more sections of a fixed asset) aimed at prolonging or shortening the duration of use of a fixed asset which has already been determined, the enterprise must redetermine the duration of use in accordance with the three criteria in clause 3 above on completion of such event, and the enterprise must also prepare minutes specifying the bases for the change in the duration of use of the fixed asset and submit them to the authority stipulated in article 10.3(b) above.

Article 11 *Determination of the duration of use of intangible fixed assets*

1. An enterprise shall itself determine the duration of use of intangible fixed assets which shall not exceed twenty (20) years.
2. The duration of use of an intangible fixed asset being a land use right with a term shall be the permissible term of use in accordance with regulations.

3. In the case of intangible fixed assets being copyright, intellectual property rights and rights to plant varieties, the duration of use shall be the duration of protection as recorded in the document granting protection in accordance with regulations (but not counting any extended term of protection).

Article 12 *Determination of the duration of use of fixed assets in some special cases*

1. With respect to an investment project in the form of Build - Operate - Transfer (BOT), the duration of use of fixed assets shall be fixed from the date of commissioning use of the fixed assets up until termination of the project.
2. With respect to a business co-operation contract (BCC) in which a foreign party is participating, if upon the expiry of the contract the foreign party carries out the transfer [of fixed assets] without compensation to the State, then the duration of use of the transferred fixed assets shall [also] be fixed from the date of commissioning use of the fixed assets up until termination of the project.
3. In the case of production lines with special management requirements and directly involved in national defence and security tasks at national defence and security companies, the Ministry of Defence and the Ministry of Public Security shall, based on the provisions in this Circular, make a decision on the duration of use of such assets.

Article 13 *Methods of depreciation of fixed assets*

1. The depreciation of fixed assets in accordance with the straight line method, in accordance with the reducing balance method, and in accordance with the method of quantity or volume of products are stipulated in Appendix 2 to this Circular.
2. Depending on an enterprise's ability to satisfy conditions applicable to each method, the enterprise shall select the method of depreciation appropriate to each of its fixed assets:
 - (a) The straight line method of depreciation shall be used for fixed assets involved in business activities.

Enterprises with high business effectiveness may conduct accelerated depreciation in order to renovate technology but not more than twice the level than if applying the straight line method of depreciation. Accelerated depreciation may apply to fixed assets being machinery and equipment, instruments for measurement and testing, means of transport and transmitting facilities, equipment and instruments for management, and perennial plantations and animals. When conducting accelerated depreciation, an enterprise must ensure that its business is profitable. If it conducts accelerated depreciation at more than twice the level stipulated in the duration of use times stipulated in Appendix 1 to this Circular, then such excess may not be included in reasonable expenses when assessing income within the period.

- (b) The reducing balance method of depreciation:

The reducing balance method of depreciation shall only be used by enterprises in sectors with technology which needs to be quickly changed and/or developed.

The reducing balance method of depreciation may only be used for fixed assets involved in business activities which satisfy the following conditions:

- + They are newly invested fixed assets (not second-hand);
- + They are machinery and equipment; or instruments for measurement and testing.

- (c) The method of depreciation in accordance with the quantity or volume of products:

The method of depreciation in accordance with the quantity or volume of products may be used for fixed assets involved in business activities being machinery and equipment which satisfy the following conditions:

- + It is directly related to manufacture of products;
 - + The total quantity or volume of products manufactured can be calculated in accordance with designed output of the fixed asset;
 - + Actual use output in an average month in the fiscal year is not less than fifty (50) per cent of the designed output.
3. Enterprises must register their selected method of depreciation with the tax office directly managing them prior to applying such method. If an enterprise has selected an inappropriate method of depreciation, then the tax office shall be responsible to notify the enterprise within 30 days from the date the tax office receives such registration (calculated from the date on the post office delivery seal), to change the method.
4. The selected and registered method of depreciation for any fixed asset must be used consistently and continuously throughout the process of use of such fixed asset, unless there is a change in the method of using an asset which is beneficial to the enterprise, or unless there is a significant change in the method of forecasting economic benefits for the enterprise.

In a special case where it is necessary to change the method of depreciating fixed assets, the enterprise must explain the change in the method of using the asset and the change in the method of forecasting the economic benefit of such fixed asset for the enterprise, and the method of depreciating any one fixed asset may only be changed on two occasions during the process of its use and the change must be accompanied by a written explanation to the tax office directly managing the enterprise.

PART D

Organization of Implementation

Article 14

This Circular shall be of full force and effect as from 1 January 2010 and shall replace Decision 206-2003-QD-BTC of the Minister of Finance dated 12 December 2003 issuing regulations on the regime on management, use and calculation of depreciation of fixed assets.

