

CIRCULAR 219-2013-TT-BTC
VALUE ADDED TAX
DATED 31 DECEMBER 2013

TABLE OF CONTENTS

CHAPTER I	1
GENERAL PROVISIONS	1
Article 1 <i>Governing scope.....</i>	<i>1</i>
Article 2 <i>Taxable objects.....</i>	<i>1</i>
Article 3 <i>Taxpayers.....</i>	<i>1</i>
Article 4 <i>Objects not subject to VAT.....</i>	<i>2</i>
Article 5 <i>Circumstances in which it is not required to declare, assess and pay VAT.....</i>	<i>11</i>
CHAPTER II	15
BASES AND METHODS OF TAX CALCULATION.....	15
SECTION 1.....	15
BASES FOR TAX CALCULATION.....	15
Article 6 <i>Bases for tax calculation.....</i>	<i>15</i>
Article 7 <i>Taxable prices.....</i>	<i>15</i>
Article 8 <i>Point of time for fixing VAT.....</i>	<i>26</i>
Article 9 <i>Tax rate of zero per cent (0%).....</i>	<i>27</i>
Article 10 <i>Tax rate of 5%.....</i>	<i>32</i>
Article 11 <i>Tax rate of 10%.....</i>	<i>34</i>
SECTION 2.....	35
METHODS OF TAX CALCULATION	35
Article 12 <i>Tax credit method.....</i>	<i>35</i>
Article 13 <i>Method of tax calculation directly on the basis of added value.....</i>	<i>40</i>
CHAPTER III.....	43
TAX CREDIT AND TAX REFUND	43
SECTION 1.....	43
TAX CREDIT.....	43
Article 14 <i>Principles for credit of input value added tax.....</i>	<i>43</i>
Article 15 <i>Conditions for credit of input VAT</i>	<i>49</i>
Article 16 <i>Conditions for credit and refund of input tax on exported goods or services.....</i>	<i>54</i>
Article 17 <i>Conditions for credit and refund of input VAT in a number of cases where goods are deemed to be exported.....</i>	<i>60</i>
SECTION 2.....	61
REFUND OF TAX	61
Article 18 <i>Entities and cases of entitlement to VAT refund.....</i>	<i>61</i>
Article 19 <i>Conditions and procedures for refund of VAT.....</i>	<i>71</i>
Article 20 <i>Place of tax payment.....</i>	<i>71</i>
CHAPTER IV	72
ORGANIZATION OF IMPLEMENTATION	72

Article 21	Effectiveness	72
Article 22	Organization of collection of VAT	73

Ha Noi, 31 December 2013

**CIRCULAR
ON
VALUE ADDED TAX**

**Providing guidelines for implementation of a number of articles
of the *Law on Value Added Tax* and Decree of the Government 209-2013-ND-CP
dated 18 December 2013 making detailed provisions and guidelines for
implementation of a number of articles of the *Law on Value Added Tax***

Pursuant to the *Law on Value Added Tax (VAT)* 13-2008-QH12 dated 3 June 2008 and *the Law on Amendment of and Addition to a Number of Articles of the Law on Value Added Tax* 31-2013-QH13 dated 19 June 2013;

Pursuant to the *Law on Management of Tax* 78-2006-QH11 dated 29 November 2006 and the *Law on Amendment of and Addition to a Number of Articles of the Law on Management of Tax* 21-2012-QH13 dated 20 November 2012;

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

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

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

The Minister of Finance hereby provides the following guidelines on value added tax:

CHAPTER I

General Provisions

Article 1 *Governing scope*

This Circular provides guidelines on taxable objects, non-taxable objects, taxpayers, bases and methods of tax assessment, credit and refund of value added tax and places of tax payment.

Article 2 *Taxable objects*

Goods and services (including goods and services purchased from organizations and individuals overseas) used for the purposes of production, trading and consumption in Vietnam shall be subject to value added tax (VAT), except as specified in article 4 of this Circular.

Article 3 *Taxpayers*

VAT taxpayers shall be organizations and individuals producing and trading VAT taxable goods and services in Vietnam, irrespective of the line, form or organization of business (hereinafter collectively

referred to as *business establishments*) and organizations and individuals importing VAT taxable goods or purchasing VAT taxable services from overseas (hereinafter collectively referred to as *importers*), comprising:

1. Business organizations established pursuant to and with business registration in accordance with the *Law on Enterprises*, the *Law on State Owned Enterprises* (now the *Law on Enterprises*), the *Law on Co-operatives* and other laws on specialized business;
2. Economic organizations of political organizations, socio-political organizations, social organizations, socio-professional organizations, units of the people's armed forces, professional organizations and other organizations;
3. Enterprises with foreign owned capital and foreign parties to business co-operation contracts under the *Law on Foreign Investment in Vietnam* (now the *Law on Investment*); and foreign organizations and individuals conducting business in Vietnam but which have not established a legal entity in Vietnam;
4. Individuals, family households, independent groups of persons conducting business, and other business entities conducting production, trading or import activities;
5. Value added taxpayers also include organizations and individuals purchasing services when such purchasers are entities engaging in manufacturing and/or conducting business in Vietnam (including cases of purchase of services associated with goods) from foreign organizations without a resident establishment in Vietnam or from individuals overseas who are non-residents of Vietnam except for the circumstances in which it is not required to declare, to assess and pay VAT as guided in article 5.2 of this Circular.

The provision on resident establishments and on entities being non-residents shall be implemented in accordance with the law on corporate income tax and the law on personal income tax.

6. Branches of an export processing enterprise which are established for sale and purchase of goods and activities directly related to sale and purchase of goods in Vietnam in accordance with the laws on industrial zones, export processing zones and economic zones.

Example 1: Sanko Limited Liability Company is an export processing enterprises. In addition to production activities for export, Sanko Limited Liability Company is licensed to exercise the right to import for sale or export. Sanko Limited Liability Company must establish a branch to conduct such activities in accordance with law. The branch shall conduct separate cost accounting and separately declare and pay VAT in respect of such activity and shall not account for [this activity] with the production activities for export.

Upon import of goods for distribution (sale), the branch of Sanko Limited Liability Company shall declare and pay VAT in the import phase and upon sale (including export) Sanko Limited Liability Company shall use invoices, declare and pay VAT in accordance with regulations.

Article 4 *Objects not subject to VAT*

1. Products of cultivation (including forestry cultivation), husbandry, aquaculture or fishing which have not yet been processed into other products or which have only been semi-processed by organizations or individuals producing, catching and selling products at the import stage.

Products which have been semi-processed are products which have only been cleaned, sun-dried, industrially dried, grinded, husked, rubbed and shelled, stoned, stemmed, cut, salted or frozen

(freeze or frozen), preserved by sulphurous gas, preserved by chemicals to avoid decay or soaked in the sulphur solution or other preservative solution and are preserved in other normal ways.

Example 2: Company A signs a contract for breeding pigs with Company B whereby [Company A] will receive remuneration from Company B or sell products to Company B. In this case, the remuneration for breeding pigs received from Company B and products being pigs sold to Company B will not be subject to VAT.

Where Company B sells or processes [pigs to become products] for sale, such products will be subject to VAT in accordance with regulations.

2. Products being domestic animal breeding stock and plant varieties, including breeding eggs, young animals, seedlings, seeds, propagating shoots and bulbs, sperm, embryos and genetic materials at the stages of rearing, importation and commercial trading. Products being domestic animal breeding stock and plant varieties which are not subject to VAT means products imported or commercially traded by establishments which possess a business registration certificate for domestic animal breeding stock and plant varieties issued by the State administrative body. With respect to products being domestic animal breeding stock and plant varieties which are subject to State regulations on standards, their quality must satisfy the conditions stipulated by the State.
3. Water supply and drainage; ploughing and harrowing of land; embanking, dredging of interior canals of fields servicing agricultural production; services for harvesting agricultural products.
4. Salt products produced from seawater or natural salt mines, table salt and iodine salt the main ingredient of which is sodium chloride (NaCl).
5. State owned residential houses sold by the State to existing tenants.
6. Transfer of land use rights.
7. Life insurance, health insurance and student insurance, other person-related insurance services, livestock insurance, crop insurance and other types of agricultural insurance services; insurance of watercraft, facilities and other necessary tools directly used for fishing; reinsurance.
8. Financial or banking services or securities business as follows:
 - (a) Services of extension of credit comprise the following forms:
 - Lending;
 - Discounting and re-discounting negotiable instruments and other valuable papers;
 - Providing bank guarantees;
 - Finance leasing;
 - Issuing credit cards;

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

Charges for normal transactions relating to cards and not belonging to the process of extension of credit such as charge for re-issue of a personal identification number (PIN)

for a credit card, charge for issue of a copy of a bank statement, charge for claim of indemnification upon use of a card, charge for notification of a lost or missing credit card, charge for cancellation of a credit card, charge for conversion of a credit card and other charges are subject to VAT.

- Domestic debt factoring; international debt factoring with respect to banks permitted to make international payments;
- Sale of assets being security for a loan conducted by a credit institution or by the body for judgement execution in accordance with the laws on sale of assets being security for loans.

Where, upon the due date for a debt, the person having the security assets is unable to pay the debt and must hand over such assets to the credit institution for realization of the assets as security for the loan in accordance with law, the parties shall carry out the procedures for hand-over of the security assets in accordance with regulations.

Where the parties agree that the person having the security assets shall him/herself sell the security assets for debt payment, and if the person having the security assets is a taxpayer and the assets sold are subject to VAT, [the person having the security assets] must declare and pay VAT in accordance with the regulations.

Where the credit institution receives the security assets in place of the discharge of the obligation to pay the debt, the credit institution shall account for an increase in the value of assets servicing production and business in accordance with regulations. When the credit institution sells assets servicing business activities and if such assets are subject to VAT, the credit institution must declare and pay VAT in accordance with regulations.

Example 3: In March 2014 Limited Liability Company A being a business establishment which pays VAT by the tax credit method mortgages its line, machinery and equipment to borrow capital at Bank B and the loan term is one year (the due date for debt payment is 31 March 2015). On 31 March 2015 Limited Liability Company A is unable to pay its debts and must hand its asset over to Bank B; then upon handover of the assets, Limited Liability Company A shall conduct the procedures for handover of the security assets in accordance with the laws on realization of securities assets. Where Bank B sells the assets as security for the loan to recover the debts, such assets are non-taxable objects.

- Services for provision of credit information by entities or organizations under the State Bank to credit institutions to use for extension of credit in accordance with the *Law on State Bank*.

Example 4: Organization X is an entity under the State Bank and is authorized by the State Bank to provide services for provision of credit information. In 2014 Organization X signs a contract for provision of credit information to several commercial banks to serve extension of credit and other operations of such commercial banks. Turnover from the services for provision of credit information serving extension of credit is a non-taxable object while turnover from the services for provision of credit information serving other operations of the commercial banks not in accordance with the *Law on State Bank* shall be subject to VAT at the tax rate of 10%.

- Other forms of extension of credit stipulated by law.

- (b) Individual lending other than the regular business activities or supply of a taxpayer which is not a credit institution.

Example 5: Shareholding Company VC has idle money which is temporarily not used for business activities. Shareholding Company VC signs a contract for lending of money to Company T for a term of 6 months and receives interest. The interest received by Shareholding Company VC is a non-taxable object.

- (c) Securities business comprises securities broking, securities self-trading, underwriting issues of securities, securities investment consultancy, securities depository, management of securities investment funds, management of securities investment companies, management of securities investment portfolios, services of organizing a market by Stock Exchanges or Securities Trading Centres, services related to securities registered and/or deposited at the Vietnam Securities Depository, lending of money to clients to carry out escrow transactions, advance of proceeds from selling securities and other securities business activities as stipulated in the laws on securities.

Activities being provision of information, organization of auctions of shares of issuing organizations, and provision of technical support servicing online securities transactions of the Stock Exchanges.

- (d) Capital transfer comprising transfer of all or part of capital invested in another economic organisation (regardless of whether or not a new legal entity is established), transfer of securities, transfer of the right to make capital contribution and other forms of capital transfer pursuant to law, including sale of an enterprise to another enterprise for the purpose of production and business and the purchasing enterprise assuming all rights and obligations of the sold enterprise in accordance with law.

Example 6: In April 2014, Limited Liability Company A makes capital contribution using machinery and equipment for establishment of Shareholding Company B. The value of capital contribution of Limited Liability Company A is valued by the council for receipt of capital contribution from the capital contributing parties at 2.5 billion Dong, equivalent to 25% of the amount of capital of Shareholding Company B. In November 2014, Limited Liability Company A sells its portion of capital contribution in Shareholding Company B to Investment Fund ABB at the price of 4 billion Dong. The amount of 4 billion Dong received by Limited Liability Company A is the revenue from capital transfer and is a non-taxable object.

- (dd) Sale of debts.
- (e) Foreign currency business.
- (g) Derivative financial services comprising swaps in rates of interest, forward contracts, futures contracts; foreign currency options and other derivative financial services pursuant to law.
- (h) Sale of assets being security for debts of organizations in which the State owns one hundred (100) per cent of the charter capital and which are established by the Government in order to deal with bad debts of credit institutions of Vietnam

- 9. Medical or veterinary services, comprising examination and treatment services, disease prevention for people and domestic animals, family planning services, convalescence and rehabilitation services, transport of patients, services for leasing out hospital rooms or beds by medical establishments; tests, X-rays, imaging, blood and blood preparations used for patients.

Where the treatment service packages (as stipulated by the Ministry of Health) include use of curative medicines, proceeds from the curative medicines included in such treatment service packages shall not also be subject to VAT.

10. Public postal or telecommunications services and internet services universalized pursuant to the program of the Government; postal or telecommunications services provided from abroad into Vietnam (incoming).
11. Services for maintenance of zoos, public gardens, parks, green trees in streets and public lighting services; funeral services. The services specified in this paragraph are irrespective of the funding for payment of costs, in particular:
 - (a) Services for maintenance of zoos, public gardens, parks and green trees in streets and protection of forest owned by the State shall include the management, care and protection of birds and animals and the planting of trees in parks, zoos, public areas, national forests and national parks.
 - (b) Public lighting services shall include lighting in streets, side-streets and alleys in residential areas, public gardens and parks. Non-taxable turnover is the turnover from public lighting activity.
 - (c) Funeral services of establishments with the function of provision of funeral services shall include services relating to the renting of funeral homes and hearses serving funerals; cremation, burial, exhumation, removal of and care of graves.
12. Maintenance, repair and construction of cultural and artistic works, public works, infrastructure and housing for persons entitled to social policies funded by public contribution and humanitarian aid (including capital contributed or funded by organizations or individuals).

Where a source of capital other than public contribution or humanitarian aid is used but such other source of capital does not exceed fifty (50) per cent of the total capital expended for the work, the whole value of the work shall not be taxable.

Where funding sources other than public contributions or humanitarian aid are used, and such other funding sources do not exceed 50% of the total amount of capital used for such buildings or works, then the entire buildings or works are non-taxable objects.

Persons entitled to social policies shall comprise people who have rendered services to the country as stipulated by the law on people who have rendered services to the country; people entitled to social support by way of receiving a subsidy from the State budget; people of poor households or households close to poverty and other cases as stipulated by law.

13. Education and vocational training pursuant to law including training in foreign languages, informatics, training in dancing, singing, painting, music, drama, circus, sports and physical education, child care and other vocational training aimed at improving academic, professional and occupational knowledge.

Where educational establishments from the pre-school education level to the secondary school level charge food expenses, expenses for transporting pupils and have other amounts received in the form of authorized collection or payment, such food expenses and expenses for transporting pupils and other amounts collected or paid by way of authorization shall not be taxable.

The amounts received from boarders; and training activities (including organization of examinations and issuance of certificates during the training) provided by training establishments shall not be subject to VAT. Where a training establishment does not directly organize training but only organizes examination and issues certificates, the organisation of examination and issuance of certificates shall not be subject to VAT. In the case of provision of services of examination and issuance of certificates not belonging to the process of training, such services shall be subject to VAT.

Example 7: Training Centre X is assigned by the authority with the duty to conduct training for issuance of practising certificates on insurance agency. Training Centre X assigns such duty of training to Entity Y for implementation while Training Centre X organizes examination and issues practising certificates on insurance agency. The organization of examination and issuance of certificates by Training Centre X are not subject to VAT.

14. Radio and television broadcasting according to programs funded by the State Budget.
15. Publication, importation and distribution of newspapers, magazines and specialized newsletters, political books, textbooks, teaching materials, books of legislation, technical or scientific books, books printed in languages of ethnic minorities, and pictures, photos, posters, leaflets and brochures for propaganda purposes, including in the form of visual or audio tapes, tapes and electronic databases; money, and printing of money.

Newspapers, magazines and specialized newsletters, including transmission activities of pages of newspapers, magazines and specialized newsletters.

Political books being propaganda books about the political orientation of the Party and the State, which by virtue of their special subject-matter and themes serve political tasks or which service anniversaries and traditional days of organizations and of all levels, branches and localities; all types of statistical books which disseminate information about good people and good deeds; and books which print the speeches and theoretical studies of the leaders of the Party and of the State.

Textbooks being books used by teachers and used for study in all schools from pre-primary to secondary (including reference books used for teachers and students in conformity with the contents of educational programs).

Teaching materials being books used by teachers and used for study in all universities, colleges, vocational and specialist schools.

Books of legislation being books printing legal instruments of the State.

Technical or scientific books being books to be used for introduction and guidance on scientific and technical knowledge relating directly to production and scientific or technical branches.

Books printed in languages of ethnic minorities including bilingual books printed in commonly used languages as well as in languages of ethnic minorities.

Pictures, photos, posters, leaflets and brochures for propaganda purposes; slogans and pictures of leaders; the Party flag, the National flag, the flag of the Youth League and the flag of the Young Pioneers League.

16. Public passenger transportation by bus or electrical vehicle means public passenger transportation by bus or electrical vehicle along routes within a province or urban area and routes to neighbouring provinces pursuant to regulations of the Ministry of Transport.

17. Goods which are not yet able to be produced domestically and which are imported in the following cases:

- (a) Machinery, equipment, parts or specialized materials which are imported for direct use in scientific research and technological development activities;
- (b) Machinery, equipment, replacement accessories, specialized means of transportation and materials required to carry out prospecting, exploration and development of gas or oil fields;
- (c) Aircraft (including aircraft engines), drilling platforms and watercraft which cannot be domestically manufactured and are imported to form fixed assets of enterprises or leased from foreign parties for use for production, business, or for leasing out or sub-lease.

Importers must present the documents pursuant to guidelines of the Ministry of Finance in relation to customs formalities; customs check and supervision; and import and export duties and tax management in respect of imported or exported goods to the customs office in order to determine whether VAT is payable on goods referred to in this clause at the stage of importation.

The Ministry of Planning and Investment shall issue a list of machinery, equipment, parts and materials which have been produced domestically as a basis for distinguishing those which are not yet able to be produced domestically and are required to be imported for direct use in scientific research and technological development activities; a list of machinery, equipment, replacement accessories, specialized means of transportation and materials which have been produced domestically as a basis for distinguishing those which are not yet able to be produced domestically and are required to be imported to carry out prospecting, exploration and development of gas or oil fields; and a list of aircraft, drilling platforms and watercraft which have been produced domestically as a basis for distinguishing those which are not yet able to be produced domestically and are required to be imported to form fixed assets of enterprises or leased from foreign parties for use for production, business, leasing out or sub-lease.

18. Specialized arms and weaponry required for national defence and security:

- (a) Specialized arms and weaponry required for national defence and security pursuant to the list of specialized arms and weaponry required for national defence and security issued by the Ministry of Finance after agreement with the Ministry of National Defence and the Ministry of Public Security.

Specialized arms and weaponry required for national defence and security not subject to VAT must be complete products, synchronous items or sections, component parts, and specialized packaging for assembly and preservation of complete products. Repairs of specialized arms and weaponry required for national defence and security must be carried out by enterprises under the Ministry of Defence or the Ministry of Public Security in order to qualify as not subject to VAT.

- (b) Specialized arms and weaponry (including materials, machinery, equipment and replacement accessories) required for national defence and security, whether imported as import duty exempt under the *Law on Export and Import Duties* or whether imported under the annual quota approved by the Prime Minister of the Government.

Documents and procedures applicable to imported arms and weaponry not subject to VAT at the stage of importation shall be subject to guidelines of the Ministry of Finance in relation to customs formalities; customs check and supervision; import and export duties and tax management of imported and exported goods.

