

## CIRCULAR 111

### PROVIDING GUIDELINES FOR IMPLEMENTATION OF THE LAW ON PERSONAL INCOME TAX, THE LAW ON AMENDMENTS OF AND ADDITIONS TO A NUMBER OF ARTICLES OF THE LAW ON PERSONAL INCOME TAX AND DECREE 65-2013-ND-CP OF THE GOVERNMENT MAKING DETAILED PROVISIONS FOR A NUMBER OF ARTICLES OF THE LAW ON PERSONAL INCOME TAX AND THE LAW ON AMENDMENTS OF AND ADDITIONS TO A NUMBER OF ARTICLES OF THE LAW ON PERSONAL INCOME TAX

Dated 15 August 2013

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15 August 2013

**CIRCULAR  
ON  
PROVIDING GUIDELINES FOR IMPLEMENTATION OF THE LAW ON PERSONAL INCOME TAX, THE  
LAW ON AMENDMENTS OF AND ADDITIONS TO  
A NUMBER OF ARTICLES OF THE LAW ON PERSONAL INCOME TAX AND DECREE 65-2013-ND-CP  
OF THE GOVERNMENT MAKING DETAILED PROVISIONS FOR A NUMBER OF ARTICLES OF THE  
LAW ON PERSONAL INCOME TAX  
AND THE LAW ON AMENDMENTS OF AND ADDITIONS TO A NUMBER OF ARTICLES OF THE LAW  
ON PERSONAL INCOME TAX**

Pursuant to the Law 04-2007-QH12 on Personal Income Tax dated 21 November 2007;

Pursuant to the Law 26-2012-QH13 on Amendments of and Additions to the Law on Personal Income Tax dated 22 November 2012;

Pursuant to the Law 78-2006-QH11 on Tax Management dated 29 November 2006;

Pursuant to the Law on Amendments of and Additions to the Law on Personal Income Tax dated 21-2012-QH13 dated 20 November 2012;

Pursuant to Decree 65-2013-ND-CP dated 27 June 2013 of the Government making detailed provisions for a number of articles of the Law on Personal Income Tax and the Law on Amendments of and Additions to the Law on Personal Income Tax;

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

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

At the proposal of the General Director of the General Department of Taxation;

The Minister of Finance hereby provides the following guidelines for implementation of a number of articles of the Law on Personal Income Tax, the Law on Amendments of and Additions to the Law on Personal Income Tax and Decree 65-2013-ND-CP dated 27 June 2013 of the Government making detailed provisions for a number of articles of the Law on Personal Income Tax and the Law on Amendments of and Additions to the Law on Personal Income Tax:

## CHAPTER 1

### General Provisions

#### Article 1 Taxpayers

Taxpayers are resident individuals and non-resident individuals pursuant to article 2 of the *Law on Personal Income Tax* and article 2 of Decree 65-2013-ND-CP dated 27 June 2013 of the Government making detailed provisions for a number of articles of the Law on Personal Income Tax and the Law on Amendments of and Additions to the Law on Personal Income Tax (hereinafter referred to as Decree 65-2013-ND-CP), with taxable income as defined in article 3 of the *Law on Personal Income Tax* and in article 3 of Decree 65-2013-ND-CP.

The scope of determination of taxable income of taxpayers shall be as follows:

Taxable income of a resident individual means income arising both within and outside the territory of Vietnam, irrespective of where the income is paid and received.

Taxable income of a non-resident individual means income arising in Vietnam, irrespective of where the income is paid and received.

1. *Resident individual* means a person satisfying one of the following conditions:

- (a) Being present in Vietnam for a period of one hundred and eighty-three (183) days or more within one calendar year or for twelve (12) consecutive months from the first date on which such individual is in Vietnam, and the date of arrival and the date of departure are calculated as one (1) day. Certification of the authority managing entry and exit in passports (or travel papers) is the basis for determining dates of arrival and dates of departure of individuals coming and leaving Vietnam. In a case where a person both enters and exits within the same day then such date is counted as one day of residence.

An individual who is in Vietnam according to the guidelines in this clause means the presence of such individual within the territory of Vietnam.

- (b) Having a regular residential location in Vietnam in one of the following cases:

- (b.1) Having a regular residential location pursuant to the law on residence:

- (b.1.1) In the case of a Vietnamese citizen: regular residential location means the specific place where such citizen lives on a regular and stable basis and not only for a term, and for which permanent residence has been registered pursuant to the law on residence.

- (b.1.2) In the case of a foreigner: regular residential location means the permanent residence recorded in the permanent residence card or temporary residence as registered for issuance of the temporary residence card by the authority under the Ministry of Public Security.

- (b.2) Having leased houses for residential purpose in Vietnam pursuant to the law on residential housing, where the lease contracts have the duration of one hundred and eighty-three (183) days or more within the tax assessment year, and specifically as follows:

- (b.2.1) An individual without a regular residential location according to the guidelines in clause 1.(b).1 of this article but who has a total number of leased days for residential purpose pursuant to lease contracts of one hundred and eighty-three (183) days or more within the tax assessment year is also deemed to be a resident taxpayer, including a case where such person leases a number of residences.
- (b.2.2) Leased houses for residential purpose in Vietnam include hotels, boarding houses, rest houses, lodgings, working offices and office headquarters, and so forth, irrespective of whether the individual concerned leases or the employer leases on behalf of the employee.

Where an individual has a regular residential location in Vietnam as stipulated in this clause but is actually in Vietnam for less than one hundred and eighty-three (183) days in a tax assessment year, and such individual fails to prove that he or she is a residential individual of another country, such individual is a residential individual in Vietnam.

A residence certificate is the basis for proving that an individual is a residential individual in another country. Where an individual belongs to a country or territory which has entered into a tax treaty with Vietnam and which does not issue a residence certificate by regulations, such individual provides a copy of his or her passport to prove the time of residence.

- 2. Non resident individual means a person not satisfying the conditions stipulated in clause 1 of this article.
- 3. Taxpayers in a number of specific cases are determined as follows:
  - (a) In respect of individuals having business income.
    - (a.1) If only one person is named in the business registration certificate, the taxpayer is such individual named in the business registration certificate.
    - (a.2) If a number of people are jointly named in the business registration certificate (group of business individuals) and jointly participate in the business, then each member named in the business registration certificate is a taxpayer.
    - (a.3) If a number of people within one family household jointly participate in the business but there is only one person named in the business registration certificate, then such person named in the business registration certificate is the taxpayer.
    - (a.4) If an individual or family household is actually engaged in business but does not have a business registration certificate (or a practising licence or certificate), then the individual currently carrying out the business activities is the taxpayer.
    - (a.5) In the case of leasing out a house or the right to use land, water surface or other assets without business registration, the taxpayer is the person who owns the house, or the right to use such land, water surface or other assets. If a number of people jointly own the house or the right to use land, water surface or other assets, then each individual having the ownership or use right is a taxpayer.

- (b) In respect of individuals having other taxable income:
  - (b.1) In the case of assignment of jointly owned real property, each co-owner of the real property is a taxpayer.
  - (b.2) In the case of authorized management of real property where the authorized individual has the right to assign the real property or has the same rights as the individual owning the real property in accordance with law, the individual authorizing [the management of] the real property is the taxpayer.
  - (b.3) In the case of assignment or transfer of the ownership or the right to use an object protected pursuant to the Law on Intellectual Property or the Law on Technology Transfer and the assignor or transferor of the right comprises a number of co-owners or co-authors, then each such individual owner or author is a taxpayer and is entitled to income from such assignment or transfer.
  - (b.4) In the case where a franchise is granted by individuals in accordance with the Commercial Law and the franchisor comprises a number of co-franchisors then each co-franchisor entitled to income from the grant of the franchise is a taxpayer.
- 4. Taxpayers according to the guidelines in clauses 1 and 2 of this article comprise:
  - (a) Individuals with Vietnamese nationality, including individuals sent overseas on business trips, who work as employees overseas, or who study overseas and who have taxable income.
  - (b) Individuals not having Vietnamese nationality but who have taxable income, comprising: foreigners working in Vietnam; and foreigners without a presence in Vietnam but who have taxable income arising in Vietnam.

## **Article 2** *Taxable incomes*

In accordance with article 3 of the Law on Personal Income Tax and article 3 of Decree 65-2013-ND-CP, incomes subject to personal income tax comprise:

### **1. Business income**

Business income means income derived from manufacturing and business activities in the following sectors:

- (a) Income from manufacture and business in goods and services in all sectors and business lines provided by law such as: manufacturing and business in goods; construction; transportation; food and beverage business; and business in services including leasing out housing, right to use land, water surface and other assets.
- (b) Income from independent practice by individuals in sectors and business lines for which licences or practising certificates are issued in accordance with law.
- (c) Income from manufacturing and business activities in agriculture, forestry, salt making, aquaculture and fishing which do not satisfy all the conditions for tax exemption pursuant to article 3.1(e) of this Circular.

## 2. Income being salary or wages

Income being salary or wages means income receivable by employees from employers, and comprising:

- (a) Salary, wages, and items in the nature of salary or wages in monetary or non-monetary forms.
- (b) Allowances and subsidies, except for the following allowances and subsidies:
  - (b.1) Monthly allowances and subsidies and one-off allowances in accordance with the law on preferential treatment for people having contributed [to the revolutionary cause].
  - (b.2) Monthly and one-off allowances for people who took part in the resistance wars, in Fatherland protection, and in the performance of international duties, and voluntary youths in the wars who completed their duties.
  - (b.3) National defence and security allowances; allowances for the armed forces.
  - (b.4) Allowances for toxicity and danger applicable to trades, lines of business or jobs at workplaces involving toxic or dangerous elements.
  - (b.5) Attraction allowances, regional allowances.
  - (b.6) Subsidies for one-off difficulties, subsidies for labour accidents and occupational diseases, one-off subsidies on the birth or adoption of a child, maternity entitlements, entitlements for convalescence or health recovery after maternity, subsidies due to reduction in ability to work, one-off subsidy on retirement, monthly widow's subsidies, retrenchment or loss of work subsidies, unemployment subsidies and other subsidies as stipulated in the *Law on Social Insurance* and *Labour Code*.
  - (b.7) Subsidies for people entitled to social assistance in accordance with law.
  - (b.8) Service allowances applicable to senior [State] leaders.
  - (b.9) Subsidies being one-off payments applicable to individuals who transfer to work at regions with specially difficult socio-economic conditions, one-off support for State officials and employees doing work relating to sovereignty over islands and sea as stipulated by law; one-off regional transfer allowances applicable to foreigners entering into and residing in Vietnam and Vietnamese people travelling overseas to work.
  - (b.10) Allowances applicable to medical staff in hamlets and villages.
  - (b.11) Allowances specific to an industry or a type of job.

The types of allowances and subsidies and the amount of their deductibility when determining taxable income from salary as guided in clause 2(b) of this article must be stipulated by competent State authorities.

Where written guidelines on the types of allowances and subsidies and the amount of their deductibility apply to the State sector, then other economic sectors and other business units

shall calculate their deductible amounts on the basis of the list of allowances and subsidies and the amount of their deductibility which apply to the State sector..

For payments higher than the above-mentioned stipulated amounts of allowances and subsidies, the payment in excess must be included in taxable income.

For one-off regional transfer allowances applicable to foreigners entering into and residing in Vietnam and Vietnamese people travelling overseas to work, the deductible amount is the amount stated in the labour contract or collective labour agreement.

- (c) Remuneration in forms such as: commission for goods sale agents, broker's commission; payment for participation in a technical or scientific research program, payment for participation in a plan or project; royalties payments in accordance with the law on royalties; payment for participation in teaching activities; payment for participation in cultural, artistic, sport or game performances; payment for advertising services; and other forms of service commission and remuneration.
- (d) Money receivable from participation in business associations, on boards of management, inspection committees, management committees, professional or other associations and other organizations
- (dd) Benefits other than salary or wages, in money or kind and in any form which an employer pays and to which the taxpayer is entitled:

- (dd.1) Residential housing rent, power and water and associated services (if any).

If an individual lives in his or her working office, the taxable income is based on the house rent or depreciation cost, power and water and other services calculated pro rata between the area used by the individual and the area of the working office.

The amount of house rent paid on [an employee's] behalf by the employer included in the taxable income is the amount actually paid on behalf, but does not exceed 15% of the total amount of the taxable income (not including the house rent) at the employer.

- (dd.2) Premiums for purchase of life insurance and other non-compulsory insurance or accumulated contributions to a voluntary superannuation fund which the employer purchases or contributes on behalf of an employee for insurance products which have accumulated insurance premiums.
  - (dd.3) Membership fees and other expenses for services provided to the individual on request such as: healthcare, entertainment, sports, recreation and beauty services, specifically as follows:
    - (dd.3.1) Membership fees (such as tennis court or golf course membership card, cultural, artistic or sport and game club cards, and so forth) if the card is in the name of an individual or a group of individual users. Where a card is jointly used without stating the name of an individual or a group of individual users, [payment for it] is not included in the taxable income.
    - (dd.3.2) Other expenses for services provided to the individual for healthcare, entertainment, sports, recreation and beauty services... if the content of



the payment specifies the name of the entitled individual. Where the content of the payment does not specify the name of the entitled individual but is for a collective of employees, [such payment] is not included in the taxable income.

(dd.4) Fixed expenses for stationery, per diem on business trips, telephone charges, outfits, etc. which are in excess of the current amounts stipulated by the State. These fixed expenses are not included in the taxable income in certain cases as follows:

(dd.4.1) In respect of State employees and staff working in professional administrative bodies, Party bodies, mass organizations and associations: the fixed amounts are applicable in accordance with written guidelines of the Ministry of Finance.

(dd.4.2) In respect of employees working in business organizations or representative offices: the fixed expenses apply as appropriate to the corporate income taxable amount in accordance with written guidelines on the implementation of the Law on Corporate Income Tax.

(dd.4.3) In respect of employees working in international organizations and representative offices of foreign organizations: the fixed expenses are in accordance with the regulations of international organizations and representative offices of foreign organizations.

(dd.5) Expenses for means of transport to collect an employee collective from their residence to the working place and vice versa are not included in the taxable income of employees; where the means of transport is used for each individual only, [the expenses] must be included in the taxable income of the collected individual.

(dd.6) Expenses on behalf [of employees] for training to improve qualifications and workmanship of employees as appropriate to the professional tasks and job of employees or in accordance with plans of the employer are not included in the income of employees.

(dd.7) Other benefits.

Other benefits paid by the employer to employees such as payment during holidays and public holidays; engagement of consultancy or tax declaration for one named individual or a group of individuals; payment for domestic workers such as drivers, cooks, people who do other domestic jobs under a contract and so forth.

(e) Bonuses, in money or kind and in any form including securities, excluding the following bonuses:

(e.1) Monetary awards attached to titles bestowed by the State including monetary awards attached to competitions and all forms of commendations and rewards as prescribed in the law on commendations and rewards, in particular:

(e.1.1) Monetary awards attached to emulative titles comprising national emulative employees; emulative employees at ministerial or industry level, at central organizations, provinces or cities under central authority;

emulative employees at the grassroots level, advanced employees and advanced soldiers.

- (e.1.2) Monetary awards attached to forms of commendations and rewards.
- (e.1.3) Monetary awards attached to titles bestowed by the State.
- (e.1.4) Monetary awards attached to prizes rewarded by associations and organizations belonging to political organizations, socio-political organizations, social organizations and socio-occupational organizations at central and local levels in accordance with the charter of such organizations and the provisions of the *Law on Rewards and Commendations*.
- (e.1.5) Monetary awards attached to Ho Chi Minh Prizes and State prizes.
- (e.1.6) Monetary awards attached to insignias and badges.
- (e.1.7) Monetary awards attached to certificates of merit and commendation letters.

The authority to issue decisions on commendation and the amount of monetary awards attached to the emulative titles and forms of commendations mentioned above must be in compliance with the provisions of the *Law on Rewards and Commendations*.

- (e.2) Monetary awards attached to national and international awards recognized by the State of Vietnam.
  - (e.3) Monetary awards for technical improvements, inventions and innovations recognized by competent State authorities.
  - (e.4) Monetary awards for detecting and reporting breaches of law to competent State authorities.
- (g) The following items are not included in taxable income:
- (g.1) Assistance provided by the employer for examination and treatment of fatal diseases to employees and their relatives.
    - (g.1.1) Relatives of employees in this case include: biological children, legally adopted children, illegitimate children, step children; spouses; biological parents; parents-in-law; step parents; and legally adopted parents.
    - (g.1.2) The amount of assistance to be excluded from the taxable income is the amount actually paid in accordance with the hospital fee payment documents, which shall not exceed the amount of paid hospital fee of the employee and his or her relatives after deducting the amount paid by the insurer.
    - (g.1.3) The employer paying the assistance is responsible for: retaining a copy of the hospital fee payment documents certified by the employer (where the

employee and his or her relatives pays the remaining amount after the insurer has made a direct payment to the medical service provider) or a copy of hospital fee payment voucher [and] a copy of the health insurance payment document certified by the employer (where the employee and his or her relatives pay the entire amount of hospital fee and the insurer pays insurance money to the employee and his or her relatives) and the assistance payment voucher for the employee and his or her relatives for their fatal disease.

- (g.2) Money received in accordance with the regulations regarding use of transportation in State bodies, public administrative units, Communist Party organizations, and mass organizations.
- (g.3) Money received in accordance with the regime on official residential housing as stipulated by law.
- (g.4) Money received other than salary or wages from providing opinions or participating in evaluation or inspection of legal instruments, resolutions or political reports; participation in inspection and supervisory teams; receiving voters or the public; dress allowances and other work directly serving activities of the National Assembly Office, the Ethnic Council and National Assembly Committees and National Assembly delegations; central office and committees of the Party; and municipal and provincial offices and committees.
- (g.5) Money paid for mid-shift meals or lunches where the employer arranges mid-shift meals or lunches for employees in the form of direct cooking, purchase of meal helpings or distribution of meal vouchers.

Where an employer does not arrange mid-shift meals or lunches but makes a payment to employees, such payment is not included in the taxable amount of each individual if the amount paid is consistent with guidelines of the Ministry of Labour, War Invalids and Social Affairs. Any excess above the stipulated amount by the Ministry of Labour, War Invalids and Social Affairs must be included in the individual's taxable income.

The specific amount payable in the case of State enterprises and organizations and entities which belong to administrative or professional bodies, the Party, mass organizations or associations must not exceed the amount stipulated by the Ministry of Labour. In the case of non-State enterprises and other organizations, the amount of these expenses shall be agreed and decided by the head of the employing entity with the chairman of the labour union, but the maximum amount must not exceed the amount applicable to State enterprises.

- (g.6) Cost of one return air ticket paid on behalf of (or by) the employer for a foreign employee working in Vietnam or a Vietnamese employee working overseas to return home for holiday once per year.

The basis for determination of the airfare is the labour contract and the amount paid for the air ticket from Vietnam to the country of the foreigner's nationality or to the country where the foreigner's family lives and vice versa; and the amount paid for the air ticket to Vietnam from the country where the Vietnamese individual is working and vice versa.

- (g.7) School fees for children of a foreign employee working in Vietnam who study in Vietnam or for children of a Vietnamese employee working overseas who study overseas from kindergarten to high school paid by the employer.
- (g.8) Income an individual receives from an association or a sponsoring organization are not included in taxable personal income if the sponsored individual is a member of such association or organization; the fund for sponsorship is from the State budget or is managed under State regulations; or the creation of works of art or literature or scientific research works, etc. is aimed at performing political tasks of the State or under a working program in accordance with the charter of such association or organization.
- (g.9) Payments made by the employer for the purpose of secondment or transfer of foreign employees working in Vietnam in accordance with the provisions of their contracts or in compliance with standard working schedules according to international practices of certain industries such as petroleum or mining.

The basis for determination of the airfare is the labour contract and the amount paid for the air ticket from Vietnam to the country of residence of the foreigner and vice versa.

Example 1: Mr X is a foreigner who is seconded by Contractor Y to work on a drilling platform on the continental shelf of Vietnam. His labour contract provides that the working cycle of Mr X at the drilling platform is to work for twenty eight (28) consecutive days and then to have twenty eight (28) days off. The airfares paid by Contractor Y for Mr X from the foreign country to Vietnam and vice versa each time he changes shift, the expenses for a helicopter to take Mr X from the mainland of Vietnam to the drilling platform and vice versa and the accommodation costs when Mr X has to wait for the helicopter to take him to the drilling platform to work are not included in the taxable personal income of Mr X.