Article 15

If any business individual has fixed assets which fully satisfy all the conditions on management of assets prescribed in this Circular, such business individual may depreciate such fixed assets in order to fix reasonable deductible expenses when assessing personal income tax.

Article 17

Agencies belonging to and under the Ministry of Finance shall, within the scope of their respective functions and powers, be responsible for guiding enterprises in the implementation of these Regulations.

On behalf of the Minister of Finance,
Deputy Minister,
TRAN VAN HIEU

APPENDIX 1

FRAMEWORK OF DURATION OF USE OF ALL TYPES OF FIXED ASSETS

(Issued with Circular 203-2009-TT-BTC of the Minister of Finance dated 20 October 2009)

List of categories of fixed assets	Minimal duration of use (years)	Maximal duration of use (years)
A- Dynamic machinery and equipment		
1- Dynamic generators	8	10
2- Electrical generators	7	10
3- Electrical transformers and power source equipment	7	10
4- Other machinery and dynamic equipment	6	10
B- Working machinery and equipment		
1- Tools	7	10
2- Mining and construction machinery	5	10
3- Tractors	6	8
4- Machines used for agriculture and forestry	6	8
5- Oil, petrol and water pumps	6	8
6- Metallurgical equipment, anti-corrosion and anti-rust surface treatment equipment	7	10
7- Specialized equipment for manufacture of chemicals	6	10
8- Specialized machinery and equipment for manufacture of building materials, terracotta, porcelain and glassware	10	20
9- Specialized equipment for manufacture of optical and electronic component, and for precision mechanical engineering	5	12
10- Machinery and equipment used for manufacture of leather, for printing stationery and cultural products	7	10
11- Machinery and equipment used in the textile industry	10	15

List of categories of fixed assets	Minimal duration of use (years)	Maximal duration of use (years)
12- Machinery and equipment used in the clothing industry	5	7
13- Machinery and equipment used in the paper industry	5	15
14- Machinery and equipment for production and processing of grains and foodstuffs	7	12
15- Machinery used in the film industry and in health services	6	12
16- Telecom, information, electronics, informatics and television and machinery and equipment	3	15
17- Machinery and equipment for production of pharmaceutical drugs	6	10
18- Other working machinery and equipment	5	12
19- Machinery and equipment used in the petroleum refining industry	10	20
20- Machinery and equipment used in the petroleum exploration and mining industry	10	20
21- Construction machinery and equipment	8	12
22- Cranes	10	20
C- Measurement equipment and laboratory instruments		
1- Equipment for measurement of and experiments on mechanical, sonic and thermodynamic volumes/quantity	5	10
2- Optical and optical spectrum equipment	6	10
3- Electrical and electronic equipment	5	8
4- Analytic measurement equipment used in physical chemistry	6	10
5- Radioactivity measurement instruments and equipment	6	10
6- Equipment used in specialized sectors	5	8
7- Other experimental and measurement equipment	6	10
8- Moulds used in the casting industry	2	5
D- Transport Equipment and Means of Transport		
1- Means of transport by road	6	10
2- Means of transport by rail	7	15
3- Means of transport by water	7	15

List of categories of fixed assets	Minimal duration of use (years)	Maximal duration of use (years)
4- Means of transport by air	8	20
5- Equipment for conveyance via pipelines	10	30
6- Equipment for goods discharge and lifting	6	10
7- Other facilities and means of transport	6	10
E- Instruments for Management		
1- Calculating and measuring instruments	5	8
2- Electronic equipment, machinery and software for the purpose of management	3	8
3- Other instruments and facilities for management purposes	5	10
F- Buildings and Architectural Works		
1- Substantial buildings ¹	25	50
2- Resting rooms between shifts, restaurants for mid-shift meals, changing rooms, parking facilities etc.	6	25
3- Buildings of other kinds ¹	6	25
4- Storehouses, tanks/reservoirs; bridges, roads; air runways; parking lots, drying yards and so forth	5	20
5- Quays, dams, sewers, canals, ditches, harbours and docks slipways and so forth	6	30
5- Other architectural works	5	10
G- Livestock and perennial plantations		
1- Livestock of all kinds	4	15
2- Industrial and perennial plantations, and orchards	6	40
3- Lawns and green areas	2	8
H- Tangible fixed assets of other kinds which are not yet included in the above categories	4	25

Note:

- (1) Substantial buildings means residential houses, main offices and office buildings, hotels and so forth, the solidity of which reaches degrees I or II. Buildings of other kinds means residential houses, main offices and office buildings and so forth, the solidity of which is determined to have reached degrees III or IV pursuant to regulations of the Ministry of Construction.

[Appendix 2 not translated]