19. Imported goods and goods or services to be sold to organizations and individuals for humanitarian aid or non-refundable aid in the following cases:

- (a) Imported goods in the case of humanitarian aid or non-refundable aid requiring certification from the Ministry of Finance or from a department of finance.
- (b) Gifts and donations to State bodies, political organizations, socio-political organizations, socio-professional-occupational organizations, social organizations, socio-occupational organizations and units of the people's armed forces pursuant to the law on gifts and donations;
- (c) Gifts and donations to individuals in Vietnam pursuant to the law on gifts and donations;
- (d) Personal effects of foreign organizations and individuals within limits under diplomatic immunity pursuant to the law on diplomatic immunity and privilege; and goods being personal effects of Vietnamese residing overseas accompanying them upon return to Vietnam.
- (dd) Hand-luggage within duty-free limits;

The limits for imported goods not subject to VAT at the stage of importation shall follow the limits for import duty exemption stipulated in the *Law on Export and Import Duties* and guidelines on its implementation.

Imported goods of organizations and individuals entitled to diplomatic immunity in accordance with the law on diplomatic immunity and privilege shall be exempt from VAT. In the case of purchase of VAT taxable goods or services in Vietnam, VAT shall be refunded in accordance with the guidelines in clause 7 of article 18 of this Circular.

Taxpayers, goods, documents and procedures for diplomatic immunity referred to in this article shall be subject to guidelines of the Ministry of Finance for VAT refund applicable to diplomatic representative offices, consulates and representative offices of international organizations in Vietnam.

- (e) Goods or services sold to foreign organizations, foreigners and international organizations for humanitarian aid or non-refundable aid for Vietnam.

Procedures for international organizations and foreigners to purchase goods or services in Vietnam for humanitarian or non-refundable aid for Vietnam to be exempt from VAT: International organizations and foreigners must forward a letter to the seller stating clearly their names as purchasers of goods or services for humanitarian aid or non-refundable aid for Vietnam and the quantity or value of goods purchased; and have certification from the Ministry of Finance or a department of finance regarding such aid.

Upon sale, a business establishment must prepare an invoice in accordance with the law on invoices, specifying that the goods are being sold to a foreign organization or individual or an international organization for humanitarian aid or non-refundable aid, must not include VAT, and must retain the letter from the international organization or Vietnamese representative office in order to provide the basis for tax declaration. If a foreign organization or individual or an international organization purchases goods or services in Vietnam for non-refundable aid or humanitarian aid including VAT, VAT shall be refunded in accordance with clause 6 of article 18 of this Circular.

20. Goods in transit or trans-shipment via the territory of Vietnam; goods temporarily imported and re-exported and goods temporarily exported and re-imported; and raw materials or supplies imported for production or processing of goods for export in accordance with production or processing contracts for export signed with foreign parties.

Goods and services purchased between foreign parties and non-tariff zones and between different non-tariff zones.

Non-tariff zones comprise export processing zones, export processing enterprises, bonded warehouse, bonded zones, customs bond warehouses, special commercial-economic zones, commercial-industrial zones and other economic areas established and entitled to tax preferences as a non-tariff zone under decisions of the Prime Minister of the Government. The relationship of exchanging or purchasing and selling goods as between these zones and foreign parties is an import/export relationship.

Documents and procedures for determining and dealing with exemption from VAT in these cases shall be subject to guidelines of the Ministry of Finance on customs formalities; customs checks and supervision; import and export duties and tax management of imported and exported goods.

21. Technology transfers pursuant to the *Law on Technology Transfers*; and intellectual property transfers pursuant to the *Law on Intellectual Property*. In the case of contracts for technology transfer or intellectual property transfer accompanied by a transfer of machinery and equipment, only the value of the transferred technology or intellectual property shall not be subject to VAT; where such value cannot be separated, the value of technology or intellectual property transferred with machinery and equipment shall also be subject to VAT.

Computer software shall include software products and software services as stipulated by law.

22. Gold imported in bars and foil and gold which is not yet processed into fine art articles, jewellery or other products.

Gold in bars and foil and unprocessed gold shall be determined in accordance with the law on management and trading of gold.

23. Exported products being minerals or natural resources which are not yet been processed into other products.

Minerals or natural resources which are not yet processed into other products include minerals which have been screened, ground or enriched or natural resources which have been through the stage of cutting or splitting.

Example 8: Business Establishment A exports natural stone products in the form of freestone and schist, such exported natural stone products shall not be subject to VAT.

Example 9: Business Establishment B exports white limestone in the form of granules and powder, such white limestone products in the form of granules and powder shall not be subject to VAT. In a case where the business establishment exports superfine limestone powder (in accordance with the standards of the competent body) or superfine limestone powder coated with acid, and such products are determined to be those processed into other products, then they shall be subject to VAT upon export.

24. Products being prosthetics including products being parts for permanent transplantation in the human body; crutches, wheelchairs and other specialized apparatus used for disabled people.

25. Goods and services of business households or individuals with an annual turnover of one hundred million (100,000,000) dong or less.

The determination of whether or not a business household or individual is a VAT taxpayer shall be subject to the guidelines provided in the laws on management of tax.

26. The following goods and services:

- (a) Duty-free goods sold at duty-free shops pursuant to regulations of the Prime Minister of the Government.
- (b) National reserves goods sold by the National Reserves Office.
- (c) Operations subject to collection of fees and charges in accordance with the law on fees and charges.
- (d) Search and destruction of bombs and mines conducted by national defence units in respect of works funded by capital from the State budget.

In the case of goods not subject to VAT at the stage of importation as stipulated in this article but the use purpose of which is changed, VAT must be declared and paid at the stage of importation to the customs office at which the customs declaration was registered, as stipulated. Organizations or individuals selling goods in the domestic market must make a declaration and VAT payment to the tax office directly managing them in accordance with regulations.

Article 5 *Circumstances in which it is not required to declare, assess and pay VAT*

1. Organizations and individuals receiving income comprising compensation by money (including compensation for land and assets on the land which is resumed in accordance with the decision of a competent State body), bonuses and/or allowances receivable, proceeds from assignment of emission rights and other financial income.

When a business establishment receives income comprising compensation, bonuses and/or allowances receivable, proceeds from assignment of emission rights and other financial income, it must prepare a receipt for collection in accordance with regulations. In the case of a business establishment which makes payments, the purpose of such payments shall be the basis for preparing a receipt for payment.

In the case of compensation by goods or services, the establishment making compensation must prepare an invoice and declare, assess and pay VAT the same as that for sale of goods or services; and the establishment receiving the compensation shall declare and credit [tax] in accordance with regulations.

Where a business establishment receives money from an organization or individual to provide services to such organization or individual such as repair, warranty, trade promotion or advertising, it must declare and pay tax in accordance with regulations.

Example 10: Limited Liability Company P&C receives an amount of interest from purchase of bonds and dividends from purchase of shares of other enterprises. Limited Liability Company P&C is not required to declare and pay VAT applicable to the interest from purchase of bonds and the dividends received.

Example 11: Enterprise A receives an amount of compensation for loss and damage resulting from cancellation of a contract by Enterprise B being VND 50 million. Enterprise A prepares a receipt for collection and is not required to declare and pay VAT applicable to such amount.

Example 12: Enterprise X purchases goods from Enterprise Y. Enterprise X advances an amount of money to Enterprise Y and receives interest on such advanced amount paid by Enterprise Y. Enterprise X is not required to declare and pay VAT applicable to the interest received.

Example 13: Enterprise X sells goods to Enterprise Z with the total payment price of VND 440 million. Under the contract, Enterprise Z makes payment in instalments within 3 months with late payment interest rate of 1%/month/total payment price of the contract. After 3 months, Enterprise X receives from Enterprise Z the total payment value of the contract being VND 440 million and the late payment interest being VND 13.2 million (VND 440 million x 1% x 3 months). Enterprise X is not required to declare and pay VAT applicable to the amount of VND 13.2 million.

Example 14: Insurer A and Company B signs an insurance contract for insurance by money. When an insured risk arises, Insurer A pays compensation by money to Company B in accordance with the laws on insurance. Company B is not required to declare and pay VAT on the received amount of compensation from insurance.

Example 15: Milk Shareholding Company ABC pays money to distributors (being business organizations and individuals) for implementation of a trade promotion program (in accordance with the laws on trade promotion activities), marketing, and display of products of the Company (the distributors receive such money for implementation of the services for the Company). Upon receipt of money, the distributors shall prepare an added value invoice and assess VAT at the tax rate of 10% in the case where they pay VAT by the tax credit method or shall use sale invoices and determine an amount of tax payable at a rate (%) of turnover in accordance with regulations in the case where they pay VAT by the method of tax calculation directly [on the basis of added value].

2. Organizations and individuals carrying out production and business in Vietnam and purchasing the following types of services from foreign organizations without a resident establishment in Vietnam or from individuals overseas who are non-residents of Vietnam including the case of repair of transport vehicles or of machinery or equipment (including replacement parts and materials); advertising and marketing; investment and commercial promotion; brokerage for sale of goods and/or provision of services abroad; training; sharing fees and charges for international post and telecom services between Vietnam [the Vietnamese party] and the foreign party where such services are provided outside Vietnam, services for lease of a line or satellite frequency band from a foreign party in accordance with law.
3. Organizations and individuals who do not conduct business and who are not VAT taxpayers upon sale of assets.

Example 16: Mr A who is not conducting business sells one four-seat car to Mr B with a price of VND 600 million. Mr A is not required to declare and assess VAT applicable to the proceeds from sale of the car.

Example 17: Mr E who is not conducting business mortgages one five-seat car at Bank VC to borrow money. Mr E is unable to make repayment to Bank VC when it becomes due under the contract, so the asset being the mortgaged car is sold to recover the debt. The proceeds from sale of such mortgaged car shall not be subject to a declaration and assessment of VAT.

4. Organizations and individuals transferring an investment project for production and business in goods and services subject to VAT to an enterprise or co-operative.

Example 18: Shareholding Company P carries out an investment project for construction of an industrial alcohol plant. In March 2014 the investment project has completed 90% of the designed plan and the investment value is 26 billion Dong. Due to financial difficulties, Shareholding Company P makes a decision transferring the whole investment project to Shareholding Company X at the transfer price of 28 billion Dong. Shareholding Company X receives the transfer of the above investment project for the purpose of continuing production of industrial alcohol. Shareholding Company P is not required to declare and pay VAT on the value of the project which is transferred to Shareholding Company X.

5. Enterprises and co-operatives paying VAT by the tax credit method and selling products from cultivation or breeding and aquatic products which have not yet been processed to become other products or which have only been subject to conventional semi-processing to enterprises and co-operatives engaged in the phase of commercial business shall not be required to declare, assess and pay VAT. A price exclusive of VAT is recorded in the row for selling prices on the added value invoice and the rows for tax rates and VAT are left blank and crossed out.

Enterprises and co-operatives paying VAT by the tax credit method and selling products from cultivation or breeding and aquatic products which have not yet been processed to become other products or which have only been subject to conventional semi-processing to other entities such as business households or individuals and other organizations and individuals shall declare, assess and pay VAT at the tax rate of 5% as guided in article 10.5 of this Circular.

Business households or individuals, enterprises, co-operatives and other economic organizations paying VAT by the method of tax calculation directly on the basis of added value and selling products from cultivation or breeding and aquatic products which have not yet been processed to become other products or which have only been subject to conventional semi-processing in the phase of commercial business shall declare, assess and pay VAT at the rate of 1% of the turnover.

Example 19: Food Company B which is a business establishment paying VAT by the tax credit method purchases rice from organizations and individual being rice planters, the rice in the phase of purchase from rice planters is not subject to VAT.

Where Food Company B sells such rice to Import and Export Company C, Food Company C is not required to declare, to assess and pay VAT on the rice sold to Import and Export Company C.

Where Food Company B sells such rice to Limited Liability Company D (which is an enterprise producing vermicelli and rice noodles), Food Company B is not required to declare, assess and pay VAT on the rice sold to Limited Liability Company D.

Food Company B must specify the selling price being a price exclusive of VAT, leave the rows for tax rates and VAT blank and cross out such rows on the added value invoice which is prepared and delivered to Import and Export Company C or Limited Liability Company D.

Where Food Company B sells rice directly to consumers, it shall declare and pay VAT at the VAT rate of 5% as guided in article 10.5 of this Circular.

Example 20: Where Limited Liability Company A which is a business establishment paying tax by the tax credit method purchases coffee beans from coffee-planters, thereafter Limited Liability Company A sells such coffee beans to Business Household H, turnover of Limited Liability Company A from sale of coffee beans to Business Household H is subject to the tax rate of 5%.

Example 21: Where Mr. X's Household purchases tea leaves from tea-planters for sale to Mr. Y's Household, Mr. X's Household must assess and pay VAT at the rate of 1% of the turnover from sale of tea leaves to Mr. Y's Household.

In the case of products from cultivation or breeding and aquatic products which have not yet been processed to become other products or which have only been subject to conventional semi-processing for sale to enterprises and co-operatives for which an invoice is prepared and VAT is declared and assessed, the seller and the purchaser must adjust the invoice for them not to declare, assess and pay VAT as guided in this clause.

6. Where fixed assets which are currently being used and have been depreciated are transferred on the basis of the book value in the accounting books between a business establishment and member unit whose 100% capital is owned by the business establishment or between member units whose 100% capital is owned by a business establishment for the purpose of servicing production and business of goods and/or services subject to VAT, the preparation of invoices and the declaration and payment of VAT shall not be required. The business establishment with transferred fixed assets must issue a decision or an order on transfer of assets accompanied by the file on origin of the assets.

Where the fixed assets are revalued upon transfer or are transferred to an establishment which produces or conducts business of goods and/or services not subject to VAT, the preparation of a VAT invoice and the declaration and payment of VAT shall be required in accordance with regulations.

7. Other circumstances:

A business establishment shall not be required to declare and pay tax in the following circumstances:

- (a) Contribution of capital by using assets to establish an enterprise. When using assets to contribute capital to the enterprise, the following shall be required: minutes of capital contribution for production and business, association or joint venture contract, minutes of valuation of assets provided by the council delivering and receiving contributed capital of contributing parties (or valuation document of an organization with the valuating function in accordance with law), accompanied by a set of the file on origin of the assets.
- (b) Transfer of assets between the dependent cost accounting units in an enterprise; transfer of assets upon division, de-merger, consolidation, merger or conversion of form of enterprise.

With respect to assets transferred between the dependent cost accounting member units in a business establishment, and assets transferred upon division, de-merger, consolidation, merger or conversion of the form of enterprise, the business establishment with the transferred assets must issue an order on transfer of assets, accompanied by a set of the file on origin of the assets, and shall not be required to issue an invoice.

With respect to assets transferred between the dependent cost accounting units or between the member units with full legal status in the same business establishment, the business establishment with the transferred assets shall be required to issue a VAT invoice and declare and pay VAT in accordance with regulations, except for cases specified in clause 6 of this article.

- (c) Receipts collected from third parties applicable to insurance operations.
- (d) Amounts of money collected by way of authorization not relating to sale of goods and/or services of the business establishment.

- (dd) Turnover from goods and/or services received to sell as agent and turnover from commission on activities of the agent selling at the fixed price as stipulated by the principal and receiving commission on postal and telecommunication services, sale of lotteries, air tickets, bus tickets, train tickets, ship tickets; international transport agents; agents providing aviation and maritime services to which the VAT rate of 0% applies; insurance agents.
- (e) Turnover from goods and/or services and turnover from commission to which agents are entitled from activities of agents selling goods and/or services not subject to VAT.

CHAPTER II

Bases and Methods of Tax Calculation

Section 1

Bases for Tax Calculation

Article 6 *Bases for tax calculation*

The bases for VAT calculation shall be taxable prices and tax rates.

Article 7 *Taxable prices*

1. In respect of goods and services sold by production or business establishments, the sale price excluding VAT. In respect of goods and services subject to special sales tax, the VAT taxable price shall be the sale price including special sales tax but excluding VAT.

In the case of goods subject to environmental tax, the taxable price shall be the selling price with environmental tax but excluding VAT; and in the case of goods subject to both special sales tax and environmental tax, the taxable price shall be the selling price with special sales tax and environmental tax but excluding VAT.

2. In respect of imported goods, the imported price at the bordergate plus (+) import duties (if any) plus (+) special sales tax (if any) plus (+) environmental tax (if any). The imported price at the bordergate shall be determined in accordance with the provisions on dutiable prices of imported goods.

Where imported goods are entitled to exemption from or reduction of import duties, the VAT taxable price shall be the price of the imported goods plus (+) import duties calculated at the rate of duty payable after the exemption or reduction.

3. In respect of products, goods and services (whether purchased from outside or manufactured by the business establishment) used for the purposes of exchange, gift or donation, or paid instead of wages, the VAT taxable price shall be the taxable price of goods or services of the same or equivalent category at the same time of such use or activity as mentioned above.

Example 22: Entity A manufactures electrical fans and uses 50 fans to exchange with Establishment B for iron and/or steel, and the selling price (before VAT) of such fans is VND 400,000 per fan. The VAT taxable price shall be $50 \times 400,000 \text{ dong} = \text{VND } 20,000,000$.

In the case of giving or donating invitations (specifying no receipt of money) to artistic performances, fashion shows, beauty and model contests, and sports competitions as permitted by the competent

State body in accordance with law, the taxable price shall be zero (0). The establishment organizing artistic performances shall itself determine and shall be self-responsible for the quantity of invitations, the list of organizations and individuals to which the establishment gives or donates the invitations before a performance or a sport competition takes place. Where the establishment commits a fraud and charges for the invitations, such establishment shall be dealt with in accordance with the law on management of tax.

Example 23: Shareholding Company X is licensed by the competent body to organize a contest named "Ms Vietnam 20xx". In addition to the number of tickets printed to sell to spectators, the Company prints some invitations as gifts and donations without receipt of money in order to invite a number of delegates to attend and support the contest, and these invitations are delivered in accordance with a list of recipients. Upon declaration of VAT, the taxable price applicable to the invitations as gifts and/or donations shall be zero (0). Where the tax office discovers that Shareholding Company X collected money when giving or donating the invitations, Shareholding Company X shall be dealt with in accordance with the law on management of tax.

4. Taxable prices applicable to products, goods and services for internal consumption

In respect of products, goods and services which a business establishment produces or provides for its own use to serve business activities (internal consumption), the VAT taxable price shall be the VAT taxable price of products, goods or services of the same or equivalent category at the time of such consumption. The business establishment shall be permitted a declaration and credit of [VAT] in respect of a VAT invoice issued for internal consumption serving production and/or trading of goods and services subject to VAT.

VAT shall not be calculated or payable on goods circulated internally such as goods produced for transfer into an internal warehouse or materials and semi-finished products produced in order to continue the process of production within the same production or business establishment.

Where a business establishment itself produces or constructs fixed assets (self-made fixed assets) to serve production and business in taxable goods and services, upon completion, acceptance and delivery [of self-made fixed assets] the business establishment is not required to prepare an invoice. Input VAT forming the self-made fixed assets shall be declared and credited in accordance with regulations.

In the case of products, goods or services used by a business establishment for production and business in non-taxable goods and services, the selling price of products, goods or services of the same or similar type on the date of consumption of goods or services [shall be used].

Example 24: Entity A is an enterprise which manufactures electrical fans and installs 50 fans in its workshops, and the selling price (before VAT) of such fans is VND 1,000,000 per fan, and the VAT rate is 10%.

The VAT taxable price shall be $1,000,000 \times 50 = \text{VND } 50,000,000$.

Entity A prepares a VAT invoice stating the VAT taxable price being VND 50,000,000 and the amount of VAT being VND 5,000,000. Entity A shall be permitted a declaration and credit of VAT in respect of the invoice issued for internal consumption.

Example 25: Company Y is an enterprise which produces bottled water and the market price exclusive of VAT is 4,000 Dong per bottle. Company Y uses 300 bottles of water for the sightseeing of children of employees of the Company. Company Y must declare and calculate VAT on the aforesaid 300 bottles of water not used for production and business at the assessable price as follows: 4,000 Dong x 300 = 1,200,000 Dong.

Example 26: Garment Establishment B has a thread workshop and a sewing workshop. Where establishment B circulates finished thread from the thread workshop to the sewing workshop in order to continue the process of production, VAT shall not be calculated or payable in respect of thread circulated to the sewing workshop.

Example 27: Shareholding Company AP purchases raw materials for production of feed. The Company has declared and credited input VAT upon purchase of raw materials. Part of the produced feed is sold in the market while part is used for breeding by the Company. Upon use of feed for breeding, Shareholding Company AP shall prepare an invoice and declare and pay VAT on the amount of feed used for breeding and shall not declare and credit input VAT in respect of the added value invoice in which the amount of feed used for breeding is recorded.