### 3. Income from capital investments

Income from capital investments means income receivable by an individual in the following forms:

- (a) Interest receivable from loans provided to organizations, enterprises, business households, business individuals or groups of business individuals under a loan contract or loan agreement, except for interest receivable from deposits with foreign bank branches and credit institutions in accordance with the guidelines in article 3.1(g)1 of this Circular.
- (b) Dividends receivable from share capital contribution [and] subscription.
- (c) Income receivable from capital contribution to liability limited companies (including single member liability limited companies), partnerships, co-operatives, joint ventures, business co-operation contracts and other forms of business as stipulated in the *Law on Enterprises* and the *Law on Co-Operatives*; income receivable from capital contribution to establish credit institutions in accordance with the Law on Credit Institutions; capital contribution to securities investment funds and other funds established and operating in accordance with law.

- (d) Increased portion of the value of the capital contribution share receivable upon dissolution of an enterprise, conversion of operational model, merger or consolidation of an enterprise or upon withdrawal of capital.
- (dd) Income receivable from interest on bonds, debentures and other valuable papers issued by domestic organizations but excluding the income in accordance with the guidelines in articles 3.1(g)1 & (g)3 of this Circular.
- (e) Income receivable from capital investments in other forms, including investment capital contribution in kind, by goodwill, by land use right, or by an invention or discovery.
- (g) Income from dividends paid in shares, income from income recorded as a capital increase

#### 4. Income from capital transfers

Income from capital transfers means the amount of income receivable by individuals including:

- (a) Income from transfer of a capital contribution share in a limited liability company (including a single member liability limited company), partnership, business co-operation contract, co-operative, people's credit fund, economic organization or any other organization.
- (b) Income from transfer of securities, comprising: income from transfer of share certificates, right to purchase share certificates, bonds, debentures, fund certificates and other types of securities stipulated in the *Law on Securities*; income from transfer of shares of individuals in shareholding companies in accordance with the *Law on Enterprises*.
- (c) Income from transfer of capital in other forms.

#### 5. Income from real property transfers

Income from real property transfers means income receivable from transfers of real property, comprising:

- (a) Income from transfer of a land use right.
- (b) Income from transfer of a land use right and assets attached to the land. Assets attached to the land comprise:
  - (b.1) A residential house, including a residential house to be formed in the future.
  - (b.2) Infrastructure and construction works attached to the land, including construction works to be formed in the future.
  - (b.3) Other assets attached to the land comprising assets being agricultural, forestry and fishery products (such as cultivated crops and reared animals).
- (c) Income from transfer of ownership of a residential house, including a residential house to be formed in the future.
- (d) Income from transfer of a lease right to land or a water surface.

- (dd) Income where capital contribution is made with real property to establish an enterprise or to increase the production and business capital of the enterprise in accordance with law.
- (e) Income from authorized management of real property where the authorized individual has the right to assign the real property or has the same rights as the individual owning the real property in accordance with law.
- (g) Other income receivable from a real property transfer in any form.

The provisions on residential houses and construction works to be formed in the future in clause 5 of this article are implemented in accordance with the law on business of real properties.

#### 6. Income being winnings or prizes

Income being winnings or prizes means income in money or in kind receivable by an individual in the following forms:

- (a) Lottery winnings paid by lottery companies.
- (b) Winning of all forms of promotional prizes when participating in the sale and purchase of goods or services in accordance with the Commercial Law.
- (c) Winnings from all forms of betting permitted by law.
- (d) Winnings from casinos the operation of which is permitted by law.
- (dd) Winnings from games and competitions with prizes and other forms of winnings organized by economic organizations, administrative or professional bodies, mass organizations and other organizations or individuals.

#### 7. Income being royalties

Income being royalties means income receivable upon assignment or transfer of the right to use an intellectual property right object as stipulated in the *Law on Intellectual Property*; and income from technology transfers in accordance with the *Law on Technology Transfer*. In particular:

- (a) Intellectual property right objects implemented in accordance with article 3 of the *Law on Intellectual Property* and relevant guidelines, comprising:
  - (a.1) Copyright objects comprising literary, artistic and scientific works; and copyright related rights objects comprising video recordings, audio recordings of broadcast programs and satellite signals carrying coded programmes.
  - (a.2) Industrial property right objects comprising inventions, industrial designs, designs of semi-conducting integrated circuit layouts, trade secrets, marks, trade names and geographical indications.
  - (a.3) Objects of rights to plant varieties comprising reproductive materials and harvested materials.

(b) Technology transfer objects implemented in accordance with article 7 of the *Law on Technology Transfer*, comprising:

(b.1) Transfer of technical know-how.

(b.2) Transfer of technical information about technology in the form of technological plans, technological processes, technical solutions, formulae, technical specifications, drawings, technical maps, computer programs, information and data.

(b.3) Transfer of solutions for optimizing manufacture and renovating technology.

Income from assignment or transfer of intellectual property right objects and the technology transfer objects mentioned above shall also include [income from] re-assignment.

#### 8. Income from franchises

*Franchising* means a commercial activity whereby a franchisor authorizes and requires a franchisee to conduct on its own behalf the purchase and sale of goods or provision of services in accordance with the conditions of the franchisor in the franchise contract.

Income from franchises means income receivable by an individual from the franchise contracts mentioned above, including sub-franchising in accordance with the law on franchising.

#### 9. Income from inheritances

Income from an inheritance means income receivable by an individual under a will or in accordance with the law on inheritance, in particular:

(a) An inheritance being securities comprising share certificates, right to purchase share certificates, bonds, debentures, fund certificates and other types of securities stipulated in the Law on Securities; shares of individuals in shareholding companies in accordance with the Law on Enterprises.

(b) An inheritance being a capital portion in an economic organization or business establishment comprising capital contributed to a limited liability company, co-operative, partnership or business co-operation contract; capital in a private enterprise or business establishment of individuals, capital contributed to associations and funds permitted to be established by law or the entire business establishment in the case of a private enterprise or business establishment of an individual.

(c) An inheritance being real property comprising a land use right, right to use land with assets attached to it, ownership right of a house, including a residential house to be formed in the future; infrastructure and construction works attached to the land, including construction works to be formed in the future; a lease right to land or a water surface; other incomes receivable from an inheritance being a real property in any form; except for an inheritance being a real property in accordance with the guidelines in article 3.1(d) of this Circular.

(d) An inheritance being other assets for which ownership or use rights must be registered with State administrative authorities such as cars; motorized vehicles, motorbikes; ships, including barges, canoes, tug boats and tow boats; boats including yachts; airplanes; hunting guns or sport guns.

10. Income from receipt of a gift

Income from receipt of a gift means income receivable by an individual from domestic or foreign individuals or organizations, in particular:

- (a) In respect of receipt of a gift being securities comprising share certificates, right to purchase share certificates, bonds, debentures, fund certificates and other types of securities stipulated in the Law on Securities; shares of individuals in shareholding companies in accordance with the Law on Enterprises.
- (b) In respect of receipt of a gift being a capital portion in an economic organization or business establishment comprising capital in a limited liability company, co-operative, partnership or business co-operation contract; capital in a private enterprise or business establishment of individuals, capital contributed to associations and funds permitted to be established by law or the entire business establishment in the case of a private enterprise or business establishment of an individual.
- (c) In respect of receipt of a gift being real property comprising a land use right, right to use land with assets attached to it, ownership right of a house, including a residential house to be formed in the future; infrastructure and construction works attached to the land, including construction works to be formed in the future; a lease right to land or a water surface; other incomes receivable from an inheritance being a real property in any form; except for income from a gift being a real property in accordance with the guidelines in article 3.1(d) of this Circular.
- (d) In respect of receipt of a gift being other assets for which ownership or use rights must be registered with State administrative authorities such as cars; motorized vehicles, motorbikes; ships, including barges, canoes, tug boats and tow boats; boats including yachts; airplanes; hunting guns or sport guns.

**Article 3** *Tax exempt income*

- 1. In accordance with article 4 of the Law on Personal Income Tax and article 4 of Decree 65-2013-ND-CP, income exempt from personal income tax comprise:
  - (a) Income from real property transfers (including residential houses to be formed in the future or construction works to be formed in the future in accordance with the law on real property business) as between husband and wife; as between parents and children including adoptive parents and adopted children; as between parents-in-law and children-in-law; as between grandparents and grandchildren; and as between siblings.

Where a real property (including a residential house to be formed in the future and construction work to be formed in the future in accordance with the law on real property business) created by a husband or a wife during the marriage period is determined as the mutual assets of both of them and divided as agreed between them or in accordance with a judgement of a court, such asset division is exempt from tax.

- (b) Income from transfer of a residential house or right to use residential land and the assets attached to residential land by an individual who has one sole residential house [and/or] residential land use right in Vietnam



- (b.1) An individual transferring a residential house or right to use residential land who is tax exempt in accordance with the guidelines in clause 1(b) of this article must satisfy all the following conditions:
- (b.1.1) Ownership of only one sole residential house or the right to use one sole block of residential land (including the cases where there is a residential house or construction work attached to that block of land) at the time of transfer, in particular:
    - (b.1.1.1) Ownership of a residential house or right to use residential land is determined based on the certificate of land use right, ownership of residential house and other assets attached to the land.
    - (b.1.1.2) In the case of transfer of a residential house the ownership of which or residential land the use right to which is shared, only the individual who does not yet have ownership of a residential house or the right to use residential land in another location is tax exempt; an individual sharing ownership of the house or land use right who also owns another house or who also has the right to use other residential land is not tax exempt.
    - (b.1.1.3) Where a wife and husband are both named in a certificate of ownership of a residential house or of the right to use residential land which is the only shared [residential house or land] of both of them, but one of them has another residential house or residential land of his or her own, then upon the transfer of the shared residential house or residential land, only the spouse without his or her own house or residential land is tax exempt; the spouse with another residential house or residential land of his or her own, is not tax exempt.
  - (b.1.2) Having had the ownership of a residential house or right to use residential land for at least one hundred and eighty three (183) days as at the time of transfer.
 

The time of determination of ownership of a residential house or right to use residential land is the date of issuance of the certificate of land use right, ownership of residential house and other assets attached to the land.
  - (b.1.3) Transfer of an entire residential house or residential land
 

Where an individual has or shares ownership of a sole house or right to use sole land and transfers part of [such house or land], such individual is not tax exempt in respect of the transferred part.
- (b.2) A sole residential house or residential land use right to be transferred tax exempt is declared by the transferor, for which declaration such transferor is liable. If it is discovered that [any declaration] is incorrect, then [the offender] must pay tax arrears

and is fined for breach of the law on tax fraud in accordance with the law on tax management.

- (b.3) Where a residential house or construction work to be formed in the future is transferred, then the personal income tax exemption in the guidelines in clause 1(b) of this article does not apply.
- (c) Income from the value of a land use right of an individual to whom the State allocated such land without payment of, or with reduced land use fees in accordance with law.

Where an individual allocated with land without payment of, or with reduced land use fees, transfers the area of land the [fee for the] use right of which is exempted or reduced, tax is declared and paid for income from real property transfer in accordance with article 12 of this Circular.

- (d) Income being receipt of an inheritance or gift of real property (including a residential house or construction work to be formed in the future in accordance with the law on real property business) as between husband and wife; as between parents and children including adoptive parents and adopted children; as between parents-in-law and children-in-law; as between grandparents and grandchildren; and as between siblings.
- (dd) Income from conversion of agricultural land in order to rationalize production without changing the land use purpose by a family household or individual directly engaged in agricultural production to whom the State allocated such land for production.
- (e) Income of a family household or individual directly engaged in agricultural production, forestry, salt mining, raising animals, cultivating crops, fishing or aquaculture where the produce has not yet been processed into other products or has only been preliminarily processed.

Family households and individuals directly engaged in production activities in accordance with the guidelines in this paragraph must at the same time satisfy all the following conditions:

- (e.1) They have a legal use or lease right of the land or water surface for production and they directly participate as workers in the agricultural production, forestry, salt mining or aquaculture.

If they sub-lease the land or water surface from another entity, then there must be a written lease of the land or water surface as required by law (except where a family household or an individual receives a forest area for planting, care, management and protection under a contract with forestry companies). For fishing, there must be a certificate of ownership or contract to hire a ship or boat for the purpose of fishing and they must directly participate in the fishing (except for fishing on rivers in the form of 'day' (fishing using fixed nets under the water) and fishing activities which are prohibited by law).

- (e.2) They in fact reside in the locality where such agricultural production, forestry, salt mining, fishing or aquaculture takes place.

The locality where agricultural production, forestry, salt mining or aquaculture takes place in accordance with these guidelines means the district, township or provincial city (all referred to as the *district administrative unit*) or the district bordering on the place where such production takes place.

In the case of fishing, [the taxpayer concerned] need not reside in the locality.

- (e.3) Products of agriculture, forestry, salt mining, fishing or aquaculture where the produce has not yet been processed into other products or has only been preliminarily processed means products which have only been cleaned, sun-dried, dried, unshelled, stoned, cut, preserved with salt, frozen or preserved by other normal forms of preservation.
- (g) Income being interest on money deposited at a foreign bank branch or credit institution, income being interest from life insurance policies; and income being interest from Government's bonds.
  - (g.1) Interest on money deposited which is tax exempt pursuant to these provisions means income receivable by an individual being interest from depositing VND, gold or foreign currency at a foreign bank branch or credit institution established and operating in accordance with the *Law on Credit Institutions* in the form of on-call deposit, term deposit, savings account deposit, certificate of monetary deposit, promissory note, bill of exchange or other form of receipt of deposits on the principle that principal and interest is fully refundable to the depositor in accordance with an agreement.

The basis for determining tax exempt income in the case of income being interest on money deposited is the savings deposit book (or savings deposit card), the certificate of monetary deposit, the promissory note, the bill of exchange or other document on the principle that principal and interest is fully refundable to the depositor in accordance with an agreement.
  - (g.2) Interest from life insurance policies means interest receivable by an individual pursuant to an insurance policy issued by an insurer.

The basis for determining tax exempt income in the case of interest from life insurance policies is the payment vouchers for interest on the life insurance contract.
  - (g.3) Interest on Government's bonds means the interest receivable by an individual from purchase of Government's bonds issued by the Ministry of Finance.

The basis for determining tax exempt income in the case of interest on Government's bonds is the par value, interest rate and term on the Government's bond.
- (h) Tax exempt income being foreign currency remitted by overseas Vietnamese means money receivable by an individual from a Vietnamese relation who either resides, works, goes on a business trip or studies overseas and remits money to such individual in Vietnam.

The basis for determining that income being foreign currency remitted by overseas Vietnamese is tax exempt is the documents proving receipt of the money from overseas and the payment vouchers from the organization (if any) paying such income.
- (i) Income being that part of night shift or overtime salary or wages payable which is higher than the day shift or normal working hours salary stipulated by the Labour Code. In particular:

- (i.1) The higher portion of income for nightshift or overtime work which is tax exempt is based on the actual salary paid for such nightshift or overtime less (-) the amount of salary payable for a normal working day.

Example 2: Mr A receives 40,000 dong per hour as the normal working day rate pursuant to the *Labour Code*.

- If the individual works overtime on a normal day and is paid 60,000 dong per hour, then the tax exempt income shall be:

60,000 dong per hour - 40,000 dong per hour = 20,000 dong per hour

- If the individual works overtime on a holiday or public holiday and is paid 80,000 dong per hour, then the tax exempt income shall be:

80,000 dong per hour - 40,000 dong per hour = 40,000 dong per hour

- (i.2) The organization or individual paying the income must prepare a list specifying hours worked for nightshift and overtime and also listing the additional salary paid for such hours to employees. This list is filed at the income-paying entity and is presented upon request by the tax office.

- (k) Income being pensions paid by the Social Insurance Fund pursuant to the *Law on Social Insurance*; pension received monthly from a voluntary superannuation fund.

Individuals living or working in Vietnam are exempt from tax on pensions paid from overseas.

- (m) Income being scholarships, comprising:

- (m.1) A scholarship received from the State Budget including scholarships from the Ministry or Department of Education and Training, from public schools or from other State Budget funded sources.

- (m.2) A scholarship received from a domestic or foreign organization (including living allowances) pursuant to its program to assist and promote study.

Organizations providing scholarships to individuals referred to in this paragraph must retain their decisions granting the scholarships and vouchers paying the scholarships. Any individual receiving a scholarship directly from an overseas organization must retain the documents and vouchers proving receipt of such scholarship from the overseas organization.

- (n) Income being compensation payments from health insurance, life and non-life insurance contracts; compensation for labour accidents, compensation or support payments in accordance with the law on compensation, support and resettlement; State compensation payments and other compensation payments pursuant to the law on State compensation. In particular:

- (n.1) Income being compensation payments from health insurance, life and non-life insurance contracts means money receivable by an individual and which the life or non-life insurer or health insurer pays to the insured pursuant to a signed insurance contract. The basis for determining this compensation is the written document or

decision on such compensation by the insurer or a court, together with the relevant compensation payment vouchers.

(n.2) Income being compensation for labour accidents means money receivable by an employee from his or her employer or from the social insurance fund as a result of an accident occurring during employment. The basis for determining this compensation is the written document or decision on such compensation by the insurer or a court, together with the compensation payment vouchers for the labour accident.

(n.3) Income being compensation or support payments in accordance with the law on compensation, support and resettlement means the compensation or support payments due to land recovery by the State, including income from compensation or support payments made by economic organizations upon land recovery in accordance with regulations.

The basis for determining the income from compensation or support in accordance with the law on compensation, support and resettlement is the decision of the competent State authority on land recovery, compensation, resettlement and the compensation payment vouchers.

(n.4) Income being State compensation payments and other payments in accordance with the law on State compensation means money receivable by an individual as compensation due to an incorrect decision imposing a penalty for an administrative breach by an authorized person or competent State body which caused harm to the interests of such individual; or income being compensation payable to a wrongly convicted individual pursuant to a decision of a competent body in criminal proceedings. The basis for determining this compensation payment is the decision of the competent State body requiring the body or individual who made the wrongful decision to pay compensation, together with the relevant compensation payment vouchers.

(p) Income receivable from charitable funds which the competent State authorities permit to be established or which they recognize, and which operate for charitable, humanitarian, or study promotion purposes and not for profit-making purposes.

*Charitable funds* mentioned in this provision means funds established and operating pursuant to Decree 30-2012-ND-CP of the Government dated 12 April 2012 on organization and operation of social and charitable funds.

The basis for determining tax exempt income receivable from a charitable fund in this provision is the document or decision allocating such income by the charitable fund, together with the relevant payment vouchers in money or kind of the fund.

(q) Income receivable from foreign aid sources for charitable or humanitarian purposes in both government and non-government forms and approved by competent State authorities.

The basis for determining tax exempt income in this paragraph is the document from the competent State body approving receipt of the aid funds.

2. The procedures and files for tax exemption for the cases of tax exemption in clauses 1(a), (b), (c), (d) and (dd) of this article are implemented in accordance with documents providing guidelines on tax management.

#### **Article 4**    *Reduction of Tax*

Taxpayers who meet difficulties due to a natural disaster, fire, accident, or serious disease which affects their ability to pay tax are, pursuant to article 5 of the Law on Personal Income Tax and article 5 of Decree 65-2013-ND-CP, considered for a reduction of tax corresponding to the amount of their loss, but the reduction shall not exceed the amount of tax payable. In particular:

1. Determination of amount of tax to be reduced
  - (a) Consideration of a reduction of tax is implemented according to the tax year. A taxpayer meeting difficulties due to a natural disaster, fire, accident, or serious disease within any one tax assessment year is considered for a reduction of tax payable for that same tax assessment year.
  - (b) The amount of tax payable as the basis for a consideration of reduction of tax is the total amount of personal income tax which the taxpayer must pay in the tax assessment year, comprising:
    - (b.1) Personal income tax already paid or already deducted on income from capital investments, income from capital assignments, income from real property transfers, income being winnings or prizes, income being royalties, income from franchises, income from inheritances; and income from gifts.
    - (b.2) Personal income tax payable on business income and on income being salary or wages.
  - (c) The basis for determining the amount of loss for which tax should be reduced is the total actual costs of remedying the damage, less (-) any compensation receivable from an insurer (if any) or from the individual or entity (if any) which caused the accident.
  - (d) The reducible amount is determined as follows:
    - (d.1) If the amount of tax payable in the tax assessment year is greater than the amount of damage, then the amount reducible is equal to the amount of the damage.
    - (d.2) If the amount of tax payable in the tax assessment year is less than the amount of damage, then the amount of tax reducible equals the amount of tax payable.
2. The files and procedures for consideration of tax reduction are implemented in accordance with documents providing guidelines on tax management.