Example 28: Shareholding Company P itself constructs a room for breaks by workers in the production and business area. Shareholding Company P does not have any subsidiary entity or unit carrying out such construction. Upon completion and acceptance of the room for breaks, Shareholding Company P is not required to prepare an invoice. Input VAT forming the room for breaks shall be declared and credited in accordance with regulations.

In the case of business establishments using goods and services for internal consumption to service production and business, such as transportation, airlines, railways and posts and telecommunications, which do not calculate output VAT, they must have regulations on the subjects and the restraining limits of internal consumption of goods and services within the scope of authority as stipulated.

5. With respect to products, goods and services which are used for trade promotion in accordance with the law on commerce, the taxable price shall be determined as equal to zero; and with respect to goods and services which are used for trade promotion which is not conducted in accordance with the law on commerce, it shall be required to declare, assess and pay tax as goods and services used for internal consumption, for a gift or donation.

A number of specific forms of trade promotion are implemented as follows:

- (a) In respect of trade promotion by way of providing sample goods or sample services to clients for free trial use, the taxable price for the sample goods or sample services shall be determined as equal to zero.

Example 29: Limited Liability Company P produces carbonated soft drink. In 2014 the Company conducts a trade promotion program in the months of May and December by way of purchase of 10 products to get one product as a gift. As the trade promotion program in May 2014 is conducted in accordance with the order and procedures for trade promotion stipulated in the laws on commerce, Limited Liability Company P shall determine the taxable price as equal to zero in respect of the amount of products used for a gift when purchasing products in May 2014.

Where the trade promotion program in December 2014 is not conducted in accordance with the order and procedures for trade promotion stipulated in the laws on commerce, Limited Liability Company P must declare and assess VAT on the amount of products used for a gift when purchasing products in December 2014.

- (b) With respect of the form of sale of goods or provision of services at a price which is lower than the previous selling price of goods or services, the taxable price shall be the selling price which is reduced and applied during the period of trade promotion and has been registered or notified.

Example 30: Company N operates in the telecommunications sector and is specialized in sale of phone cards of all types. The Company registers a trade promotion [program] in accordance with the laws on commerce by way of selling goods at a price which is lower than the previous selling price for a period from 1 April 2014 to 20 April 2014 inclusive, whereby a card with the face value of 100,000 Dong (including VAT) shall be sold at the selling price of 90,000 Dong during the period of trade promotion.

Taxable price for a card with the face value of 100,000 Dong during the period of trade promotion is calculated as follows:

$$\frac{90,000}{1 + 10\%}$$

- (c) With respect to the forms of trade promotion by way of selling goods or providing services enclosing a voucher for goods or services, it shall not be required to declare and assess VAT in respect of vouchers for goods or services used as a gift.
6. In respect of leasing activities of property such as houses, offices, factories, warehouses, bus or landing stations, grounds, means of transportation, machinery and equipment and so forth, the VAT taxable price shall be the rent excluding VAT.

In the case of leases for which rent is paid in instalments or paid in advance for a period of the lease, VAT taxable price shall be the amount of rent paid in each instalment or paid in advance excluding VAT.

Rent for assets shall be as agreed between the parties in a contract. Where the framework of rent is stipulated by law, rent shall be determined within such framework.

7. In respect of goods sold by instalment payments or deferred payment, the taxable price shall be the lump sum price of the goods excluding VAT on one occasion excluding interest on instalments or on deferred payment.

Example 31: If a motor dealer supplies 100cc X motorcycles at the price payable by instalments excluding VAT of VND 25.5 million per bike (comprising the sale price being VND 25 million and interest on instalments being VND 0.5 million), the VAT taxable price shall be VND 25 million.

8. In respect of goods processing, the VAT taxable price shall be the processing price pursuant to the processing contract, excluding VAT but including charges for labour, expenses of fuel, power, auxiliary materials and other expenses required for goods processing.
9. In respect of construction and installation, the VAT taxable price shall be the value of works or item of works or part of works performed and delivered, excluding VAT:

- (a) In respect of construction and installation in which the supply of raw materials is included in the contract, the VAT taxable price shall include the VAT-exclusive value of such raw materials.

Example 32: Where Construction Company B is awarded a construction contract which includes the value of the raw materials, the total payment price without VAT being VND 1,500 million of which the value of construction materials is VND 1,000 million, the VAT taxable price shall be VND 1,500 million.

- (b) In respect of construction and installation in which the supply of raw materials, machinery and equipment is not included in the contract, the VAT taxable price shall be the value of the construction and installation not including the VAT-exclusive value of the raw materials, machinery and equipment.

Example 33: Where Construction Company B is awarded a construction contract which excludes the value of construction materials and the total value of the works without VAT is VND 1,500 million of which the value of construction materials supplied by the Owner A is VND 1,000 million, then in this case the VAT taxable price shall be VND 500 million (VND 1,500 million minus (-) VND 1,000 million).

- (c) In respect of construction and installation for which payment is made on the basis of delivery of completed items or the value of a quantity of completed works of construction or installation, the VAT taxable price shall be based on the value of items completed and delivered or the value of the quantity of works completed and delivered without VAT.

Example 34: Textile Company X (Party A) engages Construction Company Y (Party B) to carry out expansion of a production workshop.

The total cost of the project before VAT is VND 200 billion, comprising:

- Value of construction, 80 billion;
 - Value of equipment provided and installed by Party B, 120 billion;
 - 10% VAT: $(80 + 120) \times 10\% = 20$ billion;
 - Total payable by Party A is 220 billion.
- + When the workshop is delivered to Party A, Party A shall credit the value of fixed assets for depreciation purposes at 200 billion (value without VAT).
- + The amount of VAT of 20 billion may be declared and deducted from output VAT on goods sold, or else a request for a refund may be made in accordance with regulations.

If Party A accepts and takes delivery and agrees to pay Party B for each item of works completed (assuming that the value of works of construction and instalment being VND 80 billion is accepted, delivered and agreed for first payment), then the VAT taxable price shall be VND 80 billion.

10. The taxable price in the case of real property transfers shall be the price of the real property transfer less the deductible land price for assessing VAT.

- (a) The deductible land price for assessing VAT shall be specifically regulated as follows:

(a.1) Where the State allocates land for investment in infrastructure for construction of housing for sale, the deductible land price for assessing VAT comprises land use fees

payable to the State budget (excluding any exempt or reduced land use fees) and expenses of paying compensation and conducting site clearance as stipulated by law;

Example 35: In 2014, Real Property Business Company A was allocated land by the State for investment in construction of infrastructure for construction of housing for sale. The land use fee payable (not excluding any exempt or reduced land use fees and not excluding expenses of paying compensation and conducting site clearance in accordance with the plan approved by the competent body) was VND 30 billion. The project was entitled to a reduction of 20% of the land use fee payable.

The amount used for paying compensation and conducting site clearance in accordance with the approved plan is VND 15 billion.

The total deductible land value shall be determined as follows:

- The exempt or reduced land use fee is $30 \text{ billion} \times 20\% = (\text{VND}) 6 \text{ billion}$;
 - The land use fee payable to the State budget (excluding the exempt or reduced land use fee) is $30 \text{ billion} - 6 \text{ billion} - 15 \text{ billion} = (\text{VND}) 9 \text{ billion}$;
 - The total deductible land price for assessing VAT comprising the land use fee payable to the State budget (excluding the exempt or reduced land use fee) and the expenses of paying compensation and conducting site clearance is $9 \text{ billion} + 15 \text{ billion} = (\text{VND}) 24 \text{ billion}$. The total deductible land price is allocated to the square meters permitted to be traded.
- (a.2) Where a land use right of the State is auctioned, the deductible land price for assessing VAT is the auction winning land price;
- (a.3) Where land is leased for investment in infrastructure for lease or for construction of housing for sale, the deductible land price for assessing VAT is land rent payable to the State budget (excluding any exempt or reduced land rent) and expenses for compensation and site clearance as stipulated by law. The cases of lease of land for construction of housing for sale shall be subject to the 2013 Law on Land from 1 July 2014.

Example 36: Shareholding Company VN-KR has a business line of investment in and commercial operation of infrastructure for industrial production and services. The Company leases land from the State with one-off payment of the rent for investment in construction of infrastructure in an industrial zone to implement projects. The land lease term is 50 years. The area of the leased land is 300,000 m². The price for one-off payment of land rent for the whole lease term is 82,000 dong per square metre. The total amount of land rent payable is 24.6 billion Dong. The Company is not entitled to exemption or reduction of land rent. After investment in construction of infrastructure, the Company signs a contract for sublease to an investor for the term of 30 years and the leased land area is 16,500 m². The rent at the time of signing of the contract is 650,000 Dong per square metre for the whole lease term and such rent included VAT.

The rent inclusive VAT in respect of the proceeds from lease of infrastructure in the lease term (30 years) in which Shareholding Company VN-KR leases out [infrastructure] to the investor shall be determined as follows:

$$16,500 \text{ m}^2 \times (650,000 - (82,000 \text{ Dong/m}^2 : 50 \text{ years} \times 30 \text{ years})) = 9.9132 \text{ billion Dong.}$$

Rent exclusive VAT is determined as follows: $\frac{9.913}{(1 \times 10\%)} = 9.012$ billion Dong.

VAT: $9.012 \times 10\% = 0.9012$ billion Dong.

- (a.4) In a case where a business establishment receives a transfer of a land use right from an organization or an individual, then the deductible land price for assessing VAT is the land price at the time of receipt of such transfer including the value of infrastructure (if any); the business establishment is not permitted to declare and credit input VAT of the infrastructure already included in the deductible value of the land use right not subject to VAT.

If the deductible land price excludes the value of infrastructure, the business establishment may declare and credit input VAT on infrastructure which is not included in the deductible value of land use right not subject to VAT.

Where it is impossible to determine the land price at the time of receipt of the transfer, then the deductible land price for assessing VAT shall be the land price stipulated by the provincial people's committee at the time of signing the contract for receipt of the transfer.

Example 37: In August 2013, Company A receives a transfer of (or purchases) the use right in respect of 200m² of land from Individual B in Binh An Residential Zone, Province X with a transfer price of VND 6 billion. Company A possesses the contract for transfer of land use right which was notarized in accordance with the law on land and the receipt for payment of 6 billion Dong to Individual B. Company A does not conduct any investment in construction on such land. In October 2014 Company A transfers the land lot purchased from Individual B with a price of VND 9 billion (or sells [the land lot] at the price of 9 billion Dong); Company A shall prepare an invoice and declare and pay VAT and the deductible land price included in the VAT taxable price is the land price at the time of receipt of the transfer (VND 6 billion).

Example 38: In November 2013, Limited Liability Company A receives a transfer of 300m² of land accompanied by a workshop on the land from Individual B with a value of VND 10 billion and there are no sufficient documents and papers to determine the land price at the time of receipt of the transfer. In April 2014, Limited Liability Company A transfers such 300m² of land together with buildings on such land with a value of VND 14 billion; the deductible land price for assessing VAT is the land price stipulated by the provincial people's committee at the time of receipt of the transfer (November 2013).

Example 39: In September 2013, Company B purchases 2,000m² of land with part of infrastructure from Real Property Business Company A with the total payment price of VND 62 billion (in which the land price not subject to VAT is VND 40 billion, i.e. price unit being VND 20 million per square meter).

Company A writes in the invoice as follows:

- Transfer price exclusive of VAT: 60 billion Dong.
- Land price not subject to VAT: 40 billion Dong.
- VAT applicable to infrastructure: 2 billion Dong.
- Total payment price: 62 billion Dong.

Company A must declare VAT payable as follows:

VAT payable = Output VAT – Credited Input VAT

Assuming that the input VAT for construction of infrastructure of Company A being VND 1.5 billion satisfies the conditions for credit, then:

VAT payable = 2 billion - 1.5 billion = VND 0.5 billion

Company B continues to construct infrastructure and builds 10 villas (floor area being 200m² per villa) for sale. The total amount of input VAT for construction of such villas is VND 3 billion.

On 1 April 2015, Company B signs a contract for sale of 1 villa to Client C. The transfer price of 1 villa exclusive of VAT is VND 10 billion. The deductible land price when determining the VAT taxable price applicable to 1 villa sold is as follows:

- Value of land use right (excluding the value of infrastructure) at the time of receipt of the transfer from Company A in respect of 1 villa is 20 million x 200m² = VND 4 billion.
- Value of infrastructure allocated to 1 villa is (20 billion : 2,000m²) x 200m² = VND 2 billion.
- Value of land use right (including the value of infrastructure) at the time of receipt of the transfer from Company to be deducted when determining the taxable price of 1 villa sold is VND 6 billion.

Company B writes in the invoice as follows:

- Transfer price of 1 villa: VND 10 billion.
- Deductible land price not subject to VAT: VND 6 billion.
- VAT: VND 0.4 billion [(10 billion – 6 billion) x 10%]
- Total payment price: VND 10.4 billion.

Assuming that in one month, Company B sells all 10 villas. When Company B declares and pays VAT, the amount of VAT payable shall be output VAT - credited input VAT = 0.4 billion x 10 villas - 3 billion = VND 1 billion.

The VAT applicable to the value of infrastructure recorded in the invoice for receipt of the transfer of 10 villas from Company A being VND 2 billion is not permitted to be declared and credited.

Where Company B determines that the value of land use right excluding the value of infrastructure at the time of receipt of the transfer from Company A to be deducted when determining the taxable price of 1 villa sold is 4 billion Dong, Company B shall write in the invoice as follows:

- Transfer price of 1 villa: VND 10 billion.
- Deductible land price not subject to VAT: VND 4 billion.
- VAT: VND 0.6 billion [(10 billion – 4 billion) x 10%]
- Total payment price: VND 10.6 billion.

Assuming that in April 2015, Company B sells all 10 villas. When Company B declares and pays VAT, the amount of VAT payable shall be output VAT minus (-) credited input VAT (including input VAT for construction of villas and input VAT in respect of the value of infrastructure) = 0.6 billion x 10 villas - 3 billion Dong – 2 billion Dong (being input VAT on the infrastructure) = 1 billion Dong.

- (a.5) In a case where an establishment conducts real property business in the BT (build - transfer) form with payment by the value of land use rights, then the deductible land price for assessing VAT is the price at the time of signing the BT contract in accordance with law; and if it is impossible to determine a price at the time of signing the BT contract, the deductible land price is the price for payment for works determined by the provincial people's committee in accordance with law.

Example 40: Shareholding Company P signs a BT contract with the People's Committee of Province A for construction of a bridge for exchange of a value of the land; and the price for payment for the work which is determined by the People's Committee of Province A at the time of signing the contract in accordance with the law is 2,000 billion Dong. For exchange, the People's Committee of Province A allocates 500 hectares of land in District Y in the province to Shareholding Company P. Shareholding Company P uses 500 hectares of Land for construction of housing for sale, then the deductible land price for assessment of VAT is determined to be 2,000 billion Dong.

- (a.6) In the case where a real estate business enterprise receives the transfer of the right to use agricultural land from the people under a transfer contract, thereafter the competent State body authorizes conversion of the land use purpose into residential land for construction of apartments and houses for sale, the deductible land price for assessment of VAT shall be the price of the agricultural land transferred from the people and other costs including the land use fee paid to the State Budget for conversion of the land use purpose from agricultural land into residential land and personal income tax paid on behalf of the people whose land is transferred (if the parties agree that the real estate business enterprise will make payment on their behalf).
 - (a.7) In the case of construction of multi-storey buildings with numerous households or apartments for sale, the deductible land price for one square metre of the houses for sale shall be determined as equal to the deductible land price as stipulated in the aforesaid paragraphs a.1 to a.6 divided by the amount of square metres of the construction floor excluding the areas for common use such corridors, stairs, basements and underground construction works.
 - (b) In a case of construction and/or commercial operation of infrastructure, or construction of housing for sale, transfer or to let, the VAT taxable price shall be the proceeds receivable according to the schedule for implementation of the project or the schedule for receipt of moneys stipulated in the contract minus the deductible land price corresponding to the ratio (%) of the proceeds to the total contract value.
11. In respect of agency activities, broking for purchase or sale of goods and services, and import-export agency for which wages or commission are received, the VAT taxable price shall be the wages or commission receivable from such activities without VAT.
 12. In respect of goods or services which use receipts for payment in which the sale price is stated as VAT inclusive such as stamps, transportation tickets, lottery tickets and so forth, the pre-VAT price shall be determined as follows:

$$\text{Pre-VAT price} = \frac{\text{Payment price (price of ticket or stamp or whatever)}}{1 + \% \text{ of applicable VAT rate for such goods or services.}}$$

13. In respect of electricity generated by dependent cost accounting hydroelectric plants under Electricity of Vietnam, including electricity of hydroelectric plants which conduct dependent accounting of power generation corporations under Vietnam Electricity, the VAT taxable price for calculation of an amount of VAT payable in their locality shall be equal to sixty (60) per cent of the average sale price of commercial electricity in the previous year, excluding VAT. Where an average sale price of commercial electricity of the previous year has not yet been determined, a provisional price notified by EVN shall be used but it shall not be less than the sale price of commercial electricity of the year immediately preceding year. When an average sale price of commercial electricity of such previous year is determined, a declaration shall be made for adjusting any difference in the period of the declaration for the month in which the official price is available. An average sale price of commercial electricity of the previous year shall be determined no later than 31 March of the subsequent year.
14. In respect of casino services, electronic games with prizes or entertainment businesses with betting, the VAT taxable price shall be the proceeds from such activities including special sales tax, but excluding amounts of prizes paid to players.

VAT taxable price shall be calculated in accordance with the following formula:

$$\text{VAT taxable price} = \frac{\text{Proceeds}}{1 + \text{tax rate.}}$$

Example 41: A business establishment providing casino services has the following data in the tax period:

- Amount earned from exchange of money for chips for players at the cash desk before they play games is VND 43 billion.
- Amount paid back to players upon exchange of chips for money after they played games is VND 10 billion.

The amount actually earned by the business establishment: VND 43 billion – VND 10 billion = VND 33 billion

The amount of VND 33 billion is turnover of the business establishment, including VAT and SST.

The VAT taxable price shall be calculated as follows:

$$\text{VAT taxable price} = \frac{\text{VND 33 billion}}{1 + 10\%} = \text{VND 30 billion.}$$

15. In respect of transportation and loading and unloading activities, the VAT taxable price shall be the transportation, loading and unloading charges before VAT, irrespective of whether the establishment directly carries out or sub-contracts out the transportation, loading and unloading.
16. In respect of tourism services in the form of travel or tour package contracts (including accommodation, travel and meals) the tax-inclusive price shall be determined as the package contract price.

The taxable price shall be determined in accordance with the following formula:

$$\text{VAT taxable price} = \frac{\text{Package contract price}}{1 + \text{tax rate.}}$$

Where the package contract price includes items such as airfares for tourists from other countries to Vietnam and vice versa, meals and accommodation costs and excursion costs in foreign countries (if there are legal source documents), such costs shall be deducted from the VAT taxable price (turnover). Input VAT on for package tours shall be declared and fully credited in accordance with regulations.

Example 42: Ho Chi Minh Tourism Company performs a package tour contract with Thailand for 50 tourists for 5 days in Vietnam with total payment of USD 32,000. The Vietnamese company pays for all airfares, meals, accommodation and excursion tickets in accordance with the agreed program, and the cost of the return airfares between Thailand and Vietnam is USD 10,000. The exchange rate is VND 20,000 for one US dollar.

The payable VAT price under this contract shall be determined as follows:

- + VAT taxable turnover shall be (USD 32,000 - 10,000) x VND 20,000 = VND 440,000,000
- + VAT taxable price shall be: $\frac{\text{VND 440,000,000}}{1 + 10\%} = \text{VND 400,000,000}$

Ho Chi Minh Tourism Company shall be permitted to declare and fully credit all input VAT on taxable tour activities.

Example 43: Hanoi Tourism Company has a contract to take Vietnamese tourists to China at the package price of USD 400/per person for 5 days. If Hanoi Tourism Company pays the Chinese Tourism Company USD 300/per person, the taxable price (turnover) of Hanoi Tourism Company shall be USD 100/per person (USD 400 - USD 300).

17. In respect of pawn broking services, the amount receivable from this service comprising interest receivable from providing loans when pawning and the difference earned from selling pawned goods (if any) shall be determined as VAT-inclusive price.

The taxable price shall be determined in accordance with the following formula:

$$\text{VAT taxable price} = \frac{\text{Amount receivable}}{1 + \text{tax rate.}}$$

Example 44: A Pawn broking Company has turnover from pawn broking of VND 110 million in the tax period.

VAT taxable price shall be calculated as follows:

$$\frac{\text{VND 110 million}}{1 + 10\%} = \text{VND 100 million}$$

18. In respect of books subject to VAT sold at the published price (cover price) in accordance with the *Law on Publishing*, the sale price shall be the VAT-inclusive price for the purpose of calculation of VAT and turnover of the establishment. Where books are not sold at the cover price, VAT shall be calculated on the basis of the sale price.
19. In respect of printing services, the VAT taxable price shall be the printing wages. Where the printing establishment performs printing contracts and the payment price includes the printing wages and the costs of the paper used for printing, the VAT taxable price shall include the costs of the paper.
20. In respect of services of an assessment agency, agency of assessment for compensation and agency for third party claims or agency for dealing with goods for which a claim for compensation of 100% is made, and for which wages or commission are received, the VAT taxable price shall be the wages or commission entitlement (including any items of costs) receivable by the insurance business establishment, excluding VAT.
21. In respect of purchase of services stipulated in article 3.5 of this Circular, the taxable price shall be the payment price stated in the service purchase contract exclusive of VAT.
22. In respect of goods and services stipulated in clauses from 1 to 21 of this article, the taxable price shall include any additional levies and fees on top of the price of the goods and services to which business establishments are entitled.

Where a business establishment applies a form of commercial discount to the sale price (if any) for its customers, VAT taxable price shall be the discounted sale price applicable to customers. In a case where the commercial discount is based on the quantity and/or revenue of goods and services, then the amount of discount for goods already sold shall be adjusted on the sales invoice for the goods and services on the final purchase occasion or in the following period. In a case where the amount of discount is fixed at the end of the program on (period of) discount of sale prices, then it shall be permitted to prepare an amended invoice accompanied by a list of invoice series required to be amended with the adjusted amount of money and tax. Based on the amended invoice, the seller and the purchaser shall make amended declarations of the turnover on the sale or purchase and output VAT and input VAT.

Taxable prices shall be determined in Vietnamese Dong. Where a taxpayer has turnover in foreign currency, there must be a conversion of such foreign currency into Vietnamese dong at the average inter-bank rate published by the State Bank of Vietnam at the time when the turnover arises, for the purpose of determining a VAT payable price.

Article 8 *Point of time for fixing VAT*

1. In the case of sale of goods, the point of time for fixing VAT shall be the time of transfer of ownership or right to use the goods to the purchaser, irrespective of whether money was received.
2. In the case of provision of services, the point of time for fixing VAT shall be the time of completion of the provision of services or the time of billing for provision of services, irrespective of whether money was received.

In the case of telecommunications services, the point of time for fixing VAT is the time of completion of the check of data on charges for telecommunications connection services under an economic contract between telecommunication services business establishments but no later than two months from the month in which the charges for telecommunications connection services arise.

3. In the case of potable water or electricity supply activities, the point of time for fixing VAT shall be the date on which the reading of consumed electricity or water is recorded for billing.
4. In the case of real estate business or construction of infrastructure facilities or housing for sale, transfer or for lease, the point of time for fixing VAT shall be the date of collection of money pursuant to the schedule of implementation of the project or the schedule for payment specified in the contract. A business establishment shall, on the basis of the amount of money collected, make a declaration of output VAT arising in the relevant period.
5. In the case of construction and installation, including shipbuilding, the point of time for fixing VAT shall be the time of acceptance and handover of the completed works or items of works or completed volume of construction or installation, irrespective of whether money was received.
6. In the case of imported goods, the point of time for fixing VAT shall be the date of registration of a customs declaration.

Article 9 *Tax rate of zero per cent (0%)*

1. The tax rate of zero per cent (0%) shall apply to exported goods or services; construction and installation operations overseas and in non-tariff zones; international transportation and goods and services which are not subject to VAT upon export, except for the cases not entitled to the tax rate of zero per cent specified in clause 3 of this article.

Export goods and services mean goods and services sold or provided to organizations and individuals overseas and consumed outside Vietnam or in non-tariff zones or goods and services provided to foreign customers in accordance with law

(a) Exported goods shall comprise:

- Goods exported to foreign countries including via authorized agents;
- Goods sold into non-tariff zones pursuant to regulations of the Prime Minister; goods sold to duty-free shops;
- Goods sold for which the point of delivery is located outside Vietnam;
- Replacement parts and materials provided for repair or maintenance of means, machinery or equipment for foreign parties and consumed outside Vietnam;
- Cases deemed to be export in accordance with law:
 - + Transitional processed goods in accordance with the commercial law regulating international purchases and sales of goods and agency for sale and purchase, processing and transit of goods involving foreign parties.
 - + Goods for on-the-spot export in accordance with law.
 - + Export goods for sale at fairs and exhibitions overseas.

- (b) Export services include services provided directly to organizations and individuals overseas and consumed outside Vietnam; provided directly to organizations and individuals in non-tariff zones and consumed in non-tariff zones.

An offshore individual means a foreigner who is a non-resident of Vietnam, a Vietnamese who resides overseas, or an individual residing overseas during the period of provision of the services. *An organization or individual in a non-tariff zone* means any such entity who has registered business or other cases as stipulated in regulations of the Prime Minister of the Government.

In the case of provision of services and such provision is carried out both in and outside Vietnam while the service contract is signed between the two taxpayers which are in Vietnam or have a resident establishment in Vietnam, the tax rate of zero per cent (0%) only applies to the part of the value of services provided outside Vietnam, except for provision of insurance services for imported goods which is subject to the tax rate of zero per cent (0%) on the whole contract value. Where it is impossible to separately determine the part of the value of services provided in Vietnam in the contract, the taxable price shall be calculated as a ratio (%) being costs incurred in Vietnam over the total costs.

Business establishments providing services and being taxpayers in Vietnam must produce documents evidencing that the provision of services is carried out outside Vietnam.

Example 45: Company B signs a contract with Company C for provision of services of consultancy, survey and design for an investment project of Company C in Cambodia (Company B and Company C are Vietnamese enterprises). As the contract comprises services carried out in Vietnam and services carried out in Cambodia, the value of the services carried out in Cambodia is subject to the tax rate of 0%; and Company B must declare and assess VAT in accordance with regulations in respect of the services carried out in Vietnam.

Example 46: Company D provides services of consultancy, survey and preparation of a feasibility study for an investment project in Laos to Company X. The contract value received by Company D is 5 billion Dong inclusive of VAT on the part of services carried out in Vietnam. The contract between the two enterprises does not determine turnover from the services carried out in Vietnam and turnover from the services carried out in Laos. Company D can calculate expenses for implementation in Laos (expenses of survey and exploration) being 1.5 billion Dong and expenses for implementation in Vietnam (compilation for and preparation of a report) being 2.5 billion Dong.

The turnover from the part of services carried out in Vietnam, including VAT shall be determined as follows:

$$5 \text{ billion} \quad \times \quad \frac{2.5 \text{ billion}}{2.5 \text{ billion} + 1.5 \text{ billion}} = 3.125 \text{ billion Dong}$$

Where Company D produces documents evidencing that the Company sends its officials to Laos to carry out a survey and exploration and documents evidencing that the Company has purchased goods serving the survey and exploration in Laos, the turnover from the part of services carried out in Laos shall be subject to the tax rate of 0% and is determined as equal to 1.875 billion Dong ($5 - 3.125 = 1.875$ billion Dong).

- (c) International transportation as stipulated in this clause includes carriage of passengers, luggage and cargo on an international stage from Vietnam to a foreign country or vice versa, or when both departure and arrival locations are overseas, irrespective of whether or not [conducted] by a direct [only one stage] means of transport. If an international transportation contract includes an internal [domestic] transport stage, then international transportation shall be deemed to include such internal stage.

Example 47: Transport Company X in Vietnam has an international transport ship. The company agrees to [and in fact does] transport goods from Singapore to Korea. The turnover from transport of goods from Singapore to Korea shall be the turnover from international transport activities.

- (d) Aviation and shipping business services provided directly to offshore organizations or through agents, comprising:

The tax rate of 0% shall apply to the following aviation services: provision of aircraft meals; aircraft take-off and landing services; aircraft parking services; aircraft security and protection services; security screening of passengers, luggage and cargo; luggage conveyor services within airport terminals; ground technical and commercial services; aircraft protection services; aircraft taxi services; aircraft piloting services; services of leasing facilities for passengers to embark and disembark aircraft; inward and outward flight control services; services of transporting flight crews, stewards and passengers to and from aircraft parking areas; loading, unloading and verification of cargo; and passenger service charges for international flights from Vietnamese airports.

The tax rate of 0% shall apply to the following shipping business services: tugboat assistance services; maritime pilotage services; maritime salvage services; wharves [quays] and buoys; loading and offloading services; mooring and unmooring [services]; [services of] opening and closing cargo hold hatches; cargo hold cleaning services; and verification, receipt, delivery and registration of cargo.

- (dd) Other goods and services:

- Construction and installation operations overseas or in non-tariff zones;
- Goods and services not subject to VAT upon export, except for the cases not entitled to the tax rate of zero per cent specified in clause 3 of this article;
- Aircraft or sea-going vessel repair services provided to foreign organizations or individuals.

2. Conditions for application of the tax rate of zero per cent:

- (a) Applicable to exported goods:

- There must be a contract for sale or processing of goods for export; or a contract for export authorization;
- Receipts for payment for exported goods via a bank and other source documents pursuant to law must be available;
- A customs declaration must be available in accordance with clause 2 of article 16 of this Circular.

In the case of goods sold for which the point of delivery of goods is located outside Vietnam, the business establishment (seller) must produce a document evidencing the delivery is conducted outside Vietnam such as the signed goods purchase contract with the goods seller in a foreign country; source documents evidencing that the goods are delivered outside Vietnam such as commercial invoices in accordance with international practice, bill of lading, packing list, certificate of origin etc.; receipt for payment via a bank including receipt for

payment by the business establishment via a bank to the goods seller in a foreign country; or receipt for payment by the goods purchaser via a bank to the business establishment.

Example 48: Company A and Company B (being Vietnamese enterprises) sign a lubricant sale contract. Company A purchases lubricant from companies in Singapore, and thereafter sells it to Company B at a seaport in Singapore. Where Company A produces the signed lubricant purchase contract with the companies in Singapore and the goods sale contract between Company A and Company B; the source document evidencing that the goods have been delivered to Company B at the seaport in Singapore, receipt for payment by Company A via a bank to the lubricant sellers in Singapore and receipt for payment by Company B via a bank to Company A, turnover received by Company A from sale of lubricant to Company B shall be subject to VAT rate of 0%.

(b) Applicable to exported services:

- There must be a contract for the provision of services with an offshore organization or individual or an organization or individual in a non-tariff zone;
- Receipts for payment for exported services via a bank and other source documents pursuant to law must be available;

In the case of aircraft or sea-going vessel repair services provided to foreign organizations or individuals and for application of the tax rate of zero per cent, in addition to the aforesaid conditions on contract and receipts for payment, there must be performance of procedures for import upon aircraft or sea-going vessel entering Vietnam or for export upon completion of the repairs.

(c) Applicable to international transportation:

- There must be a contract for the carriage of passengers, luggage [and/or] cargo between the transport provider and the hirer for an international transport stage from Vietnam to an overseas country or vice versa, or when both departure and arrival locations are overseas in a form which is consistent with the provisions of law. In the case of carriage of passengers, the transportation contract is the ticket. International transportation business providers must perform [contracts] in accordance with the law on transportation.
- There must be a receipt for payment via a bank or for another form of payment deemed to constitute payment via a bank. In the case of carriage of passengers being individuals, there must be receipts for direct payment.

(d) Applicable to aviation and shipping business services:

(d.1) The tax rate of 0% shall apply to aviation services performed within international airport zones, airports and cargo terminals of international airports and satisfying the following conditions:

- There must be a contract for the provision of services with an offshore organization or a foreign airline, or there must be a request to provide services made by an offshore organization or a foreign airline;
- There must be a receipt for payment for the services via a bank or for another form of payment deemed to constitute payment via a bank. If services are provided to an offshore organization or foreign airline and the services only

arise irregularly and not pursuant to a regular schedule and there is no contract, then there must be a receipt for direct payment by the offshore organization or foreign airline.

The aforesaid conditions on contract and receipt for payment shall not apply to passenger service charges for international flights from Vietnamese airports.

(d.2) The tax rate of 0% shall apply to shipping business services performed in port zones and satisfying the following conditions:

- There must be a contract for the provision of services with an offshore organization or with a shipping agent, or there must be a request to provide services made by an offshore organization or by a shipping agent.
- There must be a receipt for payment for the services via a bank by the offshore organization or there must be a receipt for payment for the services via a bank by the shipping agent to the service provider or for another form of payment deemed to constitute payment via a bank.

3. Cases which are not entitled to the tax rate of zero per cent shall comprise:

- Reinsurance services with insurers overseas; technology transfer, transfer of intellectual property to parties overseas; transfer of capital, provision of credit, investment in securities overseas; derivative financial services; outgoing international postal or telecommunications services (including postal or telecommunications services provided to organizations and individuals in non-tariff zones; and provision of pre-paid phone cards with codes and with fixed prices to foreign countries or non-tariff zones); products for export being exploited natural resources or minerals which have not been processed into other products; goods or services provided to individuals who do not have business registration in a non-tariff zone, except for other cases as stipulated by the Prime Minister;
- Petrol and oil sold to automobiles of business establishments in non-tariff zones which are purchased domestically;
- Automobiles sold to organizations and individuals in non-tariff zones;
- Services provided by business establishments to organizations and individuals in non-tariff zones comprising leasing of housing, meeting-halls, offices, hotels or warehouses; transport services for employees; food and beverage services (excluding services of provision of industrial meals, and food and beverage services in non-tariff zones).
- The tax rate of 0% shall not apply to the following services provided in Vietnam to offshore organizations and individuals:
 - + Sports competitions, performances of art, culture and entertainment, conferences, hotels, training, advertising, and tourist and travelling;
 - + Payment services via internet.
 - + Supply services attached to the sale and distribution of products or goods in Vietnam.

Article 10 *Tax rate of 5%*

1. Clean [potable] water used for production and living consumption, except for types of bottled water and other types of beverages subject to the tax rate of ten (10) per cent.
2. Fertilizer; ore used for production of fertilizer; pesticides and growth stimulants for domestic animals and cultivated plants including:
 - (a) Fertilizer means types of organic and non-organic fertilizers such as potash fertilizer, nitrogenous fertilizer (urea), NPK fertilizer, mixed nitrogenous fertilizer, phosphatized fertilizer, potash; bacterial fertilizer and other types of fertilizer;
 - (b) Ore used for production of fertilizer means ore used as raw materials for production of fertilizer such as apatite ore used to produce phosphatized fertilizer, and muddy soil used for the production of bacterial fertilizer;
 - (c) Pesticides including plant protection products included in the list of plant protection products issued by the Ministry of Agriculture and Rural Development and other type of pesticides;
 - (d) Growth stimulants for domestic animals and cultivated plants.
3. Feed for cattle and poultry and other domestic animals stipulated by the laws on management of feed, including unprocessed or processed types of feed such as bran, all types of oil-cake, fish powder, bone powder, shrimp powder and other types of feed for cattle, poultry and domestic animals.
4. Services for digging, embanking, dredging of canals, ponds and lakes serving agricultural production; rearing, planting, cultivation, pest control for cultivated crops; semi-processing and preservation of agricultural products (except for dredging of inner canals within fields specified in clause 3 of article 4 of this Circular).

Services for semi-processing and preservation of agricultural products comprise sun-drying, drying, shelling, stoning, cutting, husking, freezing, salt preserving and other normal methods of preservation in accordance with the guidelines provided in article 4.1 of this Circular.

5. Products of cultivation and husbandry; products of aquaculture or fishing which have not yet been processed or which have only been semi-processed or preserved (the methods of semi-processing or preservation as guided in article 4.1 of this Circular) at the commercial trading stage, except for the cases as guided in article 5.5 of this Circular.

Products of cultivation which have not yet been processed referred to in this clause shall include rice, maize, sweet potato, cassava and wheat.

6. Semi-processed latex in the form of crepe, sheets, rubber or nuggets; semi-processed turpentine; netting, cord and fibre used for weaving into all types of fishing nets; specialized fibre or cord used for weaving into fishing nets, irrespective of raw materials.
7. Fresh foodstuffs at the commercial trading stage; forestry products which have not yet been processed at the commercial trading stage except for wood, bamboo shoots and products stipulated in clause 1 of article 4 of this Circular.

Fresh foodstuffs means all types of foodstuffs which have not yet been cooked or processed into another product or which have only been semi-processed by way of cleaning, shelling, cutting,

freezing or sun-drying but still remain fresh foodstuffs such as cattle and poultry meat, shrimp, crab and fish, and other aquaculture and marine products. In the case of spiced [or seasoned] food, the tax rate of 10% shall apply.

Unprocessed forestry products means products exploited from natural forests in the categories of bamboo, rattan, mushrooms, Job's ear mushrooms, roots, leaves, flowers and plants used for production of medicine, resin and other types of forestry products.

Example 49: Limited Liability Company A produces spiced fresh file fish in accordance with the following process: fresh file fish caught shall be sliced, then mixed with sugar, salt, solpitol, packaged and frozen. Spiced fresh file fish is not subject to the tax rate of 5% but 10%.

8. Sugar; by-products obtained in manufacture of sugar including sugar-cane dregs, bagasse and mud waste.
9. Products made from jute, sedge, bamboo, rattan, thatch, small bamboo [or reed], *thysanoloena maxima* Kuntze or *dendrocalamus barbatus* [both bamboo species], straw, copra, coconut shell, water hyacinth and other hand-made products made from raw materials salvaged from agriculture being assorted products produced or processed from main materials being jute, sedge, bamboo, small bamboo [or reed], *thysanoloena maxima* Kuntze or *dendrocalamus barbatus* [both bamboo species], and thatch such as jute carpets, jute fibre, jute bags, jute strings, coconut fibre mats, jute or sedge mats; grass brooms and ropes made from bamboo or coconut fibre, conical hats, bamboo blinds; bamboo chopsticks, *dendrocalamus* chopsticks; semi-processed cotton; and newsprint.
10. Specialized machinery or equipment servicing agricultural production including ploughing machines, harrowing machines, transplanting machines, seeding machines, rice plucking machines, harvesters, combine harvesters, harvesters for agricultural products, machine or spray canisters.
11. Specialized medical equipment and instruments, such as x-ray machines used for disease diagnosis and treatment, equipment and specialized apparatus for surgery and treatment of injuries; ambulances; equipment for measuring blood pressure, heart and pulse, and blood transfusion; injection syringes; contraceptive devices and other specialized medical equipment and instruments as confirmed by the Ministry of Health.

Medical sanitary cotton and bandages, and medical sanitary tissue; preventive and curative medicines comprising finished medicines, raw materials for producing medicines except for functional food; vaccines; medical biological products, distilled water for the preparation of anaesthetic and infusion; chemical supplies for medical testing or sterilization; hats, clothes, masks, surgical cloth, gloves, foot packs, shoe bags, and specialized medical towels and gloves, breast implants and fillers (excluding cosmetics).

12. Teaching and study aids such as models, drawings, blackboards, chalk, rulers, compasses used for teaching and study, and specialized equipment and tools for teaching, research and experiments.
13. Public cultural, exhibition, physical training and sporting activities; artistic performances; production of films; importation, distribution and screening of films.
 - (a) Public cultural, exhibition, physical training and sporting activities except for revenue from the sale of goods, from the lease of parking areas, and from stalls at fairs and exhibitions.
 - (b) Artistic performances such as *tuong* opera, *cheo* opera, *cai luong* performances, singing, dancing, musical performances, drama and circuses; other types of artistic performance and services of organizing artistic performances by opera companies, performing groups and

circuses and so forth which possess an operational licence issued by the State administrative body.

- (c) Production of films; importation, distribution and screening of films, except for the products specified in clause 15 of article 4 of this Circular.
- 14. Children's toys; books of all types except for books not subject to VAT as guided in article 4.15 of this Circular.
- 15. Scientific and technological services being activities servicing or technically supporting scientific research and technological development; activities relating to intellectual property; technology transfer, standards, technical regulations, measurement, quality of products or goods, radioactive or nuclear safety and atomic energy; services regarding information, consultancy, training, fostering, dissemination and application of scientific and technological achievements in socio-economic sectors in accordance with scientific and technology service contracts stipulated in the *Law on Science and Technology*, excluding on-line games and entertainment services on the internet.
- 16. Sale, lease or purchase-lease of social residential houses in accordance with the *Law on Residential Housing*. Social residential houses mean residential houses in which the State or organisations and individuals in all economic sectors invest in construction and which satisfy the criteria in relation to residential housing, selling prices of houses, rent, purchase-lease prices and purchasers or lessees and conditions for purchase, lease or purchase-lease of social residential houses in accordance with the law on residential housing.