#### **Article 5**    *Conversion of taxable income into Vietnamese Dong*

1. Income subject to personal income tax is calculated in Vietnamese dong. If taxable income is receivable in foreign currency, then it must be converted into Vietnamese dong at the average trading exchange rate on the inter-bank foreign currency market as at the time when the income arose.

Any type of foreign currency which does not have an exchange rate with Vietnamese dong must first be converted into a type of foreign currency with such an exchange rate.

2. Taxable income receivable other than in money must be converted into Vietnamese dong at the market price of such products or services, or of products and services of the same or similar type as at the time the income arose.

#### **Article 6**    *Tax Assessment Period*

1. Applicable to resident individuals

- (a) Annual tax assessment period: applies to business income and income being salary or wages.

The tax assessment year is the western calendar year in the case of an individual present in Vietnam from 183 days or more within one western calendar year.

If an individual is present in Vietnam for less than 183 days within any one western calendar year, but there are 183 days or more within a consecutive 12 month period from the first date on which such individual was in Vietnam, then the first tax assessment period is such 12 consecutive months from the first day when the individual was in Vietnam. From the second year, the tax assessment period is based on the western calendar year.

Example 3: Mr. B who is a foreigner arrived in Vietnam on 20 April 2014. In year 2014 calculated up to 31 December 2014, Mr. B was in Vietnam for a total of 130 days. In year 2015, calculated up until 19 April 2015, Mr B was in Vietnam for a total of 65 days. The first tax assessment period of Mr. B is from 20 April 2014 up until the end of 19 April 2014. The second tax assessment period is determined as from 1 January 2015 until the end of 31 December 2015.

- (b) Tax assessment period is each occasion when income arises: applicable to income from capital investments, income from capital assignments, income from real property transfers, income being winnings or prizes, income being royalties, income from franchises, income from inheritances, and income from gifts.
  - (c) The tax assessment period is each occasion [when income] arises or the year in the case of income from securities transfers.

2. Applicable to non-resident individuals:

The tax assessment period is each occasion when income arises in the case of non-resident individuals.

In the case of a non-resident individual who has a fixed business location such as a store or counter, the same tax assessment period applies as to a resident individual with business income.

## **CHAPTER 2**

### **Basis Of Tax Assessment Applicable To Resident Individuals**

#### **Article 7**    *Basis for tax assessment on taxable income from business and from salary or wages*

The bases for tax assessment on income from business and from salary or wages are taxable income and tax rates, specifically as follows:

1. Assessable income is determined as taxable income as guided in article 8 of this Circular less (-) the following deductions:
  - (a) Deductions for family circumstances in accordance with the guidelines in article 9.1 of this Circular.
  - (b) Contributions to insurance or voluntary superannuation funds in accordance with the guidelines in article 9.2 of this Circular.
  - (c) Contributions to charitable, humanitarian or study promotional funds in accordance with the guidelines in article 9.3 of this Circular.
2. Tax rates

Pursuant to article 22 of the *Law on Personal Income Tax*, the scale of progressive tax tariff on each portion of income applies for personal income tax rates on income from business and from salary or wages, specifically as follows:

Tax Bracket	Portion of annual assessable income (million dong)	Portion of monthly assessable income (million dong)	Tax rate (%)
1	Up to 60	Up to 5	5
2	Over 60 to 120	Over 5 to 10	10
3	Over 120 to 216	Over 10 to 18	15
4	Over 216 to 384	Over 18 to 32	20
5	Over 384 to 624	Over 32 to 52	25
6	Over 624 to 960	Over 52 to 80	30
7	Over 960	Over 80	35

### 3. Method of assessing tax

Personal income tax payable on income from business and from salary or wages is the total amount of tax assessed in accordance with each income bracket. The total amount of tax assessed in accordance with each income bracket is the assessable income of that bracket multiplied (×) by the corresponding tax rate of that bracket.

For convenience when making calculations, the abbreviated method set out in Appendix No. 01-PL-TNCN to this Circular may be used.

Example 4: Ms C has the monthly income of salary or wages being 40 million dong and makes the following insurance contributions: 7% of social insurance and 1.5% of medical insurance on her salary. Ms C raises two children under 18, and during the month she did not make any charitable, humanitarian or study promotional contributions. Personal income tax provisionally payable by Ms C during the month is determined as follows:

- The taxable income of Ms C is 40 million dong.
- Ms C has the following deductions:
  - + Deduction for family circumstance for Ms C herself: 9 million dong



- + Deduction for family circumstance for 2 dependants (2 children):

$$3.6 \text{ million dong} \times 2 = 7.2 \text{ million dong}$$

- + Social insurance and health insurance:

$$40 \text{ million dong} \times (7\% + 1,5\%) = 3.4 \text{ million dong}$$

Total deductions are:

$$9 \text{ million dong} + 7.2 \text{ million dong} + 3.4 \text{ million dong} = 19.6 \text{ million dong}$$

- The assessable income of Ms C is:

$$40 \text{ million dong} - 19.6 \text{ million dong} = 20.4 \text{ million dong}$$

- Amount of tax payable:

Method 1: The amount of tax payable is assessed in accordance with each bracket of the scale of progressive tax tariff:

- + Bracket 1: the portion of assessable income up to five million dong and tax rate 5%:

$$5 \text{ million dong} \times 5\% = 0.25 \text{ million dong}$$

- + Bracket 2: the portion of assessable income over five million dong to 10 million dong and tax rate 10%:

$$(10 \text{ million dong} - 5 \text{ million dong}) \times 10\% = 0.5 \text{ million dong}$$

- + Bracket 3: the portion of assessable income over 10 million dong to 18 million dong and tax rate 15%:

$$(18 \text{ million dong} - 10 \text{ million dong}) \times 15\% = 1.2 \text{ million dong}$$

- + Bracket 4: the portion of assessable income over 18 million dong to 32 million dong and tax rate 20%:

$$(20.4 \text{ million dong} - 18 \text{ million dong}) \times 20\% = 0.48 \text{ million dong}$$

- The total amount of tax provisionally payable during the month by Ms C is:

$$0.25 \text{ million dong} + 0.5 \text{ million dong} + 1.2 \text{ million dong} + 0.48 \text{ million dong} = 2.43 \text{ million dong}$$

Method 2: Amount of tax payable assessed by the abbreviated method:

The assessable income in the month is 20,4 million dong, which falls within the assessable income tax bracket 4. The amount of personal income tax payable is:

$$20.4 \text{ million dong} \times 20\% - 1.65 \text{ million dong} = 2.43 \text{ million dong}$$

#### 4. Conversion of income not including tax into assessable income

In the case where an organization or individual pays salary or wages to employees in accordance with the guidelines in article 2.2 of this Circular as income not including tax, such after tax income must be converted into assessable income in accordance with Appendix No. 02-PL-TNCN issued with this Circular in order to determine the taxable income. In particular:

- (a) The income which serves as the basis for conversion into assessable income is the income actually received plus (+) the benefits paid by the employer on behalf of the employee (if any) less (-) the deductions. In the case where the benefits paid on behalf [of the employee] include house rent, the amount of house rent actually paid is included in the income which serves as the basis for conversion but does not exceed 15% of the total taxable income in the unit (not including the house rent).

The formula to determine the income which serves as the basis for conversion:

$$\begin{array}{ccccccc} \text{Income which serves as} & & & & \text{Amounts paid} & & \\ \text{the basis for conversion} & = & \text{Income} & + & \text{on behalf [of} & - & \text{Deductions} \\ & & \text{actually} & & \text{the} & & \\ & & \text{received} & & \text{employee]} & & \end{array}$$

Of which:

- Income actually received is the salary or wages not including tax which is received by the employee on a monthly basis.
- Amounts paid on behalf [of the employee] are the benefits in money or other than in money paid by the employer to the employee in accordance with the guidelines in article 2.2(dd) of this Circular.
- Deductions comprise: deduction for family circumstance; deductions for contributions to insurance or voluntary superannuation funds; deduction for charitable, humanitarian or study promotional contributions in accordance with the guidelines in article 9 of this Circular.

**Example 5:** In 2014, according to the labour contract entered into between Mr D and Company X, Mr D is paid the monthly salary of 31.5 million dong, and in addition to his salary, Company X pays on behalf of Mr D a sport club membership fee of 1 million dong/month. Mr D has to pay a compulsory insurance premium of 1.5 million dong/month. Company X is responsible for paying personal income tax in accordance with law for Mr D. In the year, Mr D had deduction for family circumstance for himself only, with no dependant and no charitable, humanitarian or study promotional contributions arising.

The monthly personal income tax payable by Mr D is as follows:

- The income which serves as the basis for conversion is:

$31.5 \text{ million dong} + 1 \text{ million dong} - (9 \text{ million dong} + 1.5 \text{ million dong}) = 22 \text{ million dong}$

- The assessable income (determined according to Appendix No. 02-PL-TNCN) is:

$(22 \text{ million dong} - 1.65 \text{ million dong})/0.8 = 25.4375 \text{ million dong}$

- The amount of personal income tax payable by Mr D is (applying the abbreviated method for tax assessment in Appendix No. 01-PL-TNCN) is:

$25.4375 \text{ million dong} \times 20\% - 1.65 \text{ million dong} = 3.4375 \text{ million dong}$

Example 6: Supposing Mr D in the above example 5 also has his house rent of 6 million dong per month paid by Company X on his behalf. The monthly personal income tax payable by Mr D is as follows:

Step 1: Determining the house rent paid on his behalf to be included in the income which serves as the basis for conversion

- Income which serves as the basis for conversion (not including the house rent):

$31.5 \text{ million dong} + 1 \text{ million dong} - (9 \text{ million dong} + 1.5 \text{ million dong}) = 22 \text{ million dong}$

- The assessable income (determined according to Appendix No. 02-PL-TNCN) is:

$(22 \text{ million dong} - 1.65 \text{ million dong})/0.8 = 25.4375 \text{ million dong}$

- Taxable income (not including the house rent):

$25.4375 \text{ million dong} + 9 \text{ million dong} + 1.5 \text{ million dong} = 35.9375 \text{ million dong/month}$

- 15% of the total taxable income (not including the house rent):

$35.9375 \text{ million dong} \times 15\% = 5.390 \text{ million dong/month}$

Thus, the house rent included in the income which serves as the basis for conversion is 5.390 million dong/month

Step 2: Determination of assessable income

- Income which serves as the basis for conversion into assessable income:

$31.5 \text{ million dong} + 1 \text{ million dong} + 5.390 \text{ million dong} - (9 \text{ million dong} + 1.5 \text{ million dong}) = 27.39 \text{ million dong/month}$

- The assessable income (converted according to Appendix No. 02-PL-TNCN) is:

$$(27.39 \text{ million dong} - 3.25 \text{ million dong})/0.75 = 32.187 \text{ million dong/month}$$

- Personal income tax payable:

$$32.187 \text{ million dong} \times 25\% - 3.25 \text{ million dong} = 4.797 \text{ million dong/month}$$

- The monthly taxable income of Mr D is:

$$31.5 \text{ million dong} + 1 \text{ million dong} + 5.390 \text{ million dong} + 4.797 \text{ million dong} = 42.687 \text{ million dong/month}$$

Or determined in another way:

$$32.187 \text{ million dong} + 9 \text{ million dong} + 1.5 \text{ million dong} = 42.687 \text{ million dong/month.}$$

- (b) In the case where an individual is subject to tax finalization according to regulations, the taxable income of the year is the total of monthly taxable income determined on the basis of the converted assessable income. Where an individual has income not including tax from many income-paying organizations, the taxable income of the year is the total of the monthly taxable incomes from the income-paying organizations in the year.

Example 7: Assuming that Mr D in example 6 above, in addition to the income from Company X, from January 2014 to May 2014, also has a contract under which he receives the income of 12 million dong/month from Company Y. Company Y also pays personal income tax on Mr D's behalf.

The personal income tax finalization of Mr D in 2014 is as follows:

- The annual taxable income of Mr D at Company X is:

$$42.687 \text{ million dong} \times 12 \text{ months} = 512.244 \text{ million dong}$$

- At Company Y:

- + Monthly assessable income (converted according to Appendix No. 02-PL-TNCN):

$$(12 \text{ million dong} - 0.75 \text{ million dong})/0.85 = 13.235 \text{ million dong}$$

- + Annual taxable income at Company Y:

$$13.235 \text{ million dong} \times 5 \text{ months} = 66.175 \text{ million dong}$$

- Total taxable income of Mr D in 2014:

$$512.244 \text{ million dong} + 66.175 \text{ million dong} = 578.419 \text{ million dong}$$

- Monthly assessable income:

$(578.419 \text{ million dong} : 12 \text{ months}) - (9 \text{ million dong} + 1.5 \text{ million dong}) = 37.702 \text{ million dong}$

- Personal income tax payable for the year:

$(37.702 \text{ million dong} \times 25\% - 3.25 \text{ million dong}) \times 12 \text{ months} = 74.105 \text{ million dong.}$

5. The basis for tax assessment on income from lottery agency, insurance agency or multi-level sale is the assessable income and withholding rate of personal income tax. In particular:

- (a) Assessable income is the taxable income from the operations of lottery agency, insurance agency or multi-level sale, including: agency commissions, prizes in any form, supports and other amounts receivable by an individual from a construction lottery company, insurer or multi-level sale enterprise.
- (b) The time of fixing the taxable income is the time income is paid to the individual by the construction lottery company, insurer or multi-level sale enterprise.
- (c) Withholding rate of personal income tax:

- (c.1) A construction lottery company withholds personal income tax at the following rates on the monthly assessable income of individuals:

Unit: 1,000 Vietnamese dong

Assessable income/month	Withholding rate
Up to 9,000	0%
Over 9,000	5%

- (c.2) An insurer or a multi-level sale enterprise withholds personal income tax at the following rates on the monthly assessable income of individuals:

Unit: 1,000 Vietnamese dong

Assessable income/month	Withholding rate
Up to 9,000	0%
Over 9,000 to 20,000	5%
Over 20,000	10%

6. The basis for tax assessment on accumulated premium for non-compulsory insurance and accumulated contributions to voluntary superannuation funds is the amount of accumulated premiums for life insurance or other non-compulsory insurances, accumulated contributions to voluntary superannuation funds purchased or contributed by the employer for the employee and the withholding rate of 10%.

Before paying insurance money or superannuation money to an individual, the insurer or the company managing the voluntary superannuation fund is responsible for withholding tax at the rate of 10% of the accumulated premiums or accumulated contributions to the voluntary superannuation fund corresponding to the portion purchased or contributed by the employer for the employee from 1 July 2013.

Insurers and companies managing voluntary superannuation funds are responsible for monitoring separately the premiums for life insurance and other non-compulsory insurance, and accumulated contributions to voluntary superannuation funds purchased or contributed by employers for employees, as the basis for calculation of personal income tax.

**Article 8** *Determination of taxable business income, and from salary or wages*

1. Determination of taxable business income

Taxable business income is determined as the turnover less reasonable costs directly related to the generation of the taxable income in a tax assessment period.

Taxable business income in each specific case is determined as follows:

(a) In the case of business individuals who do not yet comply with the law on accountings, invoices and vouchers.

(a.1) In the case of business individuals who do not implement the accounting regime on invoices and vouchers and whose turnover, costs and taxable income are indeterminable (hereinafter referred to as business individuals paying tax by the fixed turnover method).

(a.1.1) For business individuals paying tax by the fixed turnover method, the taxable income is determined as follows:

$$\text{Taxable income in the tax assessment period} = \frac{\text{Fixed turnover in the tax assessment period}}{\text{Fixed taxable income rate}} \times \text{Fixed taxable income rate}$$

Of which:

- Fixed level of turnover is determined based on the declaration of the business individual, the database of the tax office, the results of investigation of the actual turnover by the tax office, and the opinion of the commune or ward level tax consultancy council.
- The fixed taxable income rate is determined in accordance with the guidelines in clause 1(a)4 of this article.

(a.1.2) In the case of business individuals paying tax by the fixed turnover method who use invoices

(a.1.2.1) In the case of a business individual paying tax by the fixed turnover method who uses books of invoices, if the turnover based on invoices in a quarter is higher than the fixed turnover, the individual must, in addition to the tax paid on the fixed turnover, pay additional personal income tax on the difference between the turnover based on invoices and the fixed turnover.

(a.1.2.2) A business individual paying tax by the fixed turnover method who uses invoices sold individually by the tax office

declares and pays personal income tax at the rate of 10% of the taxable income arising on each occasion.

The taxable income arising on each occasion is determined as follows:

$$\begin{array}{l} \text{Taxable income} \\ \text{arising on each} \\ \text{occasion} \end{array} = \begin{array}{l} \text{Turnover for assessing} \\ \text{taxable income arising on} \\ \text{each occasion} \end{array} \times \begin{array}{l} \text{Fixed taxable income} \\ \text{rate} \end{array}$$

Of which:

- The turnover for assessing taxable income arising on each occasion is determined based on contracts and vouchers for sale and purchase.
- The fixed taxable income rate is determined in accordance with the guidelines in clause 1(a)4 of this article.

(a.1.2.3) In the case of a business individual paying tax by the fixed turnover method and using books of invoices who requests a refund of personal income tax, the annual tax assessable turnover is determined as follows:

- If the turnover based on the invoices of the entire year is lower than the fixed turnover, the tax assessable turnover of the year is the fixed turnover.
- If the turnover based on the invoices of the entire year is higher than the fixed turnover, the tax assessable turnover of the year is the turnover based on the invoices.

(a.2) In the case of a business individual who is only able to account for turnover but not for expenses, taxable income is determined as follows:

$$\begin{array}{l} \text{Taxable income in the} \\ \text{tax assessment period} \end{array} = \begin{array}{l} \text{Turnover to assess taxable} \\ \text{income in the tax} \\ \text{assessment period} \end{array} \times \begin{array}{l} \text{Fixed taxable} \\ \text{income rate} \end{array} + \begin{array}{l} \text{Other taxable} \\ \text{incomes in the tax} \\ \text{assessment period} \end{array}$$

Of which:

- The turnover for assessing taxable income in a tax assessment period is determined in accordance with the guidelines in clause 1(b)1 of this article.
- The fixed taxable income rate is determined in accordance with the guidelines in clause 1(a)4 of this article.
- Other taxable incomes in the tax assessment period are income arising during the business process including: liquidated damages for contract defaults; fines on late payments; bank interest during the payment process; interest from sale by deferred payments or on instalments; profit from sale of fixed assets;

proceeds from sale of scrap, sub-standard products, and other taxable income.

- (a.3) In the case of itinerant business individuals (people who trade in lots) and non-business individuals with arising activities of goods sale or service provision who need invoices to issue to their customers.

Itinerant business individuals (people who trade in lots) and non-business individuals with arising activities of goods sale or service provision who need invoices to issue to their customers declare and pay personal income tax at the rate of 10% on the taxable income arising on each occasion.

The taxable income arising on each occasion is determined in the same way as with business individuals paying tax by the fixed turnover method and using invoices sold individually by the tax office in accordance with the guidelines in clause 1(a)1.2.2 of this article.

- (a.4) Fixed taxable income rate

Fixed taxable income rates on turnover apply to business individuals who do not yet comply with the law on accounting, invoices and vouchers, business individuals with no fixed business address and non-business individuals as follows:

Activities	Fixed taxable income rate (%)
Distribution and supply of goods	7
Services or construction without raw material supply	30
Production, transportation, services attached to goods, or construction including raw material supply	15
Other business activities	12

In the case of an individual doing many lines of business, the rate of the main business activity applies. In the case of an individual actually doing many lines of business and the main business activity is indeterminable, the rate of 'Other business activities' applies.

- (b) In the case of a business individual who fully implements the accounting regime on invoices and vouchers, taxable income is determined as follows:

Taxable income in the tax assessment period	=	Turnover for assessing taxable income in the tax assessment period	-	Reasonable expenses deductible in the tax assessment period	+	Other taxable incomes in the tax assessment period
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- (b.1) Turnover for assessing taxable income in the tax assessment period

Turnover for assessing taxable business income in the tax assessment period means the entire monetary receipts from the sale of goods, from processing fees, from commissions and from providing goods or services arising within the tax assessment period, and includes any subsidies or additional fees to which the business individual is entitled irrespective of whether or not money has actually been received and is determined according to accounting books.