Article 11 *Tax rate of 10%*

The tax rate of 10% shall apply to goods and services which are not stipulated in articles 4, 9 and 10 of this Circular.

The VAT rates stated in articles 10 and 11 shall apply uniformly to each type of goods and services in the stage of importation, manufacture, processing or commercial trading.

Example 50: The VAT rate applicable to garments is 10%, such rate shall apply at all stages of import, production, processing or commercial trading.

When scraps and sub-standard products are recovered for re-cycling and re-use and are sold, the VAT rate applicable to the particular line of scraps and sub-standard products sold shall apply.

Where a business establishment deals in different items of goods and services subject to different rates of VAT, it must declare VAT for each individual item of goods or services at the applicable tax rates. Where it is unable to determine individual applicable tax rates, payment of tax shall be at the highest tax rate applicable to the goods produced or services provided.

If in the process of implementation there is a case where a VAT rate in the VAT Tariff pursuant to the List of Preferential Import Rates is inconsistent with the guidelines provided in this Circular, the guidelines provided in this Circular shall prevail. Where the VAT rate is not applied uniformly to the same type of imported goods and domestically produced goods, then the local tax office and customs office shall report on the matter to the Ministry of Finance for guidelines in a timely manner for uniform implementation.

Methods of Tax Calculation

Article 12 *Tax credit method*

1. The tax credit method shall apply to business establishments which implement all regimes on accounting, invoices and receipts in accordance with the law on accounting, invoices and receipts including:
 - (a) Business establishments currently operating and having an annual turnover of one billion Dong or more from sale of goods and provision of services and fully implementing the regime on accounting, invoices and source documents in accordance with the law on accounting, invoices and source documents, except for business households and individuals making tax payment by the method of tax calculation directly [on the basis of added value] as guided in article 13 of this Circular;
 - (b) Business establishments voluntarily registering for application of the tax credit method except for business households and individuals making tax payment by the method of tax calculation directly [on the basis of added value] as guided in article 13 of this Circular;
 - (c) Foreign organizations and individuals who provide goods and services for the purpose of conducting operations being prospecting, exploration, development and exploitation of oil and gas [petroleum] fields shall make tax payment by the tax credit method and such tax payment shall be declared, withheld and made by the Vietnamese party on their behalf.
2. Annual turnover of one billion Dong or more which provides a basis for determination that a business establishment pays VAT by the tax credit method as guided in clause 1(a) of this article is turnover from sale of goods and provision of services and shall be determined as follows:
 - (a) Annual turnover which is determined by an business establishment itself on the basis of total of the item "Total turnover from sale of taxable goods and provision of taxable services" in the monthly VAT declaration forms for the tax assessment period for November of the previous year to the end of the tax assessment period for October of the current year before the year in which the method of VAT calculation is determined or in the quarterly VAT declaration forms for the tax assessment period for the fourth quarter of the previous year to the end of the tax assessment period for the third quarter of the current year before the year in which the method of VAT calculation is determined. The period of stable application of a tax calculation method is two consecutive years.

Example 51: Enterprise A has been established since 2011 and currently operates in 2013. To determine a VAT calculation method for 2014 and 2015, Enterprise A shall determine its turnover as follows:

Totalling the item "Total turnover from sale of taxable goods and provision of taxable services" in the monthly VAT declaration forms for 12 months (from the tax assessment period for November 2012 to the end of the tax assessment period for October 2013).

Where the total turnover which is calculated in accordance with the aforesaid method is one billion Dong or more, Enterprise A will apply the tax credit method for two years (2014 and 2015).

Where the total turnover which is calculated in accordance with the aforesaid method is less than one billion Dong, Enterprise A will apply the method of tax calculation directly on the basis of added value in accordance with article 13 of this Circular for two years (2014 and 2015), unless Enterprise A voluntarily registers for application of the tax credit method as stipulated in clause 3 of this article.

- (b) Where an enterprise is newly established in 2013 and conducts production and business activities in 2013 for less than 12 months, the estimated annual turnover shall be determined as follows: it divides the total of the item "Total turnover from sale of taxable goods and provision of taxable services" in the VAT declaration forms for months of production and business activities by the number of months of production and business activities and thereafter multiplies [the result] by 12 months. Where the estimated turnover which is calculated in accordance with the aforesaid method of calculation is one billion dong or more, the enterprise shall apply the tax credit method. Where the estimated turnover which is calculated in accordance with the aforesaid method of calculation is less than one billion dong, the enterprise shall apply the method of tax calculation directly on the added value for two years, unless the enterprise voluntarily registers for application of the tax credit method.

Example 52: Enterprise B has been established and operated since March 2013. To determine a method of tax calculation for 2014 and 2015, Enterprise B will calculate an estimated turnover as follows: it divides the total turnover from sale of taxable goods and provision of taxable services stated in the VAT declaration forms for tax assessment periods for March, April, May, June, July, August, September, October and November by 9 months and thereafter multiplies [the result] by 12 months.

Where the result of calculation is one billion dong or more, Enterprise B shall apply the tax credit method. Where the estimated turnover which is calculated in accordance with the aforesaid method of calculation is less than one billion dong, Enterprise B shall apply the method of tax calculation directly on the added value in 2014 and 2015, unless Enterprise B voluntarily registers for application of the tax credit method.

- (c) Where an enterprise has made quarterly tax declarations since July 2013, annual turnover shall be calculated as follows: it totals the item "Total turnover from sale of taxable goods and provision of taxable services" in the VAT declaration forms for tax assessment periods for October, November and December 2012 and first six months of 2013 and in the VAT declaration form for the tax assessment period for the third quarter of 2013. Where the turnover calculated in accordance with the aforesaid method is one billion Dong or more, the enterprise shall apply the tax credit method. Where the turnover calculated in accordance with the aforesaid method is less than one billion Dong, the enterprise shall apply the method of tax calculation directly on the basis of added value for two years, unless the enterprise voluntarily applies for application of the tax credit method.
- (d) In the case of business establishments which temporarily suspend their business in the whole year, they shall determine turnover on the basis of the turnover of the year prior to the year of temporary suspension of business.

In the case of business establishments which temporarily suspend their business in a period in the year, turnover shall be determined on the basis of the number of months or quarters in which business is actually conducted as guided in paragraph (b) of this clause.

Where the year prior to the year of temporary suspension of business does not comprise 12 months, turnover shall be determined on the basis of the number of months or quarters in which business was actually conducted as guided in paragraph (b) of this clause.

3. Business establishments voluntarily registering for application of the tax credit method comprise:

- (a) Enterprises and co-operatives currently operating and having an annual turnover of less than one billion Dong from sale of goods and provision of services and fully implementing the regime on accounting, invoices and source documents in accordance with the law on accounting, invoices and source documents.
- (b) Enterprises newly established from an investment project of a business establishment which currently operates and pays VAT by the tax credit method.
- (c) Newly established enterprises and co-operatives carrying out investment in or purchase of fixed assets, machinery and equipment with a value of one billion Dong or more stated in the invoices for purchase of the fixed assets, machinery and equipment including invoices for purchase of fixed assets, machinery and equipment before establishment (excluding passenger vehicles with nine or less seats of business establishments which do not conduct transportation or business in the tourism and hotel sector); and foreign organizations and individuals conducting business in Vietnam under a contract or sub-contract.
- (d) Other economic organizations which can account for input and output VAT other than enterprises and co-operatives.

The enterprises and co-operatives as guided in paragraph (a) of this clause must send a notice of application of the tax credit method to the tax office in charge of direct management no later than 20 December each year.

The business establishments as guided in paragraphs (b) and (c) of this clause must send a notice of application of the tax calculation method to the tax office in charge of direct management together with a tax registration file.

The business establishments as guided in paragraph (d) of this clause must send a notice of application of the tax calculation method to the tax office in charge of direct management before 20 December of the year immediately before the year in which the taxpayer implements the new tax calculation method.

Within a period of five working days from the date of receipt of a notice of application of the tax credit method, the tax office shall notify in writing the enterprise, co-operative or business establishment whether or not the notice of application of the tax credit method is approved.

4. Other cases:

- (a) Where a business establishment has activities of trading in the purchase and sale of gold, silver and precious stones and activities of creating products containing gold, silver or precious stones, then such business establishment must account separately for such activities for tax payment in accordance with the method of tax calculation directly on the basis of added value as guided in article 13 of this Circular.
- (b) Other newly-established enterprises and co-operatives not covered by clause 3 of this article shall apply the method of calculating directly on the basis of the added value as guided in article 13 of this Circular.

Where, upon the end of the first calendar year from establishment, an enterprise or co-operative has turnover of one billion Dong or more which is calculated in accordance with

clause 2 of this article and fully implements the regime on accounting, invoices and source documents in accordance with the law on accounting, invoices and source documents, it shall apply the tax credit method. The procedures for change of a tax calculation method shall be carried out in accordance with the laws on management of tax.

Where, upon the end of the first calendar year from establishment, an enterprise or co-operative does not reach turnover of one billion Dong or more, it shall continue to apply the method of tax calculation directly on the basis of added value.

Example 53: Commerce and Service Limited Liability Company X is established and commences its operation from April 2014. Commerce and Service Limited Liability Company applies the method of tax calculation directly on the basis of added value to the VAT assessment periods in 2014. At the end of the tax assessment period for November 2014, Commerce and Service Limited Liability Company X determines its turnover as follows:

It divides the total turnover stated in the VAT declaration forms for the tax assessment periods for April to November 2014, inclusive by 8 months and thereafter multiplies the result by 12 months.

Where the estimated turnover is determined to equal one billion Dong or more, Commerce and Service Limited Liability Company X shall apply the tax credit method from 1 January 2015 for 2015 and 2016. Where the estimated turnover which is determined in accordance with the above method is less than one billion Dong, Commerce and Service Limited Liability Company X shall continue to apply the method of tax calculation directly on the basis of added value for 2015 and 2016. The determination of a method of VAT assessment method of Commerce and Service Limited Liability Company X for 2017 and 2018 shall be subject to turnover from production and business operation of the Company in 2016.

5. Determination of amount of VAT payable:

The amount of VAT payable shall be equal to (=) output VAT less (-) creditable input VAT.

In which:

- (a) Output VAT shall be equal to the total VAT on goods or service sold as stated in an added value invoice.

VAT on goods or service sold as stated in an added value invoice shall be equal to (=) taxable price of goods or service sold multiplied by (x) the VAT rate applicable to such goods or service.

In the case of use of a receipt in which the VAT-inclusive payment price is stated, output VAT shall be equal to (=) the payment price less (-) taxable price stipulated in clause 12 of article 7 of this Circular.

Business establishments calculating tax in accordance with the tax credit method shall, upon selling or providing goods or services, calculate and pay VAT on the sold goods or services. When preparing sales invoices for goods or services, business establishments shall specify the pre-tax sale price, VAT and total amount payable by the purchaser. Where an invoice only states the total payable amount (except for the cases in which the use of special receipts is permissible) and not the pre-tax price and VAT, VAT on the sold goods or services shall be calculated on the payment price stated in the invoice or source document.

Example 54: An enterprise selling iron and steel sells 6mm steel rods at the pre-VAT price of VND 11,000,000/tonne. VAT at 10% is VND 1,000,000/tonne. However, some of the invoices issued by the enterprise only state the sale price of VND 12,100,000/tonne. The VAT calculated on the sales revenue shall be VND 12,100,000/tonne x 10% = VND 1,210,000/tonne instead of being calculated on the pre-tax price of VND 11,000,000/tonne.

Business enterprises must implement the regime on accounting, books, invoices and receipts as stipulated by the law on accounting, invoices and receipts. If a business establishment writes an incorrect VAT rate in an invoice but fails to correct it, the tax office shall deal with it as follows:

In the case of business establishments selling goods and services: if the VAT rate stated in the invoice is higher than the rate stipulated by the legal instruments on VAT, the business establishment must declare and pay VAT at the VAT rate stated in the invoice. If the VAT rate in the invoice is lower than the rate stipulated by the legal instruments on VAT, it must declare and pay VAT at the VAT rate stipulated by the legal instruments on VAT.

- (b) Input VAT shall equal (=) the aggregate amount of VAT as recorded in added value invoices for the purchase of goods or services (including fixed assets) used for production and trading of goods and services subject to VAT, [and/or] the VAT amounts stated on receipts for payment of tax on imported goods or receipts for payment of VAT on behalf of foreign parties in accordance with the guidelines of the Ministry of Finance applicable to foreign organizations which are not a legal entity in Vietnam and foreign individuals conducting business in Vietnam or having income earned in Vietnam.

In respect of purchased goods and services for which special vouchers stating the tax-inclusive price are used, establishments shall be permitted to rely on the tax-inclusive price and the calculation method specified in clause 12 of article 7 of this Circular in order to determine the pre-tax price and the input VAT.

The deductible input VAT shall be determined on the principle and conditions for VAT credit stipulated in articles 14, 15, 16 and 17 of this Circular.

Example 55: During a tax period, Company A paid deductible input VAT for a special service.

The total payment was VND 110 million (VAT-inclusive). The service is subject to 10% VAT rate. The deductible input VAT shall be calculated as follows:

$$\begin{array}{rcl} \text{VND 110 million} & & \\ \hline & \times 10\% & = \text{VND 10 million} \\ 1 + 10\% & & \end{array}$$

The pre-tax price is VND 100 million and VAT is 10 million.

If a business establishment writes an incorrect VAT rate on an invoice but fails to correct it and the tax office checks and discovers it, the tax office shall deal with it as follows:

In the case of business establishments purchasing goods and services: if the VAT rate stated in the purchase invoice is higher than the VAT rate stipulated by the legal instruments on VAT, input VAT shall be deductible at the VAT rate stated in legal instruments on VAT; where it is confirmed that the seller has declared and paid VAT exactly at the VAT rate stated in the invoice, input VAT may be deducted at the VAT rate stated in the invoice but the confirmation of the tax office directly managing the seller shall be required; if the VAT rate stated in the

invoice is lower than the VAT rate stipulated by the legal instruments on VAT, input VAT shall be deductible at the VAT rate stated in the invoice.

In the case of a business establishment selling goods and services, where the business establishment has declared and paid VAT in the import stage, and upon sale of goods, has prepared an added value invoice in which [the business establishment] stated a VAT rate equal to the VAT rate which has been declared and paid in the import stage while the VAT rate which has been declared (in the import stage and in the domestic sale stage) is lower than the tax rate stipulated in the legal instruments on VAT and the business establishment is unable to collect any more money from clients, the amount which has been collected from the clients in accordance with the added value invoice shall be determined as the price inclusive VAT at the tax rate stipulated in the legal instruments on VAT to provide a basis for determining a correct amount of VAT payable and taxable turnover.

Example 56: In March 2014, Business Establishment A (which makes tax payment by the tax credit method) imported "CHAIR MM" Products and declared and paid VAT in the import stage at the tax rate of 5%. In May 2014, Business Establishment A sells one "CHAIR MM" Product to Client B at a price exclusive of VAT being 100 million Dong. Because upon import, the VAT rate of 5% was imposed, Business Establishment A prepares an added value invoice in which it states the taxable price of 100 million Dong, the VAT rate of 5%, VAT amount of 5 million Dong and the total payment price inclusive of VAT being 105 million Dong and delivers such invoice to Client B. Client B has paid in full 105 million Dong.

In 2015, the tax office checks and discovers that Business Establishment A has applied the incorrect VAT rate to "CHAIR MM" Product which was sold to Client B (the correct VAT rate should have been 10%). Because the transaction between Business Establishment A and Client B is finished, Business Establishment A does not have any basis for collection of any additional amount of money from Client B (Client B does not agree to pay any additional amount of tax). The tax office shall re-determine an amount of VAT payable by Business Establishment A and taxable turnover as follows:

Total payment price of 105 million Dong paid by Client B is determined as the price inclusive of VAT at the tax rate of 10%. The correct amount of VAT payable is calculated as follows:

$$\frac{105 \text{ million}}{1 + 10\%} \times 10\% = 9.545 \text{ million Dong}$$

The additional amount of VAT payable by Business Establishment A is calculated as follows:

$$9.545 \text{ billion} - 5 \text{ billion} = 4.545 \text{ billion Dong.}$$

Taxable turnover from sale of "CHAIR MM" Product to Client B is calculated as follows:

$$105 \text{ million} - 9.545 \text{ million} = 95.455 \text{ million Dong}$$

Article 13 *Method of tax calculation directly on the basis of added value*

1. The amount of VAT payable by the method of tax calculation directly on the basis of added value shall equal the added value multiplied by the VAT rate of 10% applicable to activities of trading in the purchase and sale of gold, silver or precious stones and activities of creating products containing gold, silver or precious stones.

Added value of gold, silver or precious stones shall be equal to (=) the payment price of gold, silver or precious stones sold minus (-) the payment price of the relevant gold, silver and precious stones purchased.

Payment price of gold, silver or precious stones sold shall be the actual sale price recorded in a sales invoice for gold, silver or precious stones, including labour costs for activities of creating products (if any), VAT and additional charges or fees to which the seller is entitled.

Payment price of gold, silver or precious stones purchased shall be the value of the purchased or imported gold, silver or precious stones, including VAT, used for activities of trading in the purchase and sale of gold, silver or precious stones and activities of creating products containing gold, silver or precious stones sold.

If within a tax assessment period a negative added value of gold, silver or precious stones arises, then it is permitted to offset such value against a positive added value of the gold, silver or precious stones. If a positive added value does not arise or if the positive added value is insufficient for offsetting the negative added value, then it may be carried forward in order to be deducted from added value in the following period. At the end of a calendar year, a negative added value may not be carried forward to the next years.

2. The amount of VAT payable by the method of tax calculation directly on the basis of added value equals a percentage (%) multiplied by the turnover applicable as follows:

(a) Applicable entities [comprise]:

- Enterprises and co-operatives currently operating and having an annual turnover of less than one billion Dong, except for the cases of voluntary registration for application of the tax credit method stipulated in article 12.3 of this Circular;
- Newly established enterprises and co-operatives, except for the cases of voluntary registration as guided in article 12.3 of this Circular;
- Business households and individuals;
- Foreign organizations and individuals conducting business in Vietnam other than pursuant to the *Law on Investment* and other organizations which do not implement or fully implement the regime on accounting, invoices and source documents stipulated by law, except for foreign organizations and individuals who provide goods and services for the purpose of conducting operations being prospecting, exploration, development and exploitation of oil and gas [petroleum] fields.
- Other economic organizations other than enterprises and co-operatives, except for the case of registration for tax payment by the tax credit method.

(b) Percentage (%) for calculation of VAT levied on turnover is stipulated for each activity as follows:

- Distribution or supply of goods: 1%.
- Services or construction in which the supply of raw materials is not included in the contract: 5%.

- Production, transportation or services attached to goods or construction in which the supply of raw materials is included in the contract: 3%.
 - Other business activities: 2%.
- (c) Turnover for assessing VAT is the total sales of goods or services actually recorded in the invoice for sale of taxable goods or services, including sub-charges or extra charges to which the business establishment is entitled.

Where a business establishment has turnover from sale of goods and provision of services being non-taxable objects and turnover from export goods and services, it shall not apply a percentage (%) of turnover to such turnover.

Example 57: Limited Liability Company A is an enterprise declaring and paying VAT by the method of tax calculation directly on the basis of added value. As Limited Liability Company A has turnover from sale of computer software and consultancy services for establishment of enterprises, it is not required to pay VAT at a rate (%) on turnover from sale of computer software (because computer software is a non-taxable object) but must declare and pay VAT at a rate of 5% on turnover from [provision of] consultancy services for establishment of enterprises.

A business establishment engaged in various lines of business subject to different [tax] rates must declare VAT on the basis of each line of business at the relevant [tax] rate in accordance with regulations; where the taxpayer is unable to determine turnover from each line of business or a package business contract is for various activities which are subject to different [tax] rates and it is unable to separate [turnover from each activity], the highest [tax] rate applicable to such lines of business of the business enterprise shall apply.

3. In the case of business households and individuals paying tax on the basis of a fixed level of turnover, the tax office shall determine turnover and VAT payable at a rate (%) on their turnover as guided in clause 2 of this article on the basis of documents and data for tax declaration of such business households, the database of the tax office, the result of the actual turnover investigation and the opinion of the tax consultancy council of a commune or ward.