- (b.1.1) The time for fixing turnover for assessing taxable income is as follows:

30



(b.1.1.1) In respect of the activity of goods sale, the time when ownership of or use right to the goods is transferred or the time when the sale invoice is formulated.

(b.1.1.2) In the case of the activity of service provision, the time when provision of the services to the purchaser is completed or the time when the invoice for provision of the services is formulated. In respect of the activities of leasing out houses, or the right to use land, water surface or other assets, the time the lease contract takes effect.

If the invoice is formulated before ownership of the goods is transferred (or before provision of the services is completed), then the time for fixing turnover is the time of formulation of such invoice, or vice versa.

(b.1.2) Turnover for assessing taxable income in a number of specific cases is determined as follows:

(b.1.2.1) Turnover on goods sold on instalments is determined according to the selling price of the goods as for a one-off payment [lump sum price], excluding interest on instalment payments.

(b.1.2.2) Turnover on goods or services sold on deferred payment is the selling price of the goods or services as for a one-off payment [lump sum price], excluding interest on deferred payments

If payment is made pursuant to a contract for purchase and sale on instalments or by deferred payment over a number of tax assessment periods, then turnover is the amount of money payable by the purchaser within the tax assessment period excluding interest on instalment payment or deferred payment for the term stipulated in the contract.

When determining expenses upon fixing taxable income on goods sold on instalments or by deferred payment, the principle is that the expenses must be consistent with the turnover.

(b.1.2.3) In respect of goods or services which a business individual produces to use as exchange, as a gift, or to outfit employees or to reward employees, then the turnover is fixed as the market price of the same or similar goods or services at the time such exchange, donation, outfitting or reward was made.

(b.1.2.4) In respect of goods and services which a business individual produces for his or her own use during the manufacturing or business process of such individual, turnover is the costs of producing such product, goods or services.

(b.1.2.5) In respect of goods processing, turnover is the total fees receivable from such processing including charges for labour, fuel, power, subsidiary materials and other expenses of goods processing.

(b.1.2.6) In respect of an individual acting as agent or consignee to sell goods at the correct price stipulated by the business individual being the principal or consignor for which commission is received, then turnover is the commission receivable pursuant to the agency or consignment contract.

(b.1.2.7) In respect of activities being leasing out assets, turnover is determined according to the lease contract regardless of whether the rent has been received or not.

If the lessee pays rent in advance for a number of years, then turnover for the purposes of assessing taxable income is allocated to the number of years for which rent was paid in advance or is fixed as turnover on a lump sum payment.

(b.1.2.8) In respect of construction and installation, turnover is the value of the works or items of work or the value of the entire project works which were tested, accepted and handed over. In the case of construction and installation in which the supply of raw materials, machinery and equipment is not included in the contract, then turnover for assessing tax is the monies receivable from the construction and installation but excluding the value of such raw materials, machinery and equipment.

In the case of construction and installation in which the supply of raw materials, machinery and equipment is included in the contract, then turnover for assessing tax is the monies receivable from the construction and installation including the value of such raw materials, machinery and equipment.

(b.1.2.9) In respect of transportation, turnover is the total turnover from transportation of passengers, luggage and cargo arising in the tax assessment period.

(b.2) Deductible reasonable expenses

Reasonable expenses which may be deducted means expenses actually arising and directly related to the production or business activities of individuals, and which have adequate invoices and vouchers as required by law. In particular:

(b.2.1) Expenses being salary or wages, allowances and subsidies, remuneration and other expenses paid to employees pursuant to labour contracts, service contracts or pursuant to collective labour agreements as stipulated in the Labour Code.

Expenses being salary or wages do not include salary or wages of an individual who is the head of a business household or is a member whose name is included in the business registration of a business group.

Money for uniforms paid to employees does not exceed 5,000,000 dong per employee per year. In the case where uniforms are paid to employees in both money and in kind, the maximum expense to be included in deductible expenses for determination of taxable income does not exceed 5,000,000 dong per employee per year. In the case of business lines of special natures, this expense is implemented in accordance with [separate] regulations of the Ministry of Finance.

- (b.2.2) Cost of raw materials, supplies, fuel, energy and goods actually used in manufacture and business in goods and services and related to creation of turnover and taxable income in any one period is calculated in accordance with reasonable levels of wear and tear and actual ex-warehouse prices fixed by the business individual or business household itself, and for which such individual or household is liable before the law.

In the case of certain raw materials, supplies, fuel and goods the norms of wear and tear have been stipulated by the State, such norms stipulated by the State will apply.

In no case is the value of the loss of supplies, assets, capital monies or goods included in reasonable expenses unless such loss was due to a natural disaster, fire, epidemic or other event of force majeure for which compensation is not receivable.

If supplies and goods are used both for private consumption and for business purposes, only that part of the expenses representing the business use may be included.

- (b.2.3) Depreciation of, and costs for maintaining and servicing fixed assets used in manufacture and business in goods and services. In particular:

- (b.2.3.1) Depreciation of fixed assets may only be included in reasonable expenses if the following conditions are satisfied:

- The fixed assets are used in manufacturing and business.
- There must be adequate invoices, vouchers and other legal papers proving that the fixed assets are owned by the business individual.
- The fixed assets must be managed, monitored and accounted for in the accounting books of the business individual in accordance with current management and accounting regimes.

The depreciation of fixed assets being cars for transportation of people with 9 seats or under is not allowed to be included in reasonable expenses.

(b.2.3.2) The amount of depreciation of fixed assets to be included in reasonable expenses is as stipulated in the regulations on management, use and depreciation of fixed assets.

(b.2.3.3) Depreciation is not allowable if depreciation of the fixed assets in question has been conducted to their full value but the assets continue to be used in manufacturing and business.

If fixed assets are used both for business and other purposes, then the allowable expenses for their depreciation to be included in reasonable expenses is corresponding to the level of their use for business purposes.

(b.2.4) Expenses being payment of interest on loans borrowed for manufacture and business directly related to creation of turnover and taxable income.

Interest on loan is the actual interest rate pursuant to loan contracts with credit institutions, foreign bank branches or economic organizations. If the loan was obtained from an entity other than a credit institution, foreign bank branch or economic organization, then expenses being payment of interest on such loan are based on the loan contract, but the maximum interest rate may not exceed 1.5 times the basic interest rate announced by the State Bank at the time of the loan.

These expenses being payment of interest on loans do not include payment of interest on loans in order to contribute capital to establish the premises of a business individual.

(b.2.5) Management expenses, comprising:

(b.2.5.1) Costs of electricity, water, telephone, purchase of stationery, hiring auditors and legal consultants, hiring design, purchasing asset insurance, and expenses for other technical services and external purchases.

(b.2.5.2) Expenses incurred in order to acquire assets other than fixed assets such as costs for purchasing and using technical data, patents, technology transfer licences or trade marks are allocated gradually to business expenses.

(b.2.5.3) Rent paid to lease fixed assets to operate pursuant to the lease. If rent is paid in a lump sum for a number of years, then such rent is allocated gradually to expenses of manufacturing and business by the number of years of use of such fixed assets.

- (b.2.5.4) Expenses for external purchase services and for hiring other people to service directly manufacturing and business activities in goods and services, where there are invoices and vouchers required by law.
  - (b.2.5.5) Expenses related to the sale of goods and services comprising costs of preservation, packing, transporting, loading and unloading, hiring warehouses, and warranting products and goods.
- (b.2.6) Taxes, fees and charges and land rent which are mandatory by law and which relate to the manufacturing, business or service activities (except for personal income tax, input value added tax already credited, and other taxes, fees, charges and duties not allowed to be included in expenses in accordance with relevant laws), comprising:
  - (b.2.6.1) Business registration fees, import and export duties, special sales tax, royalties tax, agricultural land use fees, non-agricultural land use fees, environmental protection tax, land or water surface rent.
  - (b.2.6.2) Value added tax which the law permits to be included in expenses.
  - (b.2.6.3) Fees and charges which the business establishment actually pays to the State Budget in accordance with the law on fees and charges.
- (b.2.7) Allowances for employees' business trips (excluding travelling and accommodation allowances) at a maximum of twice the amount permitted pursuant to guidelines of the Ministry of Finance applicable to State officials and employees.

Travelling and accommodation expenses for employees' business trips are included in deductible expenses upon determination of taxable income if there are adequate, legal invoices and vouchers as required by law. Where a business individual fixes travelling and accommodation expenses for employees, such fixed travelling and accommodation expenses are included in deductible expenses in accordance with regulations of the Ministry of Finance applicable to State officials and employees.
- (b.2.8) Other expenses directly related to creation of turnover and taxable income, and which have invoices and vouchers as required by law.
- (b.3) Other taxable income

Other taxable income is income arising during the business process including: liquidated damages for contract defaults; fines on late payments; bank interest during the payment process; interest from sale by deferred payments or on instalments; profit from sale of fixed assets; proceeds from sale of scrap or sub-standard products, and other taxable income.

(c) In respect of a group of business individuals

Where a number of people are jointly named in the one business registration certificate including the case of leasing out housing or land surfaces with a number of people jointly named in the one certificate of land use right, or ownership of residential housing and other assets attached to the land (referred to as a *group of business individuals*), after the taxable business income has been determined in accordance with the guidelines in clauses 1(a) and (b) of this article, the taxable income of each individual is allocated by one of the following methods:

- (c.1) In accordance with the capital contribution ratio of each individual as recorded in the business registration certificate.
- (c.2) Pursuant to an agreement between the individuals concerned.
- (c.3) If the capital contribution ratio is unable to be ascertained from the business registration certificate or if there is no agreement between the individuals concerned on allocation of income between them, then in accordance with an average amount of income per person.

After the amount of taxable income of each individual jointly involved in the business has been determined on the basis of the above principles on allocation, then each individual shall deduct deductions in accordance with the guidelines in article 9 of this Circular in order to fix assessable income and the amount of tax payable by each individual

2. Taxable income from salary or wages

- (a) Taxable income from salary or wages are determined as the total amount of salary, wages, remuneration and other income in the nature of salary or wages receivable by the taxpayer in a tax assessment period as guided in article 2.2. of this Circular.
- (b) Time for determining taxable income

The time for determining taxable income from salary or wages is the time when an organization or individual pays such income to the taxpayer.

In particular, the time for determining taxable income for the premiums to purchase accumulated insurance products as guided in article 2.2(dd)2 of this Circular is the time when the insurance payment is made by the insurer or the company managing the voluntary superannuation fund.

- 3. If an individual has both business income and income being salary or wages, then the taxable income is the total of the taxable business income and taxable income from salary or wages.

**Article 9** *Deductions*

Deductions as guided in this article are amounts which are deductible from the taxable income of an individual before determining the assessable income from salary or wages and business income. In particular:

1. Deductions for family circumstances

Pursuant to article 19 of the *Law on Personal Income Tax*, article 1.4 of the *Law on Amendments and Additions to a Number of Articles of the Law on Personal Income Tax*, and article 12 of Decree 65-2013-ND-CP, deductions for family circumstances are made as follows:

- (a) *Deduction for family circumstances* means the amount deductible from taxable income prior to assessing tax payable on business income and income from salary or wages of a resident individual taxpayer.

If a resident individual has both business income and income from salary or wages, then this deduction is made once from the aggregate total of both types of income.

- (b) Level of deductions for family circumstances

- (b.1) The level of deduction applicable to a taxpayer is 9 million dong/month, 108 million dong/year.

- (b.2) The level of deduction for each dependant is 3,6 million dong/month.

- (c) Principles for assessing deductions for family circumstances

- (c.1) Deduction for the taxpayer:

- (c.1.1) A taxpayer with more than one business incomes or incomes from salary or wages selects one place for assessment of deductions for family circumstances at a point of time (counting the full number of months).

- (c.1.2) A foreigner who is a resident individual in Vietnam is allow to include deduction for himself or herself from January or the month of arrival in Vietnam where such individual was first present in Vietnam to the month in which the labour contract ends and [the individual] leaves Vietnam in the tax assessment year (counting the full number of months).

Example 8: Mr E is a foreigner who arrives in Vietnam for continuous work from 1 March 2014. Mr E's labour contract ends and he leaves for his country on 15 November 2014. From 1 March 2014 to his departure for his country, Mr E is present in Vietnam for over 183 days. As such, in 2014, Mr E is a resident individual and is entitled to deductions for family circumstances for himself from January to the end of November 2014.

Example 9: Ms G is a foreigner who arrives in Vietnam for the first time on 21 September 2013. On 15 June 2014, Ms G ends her labour contract and leaves Vietnam. During the period from 21 September 2013 to 15 June 2014, Ms G is present in Vietnam for 187 days. Thus, in the first tax assessment year (from 21 September 2013 to 20 September 2014), Ms G is considered as a resident individual of Vietnam and is entitled to deductions for family circumstances for herself from September 2013 to the end of June 2014.

- (c.1.3) In the case an individual has not claimed deductions for himself or herself, or deductions have not been claimed for 12 full months, then deductions for 12 full months are made upon tax finalization in accordance with regulations.
- (c.2) Deduction for dependants:
  - (c.2.1) A taxpayer may claim deductions for family circumstances for dependants if the taxpayer has registered to pay tax and has been issued with a tax code number.
  - (c.2.2) Upon registration by the taxpayer of deductions for family circumstances for a dependant, the tax office shall issue a tax code number for the dependant and provisional deductions are assessed for the year from the time of registration. Dependants who have been registered for deductions for family circumstances before the effective date of this Circular continue to have deductions for family circumstances until they are issued with a tax code number.
  - (c.2.3) In the case a taxpayer has not claimed deductions for a dependant in a tax assessment year, then a deduction may be made for such dependant from the month the responsibility to care for such dependant arises when the taxpayer conducts tax finalization and has registered for deductions for family circumstances for dependants. In particular, for other dependants as guided in clause 1(d)4 of this article, the deadline for registration of deductions for family circumstances is 31 December of the tax assessment year, after which deadline no deductions for family circumstances may be made for that tax assessment year.
  - (c.2.4) Each dependant may only be assessed for deduction once in respect of one taxpayer within the tax assessment year. If a taxpayer has a dependant to care for in common with other taxpayers, then the taxpayers must agree among themselves on registration of the dependant of only one taxpayer.
- (d) Dependants comprise:
  - (d.1) Children: Biological children, legally adopted children, illegitimate children, step children, comprising in particular:
    - (d.1.1) Children under the age of 18 years (counting the full number of months).
 

Example 10: Mr H's child was born on 25 July 2014 and is assessed as a dependant from July 2014.
    - (d.1.2) A child over 18 years of age who is handicapped and unable to work.
    - (d.1.3) A child currently studying at a university, college, specialized secondary school or vocational training establishment in Vietnam or overseas, including children over 18 years of age currently studying at a high school (including the period awaiting for university entrance examination results



from June to September at the end of Year 12) and who does not have income or who has an average monthly income in the year from all sources which does not exceed 1,000,000 dong.

- (d.2) Spouse of the taxpayer who satisfy the conditions in clause 1(dd) of this article.
- (d.3) Biological parents; or parents-in-law; step parents; legally adoptive parents of the taxpayer who satisfy the conditions in clause 1(dd) of this article.
- (d.4) Other individuals without any support who are being directly cared for by the taxpayer and who satisfy the conditions in clause 1(dd) of this article, comprising:
  - (d.4.1) Brothers and sisters of the taxpayer.
  - (d.4.2) Grandparents; biological uncles and aunts of the taxpayer.
  - (d.4.3) Nephews and nieces of the taxpayer, comprising: Children of his or her brothers or sisters.
  - (d.4.4) Other people required by law to be directly cared for.
- (dd) An individual who is considered a dependant as guided in clause 1(d)2, 1(d)3 and 1(d)4 of this article must satisfy the following conditions:
  - (dd.1) A person of working age must satisfy all the following conditions:
    - (dd.1.1) Is handicapped and unable to work
    - (dd.1.2) Does not have income or has an average monthly income in the year from all sources which does not exceed 1,000,000 dong.
  - (dd.2) A person not of working age must not have income or has an average monthly income in the year from all sources which does not exceed 1,000,000 dong.
- (e) Persons who are handicapped and unable to work as guided in clause 1(dd)1.1 of this article are persons who are subject to the laws on handicapped people, people suffering from a disease which renders them unable to work (such as AIDS, cancer, chronic kidney failure and so forth).
- (g) File proving that a person is a dependant
  - (g.1) For children:
    - (g.1.1) Children under 18 years of age: The proof is a copy birth certificate and a copy of the people's identity card (if any).
    - (g.1.2) For children 18 years old or over who are handicapped and unable to work, the file comprises:
      - (g.1.2.1) A copy birth certificate and a copy of the people's identity card (if any).

- (g.1.2.2) A copy of the disability certificate in accordance with the law on handicapped people.
- (g.1.3) For children currently studying as guided in clause 1(d)1.3 of this article, the file comprises:
- (g.1.3.1) A copy birth certificate.
- (g.1.3.2) Copy of student card or copy of the student's declaration certified by the school or university or some other document proving that the student is currently studying at a university, college, specialized secondary school, high school or vocational training establishment.
- (g.1.4) In the case of an adopted child, illegitimate child or step child, then in addition to the documents mentioned in each case above, the file should contain other documents to prove the relationship, such as: Copy of the decision recognizing the adoption, or a copy of the decision recognizing the adoption, issued by the competent State body.
- (g.2) Applicable to spouses, the file comprises:
- A copy of the people's identity card.
  - A copy of the household registration book (to prove the husband and wife relationship) or a copy of the marriage certificate.
- In the case of a spouse still of working age, then in addition to the above-mentioned documents there must also be other documents proving that the dependant is unable to work, such as a copy of the disability certificate in accordance with the law on handicapped people in the case of a handicapped person who is unable to work, or a copy of the medical file in the case of a person suffering from a disease which renders him or her unable to work (such as AIDS, cancer, chronic kidney failure and so forth).
- (g.3) In the case of biological parents, parents-in-law, step parents or legally adoptive parents, the file comprises:
- A copy of the people's identity card.
  - Legal documents to determine the relationship of the dependant to the taxpayer such as copy of the household registration book (if they share the same household registration book), birth certificate, decision recognizing the adoption by a competent State authority.

In the case [of a parent] still of working age, then in addition to the above-mentioned documents there must also be other documents proving that the dependant is unable to work, such as a copy of the disability certificate in accordance with the law on handicapped people in the case of a handicapped person who is unable to work, or a copy of the medical file in the case of a person suffering from a disease which renders him or her unable to work (such as AIDS, cancer, chronic kidney failure and so forth)

(g.4) In the case of other individuals as guided in clause 1(d)4 of this article, the file comprises:

(g.4.1) Copy of the people's identity card or birth certificate.

(g.4.2) Legal documents to determine the carer's obligation in accordance with law.

In the case of a dependant still of working age, then in addition to the above-mentioned documents there must also be other documents proving that the dependant is unable to work, such as a copy of the disability certificate in accordance with the law on handicapped people in the case of a handicapped person who is unable to work, or a copy of the medical file in the case of a person suffering from a disease which renders him or her unable to work (such as AIDS, cancer, chronic kidney failure and so forth).

Legal documents in clause 1(g)4.2 of this article is any legal document which can determine the relationship between the taxpayer and the dependant such as:

- Copy of the document determining the carer's obligation in accordance with law (if any).
- Copy of the household registration book (if they are on the same household registration book).
- Copy of the temporary registration of the dependant (if they are not on the same household registration book).
- Self-declaration of the taxpayer in the form issued with documents providing guidelines on tax management certified by the people's committee of the commune where the taxpayer is residing that the dependant is living with the taxpayer.
- Self-declaration of the taxpayer in the form issued with documents providing guidelines on tax management certified by the people's committee of the commune where the dependant is residing that the dependant is living in the locality and has no carer (where the taxpayer does not live with the dependant).

(g.5) A foreigner being a resident individual who does not have the documents as guided in each specific case above must have similar legal documents as the basis for proving a dependant.

(g.6) An taxpayer being an employee of an economic organization or of an administrative or professional body who has a parent, spouse, child or other person/s in the category of dependants and such dependant has already been clearly declared in a curriculum vitae of such taxpayer, the file to prove a dependant is implemented in accordance with the guidelines in clause 1(g)1, (g)2, (g)3, (g)4 and (g)5 of this article, or only needs a registration for dependants in the form issued with documents providing guidelines on tax management certified by the head of the entity on the left of the form.

The head of the entity is only responsible for the full name of the dependant, year of birth and relationship with the taxpayer; the taxpayer himself or herself declares and bear responsibility for all other information.

(h) Declaration of deductions for a dependant

(h.1) A taxpayer whose income from salary or wages or business income is 9 million dong per month or less is not required to declare dependents.