In the case of a business household or individual paying tax on the basis of a fixed level of turnover and engaged in various lines of business, the tax office shall determine an amount of tax payable at the [tax] rate for the main business activity.

4. The list of lines of business for calculation of VAT at a rate (%) on turnover as guided in clauses 2 and 3 of this article is issued with this Circular.

CHAPTER III

Tax Credit and Tax Refund

Section 1

Tax Credit

Article 14 *Principles for credit of input value added tax*

1. Input VAT levied on goods and services used for production and business in value added taxable goods and services shall be fully credited, including input VAT not compensated [not recovered] applicable to value added taxable goods subject to loss.

Input VAT shall be credited in the cases of losses which are not compensated, including [losses caused by] natural calamity or fire, losses for which an insurer does not pay compensation, and goods which are destroyed due to poor quality or past the date of expiry. The business establishment must produce all files and documents to evidence that its loss is not compensated for the purpose of tax credit.

In a case where goods are subject to a natural loss due to the physicochemical properties during the process of transporting, pumping or pouring petrol, oil and so forth, it shall be permitted to declare and credit the input VAT levied on the goods actually subject to a natural loss which must not exceed the loss limits as stipulated. The input VAT levied on the goods subject to a loss which exceeds the prescribed limits shall not be credited or refunded.

Input VAT on goods and services forming fixed assets such as staff cafeterias, rooms for breaks by staff, changing rooms, garages, restrooms, clean water tanks serving employees in production or business areas and residential housing and clinics for workers working in industrial zones shall be fully credited.

Where a business establishment leases residential housing for workers working in an industrial zone in accordance with the laws on standards, design and rent of residential housing for workers in industrial zones, VAT on house rent in this case shall be credited in accordance with regulations. Where a business establishment constructs or purchases residential houses outside an industrial zone to serve workers working in an industrial zone and the constructed or purchased houses are in accordance with the laws on standards, design and rent of residential housing for workers in industrial zones, VAT on the constructed or purchased houses serving workers shall be fully credited.

Where a business establishment has foreign experts who are sent to Vietnam for working and holding a managerial position in Vietnam and receives salary in Vietnam under a signed labour contract with the business establishment, the business establishment cannot credit VAT on house rent for such foreign experts.

Where foreign experts remain employees of an enterprise overseas which seconded them, is paid by the enterprise overseas and enjoy benefits of the enterprise overseas during the duration of working in Vietnam and there is a written contract between the enterprises overseas and the business establishment in Vietnam specifying that the business establishment in Vietnam bears costs of accommodation for the foreign experts during the duration of working in Vietnam, VAT on house rent for the foreign experts working in Vietnam paid by the business establishment in Vietnam shall be credited.

2. In the case of input VAT levied on goods and services (including fixed assets) used for production and business in both value added taxable goods and services and non-taxable goods and services, only the amount of input VAT levied on the goods and services used for production and business in taxable goods and services shall be credited. Business establishments must separately account for creditable input VAT and for non-creditable input VAT, and if they are unable to do so then creditable input VAT shall be calculated as a ratio (%) being VAT taxable turnover over total turnover from goods and services sold which are unable to be separately accounted.

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

3. Input VAT on fixed assets, machinery and equipment, including input VAT on leases of such assets, machinery and equipment and other input VAT related to assets, machinery and equipment such as warranties or repair in the following cases shall not be deductible but shall be included in the original cost of the fixed assets or deductible costs in accordance with the Law on Corporate Income Tax and its implementing documents: specialized fixed assets which are used in production of arms and weaponry required for national defence and security; fixed assets, machinery and equipment of credit institutions, enterprises carrying out reinsurance, life insurers, securities business establishments, medical facilities, training establishments; and civilian aircraft and yachts not used in business lines of transportation of cargo or passengers, tourism and hotels.

In the case of fixed assets which are automobiles seating nine or less people (except for vehicles in the business lines of passenger transportation, tourism and hotels) whose value exceeded 1.6 billion dong (exclusive of VAT), the amount of input VAT corresponding to the excess value over 1.6 billion shall not be deductible.

4. VAT credit in a number of specific cases as follows:
 - (a) Where a business and production establishment organises closed production and concentrated cost accounting and uses products being non-taxable objects in various stages to produce taxable goods, input VAT at such stages shall be fully credited.

Example 58: Enterprise X invests and builds an area providing raw materials and a plant for production and processing of frozen catfish fillets and shrimp for export. The Enterprise organizes its closed production from the stage of aquaculture, including hiring others for aquaculture processing in which the Enterprise invests all breeders, ponds, lakes, fences, irrigation system, ships and input raw materials such as feed, veterinary medicines, veterinary services to the stage of processing of shrimp and fish for export. Enterprise X may credit all input VAT on fixed assets and purchased goods and services not forming fixed assets at all stages of production or processing.

Example 59: Enterprise Y invests and builds an area providing raw materials and a plant for production and processing of products from fresh milk (sterilized milk, yoghurt, cheese etc.). The Enterprise organizes its closed production from the stage of breeding, including hiring others to conduct breeding in which the Enterprise invests all breeders (dairy cows and goats), breeding facilities, fences, milking equipment, cleaning system for breeding facilities and input raw materials such as feed, veterinary medicines, veterinary services to the stage of processing for milk products. Enterprise Y may credit all input VAT on fixed assets and purchased goods and services not forming fixed assets at all stages of production or processing.

- (b) Where a production and business establishment has an investment project and implements the investment in various phases, including a newly established production and business establishment, has a production and business plan, organises closed production and concentrated cost accounting and uses products being non-taxable objects for production of taxable goods, but provides non-taxable goods and services in the phase of investment in capital construction, input VAT in the phase of investment for forming fixed assets shall be fully credited. The business establishment must account separately for the amount of input VAT [on goods and services] not used for investment in fixed assets serving production and business activities for non-taxable goods and services in order to declare and credit at a percentage (%) turnover of the taxable turnover over the aggregate turnover of goods and services sold.

Where a business establishment has an investment project to continue production or processing and has a written commitment to continue the production of products subject to VAT, such business establishment shall be entitled to declare and credit VAT from the stage of investment in capital construction. Where the enterprise declared, credited and refunded input VAT arising at the stage of investment in capital construction but thereafter it is determined that such enterprise did not satisfy the conditions for credit and refund of tax, such enterprise must declare, adjust and pay the amount of credited and refunded VAT. If the enterprise fails to implement the adjustment, which is discovered by the tax office during inspection and monitoring, the tax office shall implement collection of tax or reimbursement and impose a penalty in accordance with regulations. The enterprise shall be solely responsible before the law for the items reported, undertaken and explained to the tax office relating to the tax credit and refund.

Where the establishment sells goods being agricultural, forestry or aquatic products which have not yet been processed or which have only been semi-processed, not subject to VAT, the amount of VAT on the purchased goods and services shall be deductible at a percentage (%) turnover of the taxable goods and services over the aggregate turnover of goods and services sold.

Example 60: Enterprise A has a project on investment in a rubber plantation; the amount of input VAT applicable to goods and services arises at the stage of investment in capital construction; the enterprise has not had any product used as raw materials in order to continue the production and processing of products subject to VAT (including the products which have not yet been processed for export or the products which have been processed and are subject to VAT) but has a project on construction of a rubber latex processing plant (subject to VAT) and commits that plant products shall continue to be processed into products subject to VAT. The company is entitled to credit the input VAT in full.

In a case where the enterprise sells rubber latex of the whole project not subject to VAT, the enterprise shall not be entitled to credit tax.

In a case where the enterprise uses part of the rubber latex exploited of the project to produce products subject to VAT, the input VAT applicable to the rubber latex sold shall be credited as follows:

- The enterprise shall be entitled to fully credit input VAT on fixed assets (rubber plantation, processing plant, and so forth) (including VAT arising at the stage of investment in capital construction).

- The input VAT on goods and services shall be credited at a percentage (%) turnover of the taxable goods and services over the aggregate turnover of goods and services sold.
- (c) Where a production and business establishment has an investment project, including production and business establishments newly established and investing in production of both taxable goods and services and non-taxable goods and services, the amount of input VAT on fixed assets in the phase of capital construction shall be temporarily credited at the percentage (%) turnover of taxable goods and services over the aggregate turnover of goods and services which are sold in accordance with the production and business plan of the business establishment. The temporarily credited tax amount shall be adjusted at the percentage (%) turnover of taxable goods and services over the aggregate turnover of goods and services sold in three years from the first year in which [the business establishment] has turnover.

Example 61: Enterprise Z is newly established from an investment project in the transportation sector. The production and business plan under the investment project of the enterprise includes turnover from public passenger transportation by buses and by other vehicles, from sale of advertising and repair services and from maintenance of means of transportation. Turnover from public passenger transportation by buses accounts for 30% of the aggregate turnover of goods and services sold. The phase of investment in capital construction, purchase of vehicles and construction of bus stations and buildings is two years from June 2014 to May 2016. In this period of two years, the amount of input VAT on fixed assets in the phase of capital construction and on purchased goods and services servicing the establishment of the enterprise (costs for establishment of the enterprise) shall be temporarily credited at the ratio of 70% and shall be refunded in accordance with regulations (VAT on fixed assets being automobiles registered to be used as public buses shall not be credited). The Enterprise commences operation and has turnover from June 2016. Turnover from public passenger transportation in the period of 3 years from June 2016 to the end of May 2019 accounts for 35% of the aggregate turnover of goods and services sold. The Enterprise shall declare and reduce the credited and refunded amount of VAT on fixed assets at the rate of 5% (= 70% - 65%) and calculate and include the amount of reduction of the credited and refunded amount in the amount of VAT of the tax assessment period for May 2019. The Enterprise shall not be subject to any fine for late payment and interest on late payment in respect of the reduction of the credited amount of VAT on fixed assets.

5. Input VAT on goods (including both goods purchased externally and goods produced by the enterprise itself) which are used by an enterprise for donation, gifts, advertising and promoting in any way [and/or] serving the production and trading of goods and services subject to VAT, shall be deductible.
6. Any amount of VAT which was paid under the decision of the customs office fixing tax shall be credited in full, except where the customs office imposes a fine for fraud or tax evasion.
7. Input VAT on goods and services used for the production or trading of goods and services not subject to VAT as guided in article 4 of this Circular shall not be credited in the following cases:
 - (a) VAT on goods or services purchased by a business establishment for production or business of goods or services to be provided to foreign organizations and individuals or international organizations for humanitarian or non-refundable aid as guided in clause 19 of article 4 of this Circular shall be deductible in full.
 - (b) Input VAT on goods and services used in prospecting, exploration and development of petroleum fields until the first date of exploitation or the first date of production shall be deductible in full.

8. Input VAT arising in whatever month shall be declared as deductible when the amount of tax payable for that month is determined, irrespective of whether goods have been put to use or kept in store.

Where the business establishment discovers an amount of input VAT which was mistakenly declared or credited, it may make an additional declaration or credit before the tax office or authority announces the tax examination or inspection decision at the head office of the taxpayer.

9. Business establishments may include any amount of non-deductible input VAT in expenses for calculation of corporate income tax or in the original cost of fixed assets, except for the amount of VAT on goods and services purchased on each occasion and having a value of twenty million Dong or more without a receipt for payment without use of cash.
10. In the case of a corporation or group having offices which do not directly conduct business activities and professional or administrative units under its control such as hospitals, clinics, convalescent homes, institutes, training schools and so forth which are not VAT taxpayers, claims for deduction or refund of input VAT on goods and services purchased to service the activities of those subsidiaries shall not be permitted.

If such subsidiaries engage in trading of goods and services subject to VAT, there must be registration, declaration and payment of VAT for such activities.

Example 62: An office of Corporation A does not directly engage in production or business but exists on the budget contributed by its subsidiaries. If the office of Corporation A leases out the unused part of its building (office), it must keep separate accounts and separately declare and pay VAT for such leasing activity. Input VAT on goods and services servicing the activities of the office of Corporation A shall not be deductible or refundable.

11. Input VAT on goods and services used for provision of goods and services on which VAT was not declared, calculated or paid as guided in article 5 of this Circular (except for articles 5.2 and 5.3) shall be deductible in full.
12. Business establishments shall be permitted to declare and credit VAT on goods and services purchased in the form of authorization to other organizations and individuals whose names are stated in the invoices, comprising the following cases:
 - (a) An insurer authorizes a person participating in insurance to repair assets; invoices for repair of assets, supplies and replacement spare parts state the name of the person participating in insurance, the insurer makes payment of corresponding insurance premiums to the person participating in insurance in accordance with the insurance contract. The enterprise is permitted to declare and credit VAT corresponding to the indemnity or insurance proceeds paid in accordance with the VAT invoices stating the name of the person participating in insurance; where the indemnity or insurance proceeds payable by the insurer to the person participating in insurance has a value of more than 20 million dong, the payment must be made via a bank.
 - (b) Before establishment of an enterprise, the founders issue a document authorizing an organization or individual to make payment of a number of expenses on their behalf relating to the establishment of the enterprise and the procurement of goods and materials. The enterprise is permitted to declare and credit input VAT in accordance with the VAT invoice stating the name of the authorized organization or individual and must make payment to the authorized organization or individual via a bank in the case of an invoice with a value of more than 20 million dong.

13. Where an individual or organization which does not conduct business contributes assets as capital to a limited liability company or a shareholding company, the documents in respect of the assets used to contribute capital shall be the minutes certifying capital contribution or the minutes of delivery and receipt of assets. Where the assets used to contribute capital are newly purchased and have not yet been used and there is a lawful invoice accepted by the council for delivery and receipt of capital contribution, the value of contributed capital shall be determined on the basis of the value stated in the invoice including VAT. The party receiving contributed capital is permitted to declare and credit VAT stated in the invoice for purchase of assets of the capital contributing party.
14. A business establishment which has made VAT payment by the method of tax directly on the basis of added value and which changes to tax payment by the tax credit method shall be permitted to credit VAT on goods and services purchased from the first period in which tax is declared and paid by the tax credit method.

A business establishment which has made VAT payment by the tax credit method and which changes to tax payment by the method of tax calculation directly on the basis of added value is permitted to include in deductible costs upon calculation of taxable income any amount of VAT on goods and services purchased arising in the period in which tax payment is made by the tax credit method but which has not yet been credited in full, less the amount of VAT on goods and services purchased arising in the period in which tax payment is made by the tax credit method and which was refunded in accordance with the guidelines in article 18 of this Circular and legal instruments in force before the effective date of this Circular.

Example 63: Limited Liability Company A currently applies the tax credit method in 2014 and 2015 but it is not eligible to apply the tax credit method from 1 January 2016. Limited Liability Company A submits a file to the tax office requesting a tax refund from the tax assessment period for November 2014 to the end of the tax assessment period for November 2015 (namely the end of the period for determination of turnover to determine a method of tax calculation for 2016 and 2017). The tax amount requested for a refund is 350 million dong and pursuant to the VAT declaration form of the tax assessment period for November 2015, Limited Liability Company A has the amount of input tax of 50 million Dong which has not yet been credited. The tax office shall consider a tax refund to Limited Liability Company A in accordance with regulations in respect of the file requesting a tax refund submitted to the tax office (the requested tax refund is 350 million Dong); the amount of input tax which was not credited as stated in the VAT declaration form of the tax assessment period for November 2015 is 50 million Dong which shall be carried forward to the tax assessment period for December 2015. Where pursuant to the VAT declaration form of the tax assessment period for December 2015, the Company has any amount of input VAT which has not yet been credited, such amount may be included in the deductible costs upon determination of CIT taxable income.

15. A business establishment shall not be permitted to assess and credit input VAT in the following cases:
- A VAT invoice is not used in accordance with law; for example, the VAT invoice does not state the VAT (except for special cases where the VAT invoice states the payment price as VAT-inclusive);
 - An invoice does not provide the name, address and tax code of the seller or does not state them correctly such that the seller cannot be identified;
 - An invoice does not provide the name, address and tax code of the purchaser or does not state them correctly such that the purchaser cannot be identified (except for the cases specified in clause 12 of this article);

- False invoices or receipts for payment of VAT are used or unauthorized amendments are made in the invoices or blank invoices are issued (without goods or services attached);
- The value stated on the invoice is not the actual value of goods or services purchased, sold or exchanged.

16. Other special cases shall be subject to separate regulations of the Ministry of Finance.

Article 15 *Conditions for credit of input VAT*

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

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

3. The receipt for payment via a bank shall be deemed as evidence of transfer of money from the account of the purchaser to the account of the seller (the account of the purchaser and the account of the seller must be accounts which have been registered with and notified to the tax office) opened at an organization providing payment services in the form of payment stipulated by applicable law such as cheque, authorized payment orders or payment orders, authorized collection orders, collection, bank cards, credit cards, sim cards (electronic wallets) and other forms of payment in accordance with regulations (including the case where the purchaser makes payment from the account of the purchaser to the account of the seller in the name of the owner of a private enterprise or the purchaser makes payment from the account of the purchaser in the name of the owner of a private enterprise to the account of the seller if such accounts have been registered for trading with the tax office).
 - (a) Receipts for payment in cash to the account of the seller by the purchaser or receipts for payment in the form which are not in accordance with the applicable law shall not satisfy conditions for credit and refund of VAT on goods and services purchased at a price of more than 20 million dong.
 - (b) Goods or services which are purchased at a VAT-inclusive price on each occasion for which the payment is more than twenty (20) million Vietnamese Dong pursuant to an invoice shall not be entitled to a credit [of VAT] if there is no receipt for payment via a bank. The business establishment shall declare such invoices in the section of goods and services which do not satisfy conditions for credit in the list of invoices and source documents for purchased goods and services.
 - (c) In the case of goods and services purchased with deferred payment or payment by instalments whose value is more than twenty (20) million Vietnamese Dong, the business establishment shall, on the basis of the written contract for purchase of goods or services, an added value invoice and the receipt for payment via a bank for goods or services purchased with deferred payment or payment by instalments, declare and credit input VAT and shall

specify the period of payment in the section for notes in the list of invoices and receipts of purchased goods and services. Where a receipt for payment via a bank is not available because payment has not fallen due pursuant to the contract or before 31 December each year in the case where the contractual due date is earlier than 31 December, the business establishment shall still be entitled to declare and credit input VAT.

If there is no receipt for payment via a bank upon the contractual due date or by 31 December each year in the case where the contractual due date is earlier than 31 December, input VAT is not deductible and the business establishment must declare and reduce the credited amount of input VAT on the value of goods for which there is no receipt for payment via a bank. After the business establishment has reduced the amount of credited input VAT corresponding to the value of goods and services purchased without a receipt for payment via a bank and it has just obtained the receipt for payment via a bank, the business establishment shall be permitted to make additional declaration.

Where the deferred payment is overdue in accordance with the contract or by 31 December each year, the business establishment does not carry out the reduction as stipulated, and the business establishment obtains sufficient receipts for payment via a bank before the tax office or the authority announces the inspection decision at the head office, a penalty for breach of tax procedures shall be imposed on the business establishment if the failure to carry out the reduction does not result in a shortage of the amount of tax payable or an increase in the amount of tax to be refunded; or the business establishment shall be subject to collection of tax, reimbursement and a penalty in accordance with the *Law on Management of Tax*.

Where the tax office announces the examination or inspection decision at the head office and make a decision not accepting tax credit in respect of added value invoices without a receipt for payment via a bank and the business establishment only has a receipt for payment via a bank after obtaining such decision of the tax office,

- In the case of added value invoices for which the business establishment has made a reduction before the inspection and examination by the tax office, the business establishment may make an additional declaration of VAT.
- In the case of added value invoices for which the business establishment has not made a reduction before the inspection and examination by the tax office, the business establishment may make an additional declaration if it has a receipt for payment via a bank within a period of 6 months from the month in which the tax office makes such decision.

Example 64:

In 2014, Limited Liability Company ANB has the following added value invoices for purchase of goods under a deferred payment contract:

- Added value invoice for purchase of goods in March 2014, the due date is 20 September 2014.
- Added value invoice for purchase of goods in April 2014, the due date is 20 October 2014.
- Added value invoice for purchase of goods in May 2014, the due date is 20 November 2014.

- Added value invoice for purchase of goods in June 2014, the due date is 20 December 2014.

Limited Liability Company ANB declared and credited VAT upon receipt of the added value invoices for purchase of goods. On the contractual due date, Limited Liability Company ANB did not have any receipt for payment via a bank. Limited Liability Company ANB may select to declare and make a reduction for each invoice or if by 31 December 2014 Limited Liability Company ANB still does not have any receipt for payment via a bank, it will compile and make a reduction for all of the 4 added value invoices for purchase of goods mentioned above for the tax declaration period for December 2014 in accordance with the laws on management of tax.

Example 65:

The situation of Super Limited Liability Company is as follows:

In February and March 2014 Super Limited Liability Company has an added value invoice for purchase of goods under a deferred payment contract and the due date is 30 September 2014. Based on the added value invoice provided by the seller, the Company declares and credits VAT in the tax declaration forms for March and April 2014. On the due date (30 September 2014) Limited Liability Company YKK is unable to make payment due to its financial difficulties. In the declaration period for October 2014, Super Limited Liability Company declared and made a reduction in accordance with regulations in respect of the amount of input VAT which was credited and at the same time, declared an increase in CIT taxable costs corresponding to the reduced amount of input VAT which was not credited.

In April 2015, the tax office issues a decision conducting a VAT inspection at Super Limited Liability Company. With respect to the added value invoices for purchase of goods in February and March 2014 under the deferred payment contract with the due date being 31 October 2014, because the Company itself reduced the declared and credited amount of tax in accordance with regulations, the inspection team acknowledges the reduction

In May 2015 the tax office issues a decision dealing with VAT in respect of Super Limited Liability Company (which does not deal with VAT in the added value invoices for purchase of goods in February and March 2014 under the deferred payment contract with the due date being 31 October 2014 because the inspection team acknowledges the reduction).

As in December 2015 Super Limited Liability Company has a receipt for payment via a bank for the deferred payment contract in respect of the added value invoices for purchase of goods in February and March 2014 (the due date is 31 October 2014), Super Limited Liability Company may make an additional declaration for VAT and at the same time, it shall make a corresponding reduction of CIT taxable costs.

Example 66:

The situation of YKK Limited Liability Company is as follows:

In March and April 2014, YKK Limited Liability Company has an added value invoice for purchase of goods under a deferred payment contract and the due date is 30 September 2014. Based on the added value invoice provided by the seller, YKK Limited

Liability Company declares and credits VAT in the tax declaration forms for March and April 2014. On the due date (30 September 2014) YKK Limited Liability Company YKK is unable to make payment. However, the Company did not declare a reduction. On 31 December 2014, YKK also did not declare a reduction of the amount of VAT which was credited without a receipt for payment via a bank.

In April 2015, the tax office issues a decision conducting a VAT inspection at YKK Limited Liability Company and the period of inspection is 2014. At the time of inspection, YKK Limited Liability Company cannot produce any receipt for payment via a bank in respect of the added value invoice for purchase of goods under the deferred payment contract with the due date being 30 September 2014. The inspection team does not consent to YKK Limited Liability Company declaring and crediting VAT in respect of the invoices without a receipt for payment via a bank.

In May 2015, the tax office issued a decision dealing with VAT at YKK Limited Liability Company.

Where in October 2015, YKK Limited Liability Company has a receipt for payment via a bank for the deferred payment contract in respect of the added value invoice for purchase of goods in March 2014 (the due date is in September 2014), it may make a declaration for an additional amount of VAT because the date when it has the receipt for payment via a bank falls within the period of six months from the date on which the tax office issues the decision dealing with tax.

Where in December 2015, YKK Limited Liability Company has a receipt for payment via a bank for the deferred payment contract in respect of the added value invoice for purchase of goods in April 2014 (the due date is in 30 September 2014), it cannot make a declaration for an additional amount of VAT because the date when it has the receipt for payment via a bank falls outside the period of six months from the date on which the tax office issues the decision dealing with tax.

Example 67:

In September 2014, after conducting an examination of the observance of the laws on taxation, the Tax Department of Province B issues a tax penalty decision for an administrative breach by PNG Shareholding Company. The penalty decision includes the collection of a refunded amount of VAT of 460 million Dong which was the amount of VAT on purchased goods and services with a value of 20 million or more for which the Company has declared and credited but as at the date of inspection which is over the contractual due date, the Company has not yet obtained any receipt for payment via a bank in the file set for which tax was refunded in the period from August 2013 to August 2014. PNG Shareholding Company has paid in full the amount of tax collected [under the penalty decision] to the State budget.

In October 2014, PNG Shareholding Company has a receipt for payment via a bank in respect of the invoice for purchase of goods under the contract for which the payment is overdue corresponding to the amount of VAT of 460 million Dong collected by the tax office in October 2014. Shareholding Company PNG may make a declaration for an additional amount in accordance with regulations.

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

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

Where after a payment is made by the aforesaid method, the remaining value which is paid in cash is more than VND 20 million, VAT will only be deductible in the case where there is a receipt for payment via a bank. Upon declaration of invoices for input VAT, the business establishment shall specify the method of payment which is stipulated in the contract in the section for notes in the list of invoices and receipts of purchased goods and services.

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

Example 68:

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

Example 69:

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

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

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

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

Article 16 *Conditions for credit and refund of input tax on exported goods or services*

Exported goods or services (except for the cases specified in article 17 of this Circular) which are entitled to a credit or refund of input VAT must satisfy all of the conditions and procedures specified in clause 2 of article 9 and clause 1 of article 15 of this Circular, in particular as follows:

1. Contract for sale of goods or processing of goods (in the case of processing of goods) or for provision of services to a foreign organization or individual. In the case of authorized export, a contract for export authorization and minutes of liquidation of the contract for export authorization (if the contract has expired) or a periodical debt reconciliation statement between the principal and the authorized dealer, specifying the quantity and types of products and the value of goods which were exported under the authorization; the number and date of the export contract which the authorized dealer has signed with the foreign party; the serial number, date and amount stated in the receipt for payment via a bank by the foreign party to the authorized dealer; the serial number, date and amount stated in the receipt for payment by the principal to the authorized dealer; and the serial number and date of the customs declaration of goods exported by the authorized dealer.
2. Customs declaration of exported goods for which customs procedures have been completed in accordance with the guidelines of the Ministry of Finance in relation to customs formalities; customs check and supervision; and import and export duties and tax management in respect of imported or exported goods.

In the case of export of computer software in the form of materials, documents or databases which are wrapped in hard packaging, business establishments must comply with custom declaration procedures the same as for normal exports in order to be entitled to a credit or refund of input VAT.

A customs declaration shall not be required in the following cases:

- Business establishments electronically exporting services or computer software need not complete a customs declaration but they must complete the stipulated procedures acknowledging receipt of electronically exported services or computer software by the purchaser in accordance with the law on e-commerce.
 - Construction and installation activities abroad or in non-tariff zones.
 - Business establishments supplying electricity, water, stationery and goods servicing daily living conditions of an export processing enterprise comprising food, foodstuffs, consumption goods (including labour safety such as clothes, hats, shoes, boots and gloves).
3. Payment for exported goods or services must be made via a bank

- (a) Payment via a bank means the transfer of money from the bank of the importer to the bank of the exporter to pay for goods or services in accordance with the method of payment agreed in the contract and in accordance with the regulations of the bank. The receipt for payment shall be the credit advice issued by the bank of the exporter, notifying the amount of money received from the bank account at the bank of the importer. Where deferred payment is agreed in the export contract, the business establishment must produce a receipt for payment via a bank upon the due date. In the case of authorized export, there must be a receipt for payment via a bank from the foreign party to the authorized dealer and the authorized dealer must conduct payment for the exported goods via a bank to the principal. Where the foreign party makes payment directly to the principal, there must be a receipt for payment via a bank and the aforesaid payment must be stipulated in the contract.
- (b) Payment shall be deemed to be made via a bank in the following cases:
- (b.1) Where payment for exported goods or services is set off against a foreign loan, the business establishment must satisfy all of the following conditions, procedures and documents:
- Loan agreement (with respect to loans with a term of under one year); or certificate of registration of a loan issued by the State Bank of Vietnam (with respect to loans with a term of over one year);
 - Receipt for transfer of money by the foreign party into Vietnam via a bank.
- The method of payment for exported goods or services by way of set-off against a foreign loan must be set out in the export contract.
- Confirmation from the foreign party regarding the set-off against a loan.
 - Where there is any difference after set-off of the value of exported goods or services against the foreign loan, payment of the difference shall be made via a bank. The receipt for payment via a bank shall be in accordance with the guidelines in this clause.
- (b.2) Where an export business establishment uses payment for exported goods or services for the purpose of capital contribution to the importer overseas, the business establishment must satisfy all of the following conditions, procedures and documents:
- Capital contribution agreement.
 - The use of the payment for exported goods or services for the purpose of capital contribution with the importer overseas must be specified in the export contract.
 - Where the amount of money used for the purpose of capital contribution is less than the proceeds from export of goods, the difference must be paid via a bank in accordance with the guidelines in this clause.
- (b.3) Where the foreign party authorizes a third party being an organization or individual overseas to make the payment, payment made in accordance with the authorization must be specified in the export contract (or in any addendum to the contract).
- (b.4) Where the foreign party makes payment via a request to a third party being an organization in Vietnam to pay off a debt via a bank payment to the export business

establishment and this is stipulated in the export contract (or in any addendum to the contract) there must be a receipt for payment being a credit advice issued by the exporter's bank, notifying the amount of money received from an account of the third party and also a debt reconciliation statement certified by both the foreign party and the third party.

(b.5) Where the foreign party (the exporter) authorizes a third party being an organization or individual overseas to make payment and the third party requests an organization in Vietnam (the fourth party) to pay off a debt with the third party via a bank payment of the amount payable by the exporter to a Vietnamese export business establishment, then the export business establishment must have all the following conditions and documents:

- Export contract (addendum or document amending the contract - if any) which stipulates the authorization to make payment or pay off a debt between the parties.
- Receipt for payment which means the payment advice from a bank in respect of the amount received by the Vietnamese export business establishment from the account of the fourth party.
- Debt reconciliation statement certified by the related parties (between the export business establishment and the exporter and/or between the third party overseas and the fourth party being an organization in Vietnam).

(b.6) The foreign party authorizes a representative office in Vietnam to make payment to the account of the exporter and such payment authorization is stipulated in the export contract (addendum or document amending the contract – if any).

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

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

When the tax office inspects the credit and refund of tax on exported goods for which payment is made via a current account, it shall be required to co-ordinate with the credit institution at which the foreign purchaser opened an account in order to ensure that the payment and the money transfer are made for correct purposes in accordance with law.

(b.8) Where the foreign party makes payment via a bank but the payment amount on the receipt is not consistent with the amount payable as agreed in the contract or in the addendum to the contract, then:

- If the payment amount on the receipt for payment via a bank is less than the amount payable as agreed in the contract or in the addendum to the contract, the business establishment must clearly explain the reasons such as bank charges

for money transfer, price reduction due to bad quality or due to a shortage (in this case an agreement on price reduction between the purchaser and the seller shall be required) and so forth;

- If the payment amount on the receipt for payment via a bank is greater than the amount payable as agreed in the contract or in the addendum to the contract, the business establishment must clearly explain the reasons such as lump-sum payment for multiple contracts, advance of money for goods and so forth.

The business establishment must undertake to be responsible before the law for the reasons explained to the tax office and amendment documents (if any).

- (b.9) Where the foreign party makes payment via a bank but the receipt for payment via a bank does not correctly state the name of the bank required to make payment as agreed in the contract and if the contents of the receipt clearly state the name of the payer, the name of the beneficiary, the export contract number and the payment value consistent with the export contract which was signed, then it shall be accepted as a valid receipt for payment.
- (b.10) Where a business establishment exports goods or services for a foreign party (the second party) and concurrently imports goods or services with another foreign party or purchases goods with an organization or individual in Vietnam (the third party) and if the business establishment reaches an agreement with the second party and the third party on payment via a bank by the second party to the third party in respect of the amount payable by the business establishment to the third party, then the offset settlement between the parties must be stipulated in the export contract, the import contract or the purchase contract (addendum or document amending the contract – if any) and the business establishment must produce the debt reconciliation statement certified by the related parties (between the business establishment and the second party and/or between the business establishment and the third party).
- (b.11) Where goods are exported to a foreign country but for objective reasons the foreign party refuses to accept them and the business establishment finds a new client in the same country with the client signing the initial purchase and sale contract to sell the above consignment of goods, then the application file for tax refund shall comprise all export documents relating to the export contract signed with the first client (contract, customs declaration in respect of the exported goods, invoice), an official letter of the business establishment explaining the reason for the difference in the name of the purchaser (in which the business establishment undertakes to be self-responsible for the accuracy of information and to ensure that there is no fraud), and all export documents relating to the export contract signed with the new client (contract, invoice for sale of goods and receipt for payment via a bank as stipulated and other receipts – if any).
- (c) Other cases of payments for exported goods or services in accordance with regulations of the Government:
 - (c.1) In the case of labour export with collection of fees directly from employees working overseas, there must be receipts for collection of fees in cash from employees.
 - (c.2) Where a business establishment exports goods to sell at a fair or exhibition overseas, if foreign currency in cash is earned in the country where the commercial fair and exhibition is held and is remitted into Vietnam, there must be a declaration of the

remitted amount of foreign currency earned from the sale of goods with the customs office and a source document for deposit of money with a bank in Vietnam.

- (c.3) In the case of export of goods or services for repayment of a foreign debt for the Government, there must be confirmation from the foreign trade bank that the foreign party has accepted the consignment of exported goods to set off against the debt or confirmation that the set of documents has been sent to the foreign party to set off against the debt; the receipts for payment shall be produced in accordance with separate regulations of the Ministry of Finance.
- (c.4) The export of goods or services for which payment is made in the form of goods means the export of goods (including processing of goods for export) or services to a foreign organization or individual (referred to as the *foreign party*) where the payment between the Vietnamese enterprise and the foreign party is made in the form of exchange of the value of exported goods or services or of the payment for processing of goods for export for the value of goods or services purchased from the foreign party.

With respect to exported goods or services for which payment is made in the form of goods, the following additional procedures and documents shall be required:

- Method of payment for exported goods in the form of goods must be set out in the export contract;
 - Contract for purchase of goods or services from the foreign party;
 - Customs declaration of imported goods for which payment is exchanged for the exported goods or services;
 - Confirmation from the foreign party regarding the amount of money of the exchange of the exported goods or services for imported goods or services purchased from the foreign party;
 - Where there is any difference after exchange of the value of exported goods or services for the value of the imported goods or services, payment of the difference shall be made via a bank. The receipt for payment via a bank shall be in accordance with the guidelines in this clause.
- (c.5) Export to neighbouring countries pursuant to regulations of the Prime Minister of the Government on management of commercial activities over borders with neighbouring countries must comply with guidelines of the Ministry of Finance and of the State Bank.
 - (c.6) Other forms of payment applicable to some cases of export as provided in the relevant laws.
- (d) Tax credit or refund shall be permitted in the case of export without a receipt for payment via a bank:
 - (d.1) Where the foreign party is insolvent, the establishment exporting goods must have a document clearly explaining the reason therefor and shall be permitted to use one of the following documents as a replacement for a receipt for payment via a bank:
 - Customs declaration of goods imported from Vietnam and registered with the customs office in the importing country (1 copy); or

- Petition to a court or a competent body in the country where the purchaser resides accompanied by a notice or any document in the nature of confirmation from such body on acceptance of jurisdiction over the petition (1 copy); or
- Foreign court judgement in favour of the business establishment (1 copy); or
- Any document of a foreign competent organization certifying (or notifying) that the foreign purchaser is bankrupt or insolvent (1 copy).

(d.2) Where the exported goods fail to satisfy the requirements on quality and must be destroyed, the export establishment shall be required to provide a document clearly explaining the reason therefor and shall be permitted to use the minutes of destruction (or certification of the destruction) of goods overseas prepared by the body conducting the destruction (1 copy), accompanied by the receipt for payment via a bank in respect of the destruction expenses payable by the export establishment or accompanied by any document proving that the purchaser or a third party is responsible for the destruction expenses (1 copy).

Where the goods exporter carries out the procedures for destruction overseas, the minutes of destruction (or certification of destruction) must state the name of the goods exporter.

(d.3) Where the exported goods are subject to a loss, the establishment exporting goods must provide a document clearly explaining the reason therefor and shall be permitted to use one of the following documents as a replacement for a receipt for payment via a bank:

- Certification of loss outside the boundaries of Vietnam provided by a relevant competent body (1 copy); or
- Minutes of determination of loss of goods during transportation outside the boundaries of Vietnam, specifying the reason for such loss (1 copy);

If the establishment exporting goods receives compensation for the exported goods which are subject to a loss outside the boundaries of Vietnam, it must enclose the receipt for payment via a bank in respect of the amount received (1 copy).

Copies of the documents specified in paragraphs (d.1), (d.2) and (d.3) of this clause must be certified as a true copy of the original by the establishment exporting goods. Where the language used in the receipts or certifications of the third party as a replacement for a receipt for payment via a bank is not English or there is no English version, there must be one notarized translation enclosed. Where the related parties issue, use and keep the receipts in electronic form, there must be printed copies of such receipts.

The establishment exporting goods shall be solely responsible for the accuracy of all kinds of documents used as a replacement for a receipt for payment via a bank in the above cases.

4. Added value invoices for the sale of goods or services, invoices for export or invoices for the payment for processing of goods.

Article 17 *Conditions for credit and refund of input VAT in a number of cases where goods are deemed to be exported*

1. Transitional processed goods stipulated in the commercial law regulating international purchases and sales of goods and agency for sale and purchase, processing and transit of goods involving foreign parties:

- (a) Contract for processing for export together with attached appendices (if any) signed with the foreign party, specifying the recipient in Vietnam;
- (b) Added value invoice specifying the processing fees and the quantity of processed goods returned overseas (in accordance with the fees recorded in the contract signed with the foreign party) and the name of the recipient as designated by the foreign party;
- (c) Order form for delivery of transitional processed products (referred to as the delivery form) fully certified by the deliverer and the recipient in respect of transitional processed products, and certified by the customs offices managing the processing contracts of the deliverer and of the recipient;
- (d) Payment for goods processed for the foreign party must be made via a bank in accordance with the guidelines provided in article 16 of this Circular.

Procedures for the delivery and receipt of transitional processed products and delivery forms shall be implemented in accordance with guidelines of the General Department of Customs.

Example 70: Company A signs a processing contract with a foreign party for 200,000 pairs of shoe soles for export, with processing fees at VND 800 million. The contract specifies the shoe soles are to be transferred to Company B to produce the finished shoe product.

In this case, Company A falls within the category of a transitional processor of goods for export. When preparing the vouchers for transferring the shoe soles to Company B, Company A shall specify the quantity, type and specifications of the product for delivery, and the total revenue for processing the shoe soles at VND 800 million including VAT at 0%.

2. Goods for on-the-spot export in accordance with law:

- (a) Contract for purchase and sale of goods or contract for processing stipulating delivery of the goods in Vietnam;
- (b) Customs declaration form of on-the-spot import-export goods for which customs procedures have been completed;
- (c) Added value invoice or invoice for export specifying the names of the foreign purchaser and the enterprise receiving the goods, and the address for delivery of the goods in Vietnam;
- (d) Payment for goods sold to a foreign entity but delivered in Vietnam must be made via a bank in freely convertible foreign currency. The receipt for payment via a bank shall be in accordance with the guidelines in clause 3 of article 16 of this Circular. Where the on-the-spot importer is authorized by the foreign party to make payment to the on-the-spot exporter, the payment currency shall be in accordance with the law on foreign exchange.
- (dd) On-the-spot export of goods by an enterprise with foreign owned capital must comply with the provisions in its investment licence.

3. In the case of goods or materials exported by a Vietnamese organization for implementation of construction works overseas, the Vietnamese enterprise implementing the construction works overseas must satisfy the following procedures and documents for a credit or refund of input VAT:
 - (a) Customs declaration as stipulated in clause 2 of article 16 of this Circular;
 - (b) Exported goods or materials must conform with the list of exported goods for implementation of the construction works overseas as approved by the director of the Vietnamese enterprise implementing the construction works overseas.
 - (c) Contract for export authorization (in the case of export authorization).
4. In the case of goods or materials sold by a domestic business establishment to a Vietnamese enterprise for implementing construction works overseas and goods delivered overseas pursuant to a signed contract, the domestic business establishment selling goods must satisfy the following procedures and documents for a credit or refund of input VAT on exported goods:
 - (a) Customs declaration as stipulated in clause 2 of article 16 of this Circular.
 - (b) Exported goods or materials must conform with the list of exported goods for implementation of the construction works overseas as approved by the director of the Vietnamese enterprise implementing such works overseas.
 - (c) Purchase and sale contract signed by the domestic business establishment and the Vietnamese enterprise implementing the construction works overseas, specifying conditions for delivery of goods, quantity, types and value of goods.
 - (d) Contract for authorization (in the case of export authorization).
 - (dd) Receipt for payment via a bank;
 - (e) Added value invoice for sale of goods.