(h.2) A taxpayer with income from salary or wages or business income above 9 million dong per month declare the dependent/s as follows in order to be granted a deduction for family circumstances:

(h.2.1) Applicable to a taxpayer with income being salary or wages

(h.2.1.1) Registration of dependants

(h.2.1.1.1) Registration of dependants for the first time:

A taxpayer with income being salary or wages prepares two copies of a registration of dependents in the form issued with documents providing guidelines on tax management and send them to the income-paying organization or individual as the basis for assessment of dependant deduction.

The income-paying organization or individual retains one registration and submits one registration to the tax office directly in charge at the same time of submission of personal income tax declarations of the relevant tax declaration period in accordance with the law on tax management.

In the case an individual makes direct tax declaration to the tax office, the individual submits one registration of dependants in the form issued with documents providing guidelines on tax management to the tax office directly in charge of the income-paying organization at the same time of submission of personal income tax declarations of the relevant tax declaration period in accordance with the Law on Tax Management.

(h.2.1.1.2) Registration upon changes to dependants

If there are any changes (increase or decrease) regarding the dependents, the taxpayer prepares a declaration of the amended information on dependants in the form issued with documents

providing guidelines on tax management and send it to the income-paying organization or individual, or to the tax office in the case the taxpayer makes direct tax declaration to the tax office.

(h.2.1.2) Location and time-limits for submitting files proving dependency:

- The location for submitting files proving dependency is the location where the taxpayer submits the registration of dependents.

Income-paying entities are responsible for keeping files proving dependency and for presenting them upon tax check or inspection by the tax office.

- The time-limit for submitting files proving dependency is within three months from the date of submission of dependent registration declaration forms (including the case of registration of changes to dependents).

Any taxpayer who fails to submit the file with evidence proving dependency within the above-mentioned time-limit shall not be allowed any deduction for dependents and the amount of tax payable shall be adjusted.

(h.2.2) Applicable to a taxpayer with business income

(h.2.2.1) Registration of dependants

(h.2.2.1.1) A business individual paying tax by the declaration method registers dependents in the form issued with documents providing guidelines on tax management and submits it with the declaration of provisional tax payment to the tax office directly in charge. Where there is a change (increase or decrease in the number) of dependents, the taxpayer declares the changes of dependents in the form issued with documents providing guidelines on tax management and submits it to the tax office directly in charge

(h.2.2.1.2) A business individual paying tax on the basis of a fixed level of turnover declares for deductions for family circumstances for dependents in the declaration of fixed level of tax.

(h.2.2.2) The time-limit for submitting files proving dependency is within three months from the date of declaration for deductions for family circumstances (including the case of

increase or decrease of dependents or starting a new business).

(h.2.2.3) Any taxpayer who fails to submit the file with evidence proving dependency within the above-mentioned time-limit shall not be allowed any deduction for dependents and the amount of tax payable shall be adjusted. In the case of a business individual paying tax on the basis of a fixed level of turnover, the amount of tax fixed shall be adjusted.

- (i) A taxpayer is only required to register and submit a file with evidence proving dependency of any one dependent on one occasion only throughout the entire time when this deduction is assessed. In a case of a taxpayer changing his or her working or business location, registration and submission of the file with evidence proving dependency are carried out as in the case of registration of dependents for the first time as guided in clause 1(h)2.1.1.1 of this article.

## 2. Deductions for insurance and voluntary superannuation fund contributions

- (a) Insurance contributions comprise social insurance, health insurance, unemployment insurance, and professional indemnity insurance for the occupations and lines of business for which such insurance is mandatory.
- (b) Contributions to voluntary superannuation funds

Contributions to voluntary superannuation funds are deductible from taxable income in the amounts actually contributed, but shall not exceed one million dong/month (12 million dong/year) for an employee who participate in voluntary superannuation products in accordance with guidelines of the Ministry of Finance, including the case of [one employee] participating in more than one fund. The basis for determination of deductible income is copy of the money payment (or fee payment) voucher issued by the voluntary superannuation fund.

Example 11: Mr Y contributes to voluntary superannuation funds via execution of insurance contracts with insurers or enterprises permitted to provide voluntary superannuation products. In the case these voluntary superannuation products comply with regulations of the Ministry of Finance and are approved by the Ministry of Finance for implementation, Mr Y has the following deductions from taxable income:

- If the contribution to voluntary superannuation funds of an employee is VND 800,000/month, equivalent to VND 9,600,000/year, the deductible amount from taxable income is VND 9,600,000/year.
- If the contribution to voluntary superannuation funds is VND 2,000,000/month, equivalent to VND 24,000,000/year, the deductible amount of contribution to voluntary superannuation funds of the employee is VND 12,000,000/year.

- (c) Foreigners who are resident individuals in Vietnam and Vietnamese who are resident individuals but work overseas and have business income [and/or] salary or wages overseas and who pay compulsory insurance premiums in accordance with provisions of the law of the country of which such individual is a national or where such individual works that are similar to

the provisions of the law on Vietnam such as social insurance, health insurance, unemployment insurance, compulsory professional indemnity insurance and other compulsory insurance (if any), are entitled to deduct such premiums from their taxable business income [and/or] salary or wages when assessing personal income tax.

Individual foreigners and Vietnamese paying the above insurance premiums overseas shall be entitled to a provisional deduction as soon as they earn income for the purposes of deducting tax within any one year (if they have vouchers) and the official amount paid is calculated if the individual conducts tax finalization in accordance with regulations. If they do not have vouchers in order to make provisional deductions during the year, they shall be entitled to a one-off deduction on conducting tax finalization.

- (d) Insurance premiums and contributions to voluntary superannuation funds paid in any one year shall be deductible from taxable income of that year.
- (dd) Evidence proving the above mentioned deductible insurance amounts are copy of receipts from the insurance body or certification from the income-paying entity (where such entity pays the premiums on behalf of the individual) of the insurance monies withheld or already paid.

### 3. Deductions for contributions to charitable, humanitarian or study promotional funds

- (a) Contributions to charitable, humanitarian or study promotional funds may be deducted from taxable income in the case of business income and/or income being salary prior to assessing tax payable by a resident individual comprise:
  - (a.1) Contributions to organizations and establishments caring for and raising children from an especially difficulty background, and disabled people and old and feeble people without any support.

These organizations and establishments must have been established and must operate pursuant to Decree 68-2008-ND-CP of the Government dated 30 May 2008 on the conditions and procedures for establishment, organization, operation and dissolution of social protection establishments; Decree 81-2012-ND-CP of the Government dated 8 October 2012 amending and supplementing Decree 68-2008-ND-CP of the Government dated 30 May 2008 on the conditions and procedures for establishment, organization, operation and dissolution of social protection establishments, and Decree 109-2002-ND-CP of the Government dated 27 December 2002 amending and supplementing a number of articles of Decree 195-CP of the Government dated 31 December 1994 making detailed provisions of and providing guidelines for a number of articles of the Civil Code on working and rest hours.

Documents proving contributions to organizations and establishments caring for and raising children from an especially difficulty background, and disabled people and old and feeble people without any support are the legal receipts provided by such organizations and establishments.

- (a.2) Contributions to charitable, humanitarian or study promotional funds established and operating pursuant to Decree 30-2012-ND-CP of the Government dated 12 April 2012 on organization and operation of social funds and charitable funds operating for charitable, humanitarian or study promotional purposes and for non-profit making

purposes, and in accordance with other relevant legal instruments on management and use of aid funds.

Documents proving contributions to charitable, humanitarian or study promotional funds are the legal receipts provided by central or provincial level organizations or funds.

- (b) Contributions to charitable, humanitarian or study promotional funds arising in any one year are deductible from taxable income of that same year, and if not fully deducted within such year then they may not be carried forward to taxable income of the next tax assessment year. The maximum amount of deductions shall not exceed tax assessable business income and income being salary or wages of the year in which such contributions were made.

#### **Article 10** *Bases for assessing tax on income from capital investments*

The basis for assessing tax on income from capital investments is assessable income and the tax rate.

1. Assessable income:

Assessable income from capital investments means taxable income receivable by the individual pursuant to guidelines in article 3.2 of this Circular

- 2. The tax rate applicable to income from capital investments in accordance with the flat rate tariff is 5%.
- 3. Time for fixing assessable income

The time for fixing assessable income from capital investments is the time when the income-paying entity pays the income to the taxpayer.

The time for fixing assessable income in a number of particular cases is as follows:

- (a) In the case of income being the increased portion of the value of the capital contribution as guided in article 2.3(d) of this Circular, the time for fixing assessable income from capital investments is the time when the individual actually receives the income upon dissolution of an enterprise, conversion of operational model, division, separation, merger or consolidation of an enterprise or upon withdrawal of capital.
- (b) In the case of income being income recorded as a capital increase as guided in article 2.3(g) of this Circular, the time for fixing assessable income from capital investments is the time when the individual transfers capital or withdraws capital.
- (c) In the case of income being dividends paid in shares as guided in article 2.3(g) of this Circular, the time for fixing income from capital investments is the time when the individual transfers the shares.
- (d) In the case of an individual with income from offshore capital investments in any form, the time for fixing assessable income is the time when the individual receives such income.

4. Method of assessing tax



$$\begin{array}{ccccc} \text{Amount of income tax} & & & & \\ \text{payable by the} & = & \text{Assessable} & \times & \text{Tax rate of} \\ \text{individual} & & \text{income} & & 5\% \end{array}$$

**Article 11** *Basis for assessing tax on income from capital transfers*

1. In the case of income from transfer of a capital contribution portion

The basis for assessing tax on income from transfer of a capital contribution portion is assessable income and the tax rate.

- (a) Assessable income: Assessable income from a transfer of a capital contribution portion is fixed as equal to the transfer price less the purchase price of the capital contribution portion and less reasonable expenses related to creation of income from such capital transfer.

In the case an enterprise performs its accounting operations in a foreign currency and the individual transfers its capital contribution portion in a foreign currency, the transfer price and the purchase price of the capital contribution portion is fixed in such foreign currency. In the case an enterprise performs its accounting operations in Vietnamese Dong and the individual transfers its capital contribution portion in a foreign currency, the transfer price must be determined in Vietnamese Dong at the average trading rate on the interbank foreign currency market as published by the State Bank of Vietnam at the time of the transfer.

(a.1) Transfer price

Transfer price means the amount of money receivable by the individual pursuant to the capital transfer contract.

If the transfer contract does not stipulate the payment price or if it stipulates a payment price which is inconsistent with the market price, then the tax office shall have the right to fix the transfer price in accordance with the law on tax management.

(a.2) Purchase price

Purchase price of a capital contribution portion is the value of the capital contribution portion at the time of capital transfer.

The value of the capital portion at the time of transfer comprises the value of the capital contribution portion for establishment of an enterprise, value of additional contributions to the capital portion, value of the capital portion redeemed and value of the capital portion from income recorded as a capital increase. In particular:

- (a.2.1) In the case of the capital contribution portion for establishment of an enterprise, it is the value of the capital contribution portion at the time of capital contribution. The value of contributed capital is determined based on accounting books, invoices and vouchers.
- (a.2.2) In the case of an additional capital contribution portion, it is the value of the additional capital contribution portion at the time the additional capital is contributed. The value of additional capital contribution is determined based on accounting books, invoices and vouchers.

- (a.2.3) In the case of a capital portion redeemed, it is the value of such capital portion at the time of redemption. The purchase price is determined based on the contract for redemption of the capital contribution portion. Where the contract for redemption of the capital contribution portion does not stipulate the payment price or if it stipulates a payment price which is inconsistent with the market price, then the tax office shall have the right to fix the price of redemption in accordance with the law on tax management.
- (a.2.4) In the case of the capital from income recorded as a capital increase, it is the value of the income recorded as a capital increase.
- (a.3) Related expenses deductible upon determination of taxable income of a capital transfer are reasonable expenses actually arising related to creation of income from capital transfer and which have legal source documents and an invoice according to regulations, and specifically as follows:
  - (a.3.1) Costs of conducting the necessary legal procedures for the transfer.
  - (a.3.2) Fees and charges payable by the transferor to the State Budget upon carrying out the transfer procedures.
  - (a.3.3) Other expenses directly related to the capital transfer.

(b) Tax rate

The personal income tax rate on income from contributed capital transfers applying accordance with the flat rate tariff is 20%.

(c) Time for fixing assessable income

The time for fixing assessable income is the time when the contract for contributed capital transfer takes effect. In the particular case of capital contribution by a capital contribution portion<sup>1</sup>, the time for fixing assessable income on capital transfer is the time the individual transferor withdraws the capital.

(d) Method of assessing tax

$$\begin{array}{ccccc} \text{Personal income tax} & & & & \text{Tax rate of} \\ \text{payable} & = & \text{Assessable} & \times & 20\% \\ & & \text{income} & & \end{array}$$

2. In the case of income from transfers of securities

The basis for assessing tax on transfers of securities shall be assessable income and the tax rate.

(a) Assessable income:

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<sup>1</sup> This is the literal translation

Assessable income from a transfer of securities is fixed as equal to the selling price of the securities less the purchase price and less reasonable expenses related to the transfer.

(a.1) The selling price of the securities is fixed as follows:

- (a.1.1) The selling price of securities of public companies traded on the Stock Exchange is the implemented price on the Stock Exchange. The implemented price is the securities price determined from the order matching result or the price formed from agreed transactions at the Stock Exchange.
- (a.1.2) In the case of securities of public companies not traded on the Stock Exchange but the ownership of which is transferred via the [ownership] right transfer system of the Securities Depository Centre, the selling price is the price recorded in the securities transfer contract.
- (a.1.3) In respect of securities not falling in the above mentioned cases, the selling price is the actual transfer price recorded in the transfer contract or the nearest price in accordance with the accounting books of the unit having the transferred securities before the time of the transfer.

If there is no transfer price recorded in the transfer contract or if the transfer price recorded is inconsistent with the market price, then the tax office has the right to fix the selling price in accordance with the law on tax management.

(a.2) Purchase price of the securities is fixed as follows:

- (a.2.1) The purchase price of securities of public companies traded on the Stock Exchange is the implemented price on the Stock Exchange. The implemented price is the securities price determined from the order matching result or the price formed from agreed transactions at the Stock Exchange.
- (a.2.2) In the case of securities of public companies not traded on the Stock Exchange but the ownership of which is transferred via the [ownership] right transfer system of the Securities Depository Centre, the purchase price is the price recorded in the securities transfer receipt<sup>2</sup> contract.
- (a.2.3) In the case of securities purchased at an auction, the purchase price of securities is the price recorded on the notice of the winning bid for the shares of the organization carrying out the share auction and the money payment document.
- (a.2.4) In respect of securities not falling in the above mentioned cases, the purchase price is the actual purchase price recorded in the transfer receipt contract or the nearest price in accordance with the accounting

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<sup>2</sup> This is the literal translation.

books of the unit having the transferred securities before the time of the purchase.

If there is no purchase price recorded in the transfer contract or if the purchase price recorded is inconsistent with the market price, then the tax office has the right to fix the purchase price in accordance with the law on tax management.

(a.3) Reasonable expenses which are deductible when fixing taxable income on a transfer of securities are expenses actually arising from the transfer and which have an invoice and vouchers as required by the regulations, and comprise:

(a.3.1) Costs of conducting the necessary legal procedures for the transfer.

(a.3.2) Fees and charges payable by the transferor when conducting transfer procedures.

(a.3.3) Fees for the service of depositing securities as stipulated by the Ministry of Finance and the receipt of the securities company.

(a.3.4) Fees for entrusting the securities for investment, fees for management of the securities portfolio based on the receipt of the trustee.

(a.3.5) Brokerage fees for transfer of the securities.

(a.3.6) Fees for the services of investment consultancy and information provision.

(a.3.7) Fees for transfer or transfer of ownership via the Securities Depository Centre (if any).

(a.3.8) Other expenses with supporting vouchers.

(b) Tax rate and method of assessing tax

(b.1) In the case the tax rate of 20% applies

(b.1.1) Principle of application

An individual transferor of securities to whom the tax rate of 20% applies is an individual who has tax registration and a tax code at the time of performance of tax finalization procedures, and whose assessable income for each type of securities is determinable in accordance with the guidelines in article 11.2(a) of this Circular.

In particular, the purchase price of securities is determined as the total average purchase price of each type of securities sold in the period as follows:

$$\text{Average purchase price of each type of securities sold} = \frac{\text{Cost price at beginning of period} + \text{Cost price arising during period}}{\text{Number of remaining securities at beginning of period} + \text{Number of securities arising during period}} \times \text{Number of securities sold}$$

(b.1.2) Method of assessing tax

$$\text{Personal income tax payable} = \text{Assessable income} \times \text{Tax rate of 20\%}$$

Upon tax finalization, individuals to which the tax rate of 20% applies are entitled to deduct the amount of tax provisionally paid at the rate of 0.1% in the tax assessment year.

(b.2) In the case the tax rate of 0.1% applies

Any individual who transfers securities must provisionally pay tax at the rate of 0.1% on the transfer price of securities on each occasion, including the cases where and the tax rate of 20% applies.

Method of assessing tax

$$\text{Personal income tax payable} = \text{Transfer price of securities on each occasion} \times \text{Tax rate of 0.1\%}$$

(c) Time for fixing assessable income

The time for fixing assessable income on transfers of securities is determined as follows:

- (c.1) In the case of securities of public companies traded on the Stock Exchange, the time the tax payer receives the income from transfer of the securities.
- (c.2) In the case of securities of public companies not traded on the Stock Exchange but the ownership of which is transferred via the [ownership] right transfer system of the Securities Depository Centre, the time the securities ownership is transferred at the Securities Depository Centre.
- (c.3) In the case of securities not covered by the above provisions, the time the securities transfer contract takes effect.
- (c.4) In the case of capital contribution by securities and no tax was paid at the time of contribution, the time for fixing the income on the transfer of securities for capital contribution is the time the individual transfers capital or withdraws capital.

(d) In the case of receipt of dividends paid in shares

In the case of receipt of dividends paid in shares, the individual does not have to pay personal income tax upon receipt of the shares. Upon transfer of these shares, the individual must pay personal income tax on the income from capital investment and income from securities transfer, and specifically as follows:

- (d.1) The basis to determine the amount of personal income tax payable on the income from capital investment is the value of the dividends recorded on accounting books or the number of shares actually received multiplied (x) by the par value of such share and the personal income tax rate on income from capital investment.

In the case the transfer price of shares received in lieu of dividends is lower than the par value, the personal income tax on capital investment is assessed based on the market price at the time of transfer.

After receiving dividends paid in shares, if the individual transfers shares of the same type, personal income tax shall be declared and paid on the shares received in lieu of dividends until all the shares received in lieu of dividends has been [transferred].

- (d.2) The basis to determine the amount of personal income tax payable on income from transfers of securities is fixed in accordance with the guidelines in clause 2(b) of this article.

Example 12: Mr K is a shareholder of Shareholding Company X (listed on the Stock Exchange). In 2011, Mr K received 5,000 dividends paid in shares of Mr X (the par value of each share is 10,000 dong). In February 2014, Mr K transfers 2,000 shares of Company X at the price of 30,000 dong/share. In August 2014, Mr K transfers 7,000 shares of Company X at the price of 20,000 dong/share.

Upon such transfers, Mr K must pay personal income tax on the income from capital investment and income from securities transfer, and specifically as follows:

\* For the transfer in February 2014

- Personal income tax on income from capital investment:  
 $(2,000 \text{ shares} \times 10,000 \text{ dong}) \times 5\% = 1,000,000 \text{ dong}$
- Personal income tax (paid provisionally) on income from securities transfer:  
 $(2,000 \text{ shares} \times 30,000 \text{ dong}) \times 0.1\% = 60,000 \text{ dong}$

\* For the transfer in August 2014

- Personal income tax on income from capital investment:  
 $(3,000 \text{ shares} \times 10,000 \text{ dong}) \times 5\% = 1,500,000 \text{ dong}$
- Personal income tax (paid provisionally) on income from securities transfer:  
 $(7,000 \text{ shares} \times 20,000 \text{ dong}) \times 0.1\% = 140,000 \text{ dong}$

## **Article 12** *Basis for tax assessment on income from transfers of real property*

The basis for assessing tax on income from a real property transfer shall be assessable income and the tax rate.

### **1. Assessable income**

- (a) Assessable income from transfer of land use right without construction work on the land is fixed as equal to the transfer price less (-) the prime cost and less relevant reasonable expenses.