With respect to exported goods or goods which are deemed to be exported as specified in articles 16 and 17 of this Circular, if there is certification of the customs office (in the case of export goods) but other procedures and documents are not satisfied, the business establishment shall not be required to calculate output VAT but its input VAT shall not be deductible. With respect to transitional processed goods and on-the-spot exports, if one of the above procedures is not satisfied, the business establishment must calculate and pay VAT the same as for goods sold domestically. With respect to export services establishments, if they fail to satisfy the requirement for payment via a bank, they shall not be entitled to the VAT rate of zero per cent nor shall they be required to calculate output VAT but their input VAT shall not be deductible.

Section 2

Refund of Tax

Article 18 *Entities and cases of entitlement to VAT refund*

1. In the case of business establishments paying VAT by the tax credit method, any input tax not yet fully credited in the month (in the case of monthly declaration) or in the quarter (in the case of

quarterly declaration) shall be credited in the following period; where the accumulated amount of input VAT has not yet been fully credited after at least twelve months from the first month in which, or after at least four quarters from the first quarter in which, input VAT arising was not fully credited, the business establishments shall be entitled to a tax refund.

Example 71: Enterprise A making monthly VAT declarations has the amounts of input VAT and amounts of output VAT as follows:

(Unit: VND million)

Period of tax declaration	Deductible input VAT carried forward from the previous period	Deductible input VAT in the period	Output VAT on goods and services sold in the period	VAT arising in the period	VAT payable (or deductible but not yet fully credited in the period and carried forward to the following period) in the period
(1)	(2)	(3)	(4)	(5) = (4)-(3)	(6) = (5) – (2)
April 2014	0	350	360	10	10
May 2014	0	500	100	- 400	- 400
June 2014	400	300	350	50	- 350
July 2014	350	250	260	10	- 340
August 2014	340	310	300	-10	- 350
September 2014	350	300	350	50	- 300
October 2014	300	250	330	80	- 220
November 2014	220	300	350	50	- 170
December 2014	170	290	350	60	- 110
January 2015	110	360	350	-10	- 120
February 2015	120	350	310	-40	- 160
March 2015	160	270	320	50	- 110
April 2015	110	400	320	-80	- 190

In the above example, after twelve months from the first month in which there is an amount of input VAT not yet fully credited (May 2014) to April 2015, Enterprise A has an accumulated amount of input tax not yet fully credited. Enterprise A shall be entitled to a refund of VAT in the amount of no more than 190 million Dong.

Example 72: Enterprise B making monthly declarations of VAT has the amounts of input VAT and amounts of output VAT as follows:

(Unit: VND million)

Period of tax declaration	Deductible input VAT carried forward from the previous period	Deductible input VAT in the period	Output VAT on goods and services sold in the period	VAT arising in the period	VAT payable (or deductible but not yet fully credited in the period and carried forward to the following period) in the period
(1)	(2)	(3)	(4)	(5) = (4)-(3)	(6) = (5) – (2)
January 2014	0	300	280	- 20	- 20
February 2014	20	320	310	- 10	- 30
March 2014	30	280	260	- 20	- 50
April 2014	50	350	410	60	10

May 2014	0	500	100	- 400	- 400
June 2014	400	300	350	50	- 350
July 2014	350	250	260	10	- 340
August 2014	340	310	300	- 10	- 350
September 2014	350	300	350	50	- 300
October 2014	300	250	330	80	- 220
November 2014	220	300	350	50	- 170
December 2014	170	290	350	60	- 110
January 2015	110	360	350	- 10	- 120
February 2015	120	350	310	- 40	- 160
March 2015	160	270	320	50	- 110
April 2015	110	390	320	- 70	- 180

In the above example, in January, February and March 2014 Enterprise B has amounts of input VAT which were not fully credited and were carried forward to April 2014 for further credit. In April 2014 Enterprise B has a tax amount of 10 million payable. In May 2015 Enterprise B has an amount of input VAT which has not yet been fully credited and which has been accumulated after 12 months from May 2014 to April 2015. As Enterprise B still has an amount of input VAT not yet fully credited, Enterprise B shall be entitled to a refund of VAT in the amount of no more than 108 million Dong.

Example 73: Enterprise C making quarterly declarations of VAT has the amounts of input VAT and amounts of output VAT as follows:

(Unit: VND million)

Period of tax declaration	Deductible input VAT carried forward from the previous period	Deductible input VAT in the period	Output VAT on goods and services sold in the period	VAT arising in the period	VAT payable (or deductible but not yet fully credited in the period and carried forward to the following period) in the period
(1)	(2)	(3)	(4)	(5) = (4)-(3)	(6) = (5) – (2)
First quarter of 2014	0	70	72	2	2
Second quarter of 2014	0	100	20	- 80	- 80
Third quarter of 2014	80	60	70	10	- 70
Fourth quarter of 2014	70	50	52	2	- 68
First quarter of 2015	68	62	60	-2	- 70

In the above example, after 4 quarters from the first quarter in which there is an amount of input VAT not yet fully credited (the second quarter of 2014) to the first quarter of 2015, Enterprise C has an accumulated amount of input VAT not yet fully credited. Enterprise shall be entitled to a refund of VAT in the amount of no more than 70 million Dong.

- Where a new business establishment has been established from an investment project and has made business registration and registration for tax payment by the tax credit method, or a project for prospecting, exploration and development of a petroleum field is in the period of investment and has

not commenced operations: if the period of investment is one year (twelve months) or more, it shall be entitled to a refund of VAT on goods or services used for investment on an annual basis.

If the accumulated amount of VAT on goods or services purchased for investment is more than VND 300 million, it shall be entitled to a refund of VAT.

3. Refund of VAT in respect of new investment projects

- (a) Where a business establishment currently operating and paying tax by the tax credit method carries out a new investment project (except for investment projects for construction of housing for sale) in the same province or city which is in the period of investment, it shall separately declare for the investment project and transfer input VAT of the investment project for set-off at the same time as declaring VAT on its current production and business activities. The transferred maximum amount of VAT of the investment project shall equal the amount of VAT payable of the production and business activities of the business establishment in the period.

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

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

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

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

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

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

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

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

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

If after setoff the remaining amount of input VAT not yet fully credited in respect of the investment project is less than VND 300 million, such amount of input VAT shall be transferred and included in the amount of input VAT of the investment project in the following declaration period.

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

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

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

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

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

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

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

payable of the production and business activities which are currently conducted by the Company is 300 million Dong. Company C must set off 300 million Dong of input VAT of the investment project against the amount of tax payable of the current production and business activities (300 million Dong). As, in the tax assessment period for April 2014 Company C has the remaining amount of input VAT not yet fully credited in respect of the new investment project being 200 million Dong, Company C will not be considered for a refund of VAT for the investment project. Company C will transfer and include 200 million Dong in the amount of input VAT of the investment project in the declaration period for May 2014.

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

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

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

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

$$\begin{array}{rcl}
 \begin{array}{l} \text{Remaining} \\ \text{amount of VAT} \\ \text{not yet fully} \\ \text{credited in the} \\ \text{month or quarter} \end{array} & = & \begin{array}{l} \text{Output VAT} \\ \text{on goods} \\ \text{and services} \\ \text{sold} \\ \text{domestically} \end{array} - \begin{array}{l} \text{Total amount of input VAT credited in the month or} \\ \text{quarter (comprising input VAT in respect of taxable} \\ \text{export activities or domestic business activities in the} \\ \text{month or quarter and the remaining amount of VAT not} \\ \text{yet fully credited carried forward from the previous} \\ \text{month or quarter)} \end{array} \\
 \\
 \begin{array}{l} \text{Amount of} \\ \text{input VAT on} \\ \text{export goods} \\ \text{or services} \end{array} & = & \begin{array}{l} \text{Remaining} \\ \text{amount of VAT} \\ \text{not yet fully} \\ \text{credited in the} \\ \text{previous month or} \\ \text{quarter} \end{array} \times \frac{\begin{array}{l} \text{Total turnover from export in the period} \\ \hline \text{Total turnover from taxable goods and} \\ \text{services sold in the period (including} \\ \text{turnover from export)} \end{array}}{\begin{array}{l} \text{Total turnover from taxable goods and} \\ \text{services sold in the period (including} \\ \text{turnover from export)} \end{array}} \times 100\%
 \end{array}$$

In the case of commercial trading establishments purchasing goods for export, the amount of input VAT to be refunded for export goods shall be calculated as follows:

Amount of input VAT on export goods and services	=	Remaining amount of VAT not yet fully credited in the previous month or quarter	-	Amount of input VAT on goods in stock at the end of the month or quarter	x	Total turnover from export in the period	x	100%
						$\frac{\text{Total turnover from sale of taxable goods and services in the period (including turnover from export)}}{\text{Total turnover from export in the period}}$		

Where the amount of input VAT on export goods and services as calculated above which has not yet been credited is less than 300 million Dong, the business establishment shall not be considered for a refund of tax for the month or for the quarter but must transfer [the remaining amount of VAT] to the following tax assessment period; where the amount of input VAT on export goods and services which has not yet been credited is 300 million Dong or more, the business establishment shall be entitled to a refund of VAT for the month or for the quarter.

Example 82:

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

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

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

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

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

The remaining amount of VAT not yet fully credited in the month:

0.84 billion Dong - (0.15 + 4.8) billion Dong = - 4.11 billion Dong

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

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

Amount of input VAT on export goods:

4.11 billion Dong x 61% = 2.507 billion Dong

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

Example 83:

The VAT declaration form for March 2014 of Trading and Import-Export Enterprise X contains the following data:

- VAT carried forward from the previous period: 200 million Dong
- Input VAT in respect of taxable export activities and domestic business activities arising in the month: 4.8 billion Dong.
- Total turnover: 21.6 billion Dong comprising turnover of 13.2 billion Dong from export and turnover of 8.4 billion Dong from taxable domestic sales.

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

- Output VAT on goods and services sold domestically is 840 million Dong.
- The value of goods in stock with input VAT at the end of March 2014 is 10 billion Dong corresponding to 1 billion Dong of input VAT which was declared and credited (the tax rate of 10%)

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

The remaining amount of VAT not yet fully credited in the month:

840 million Dong - (200 million Dong + 4,800 million Dong) = - 4,160 million Dong

Thus the remaining amount of input VAT to be credited after excluding the amount of input VAT on goods and raw materials in stock shall be calculated as follows:

4,160 million Dong – 1,000 million Dong = 3,160 million Dong

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

Amount of input VAT on export goods:

3,160 million Dong x 61% = 1,927.6 million Dong

As the remaining amount of input VAT on export goods (after setoff and allocation) not yet fully credited is 1,927.6 million Dong which is larger than (>) 300 million Dong, the Enterprise is entitled to a refund of 1,927.6 million Dong of VAT for the month/quarter. The amount of input VAT on goods and services sold domestically and in stock which is not refunded for the month is 2,232.4 million Dong (4,160 million Dong – 1,927.6 million Dong = 2,232.4 million Dong) and is carried forward to the following period for further credit.

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

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

Where a business establishment which is at the stage of investment and has not commenced operations is dissolved and is not subject to any output VAT on the main business activities in accordance with the investment project, it shall not be entitled to a refund of VAT. Where the business establishment has been refunded tax for the investment project, the business establishment must reimburse the refunded tax to the State Budget.

6. Refund of VAT for programs and projects funded by non-refundable Official Development Aid (ODA), non-refundable aid or humanitarian aid:
 - (a) In the case of projects funded by non-refundable ODA, the investor of a project or program or the main contractor or the organization which is designated by the foreign donor to manage the program or project shall be entitled to a refund of VAT already paid on goods or services purchased in Vietnam for the program or project.
 - (b) Organizations in Vietnam using humanitarian aid money from foreign organizations or individuals to purchase goods or services for a program or project funded by non-refundable or humanitarian aid in Vietnam shall be entitled to a refund of VAT already paid on such goods or services.

Example 84: The Red Cross receives VND 200 million aid money from an international organization to purchase humanitarian aid goods for citizens in provinces affected by a natural disaster. The VAT-exclusive price of the goods is VND 200 million and VAT is VND 20 million. The Red Cross shall be entitled to a refund of VAT namely VND 20 million as stipulated.

Refund of VAT paid by non-refundable ODA funded projects or programs shall be subject to separate guidelines of the Ministry of Finance.

7. Entities which are entitled to diplomatic immunity in accordance with the laws on diplomatic immunity and purchase goods and services in Vietnam shall be entitled to a refund of the amount of VAT paid and recorded on the value added invoice or receipt for payment in which a VAT-inclusive price is recorded.
8. Foreigners and Vietnamese residing in foreign countries and bearing passports or a document for entry issued by the foreign competent body shall be entitled to a tax refund in respect of goods purchased in Vietnam and carried in their hand luggage upon exit. The refund of tax shall be subject to the guidelines of the Ministry of Finance on refund of VAT in respect of goods purchased in Vietnam and carried by foreigners and Vietnamese residing in foreign countries upon exit.
9. Business establishments having a decision of a competent tax office on tax refund in accordance with law and the cases of refund of VAT under an international treaty to which the Socialist Republic of Vietnam is a member.

Article 19 *Conditions and procedures for refund of VAT*

1. All business establishments and organizations which are entitled to a refund of VAT in accordance with the provisions in clauses 1, 2, 3, 4, and 5 of article 18 of this Circular must pay tax by the tax credit method, must have been issued with an enterprise registration certificate or investment licence (practising licence) or establishment decision of a competent body, have a seal, prepare and maintain accounting books and accounting source documents in accordance with regulations and must have a deposit account at a bank with the tax code of the establishment.
2. Once an establishment has declared its application for a VAT refund in a VAT declaration, it may not include any input VAT which is the subject of the application in the amount of tax to be credited in the next month.
3. The procedures for refund of VAT shall be in accordance with the *Law on Management of Tax* and its implementing guidelines.

Article 20 *Place of tax payment*

1. Taxpayers shall declare and pay VAT at the locality of production or business.
2. Taxpayers declaring and paying VAT by the tax credit method and having a dependent cost accounting production establishment located in a province or city under central authority other than the province or city in which their head office is located shall pay VAT at the locality in which the production establishment is located and at the locality in which the head office is located.
3. Where an enterprise or co-operative applying the method of tax calculation directly on the basis of added value has a production establishment in a province or city other than the locality in which its head office is located or sells goods in other provinces, such enterprise or co-operative shall declare and pay VAT at a percentage (%) of turnover in respect of the turnover arising in other provinces in which the enterprise has the production establishment or sells goods. The enterprise or co-operative shall not be required to pay VAT at a percentage (%) of turnover at its head office in respect of turnover arising in other provinces for which the declaration and tax payment has been made.
4. Where an establishment engaged in business of telecommunications services conducts business of telecommunications services with post-payment charges in a province or city under central authority other than the locality in which its head office is located and establishes a dependent cost accounting branch which pays VAT by the tax credit method in order to jointly conduct business of telecommunications services with post-payment charges in such locality, the establishment engaged in business of telecommunications services shall declare and pay VAT in respect of such telecommunications services with post-payment charges as follows:
 - Declare VAT in respect of turnover from telecommunications services with post-payment charges of the whole business establishment with the tax office directly managing the head office.
 - Pay VAT in the locality in which the head office is located and in the locality in which the dependent cost accounting branch is located.

The amount of VAT payable in the locality in which the dependent cost accounting branch is located shall be calculated at the rate of 2% (in respect of telecommunications services with post-payment charges subject to the tax rate of 10%) of turnover (excluding VAT) from the telecommunications services with post-payment charges in the locality in which the dependent cost accounting branch is located.

5. The declaration and payment of VAT shall be implemented in accordance with the *Law on Management of Tax* and its implementing guidelines.

CHAPTER IV

Organization of Implementation

Article 21 Effectiveness

1. This Circular shall be of full force and effect from 1 January 2014 and shall replace Circulars 06-2012-TT-BTC dated 11 January 2012 and 65-2013-TT-BTC dated 17 May 2013 of the Ministry of Finance.
2. Where a business establishment has made monthly VAT declarations since 1 July 2013, the business enterprise shall be entitled to a refund of VAT if it has a remaining amount of input VAT not yet fully credited in the three consecutive tax assessment periods prior to the tax assessment period for January 2014 (in the case of monthly declaration) or for the first quarter of 2014 (in the case of quarterly declaration).

Example 85: Enterprise A made monthly tax declarations for May and June 2013, but made a quarterly tax declaration for the third quarter 2013. Enterprise A shall be entitled to a refund of VAT at the end of the third quarter of 2013 if it had a remaining amount of VAT not yet fully credited in May, June and the third quarter of 2013.

Example 86: Enterprise B made the monthly tax declaration for June 2013 but made the quarterly tax declaration for the third quarter of 2013. Enterprise B shall be entitled to a refund of VAT at the end of fourth quarter of 2013 if it has a remaining amount of VAT not yet fully credited in June, the third quarter and the fourth quarter of 2013.

3. Where before the tax assessment period for January 2014 (in the case of monthly declarations) or before the tax assessment period for the first quarter of 2014 (in the case of quarterly declaration), business establishments are eligible for a refund of tax in accordance with the guidelines in Circular 06-2012-TT-BTC dated 11 January 2012 and Circular 65-2013-TT-BTC dated 17 May 2013 of the Ministry of Finance, they shall be entitled to a refund of VAT tax in accordance with Circular 06-2012-TT-BTC dated 11 January 2012 and Circular 65-2013-TT-BTC dated 17 May 2013 mentioned above.

Where at the end of the tax assessment period for December 2013 (in the case of monthly declarations) or at the end of tax assessment period for the fourth quarter of 2013 (in the case of quarterly declaration) a business establishment does have three consecutive tax assessment periods in which there is a remaining amount of input VAT not yet fully credited, such remaining amount of input VAT which was not fully credited and refunded in 2013 shall be carried forward to 2014 for declaration for credit and application of tax refund in accordance with the guidelines in article 18.1 of this Circular.

Example 87: Where Enterprise A has a remaining amount of input VAT not yet fully credited arising in three months (namely October, November and December 2013), Enterprise A shall be entitled to

a refund of VAT in accordance with guidelines in article 18.1 of Circular 06-2012-TT-BTC of the Ministry of Finance dated 11 January 2013.

Example 88: Where Enterprise B has an amount of VAT payable arising in October 2013, but has a remaining amount of input VAT not yet fully credited in November and December 2013, and as at the end of the tax assessment period for December 2013 Enterprise B is not eligible for a refund of VAT in accordance with the guidelines in Circular 06-2012-TT-BTC, the remaining amount of VAT not yet fully credited in November and December 2013 shall be carried forward to 2014 for consideration for a refund of VAT in accordance with the guidelines in article 18.1 of this Circular.

Example 89: Where Enterprise C has an amount of tax payable arising in the third quarter of 2013, but has a remaining amount of input VAT not yet fully credited in the fourth quarter of 2013, the remaining amount of VAT not yet fully credited in the fourth quarter of 2013 shall be carried forward to 2014 for consideration for a refund of VAT in accordance with the guidelines in article 18.1 of this Circular.

4. With respect to added value invoices for purchase of goods being fixed assets arising before 1 January 2014, business establishments shall make [tax] credit in accordance with the guidelines in Circular 06-2012-TT-BTC dated 11 January 2012 and Circular 65-2013-TT-BTC dated 17 May 2013 of the Ministry of Finance; with respect to added value invoices for purchase of goods being fixed assets arising from 1 January 2014, business establishments shall make [tax] credit in accordance with the guidelines in this Circular.
5. With respect to added value invoices for purchase of goods being products from cultivation or breeding and aquatic products which have not yet been processed to become other products or which have only been subject to conventional semi-processing arising before 1 January 2014, departments of taxation are requested to require business establishments to make a declaration in a list of goods and services purchased in the VAT declaration form for the tax assessment period for December 2013 or for the fourth quarter of 2013 and submit it to the tax office by the stipulated deadline.

Article 22 *Organization of collection of VAT*

1. Tax offices shall be responsible to organize implementation of management of collection of VAT from, and VAT refunds to, business establishments.
2. Customs offices shall be responsible to organize implementation of management of collection of VAT on imported goods.

Entities and business establishment are requested to report to the Ministry of Finance any difficulties or problems arising during implementation in a timely manner, for timely resolution.

For the Minister of Finance
Deputy Minister
DO HOANG ANH TUAN