#### **(a.1) Transfer price**

Transfer price of the land use right means the actual price recorded in the transfer contract at the time of the transfer.

If the actual price is indeterminable or if the transfer price recorded in the transfer contract is less than the land price provided by the provincial people's committee at the time of the transfer, then the transfer price is determined according to the list of land prices provided by the provincial people's committee.

#### **(a.2) Prime cost:**

Prime cost in a transfer of a land use right is fixed in a number of specific cases as follows:

- (a.2.1) In the case of land originally allocated by the State with collection of land use fees, the prime cost is based on the vouchers collecting such land use fees by the State.
- (a.2.2) In the case of land of land originally allocated by the State with exemption or reduction of land use fees, the prime cost of the transferred land is determined in accordance with the price stipulated by the provincial people's committee at the time of land allocation.
- (a.2.3) In the case of land for which the land use right is received from an organization or individual, the prime cost is based on the price recorded in the transfer contract at the time of receipt of the land use right transfer.
- (a.2.4) In the case of auction of a land use right for transfer, the prime cost is the amount of money payable in accordance with the winning auction bid.
- (a.2.5) In the case of land the origin of which is not covered in the above cases, the prime cost is based on the vouchers evidencing performance of financial obligations to the State upon issuance of the certificate of land use right, ownership of residential house and other assets attached to land.

#### **(a.3) Relevant reasonable expenses**

Relevant reasonable expenses which are deductible when determining income from transfer of a land use right means actual expenses arising and related to the transfer

which have legal source documents and an invoice as required by regulations, comprising:

- (a.3.1) Fees and charges as stipulated by law relating to issuance of the land use right and which the transferor paid to the State Budget.
  - (a.3.2) Costs (if any) of upgrading and levelling the land surface.
  - (a.3.3) Other expenses directly related to transfer of the land use right such as fees for conducting legal procedures for the transfer, and fees for hiring surveyors.
- (b) Assessable income from transfer of a land use right attached to construction works on the land, including construction works to be formed in the future, is determined as the transfer price less (-) the prime cost and relevant reasonable expenses.
- (b.1) Transfer price

Transfer price is the actual price recorded in the transfer contract at the time of the transfer.

If the actual price is not recorded in the transfer contract or if the price recorded in the transfer contract is less than the price provided by the provincial people's committee, then the transfer price is fixed in accordance with the list of land prices and prices for calculation of housing registration fees provided by the provincial people's committee at the time of the transfer.

In the case where the provincial people's committee does not provide the prices for calculation of housing registration fees, the transfer price is based on regulations of the Ministry of Construction on classification of houses, standards and fixed rates for capital construction, and the actual residual value of the construction works on the land.

For construction works to be formed in the future, the basis for determination is the ratio of capital contribution over the total contract value multiplied by (×) the prices for calculation of registration fees provided by the provincial people's committee. If the provincial people's committee has not issued a list of unit prices, the rate of invested capital for construction of works published by the Ministry of Construction current at the time of the transfer shall apply.

- (b.2) Prime cost:

Prime cost is determined based on the sum recorded in the transfer contract at the time of the purchase. In the case of real properties not originating from being transferred, the prime cost is based on the vouchers evidencing performance of financial obligations to the State upon issuance of the certificate of land use right, ownership of residential house and other assets attached to land.

- (b.3) Relevant reasonable expenses



Relevant reasonable expenses which are deductible when determining income from transfer of a land use right means actual expenses arising and related to the transfer which have legal source documents and an invoice, comprising:

- (b.3.1) Fees and charges as stipulated by law relating to issuance of the land use right which the transferor paid to the State Budget.
  - (b.3.2) Costs of upgrading and levelling the land surface.
  - (b.3.3) Costs of building, upgrading, improving and repairing the infrastructure and architectural works on the land.
  - (b.3.4) Other expenses directly related to the transfer such as fees for conducting legal procedures for the transfer, and fees for hiring surveyors.
- (c) Assessable income from transfer of ownership of a residential house, including a residential house to be formed in the future.

Assessable income from transfer of ownership of a residential house is fixed as equal to the selling price less (-) the purchase price and less relevant reasonable expenses.

(c.1) Selling price

Selling price is the actual transfer price determined in accordance with the market price and recorded in the transfer contract.

If the price for the house transfer in the transfer contract is less than the price for calculation of housing registration fees as issued by the provincial people's committee at the time of the transfer, or if the price for the house transfer is not included in the transfer contract, then the If the price for the house transfer is determined in accordance with the price for calculating registration fees as issued by the provincial people's committee.

(c.2) Purchase price

Purchase price is determined based on the price recorded in the purchase contract. If a residential house does not originate from being transferred or purchased, the basis shall be the vouchers evidencing the performance of financial obligations to the State upon issuance of the certificate of land use right, ownership of residential house and other assets attached to land.

(c.3) Relevant reasonable expenses

Relevant expenses which are deductible means expenses actually arising from the transfer and which have legal source vouchers and an invoice, comprising:

- (c.3.1) Fees and charges as stipulated by law relevant to issuance of the right to use the house which the transferor paid to the State Budget.
- (c.3.2) Costs of repairing, improving and upgrading the house.
- (c.3.3) Other expenses directly related to the transfer.

(d) Assessable income from transfer of a lease right to land or a water surface

Assessable income from a transfer of a lease right to land or a water surface is fixed as equal to the price of the sub-lease less (-) rent cost and less relevant expenses.

(d.1) Price of the sub-lease

Price of the sub-lease is determined as the actual price recorded in the contract at the time of the transfer of the lease right to the land or water surface.

If the unit price of the sub-lease recorded in the contract is less than the price stipulated by the provincial people's committee at the time of the sub-lease, then such price shall be based on the List of rent prices issued by the provincial people's committee.

(d.2) Rent price

Rent price is determined based on the lease contract.

(d.3) Relevant reasonable expenses

Relevant expenses which are deductible means expenses actually arising from the transfer of the lease right and which have legal source vouchers and an invoice, comprising:

(d.3.1) Fees and charges as stipulated by law relevant to issuance of the lease right to the land or water surface which the transferor paid to the State Budget;

(d.3.2) Costs of upgrading the land or water surface;

(d.3.3) Other expenses directly related to the transfer of the lease right to the land or water surface.

2. Tax rate

The tax rate applicable to income from a real property transfer is twenty five per cent (25%) of assessable income.

If the taxpayer fails to determine or does not have documents to determine the prime cost, purchase price or rent price, or legal vouchers to determine relevant expenses as the basis for determining assessable income, then the tax rate of two per cent (2%) of the transfer price, selling price or price of the sub-lease shall apply.

3. Time for fixing assessable income

The time for fixing assessable income on a real property transfer is the time when the individual carries out procedures for the real property transfer in accordance with law.

4. Method of assessing tax

- (a) In the case the assessable income is determinable, personal income tax on income from a real property transfer is assessed as follows:

$$\text{Personal income tax payable} = \frac{\text{Assessable income}}{\text{income}} \times \text{Tax rate of 25\%}$$

- (b) If the taxpayer fails to determine or does not have documents to determine the prime cost, purchase price or rent price, or legal vouchers to determine relevant expenses of the transfer of the real property as the basis for determining assessable income, then personal income tax is determined as follows:

$$\text{Personal income tax payable} = \text{Transfer price} \times \text{Tax rate of 2\%}$$

- (c) If co-owners transfer real property, tax obligations is calculated in respect of each individual corresponding to their ratio of ownership of the real property. The basis for determination of the ratio of ownership is legal data such as the initial capital contribution agreement, the will, or decision on distribution by a court and so forth. In a case where there is no such legal data then the tax obligation of each taxpayer is determined based on the average ratio.

### **Article 13** *Basis for tax assessment on income from copyright*

The basis for assessing tax on income from copyright shall be assessable income and the tax rate.

#### **1. Assessable income**

Assessable income on income from copyright means that part of the income which exceeds ten million (10,000,000) dong pursuant to the transfer contract, irrespective of the number of times payment is actually made or received, and as receivable by the taxpayer on the transfer of, or transfer of use right to, objects of the intellectual property right or technology.

If the one object of intellectual property right or technology transfer is transferred but in a number of different contracts of transfer or transfer of use right with the same user, then assessable income is that part of the income which exceeds ten million dong calculated on all of the contracts of transfer or transfer of use right.

If there are co-owners of the object of the transfer or transfer of use right, then assessable income is allocated between each individual owner. The rate of allocation is based on the certificate of ownership or of use right issued by the competent State authority.

2. The personal income tax rate on income from copyright applying accordance with the flat rate tariff is 5%.
3. Time for fixing assessable income

The time for fixing assessable income on income from copyright is the time when royalties are paid.

#### **4. Method of assessing tax**

$$\text{Personal income tax payable} = \frac{\text{Assessable income}}{\text{income}} \times \text{Tax rate of 5\%}$$

#### **Article 14** *Basis for tax assessment on income from commercial franchises*

The basis for assessing tax on income from a commercial franchise shall be assessable income and the tax rate.

1. Assessable income

Assessable income on income from a commercial franchise means that part of the income which exceeds ten million (10,000,000) dong pursuant to the franchise contract, irrespective of the number of times payment is actually made to, or received by the taxpayer.

If the one commercial franchise object is transferred but in a number of different contracts, then assessable income shall be that part of the income which exceeds ten million dong calculated on all of the commercial franchise contracts.

2. Tax rate

The personal income tax rate on income from a commercial franchise applying accordance with the flat rate tariff is 5%.

3. Time for fixing assessable income

The time for fixing assessable income on income from a commercial franchise is the time of payment of the money for the commercial franchise between the franchisor and franchisee.

4. Method of assessing tax

$$\begin{array}{ccccc} \text{Personal income tax} & & & & \\ \text{payable} & = & \text{Assessable} & \times & \text{Tax rate of 5\%} \\ & & \text{income} & & \end{array}$$

#### **Article 15** *Basis for tax assessment on income being winnings or prizes*

The basis for assessing tax on income being winnings or prizes shall be assessable income and the tax rate.

1. Assessable income

Assessable income on winnings or prizes means that part of the value of the prize which exceeds ten million (10,000,000) dong as receivable by the taxpayer on each occasion of winning a prize, irrespective of the number of times payment is actually received.

If a number of people win [share] the one prize, then assessable income is allocated to each prize-winner. Prize winners must present legal evidence of the win, and if there is no such legal evidence then income being the prize is calculated as for one individual. If an individual wins a number of prizes during the one game, then assessable income is calculated on the total value of the prizes.

Assessable income in a number of specific cases of games with prizes is as follows:

- (a) In the case of lottery winnings, it is the total value of the monetary prize exceeding ten million dong which is receivable on one (01) lottery ticket in one round of draw, without deducting any expenses.

(b) In the case of winning a promotional prize in kind, it shall be the value of the promotional product which exceeds ten million dong as converted into money in accordance with market value at the time the prize is receivable, without deducting any expenses.

(c) In the case of winnings in all forms of betting and casino, winning in all types of games at a point for entertainment and gaming with prizes:

(c.1) In the case of winnings in all forms of betting, it is the total value of the monetary prize exceeding ten million dong which is receivable by the participant, without deducting any expenses.

(c.2) In the case of winnings in casinos, winning in all types of games at a point for entertainment and games with prizes, it is the total value of the monetary prize exceeding ten million dong which is receivable by an individual from winning in one play, in particular:

(c.2.1) Income from winnings in one play is the difference between the amount of cash received back by the player (cash out) less the amount of cash paid (cash in) in one play.

If the income being winnings is in a foreign currency, it must be converted into Vietnamese dong at the foreign currency rate published by the State Bank and is effective at the time such income arises.

(c.2.2) Method of determining the amount of cash out and cash in in one play is as follows:

(c.2.2.1) In games using tokens (chips, intermediate chips and token coins in accordance with the Regulations on Financial Management of Business Operations of Games with Prizes of the Ministry of Finance):

(c.2.2.1.1) The amount of cash out in one play is the total value of all the exchanges of chips/token coins for cash by a player throughout one play.

(c.2.2.1.2) The amount of cash in in one play is the total value of all the exchanges of cash for chips/token coins by a player throughout one play.

The basis for determination of the cash out and cash in in one play is exchange invoices for customers (in the form issued with the Regulations on Financial Management of Business Operations of Games with Prizes of the Ministry of Finance), invoices and vouchers in accordance with applicable laws on accounting.

Example 13: From the time of entry into to the time of exit from a point for entertainment and gaming with prizes, Mr M exchanges cash for chips 3 times, with the total value of all these 3

exchanges being US\$ 500, and exchanges chips for cash 2 times, with the total value of these 2 exchanges being US\$ 700. Based on these exchanges, the income being winnings and assessable income of Mr M are determined as follows:

- Income being winnings = US\$ 700 – US\$ 500 = US\$ 200.
- Assessable income = US\$ 200 × US\$/VND rate - 10 million dong

(c.2.2.2) In the case of players playing with automatic gaming machines using cash:

(c.2.2.2.1) The amount of cash received back by a player in one play is the total value of cash withdrawn from the gaming machine (cash out) upon the end of the play less the jackpot (if any).

(c.2.2.2.2) The amount of cash in in one play is the total value of all the key in / cash in times throughout one play.

In the particular case of winning jackpots, regular prizes for lucky customers or other similar forms, the income from winning is the total value of the prize, without deducting any expenses.

Example 14: Mr N plays directly with an automatic gaming machine using cash. In one play, Mr N keyed in two times, with the total value of the key in times being US\$ 300. When ending the play, Mr N withdraws all the remaining amount from the gaming machine, and the total amount of cash out is US\$ 1,500. In that play, Mr N also wins a jackpot prize of US\$ 1,000 (the value of the jackpot prize was already included in the cash out). Based on the cash in and cash out, the income being winnings and assessable income of Mr N comprise two amounts as follows:

- Income being winning from the jackpot prize of Mr N is the total value of the jackpot prize:
  - + Income being winning = US\$ 1,000
  - + Assessable income = US\$ 1000 × US\$/VND rate - 10 million dong.

- Income being winning from Mr B's play with the automatic gaming machine is:
- + Income being winning:
  - = US\$ 1500 - US\$ 1000 - US\$ 300 = US\$ 200.
- + Assessable income:
  - = US\$ 200 × US\$/VND rate - 10 million dong.

(c.2.3) In the case the organization paying prizes for electronic games with prizes or the casino is unable to determine the taxable income of winning individuals for tax withholding in accordance with the guidelines in clause 1(c)2 of this article, it shall pay tax on behalf of winning individuals at a fixed rate on the amount of cash out. Organizations paying prizes for electronic games with prizes and casinos which apply payment of personal income tax at fixed tax rates must register with the tax office and adjust the payment mechanism for customers with winning being after tax income and display [such mechanism] publicly at the point for entertainment and gaming with prizes. Fixed tax rates are implemented in accordance with separate guidelines of the Ministry of Finance.

(c.2.4) "One play" is defined as follows:

- In the case of playing using tokens, the play starts when the player enters the point for entertainment and gaming with prizes and ends when such player leaves the point for entertainment and gaming with prizes.
- In the case of playing with automatic gaming machines using cash, the play starts when the player keys in / cashes in and ends when the player cashes out.
- In the case of winning jackpots, regular prizes for lucky customers or other similar forms, each winning is considered a separate play.

(d) In the case of winning in games and competitions with prizes, each time the winner receives a prize is considered a play. The value of the prize is the total value of the monetary prize exceeding ten million dong which is receivable by the player, without deducting any expenses.

2. The personal income tax rate on income being winnings or prizes applying in accordance with the flat rate tariff is 10%.
3. Time for fixing assessable income

The time for fixing assessable income on winnings or prizes shall be the time when the organization or individual pays the prize to the winner.

4. Method of assessing tax

$$\text{Personal income tax payable} = \text{Assessable income} \times \text{Tax rate of 10\%}$$

**Article 16** *Basis for tax assessment on an inheritance or gift*

The basis for assessing tax on income from an inheritance or gift shall be assessable income and the tax rate.

1. Assessable income

Assessable income from an inheritance or gift means that part of the value of the inherited or donated assets which exceeds ten million (10,000,000) dong on each occasion of receipt. The value of inherited or donated assets in a number of specific cases is determined as follows:

- (a) In the case of inheritance or receipt of a gift of securities: the value of the inherited assets is the value of the securities at the time of registration of the transfer of ownership, specifically as follows:
  - (a.1) In the case of securities traded on the Stock Exchange: the value of securities is based on the reference price at the Stock Exchange at the time of registration of securities ownership.
  - (a.2) In the case of securities not covered in the above provision: the value of securities is based on the value recorded in the accounting books of the company issuing such class of securities at the time nearest to the time of registration of securities ownership.
- (b) In the case of an inheritance or gift of a capital contribution portion in an economic organization or business establishment: the assessable income is the value of such capital contribution portion determined on the basis of the accounting books of the company at the nearest time to the registration of ownership of the capital contribution portion.
- (c) In the case of an inheritance or gift of real property: the value of the real property is determined as follows:
  - (c.1) In the case of real property being a land use right, the value of the land use right is determined based on the List of land prices issued by the provincial people's committee at the time when the individual conducts produces for registration of the real property use right.
  - (c.2) In the case of a house and architectural work on the land, the value of the real property is determined based on regulations of the competent State administrative authority on classification of house values; on standards and fixed rates for capital construction issued by the competent State administrative authority; and on the actual residual value of the house and architectural work at the time of ownership registration.

If [the value] is indeterminable on the basis of the above provisions, then it shall be based on the price for calculating registration fees as stipulated by the provincial people's committee.



(d) In the case of an inheritance or gift of other assets the ownership or use right to which must be registered with State administrative authorities: the value of the asset is based on the list of prices for calculating registration fees issued by the provincial people's committee at the time when the individual conducts procedures for registration of the ownership of or use right to the inherited asset or gift.

2. Tax rates: The tax rate applicable to income being an inheritance or gift applying in accordance with the flat rate tariff is ten per cent (10%).

3. Time for fixing assessable income

The time for fixing assessable income being an inheritance or gift is the time when the individual conducts procedures for registration of ownership of or the use right to the inherited asset or gift.

4. Method of assessing the amount of tax payable

$$\text{Personal income tax payable} = \text{Assessable income} \times \text{Tax rate of 10\%}$$

### CHAPTER 3

#### Basis Of Tax Assessment Applicable To Non-Resident Individuals

##### **Article 17** *In the case of business income*

Personal income tax on business income of a non-resident individual is determined as equal turnover from manufacturing and business activities multiplied (×) by the tax rate.

1. Turnover:

Turnover from business activities of a non-resident individual is determined the same as for the turnover used as the basis for tax assessment from business activities of resident individuals as guided in article 8.1 of this Circular.

2. Tax rates

The personal income tax rate applicable to business income of a non-resident individual is stipulated for each particular sector and line of manufacture and business as follows:

(a) 1% applicable to business in goods.

(b) 5% applicable to business in services.

(c) 2% applicable to manufacturing, construction, transportation and other business activities.

If a non-resident individual has turnover from a number of sectors and lines of manufacture and business and is unable to separate turnover from each, then the highest tax rate applicable to any one of such sectors and lines in which the individual actually conducts activities applies to the entire turnover.

**Article 18** *In the case of income being salary or wages*

1. Personal income tax on income being salary or wages of a non-resident individual is fixed as equal to taxable income from such salary or wages multiplied (×) by the tax rate of 20%.
2. Taxable income being salary or wages of a non-resident individual is determined the same as for personal income taxable income being salary or wages of a resident individual as guided in article 8.2 of this Circular.

Personal income taxable income from salary or wages in Vietnam where a non-resident individual works both in Vietnam and overseas at the same time but the income arising from Vietnam is inseparable is determined in accordance with the following formula:

(a) In the case the foreign individual is not present in Vietnam:

$$\begin{array}{l} \text{Total income} \\ \text{arising in} \\ \text{Vietnam} \end{array} = \frac{\begin{array}{l} \text{Number of days working on the} \\ \text{work in Vietnam} \end{array}}{\begin{array}{l} \text{Total number of working days in} \\ \text{the year} \end{array}} \times \begin{array}{l} \text{Global income from} \\ \text{salary or wages} \\ \text{(before tax)} \end{array} + \begin{array}{l} \text{Other taxable} \\ \text{income (before tax)} \\ \text{arising in Vietnam} \end{array}$$

Of which: The total number of working days in the year is calculated in accordance with the regime provided in the Labour Code of Vietnam.

(b) In the case the foreign individual is present in Vietnam:

$$\begin{array}{l} \text{Total income} \\ \text{arising in} \\ \text{Vietnam} \end{array} = \frac{\begin{array}{l} \text{Number of days} \\ \text{present in Vietnam} \end{array}}{365 \text{ days}} \times \begin{array}{l} \text{Global income from} \\ \text{salary or wages} \\ \text{(before tax)} \end{array} + \begin{array}{l} \text{Other taxable income} \\ \text{(before tax) arising in} \\ \text{Vietnam} \end{array}$$

Other taxable income (before tax) arising in Vietnam mentioned in sub-clauses (a) and (b) above means other benefits in monetary or non-monetary form which the employee is entitled to in addition to the salary or wages, paid by the employer to or on behalf of the employee.

**Article 19** *In the case of income from capital investments*

Personal income tax on income from capital investments of a non-resident individual is fixed as equal to the total assessable income receivable by such non-resident individual from capital investments in organizations or individuals in Vietnam multiplied (×) by the tax rate of 5%

Taxable income and the time for fixing taxable income from capital investments of a non-resident individual shall be determined the same as applicable to taxable income and the time for fixing taxable income from capital investments of a resident individual in the guidelines in articles 10.1 and 10.3 of this Circular.

**Article 20** *In the case of income from capital transfers*

1. Personal income tax on income from capital transfers made by a non-resident individual is fixed as equal to the total amount of money receivable by such individual from capital transfers in Vietnamese organizations or individuals multiplied (×) by the tax rate of 0.1%, irrespective of whether the transfer was implemented in Vietnam or overseas.

The total amount of money receivable by a non-resident individual from transfer of a capital portion in a Vietnamese organization or individual means the total value of the transfer without deducting any expenses including the prime cost.

2. The price of transfer is determined as follows for each specific case:
  - (a) In the case of transfer of a capital contribution portion, the transfer price is fixed the same as for a resident individual as guided in article 11.1(a)1 of this Circular.
  - (b) In the case of a transfer of securities, the transfer price is fixed the same as for a resident individual as guided in article 11.2(a)1 of this Circular.
3. Time for fixing assessable income:
  - (a) In the case of income from a capital transfer of a non-resident individual, when the capital contribution transfer contract takes effect.
  - (b) In the case of transfer of securities of a non-resident individual, [such price] is fixed the same as for a resident individual as guided in article 11.2(c) of this Circular.

**Article 21** *In the case of income from real property transfer*

1. Personal income tax on income from a real property transfer in Vietnam by a non-resident individual is fixed as equal to the real property transfer price multiplied (×) by the tax rate of 2%

The real property transfer price of a non-resident individual means the total amount receivable by the non-resident individual from the real property transfer, without deducting any expenses including the prime cost.

2. Real property transfer price by a non-resident individual in specific cases is fixed the same as that for a resident individual in the guidelines in articles 12.1(a)1, (b)1, (c)1 and (d)1 of this Circular.
3. The time for fixing income from a real property transfer is the time when the non-resident individual conducts the procedures for the real property transfer in accordance with law.

**Article 22** *In the case of income from royalties and commercial franchises*

1. Tax on income from royalties

- (a) Tax on income from royalties of a non-resident individual is determined as equal to that part of the income which exceeds ten million dong on each contract of transfer or transfer of use right to an intellectual property right or technology transfer object in Vietnam multiplied by the tax rate of 5%.

Income from royalties is fixed in accordance with the guidelines in article 13.1 of this Circular.

- (b) The time for fixing income from royalties is the time when an organization or individual pays the royalties from the transfer to the taxpayer being the non-resident individual.
2. Tax on income from commercial franchises

- (a) Tax on income from a commercial franchise [receivable] by a non-resident individual is determined as that part of the income which exceeds ten million dong pursuant to each franchise contract in Vietnam multiplied by the tax rate of 5%.

Income from commercial franchises is fixed in accordance with the guidelines in article 14.1 of this Circular.

- (b) The time for fixing income from a commercial franchise is the time when the commercial franchise money is paid between the commercial franchiser and the commercial franchisee.

**Article 23** *In the case of income from winnings or prizes, and from receipt of an inheritance or gift*

- 1. Personal income tax on income from winnings or prizes, and from receipt of an inheritance or gift by a non-resident individual is fixed as equal to the assessable income as guided in clause 2 of this article multiplied (×) by the tax rate of 10%.

- 2. Assessable income

- (a) Assessable income from a prize won by a non-resident individual means that part of the value of the prize exceeding ten million dong on each occasion of winning a prize in Vietnam.

Income from prizes won by non-resident individuals is determined the same as for resident individuals in accordance with the guidelines in article 15.1 of this Circular.

- (b) Taxable income from an inheritance or gift receivable by a non-resident individual means that part of the value of the inheritance or gift exceeding ten million dong on each occasion receivable income arises in Vietnam.

Income from an inheritance or gift of a non-resident individual is determined the same as for resident individuals in accordance with the guidelines in article 16.1 of this Circular.

- 3. Time for determining assessable income

- (a) In the case of income from a prize: the time for determining assessable income is the time the organization and individual in Vietnam pays the prize to the non-resident individual.
  - (b) In the case of income from an inheritance: the time for determining assessable income is the time the individual conducts procedures to transfer ownership or use right to the asset in Vietnam.
  - (c) In the case of income from receipt a gift: the time for determining assessable income is the time the individual conducts procedures to register ownership of or use right to the asset in Vietnam

## **CHAPTER 4**

### **Tax Registration, Tax Deduction, Tax Declaration, Tax Finalization, And Tax Refund**

**Article 24** *Tax registration*

- 1. Entities that must conduct tax registration

Pursuant to article 27 of Decree 65-2013-ND-CP, the following must conduct personal income tax registration:

- (a) Income-paying organizations and individuals comprising:
  - (a.1) Business organizations and business individuals including branches, subsidiary entities and affiliated entities which conduct separate cost accounting and have a separate legal entity status.
  - (a.2) All level State administrative bodies.
  - (a.3) Political organizations, socio-political organizations and socio-occupational organizations.
  - (a.4) Professional units.
  - (a.5) International and foreign organizations.
  - (a.6) Project management boards, and representative offices of foreign organizations.
  - (a.7) Other income-paying organizations and individuals.
- (b) Individuals with income subject to personal income tax, comprising
  - (b.1) Individuals with income from manufacturing and business including independent practitioners, and individuals and family households conducting agricultural production who are not exempted from personal income tax. Individuals with income from manufacturing and business conduct personal income tax registration at the same time as they register for other types of taxes.
  - (b.2) Individuals with income from salary or wages, including foreign individuals working for foreign contractors or foreign sub-contractors in Vietnam.
  - (b.3) Individuals transferring real property.
  - (b.4) Individuals with other taxable income (if required).
- (c) Dependents entitled to deductions for family circumstances.

If the entities mentioned in clauses 1(a), 1(b) and 1(c) of this article have already conducted tax registration and been issued with a tax code number, then they shall not be required to conduct new registration. Individuals with a number of types of income subject to personal income tax need only conduct tax registration on one occasion. The tax code number is used to declare tax on all types of income.

## 2. File for tax registration

The procedures and file for tax registration are implemented in accordance with documents providing guidelines on tax management.

## 3. Location for lodging files for tax registration

- (a) The location for lodging files for tax registration is implemented in accordance with documents providing guidelines on tax management.
- (b) Location for lodging files for tax registration in a number of specific cases:
  - (b.1) An individual with taxable income from salary or wages lodges his or her file for tax registration with the income-paying organization or individual or with the tax office directly managing such income-paying organization or individual. The income-paying organization or individual is responsible to collate the declarations from such individuals and lodge them with the tax office directly managing such organization or individual.
  - (b.2) Individuals with a number of income sources: such as from business, salary, wages and other taxable income items may select to lodge their files for tax registration either at the income-paying entity or body, or at the Tax Department in the locality where they conduct business.
  - (b.3) Individuals with other taxable income may lodge their files for tax registration at any tax office.

4. Tax registration in a number of specific cases:

- (a) In the case of a group of business individuals, the representative of the group of business individuals conducts tax registration in accordance with the guidelines for business individuals to be issued with a tax code for himself or herself. The tax code of the representative of the group of business individuals is used to declare and pay value added tax, special sales tax, business registration tax and so forth for the entire group and to declare personal income tax for the representative himself or herself. Other capital-contributing individuals in the group must all conduct tax registration to be issued a separate tax code as for business individuals.
- (b) In the case of an individual transferring real property who does not yet have a tax code, the tax office automatically issues a tax code to the individual based on the personal information in the file for real property transfer.
- (c) In the case of an individual who is a dependent declared for deductions for family circumstances by a taxpayer and who does not yet have a tax code, the tax office automatically issues a tax code to the dependent based on the information of such dependent in the declaration form for registration of deductions for family circumstances (in accordance with the form issued with documents providing guidelines on tax management) of the taxpayer.

**Article 25** *Withholding tax and vouchers for withholding tax*

1. Withholding tax

Withholding tax means the calculation and deduction by the income-paying entity of the amount of tax payable from the income of the taxpayer before paying such income, specifically as follows:

- (a) Income of non-resident individuals

Organizations and individuals paying taxable income to non-resident individuals are responsible for withholding personal income tax before paying income. The amount of tax to

be withheld is determined in accordance with the guidelines in Chapter III (articles 17 to 23 inclusive) of this Circular.

(b) Income from salary or wages

- (b.1) In the case of a resident individual who signs a labour contract for three months or more, the income-paying organization or individual withholds tax in accordance with the progressive tax tariff, including the case where the individual signs contracts for three months or more in more than one locations.
- (b.2) In the case of a resident individual who signs a labour contract for three months or more but who terminates employment before the expiry of the contract, the income-paying organization or individual still withholds tax in accordance with the progressive tax tariff.
- (b.3) In the case of a foreigner individual who enters Vietnam to work, the income-paying organization or individual, based on the working period in Vietnam of the taxpayer recorded in the contract or document of secondment to Vietnam to withhold tax provisionally in accordance with the progressive tax tariff (for individuals working in Vietnam for 183 days or more during the tax assessment year) or the flat rate tariff (for individuals working in Vietnam for less than 183 days during the tax assessment year).
- (b.4) Insurance enterprises and companies managing voluntary superannuation funds are responsible for withholding personal income tax on the accumulated premiums for non-compulsory insurance and accumulated contributions to voluntary superannuation funds as guided in article 7.6 of this Circular.
- (b.5) The amount of tax to be withheld from income being salary or wages of resident individuals is determined in accordance with the guidelines in article 7 of this Circular; and of non-resident individuals, in accordance with article 18 of this Circular.

(c) Income from insurance agency, lottery agency and multi-level sale operations

Lottery companies, insurance enterprises and multi-level sale enterprises paying income to individuals acting as insurance agents or lottery agents, or involved in multi-level sale networks, are responsible for withholding personal income tax before paying income to such individuals. The amount of tax to be withheld is determined in accordance with the guidelines in article 7.5 of this Circular.

(d) Income from capital investments

Income-paying organizations and individuals in accordance with the guidelines in article 2.3 of this Circular are responsible to withhold personal income tax before paying income to individuals except for the case where individuals declare their own tax in accordance with the guidelines in article 26.9 of this Circular. The amount of tax to be withheld is determined in accordance with the guidelines in article 10 of this Circular.

(dd) Income from transfer of securities

On every occasion of a transfer of securities, tax must be withheld at the tax rate of 0.1% on the transfer price prior to making payment to the transferor. In particular, withholding tax is conducted as follows:

(dd.1) In the case of securities traded on the Stock Exchange:

(dd.1.1) The securities company or commercial bank where the individual opens a securities depository account is responsible to withhold personal income tax at the tax rate of 0.1% on the transfer price prior to making payment to the individual. The amount of tax to be withheld is determined in accordance with the guidelines in article 11.2(b)2 of this Circular.

(dd.1.2) The fund management company which is entrusted by the individual to manage the securities portfolio is responsible to withhold personal income tax at the tax rate of 0.1% on the securities transfer price of the individual entrusting the securities portfolio in accordance with the allocation table sent by the company to the depository bank where the company opens its depository account.

(dd.2) In the case of securities transferred not via the trading system on the Stock Exchange:

(dd.2.1) In the case of securities of public companies which have been centrally registered at the Securities Depository Centre:

The securities company or commercial bank where the individual opens a securities depository account withholds personal income tax at the tax rate of 0.1% on the transfer price prior to conducting the procedures for transfer of securities ownership at the Securities Depository Centre.

(dd.2.2) In the case of securities of shareholding companies which are not yet public companies, but the management of the list of shareholders of which is authorised by the securities issuing organization to a securities company:

The securities company authorised to manage the list of shareholders withholds personal income tax at the tax rate of 0.1% on the transfer price prior to conducting the procedures for transfer of securities ownership.

The individual transferring securities must present the transfer contract to the securities company upon conducting the procedures for transfer of securities ownership.

(e) Income from transfer of capital contribution of non-resident individuals

Organizations and individuals receiving capital contribution transferred from non-resident individuals are responsible to withhold personal income tax at the tax rate of 0.1% on the price of transfer of the capital contribution.

(g) Income being prizes



An organization paying a prize is responsible to withhold personal income tax prior to paying such prize to a winning individual. The amount of tax to be withheld is determined in accordance with the guidelines in article 15 of this Circular.

(h) Income from royalties and commercial franchises

The organization or individual which pays income being royalties or income from a commercial franchise is responsible to withhold personal income tax before paying such income to the individual. The amount of tax to be withheld is determined as that part of the income which exceeds ten million dong on each transfer contract multiplied (×) by the tax rate of 5%. In the case of a contract of a large value for which a number of payment were made, the income-paying organization or individual deducts 10 million dong from the value of the first payment and withholds tax at the rate of 5% on the remaining amount. Personal income tax will be withheld on the total amount of each subsequent payment.

(i) Withholding tax in a number of other cases

Income-paying organizations and individuals paying salary, wages and other expenses to resident individuals without entering into a labour contract (in accordance with the guidelines in articles 2.2(c) and 2.2(d) of this Circular) or having entered a labour contract for under three months with the total income paid on each occasion of two million dong (2,000,000 VND) or over must withhold tax at the rate of 10% on the total income prior to making the payment to an individual.

If an individual's sole source of income is income on which tax must be withheld at the rates mentioned above, but the forecast total taxable income of the individual after making deductions for dependants will not reach the tax threshold, then such individual provides an undertaking (on the form issued with the documents providing guidelines on tax management) and send it to the income-paying entity as the basis for such entity to not withhold tax provisionally.

Based on the undertaking of the income receiver, the income-paying organization does not withhold tax. At the end of the tax assessment year, the income-paying organization must still compile a list of individuals whose income has not reached the taxable threshold and their incomes (on the form issued with the documents providing guidelines on tax management) to submit to the tax office. Individuals providing these undertakings must be responsible for their undertakings, and any cases of fraud shall be dealt with in accordance with the *Law on Tax Management*.

Individuals providing undertakings in accordance with the guidelines in this paragraph must conduct tax registration and have a tax code at the time of undertaking.

2. [Tax] withholding vouchers

(a) Organizations and individuals paying income from which tax has been withheld in accordance with the guidelines in clause 1 of this article must issue withholding vouchers at the request of individuals whose tax has been withheld. Withholding vouchers shall not be issued where individuals have authorized tax finalization.

(b) Withholding vouchers are issued in a number of specific cases as follows:

- (b.1) In the case of individuals who do not sign labour contracts or who sign labour contracts for under three months: the individual has the right to request that the income-paying organization or individual issue withholding vouchers for each occasion of withholding tax or issue one withholding voucher for many occasions of withholding tax during one tax assessment period.

Example 15: Mr Q signs a service contract with Company X to take care of the ornamental plants on the Company's premises once a month during the period from September 2013 to April 2014. The income of Mr Q is paid by the Company on a monthly basis in the amount of 3 million dong. In this case, Mr Q may request that the Company issue withholding vouchers for every month or issue one voucher reflecting the amount of tax withheld from September to December 2013 and one voucher for the period from January to April 2014.

- (b.2) In the case of individuals who sign labour contracts for three months or over: the income-paying organization or individual issues one withholding voucher only to an individual during one tax assessment period.

Example 16: Mr R signs a long term labour contract (from September 2013 to the end of August 2014) with Company Y. In this case, if Mr R is required to conduct direct tax finalization with the tax office and requests that the Company issue withholding vouchers, the Company will issue one voucher reflecting the amount of tax withheld from September to the end of December 2013 and one voucher for the period from January to the end of August 2014.

#### **Article 26** *Tax declaration and tax finalization*

Income-paying organizations and individuals which pay income subject to personal income tax and individuals with income subject to personal income tax conduct tax declaration and tax finalization in accordance with the guidelines on procedures and documentation in the documents providing guidelines on tax management. Principles of tax declaration in a number of specific cases:

1. Tax declaration in the case of organizations and individuals paying income subject to personal income tax
  - (a) An income-paying organization or individual which withholds personal income tax make tax declaration on a monthly or quarterly basis. No tax declaration is required if no personal income tax is withheld in the month or quarter by the income-paying organization or individual.
  - (b) Tax declaration on a monthly or quarterly basis is determined once from the first month in which tax is withheld and applies for the entire tax assessment year, specifically as follows:
    - (b.1) Income-paying organizations and individuals which withhold 50 million dong or more of tax in a month on at least one type of personal income tax declaration form make tax declaration on a monthly basis, except for income-paying organizations and individuals in the category of quarterly value added tax declaration.
    - (b.2) Income-paying organizations and individuals not in the category of monthly tax declaration in accordance with the guidelines mentioned above make tax declaration on a quarterly basis.

- (c) Organizations and individuals paying income subject to personal income tax, regardless of whether tax is withheld, are responsible for declaring personal income tax finalization and finalizing personal income tax on behalf of authorizing individuals.

2. Tax declaration in the case of resident individuals having income from salary, wages or business

- (a) Resident individuals having income from salary or wages who make direct tax declaration with the tax office comprise:
  - (a.1) Resident individuals having income from salary or wages paid by international organizations, embassies or consulates in Vietnam for which no tax has been withheld make direct tax declarations with the tax office on a quarterly basis.
  - (a.2) Resident individuals having income from salary or wages paid by organizations and individuals from overseas make direct tax declaration with the tax office on a quarterly basis.
- (b) Individuals and resident individual groups having business income who make direct tax declaration with the tax office comprise:
  - (b.1) Business individuals and groups of business individuals paying tax by the declaration method being business individuals and groups of business individuals who fully implement the accounting regime on invoices and vouchers and individuals and individual groups who are only able to account for turnover but not for expenses make tax declaration on a quarterly basis.
  - (b.2) Business individuals and groups of business individuals paying tax by the fixed turnover method being business individuals and groups of business individuals who do not implement the provisions of law on accounting, invoices and vouchers and whose turnover, costs and taxable income are indeterminable make tax declaration on an annual basis.
  - (b.3) Itinerant business individuals (people who trade in lots) makes personal income tax declaration on each occasion [income] arises.
  - (b.4) Business individuals using invoices sold individually by the tax office make personal income tax declaration for each occasion the turnover on an invoice arises.
  - (b.5) Non-business individuals with arising activities of goods sale or service provision who need invoices to issue to their customers make personal income tax declarations on each occasion [income] arises.
  - (b.6) Individuals and group of individuals having income from leasing out houses, use right to land, water surface or other asset make tax declarations on a quarterly basis or on each occasion [income] arises.
- (c) Resident individuals having income from salary, wages or business are responsible for declaring tax finalization if they have an additional tax payment to make or an excess amount of tax paid for which a refund or an offset in the following tax period is requested, except for the following cases:

- (c.1) Individuals having the amount of tax payable lesser than the amount of tax provisionally paid who do not request a refund or an offset of the excess amount of tax paid in the following tax period.
- (c.2) Business individuals or households having one sole business income who have paid tax by the fixed turnover method.
- (c.3) Individuals and family households having income only from the leasing out of a house or land use right who have paid tax by declaration at the location of the leased house or land use right.
- (c.4) If there is no request from individuals having income from salary or wages who sign a labour contract of three months or above at one entity and have irregular incomes from other places the monthly average of which during the year does not exceed ten million dong and on which tax has been withheld by the income-paying entity at the rate of 10%, this part of income shall not be included in the tax finalization.
- (c.5) If there is no request from individuals having income from salary or wages who sign a labour contract of three months or above at one entity and have additional incomes from leasing out a house or land use right the monthly average of which during the year does not exceed twenty (20) million dong and on which tax has been paid at the location of the leased house or land use right, this part of income shall not be included in the tax finalization.
- (d) Individuals having income from salary or wages authorise the income-paying organization or individual to conduct tax finalization on their behalf in the following cases:
  - (d.1) Individuals having sole income from salary or wages who sign a labour contract for three months or more at one entity and who is actually working at such entity at the time of authorization of tax finalization, including individuals who have not worked for a full twelve (12) months in a year.
  - (d.2) Individuals having sole income from salary or wages who sign a labour contract for three months or more at one entity and who have other additional incomes in accordance with the guidelines in clauses 2(c)4 and 2(c)5 of this article.
- (dd) An income-paying organization or individual only conducts tax finalization on behalf of an individual for the part of income from salary or wages receivable by such individual from the income-paying organization or individual.
- (e) Principles of tax declaration and tax finalization in a number of cases are as follows:
  - (e.1) In a case where personal income tax has already been calculated and paid on income arising overseas of a resident individual in accordance with the regulations of the foreign country, then such amount shall be deductible [in Vietnam]. The amount of tax deductible may not exceed the amount payable in accordance with the Vietnamese scale, assessed and allocated to that part of the income arising overseas. The ratio of allocation is determined as equal to the ratio between the amount of income arising overseas and the total amount of taxable income.
  - (e.2) Resident individuals having business income and income from salary or wages who were present in Vietnam for less than 183 days within the first calendar year, but

there are 183 days or more within a consecutive 12 month period from the first date on which such individual was in Vietnam.

- First tax assessment year: the tax finalization file is declared and lodged no later than 90 days from the end date of the consecutive 12 months period.
- From the second tax assessment year: the tax finalization file is declared and lodged no later than 90 days from the end of the calendar year. The remaining amount of tax payable in the second tax assessment year is determined as follows:

$$\text{Remaining amount of tax payable in the second tax assessment year} = \text{Amount of tax payable in the second tax assessment year} - \text{Amount of tax to be deducted for overlapping period}$$

Of which:

$$\text{Amount of tax payable in the second tax assessment year} = \text{Assessable income of the second tax assessment year} \times \text{Personal income tax rate according to the progressive tax tariff}$$

$$\text{Amount of tax to be deducted for overlapping period} = \frac{\text{Amount of tax payable in the first tax assessment year}}{12} \times \text{Number of months overlapping}$$

Example 17: Mr S is a foreigner who comes to Vietnam for the first time to work under a contract for the period from 1 June 2014 to 31 May 2016. In 2014, Mr S is present in Vietnam for 80 days and has 134 million dong of income arising from his salary and wages. In 2015, Mr S is present in Vietnam from 1 January 2015 to the end of 31 May 2015, i.e. for 110 days, and has 106 million dong of income arising from salary and wages; from 1 June 2015 to 31 December 2015, Mr S is present in Vietnam for 105 days and has 122 million dong of income arising from his salary and wages. Mr S does not register for deductions for family circumstances for any dependent, and does not make any insurance, charitable, humanitarian or study promotional contribution.

The amount of personal income tax payable by Mr S is determined as follows:

- + Calculating in 2014, Mr S is a non-resident individual, but on the basis of the period of 12 consecutive months from 1 June 2014 to the end of 31 May 2015, Mr S is in Vietnam for 190 days (80 days + 110 days). Therefore, Mr S is a resident individual in Vietnam.
- + First tax assessment year (from 1 June 2014 to the end of 31 May 2015):
  - Total taxable income in the first tax assessment year:

134 million dong + 106 million dong = 240 million dong

- Deductions for family circumstances: 9 million dong x 12 = 108 million dong
- Assessable income: 240 million dong – 108 million dong = 132 million dong
- Personal income tax payable in the first tax assessment year: 60 million dong x 5% + (120 million dong - 60 million dong) x 10% + (132 million dong - 120 million dong) x 15% = 10,8 million dong

+ Second tax assessment year (from 1 January 2015 to the end of 31 December 2015): Mr S is in Vietnam for 215 days (110 days + 105 days) and is a resident individual in Vietnam.

- Taxable income arising in 2015:

106 million dong + 122 million dong = 228 million dong

- Deductions for family circumstances: 9 million dong x 12 = 108 million dong

- Assessable income in 2015:

228 million dong – 108 million dong = 120 million dong

- Personal income tax payable in 2015:

(60 million dong x 5%) + (120 million dong – 60 million dong) x 10% = 9 million dong

+ The tax finalization in 2015 has 5 months which overlap with the tax finalization in the first year (from January 2015 to May 2015)

- The amount of tax overlapping to be deducted:

(10.8 million dong/12 months x 5 months = 4.5 million dong.

- Personal income tax payable in 2015 is:

9 million dong – 4.5 million dong = 4.5 million dong

(e.3) A resident individual being a foreigner conducts tax finalization with the tax office on termination of his or her contract to work in Vietnam and before exiting Vietnam.

(e.4) In the case of individuals leasing out houses or use right to land, water surface or other assets, personal income tax finalization is conducted as follows except for the

cases where tax finalization is not required in accordance with the guidelines in clauses 2(c)3 and 2(c)5 of this article:

- (e.4.1) Individuals who make tax declaration on a quarterly basis or on each occasion [income] arises in the case of contracts with the payment term of one year or less conduct tax finalization the same as for business individuals paying tax by the declaration method.
- (e.4.2) Individuals who make tax on each occasion [income] arises in the case of contracts with the payment term of one year or less and receive payment for one lease period in advance may choose either of the following two forms of tax finalization: if tax finalization is conducted all in the first year, the turnover is determined as turnover paid in a lump sum and deductions for family circumstances are made for one year only, with no deduction in subsequent years; if tax finalization is conducted each year, the turnover is provisionally declared as turnover paid in a lump sum and deductions for family circumstances are made for the first year, in subsequent years the turnover from the asset lease is re-allocated and deductions for family circumstances is made as they actually arise.
- (e.5) Individuals having income from insurance agency, lottery agency or multi-level sale directly conduct tax finalization with the tax office if they are in the category required to conduct tax finalization.
- (e.6) Individuals having income from salary or wages and from business who are considered for tax reduction due to natural disasters, fires, accidents or fatal diseases conduct tax finalization directly with the tax office.
- (e.7) Business individuals or groups of business individuals who are non-resident but have fixed business locations in the territory of Vietnam conduct tax declaration and tax finalization the same as for business individuals or groups of business individuals who are resident.

### 3. Tax declaration for income from real property transfer

- (a) Individuals having income from real property transfer make tax declaration on each occasion [income] arises, including when such individuals are tax exempt. Tax is declared in a number of specific cases as follows:
  - (a.1) In the case an individual having a land use right or house ownership and using same for mortgage or guarantee for a loan or payment at a credit institution or foreign bank branch is unable to repay the loan upon the expiry of the loan term, the credit institution or foreign bank branch conducts procedures to realize and dispose of such real property and at the same time, declares and pays personal income tax on behalf of the individual before settling the debts of such individual.
  - (a.2) In the case an individual having a land use right or house ownership and using same for mortgage for a loan or payment at another organization or individual now transfers the entire (or part of) such real property for debt payment, the individual having the land use right or house ownership must declare and pay personal income tax or the organization or individual conducting the transfer procedures must declare and pay personal income tax on behalf of the individual before settling the debts.

- (a.3) In the case the real property is transferred by an individual to another organization or individual under a judgement enforcement decision of a court, the transferring individual must declare and pay personal income tax or the organization or individual organizing the auction must declare and pay personal income tax on behalf of the transferring individual. No personal income tax declaration or payment is required in the case a real property of an individual is confiscated and auctioned by a competent State authority and the proceeds therefrom is paid into the State Budget in accordance with law.
- (a.4) In the case of exchange of house and land among individuals not in the category of conversion of agricultural land for production exempted from personal income tax in accordance with the guidelines in article 3.1(dd) of this Circular, each individual making an exchange of house or land must declare and pay personal income tax .
- (a.5) Where personal income tax on real property transfer is declared behalf of an individual, the declaring organization or individual adds 'Declaring on behalf of' before 'Taxpayer or legal representative of taxpayer', signs and specifies the full name of the declaring person, and where the declaration is made by an organization, applies the seal of the organization after signing. The tax assessment file and tax collection voucher must correctly show the tax payer as the individual transferring the real property.
- (b) The real property management body only conducts the procedures for transfer of ownership of or use right to a real property when there is a personal income tax payment voucher or certification of the tax office that the income from real property transfer is tax exempt or the tax on such income is provisionally not payable.

4. Tax declaration in the case of income from a capital transfer (excluding a transfer of securities)

- (a) A resident individual transferring capital contribution declares tax on each transfer regardless of whether income arises.
- (b) Non-resident individuals having income from transfer of capital contribution in Vietnam are not required to make direct declaration with the tax office. The transferee organization or individual withholds tax in accordance with the guidelines in article 25.1(e) of this Circular and declares tax on each occasion it arises.
- (c) If an enterprise conducting the procedures to change the list of capital contributing members in the case of capital transfer does not have vouchers to evidence the completion of tax obligations by the capital transferring individual, the enterprise where the individual transfers the capital is responsible to declare and pay tax on behalf of the individual.

If the enterprise where the individual transfers the capital pays tax on behalf of the individual, the enterprise prepares the personal income tax declaration file on the individual's behalf. The declaring enterprise adds 'Declaring on behalf of' before 'Taxpayer or legal representative of taxpayer', signs and specifies the full name of the declaring person, and applies the seal of the enterprise. The tax assessment file and tax collection voucher must show the tax payer as the individual transferring the capital contribution (in the case of capital transfer by a resident individual) or the individual receiving the transferred capital (in the case of capital transfer by a non-resident individual).



5. Tax declaration in the case of individuals having income from a transfer of securities

- (a) Individuals transferring securities of public companies traded on the Stock Exchange are not required to make direct declaration with the tax office. The securities company or commercial bank where an individual opens a depository account, or the fund management company trusted by an individual to manage his or her portfolio makes tax declaration in accordance with the guidelines in article 26.1 of this Circular.
- (b) Individuals transferring securities not via the trading system on the Stock Exchange:
  - (b.1) Individuals transferring securities of public companies having registered securities centrally at the Securities Depository Centre are not required to make direct declarations with the tax office. The securities company or commercial bank where an individual opens a depository account withholds and declares tax in accordance with the guidelines in article 26.1 of this Circular.
  - (b.2) Individuals transferring securities of shareholding companies which are not yet public companies but the securities issuing organization authorizes a securities company to manage the list of shareholders are not required to make direct declaration with the tax office. The securities company authorized to manage the list of shareholders withholds and declares tax in accordance with the guidelines in article 26.1 of this Circular.
- (c) Individuals transferring securities not in the cases in clauses 5(a) and 5(b) of this article make tax declaration on each occasion it arises.
- (d) If an enterprise conducting the procedures to change the list of shareholders in the case of securities transfer does not have vouchers to evidence the completion of the tax obligation by the securities transferring individual, the enterprise where the individual transfers the securities is responsible to declare and pay tax on behalf of the individual.

If the enterprise where the individual transfers the securities declares tax on behalf of the individual, the enterprise prepares the personal income tax declaration file on the individual's behalf. The declaring enterprise adds 'Declaring on behalf of' before 'Taxpayer or legal representative of taxpayer', signs and specifies the full name of the declaring person, and applies the seal of the enterprise. The tax assessment file and tax collection voucher must correctly show the tax payer as the securities transferring individual.
- (dd) At the end of the year, if the securities transferring individual wishes to finalize tax, [the individual] declares tax finalization directly with the tax office.

6. Tax declaration of income from receipt of an inheritance or a gift

- (a) Individuals having income from receipt of an inheritance or a gift declare tax on each occasion [income] arises, including the cases which are tax exempt.
- (b) State administrative bodies and relevant organizations only conduct procedures for transfer of ownership of or use right to real property, securities, capital contribution portion and other assets the ownership of or use right to which must be registered for recipients of an inheritance or a gift where there is a tax payment voucher or certification of the tax office that the income from the inheritance or gift being a real property is tax exempt.

7. Tax declaration by resident individuals with income arising overseas

Resident individuals having income arising overseas make tax declarations on each occasion [income] arises. In particular, resident individuals having income from salary or wages paid overseas make tax declaration on a quarterly basis.

8. Tax declaration in the case of non-resident individuals having income arising in Vietnam but receiving income overseas.

(a) Non-resident individuals having income arising in Vietnam but received overseas make tax declarations on each occasion [income] arises. In particular, non-resident individuals having income from salary or wages arising in Vietnam but paid overseas make tax declaration on a quarterly basis.

(b) Non-resident individuals having income from transfers of real property, transfers of capital (including transfers of securities) arising in Vietnam but receiving income overseas make tax declaration on each occasion [income] arises in accordance with the guidelines in clauses 3, 4 and 5 of this article.

9. Tax declaration on income from capital investment in the case of receipt of dividends paid in shares or income recorded as a capital increase.

Individuals receiving dividends paid in shares or income recorded as a capital increase are not required to declare and pay tax on capital investments upon receipt. Such individuals declares and pays personal income tax on income from capital transfers and income from capital investments upon capital transfer, capital withdrawal or enterprise dissolution.

10. Tax declaration on income from capital transfers, securities transfers and real property transfers in the case of capital contribution by a capital contribution portion, capital contribution by securities and capital contribution by real property.

Individuals making a capital contribution by a capital contribution portion, capital contribution by securities and capital contribution by real property are not required to declare and pay tax from the transfer upon capital contribution. Such individuals declares and pays personal income tax on income from capital transfers or income from real property transfers upon capital contribution, and income from capital transfer and real property transfers upon transfer.

11. Tax declaration on salary or wages in the case of income from bonus shares.

Individuals receiving bonus shares from their employers are not required to pay tax on salary or wages. Such individuals declares personal income tax on income from share transfers and income from salary or wages upon transferring the bonus shares.

**Article 27** *Responsibilities of Vietnamese organizations signing contracts to purchase services of foreign contractors not operating in Vietnam*

Where an organization established and operating in accordance with the law of Vietnam (hereinafter referred to as Vietnamese party) signs a contract to purchase services of a foreign contractor which enters into labour contracts with foreigners working in Vietnam, the Vietnamese party is responsible to inform the foreign contractor of the obligation to pay personal income tax of foreign employees and the responsibility to provide information on foreign employees, including the list, nationality, passport number, working

duration, job assumed and income to the Vietnamese party for the latter to provide to the tax office no later than seven days from the date a foreign individual starts working in Vietnam.

#### **Article 28** *Tax refund*

1. Personal income tax refunds apply to individuals who have already registered and who have received a tax code number at the time of submission of the tax finalization file.
2. Where tax finalization is authorized by an individual to the income-paying organization or individual, tax refund of the individual is carried out via the income-paying organization or individual. The income-paying organization or individual offsets the amount of tax paid in excess or shortfall of individuals. After offsetting, any remaining excess amount of tax paid shall be offset in the subsequent period, or refunded if so requested.
3. Individuals making direct tax declaration with the tax office may select for their tax to be refunded or offset in the subsequent period at the same tax office.
4. If an individual is entitled to a tax refund but is late in lodging the declaration of tax finalisation as required by the regulations, such individual shall not be subject to an administrative penalty for lodging the tax finalisation declaration out of time.

### **CHAPTER 5**

#### **Implementing Provisions**

#### **Article 29** *Effectiveness*

1. This Circular takes effect from 1 October 2013.

The contents on personal income tax policies stipulated in the Law on Amendments of and Additions to a Number of Articles of the Law on Personal Income Tax and Decree 65-2013-ND-CP takes effect from the effective date of such Law and Decree (1 July 2013).

The guidelines on personal income tax in Circulars 84-2008-TT-BTC dated 30 September 2008, 10-2009-TT-BTC dated 21 January 2009, 42-2009-TT-BTC dated 09 March 2009, 62-2009-TT-BTC dated 27 March 2009, 161-2009-TT-BTC dated 12 August 2009, 164-2009-TT-BTC dated 13 August 2009, 02-2010-TT-BTC dated 11 January 2010, 12-2011-TT-BTC dated 26 January 2011, 78-2011-TT-BTC dated 08 June 2011 and 113-2011-TT-BTC dated 04 August 2011 of the Ministry of Finance are hereby repealed.

2. The guidelines on personal income tax issued by the Ministry of Finance before the date of effectiveness of this Circular which are inconsistent with the guidelines in this Circular are hereby repealed.

#### **Article 30** *Responsibilities for implementation*

1. Other contents relating to tax management not guided in this Circular are implemented in accordance with the provisions of the Law on Tax Management and the implementing guidelines of the Law on Tax Management.

2. Resolution of existing issues and difficulties regarding personal income tax arising before 1 July 2013 shall continue to be dealt with in accordance with the instruments providing guidelines which were effective at such time.
3. Application of the fixed taxable income rate to business individuals in accordance with the guidelines in article 8 of this Circular is uniformly carried out since 1 January 2014.
4. Individuals having contracts for sale and purchase of land plots, and contracts for capital contribution for the right to purchase land plots, houses or flats signed before the effective date of Decree 71-2010-ND-CP dated 23 June 2010 of the Government making detailed provisions of and providing guidelines for the implementation of the Law on Residential Housing who now receive approval from the investor for transfer declare and pay tax in accordance with the guidelines for transfers of residential houses to be formed in the future.
5. If a person is using land as the result of receipt of a transfer prior to 1 January 2009 and now lodges a valid application file for a certificate of land use right, ownership of a house and other assets attached to the land which the competent State authority approves, then such individual shall only be subject to collection of tax arrears on one occasion namely the final transfer, and previous transfers shall not be subject to collection of tax arrears.

If as from 1 January 2009, the date of implementation of the Law on Personal Income Tax, an individual transferring real estate has a notarized contract or does not have a notarized contract but only has a hand written document, then in both cases the individual must pay personal income tax on each occasion of transfer.

6. Individuals currently entitled to personal income tax incentives prior to the date on which the *Law on Amendments of and Additions to a Number of Articles of the Law on Personal Income Tax* took effect, shall continue to be entitled to such personal income tax incentives for the residual incentive period.
7. If the Socialist Republic of Vietnam is a signatory to any international treaty with provisions on personal income tax which are different from the contents of the guidelines in this Circular, then the provisions of such international treaty shall apply.

Organizations and individuals should promptly report any difficulties arising during implementation to the Ministry of Finance (General Department of Taxation) for study and resolution.

**FOR THE MINISTER  
VICE MINISTER  
DO HOANG ANH TUAN**

## Appendix: 01-PL-TNCN

(Issued with Circular 111-2013-TT-BTC dated 15 August 2013 of the Ministry of Finance)

### GUIDELINE TABLE FOR TAX ASSESSMENT METHOD ACCORDING TO THE PROGRESSIVE TAX TARIFF

(on income from salary or wages, and from business)

The progressive tax assessment method is particularized by the abbreviated tax assessment table as follows:

Bracket	Assessable income/month	Tax rate	Assessing the amount of tax payable	
			Method 1	Method 2
1	Up to 4 million dong (md)	5%	0 md + 5% AI	5% AI
2	Over 5 md to 10 md	10%	0.25 md + 10% AI on 5 md	10% AI – 0.25 md
3	Over 10 md to 18 md	15%	0.75 md + 15% AI on 10 md	15% AI – 0.75 md
4	Over 18 md to 32 md	20%	1.95 md + 20% AI on 18 md	20% AI – 1.65 md
5	Over 32 md to 52 md	25%	4.75 md + 25% AI on 32 md	25% AI – 3.25 md
6	Over 52 md to 80 md	30%	9.75 md + 30% AI on 52 md	30 AI – 5.85 md
7	Over 80 md	35%	18.15 md + 35% AI on 80 md	35% AI – 9.85 md

## Appendix: 02-PL-TNCN

(Issued with Circular 111-2013-TT-BTC dated 15 August 2013 of the Ministry of Finance)

### TABLE FOR CONVERSION OF INCOME NOT INCLUDING TAX TO ASSESSABLE INCOME

(for income from salary or wages)

No.	Income to use as basis for conversion/month (hereinafter referred to as CI)	Assessable income
1	Up to 4.75 million dong (md)	CI/0.95
2	Over 4.75 md to 9.25 md	(CI – 0.25 md)/0.9
3	Over 9.25 md to 16.05 md	(CI – 0.75 md )/0,85
4	Over 16.05 md to 27.25 md	(CI – 1.65 md)/0,8
5	Over 27.25 md to 42.25 md	(CI – 3.25 md)/0,75
6	Over 42.25 md to 61.85 md	(CI – 5.85 md)/0,7
7	Over 61.85 md	(CI – 9.85 md)/0,65