***Outline thuyết trình***

1. Definition (Dung, Trang)
2. Scope (Taxable Objects; Taxpayers; Objects not taxed) (Dung, Trang)
3. Grounds for tax calculation (Thuỷ)
4. Tax declaration and payment regime (NTrâm, HVân)
5. Tax Refund (L.Trân): [link](https://docs.google.com/document/d/1A1unPAIUYkrC--vLgFklhh1QPlJE5YV7_aQ4dlQvajs/edit?usp=sharing)
6. Tax exemption (Đỗ Quyên)
7. Rewarding and punishment (An, Linh)
8. Discussions (Vân, B.Tran)

***Deadline:***

* 23:59 01/12: nộp nội dung
* 12:00 03/12: hoàn thành slide
* Chiều tối 03/12: rehearse

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***Content:***

## Definition

Corporate Income Tax (CIT) is a ‘direct tax’ that is levied on the profits earned by companies or organizations. Generally, ‘profits earned’ refers to a company’s gross revenue minus its expenses.

In Vietnam, CIT is paid by business entities in all economic sectors, including professional organizations, all foreign corporations with production and trading activities in Vietnam, and others.

**(**[**Ref**](https://www.vietnam-briefing.com/doing-business-guide/vietnam/taxation-and-accounting/country-wise-tax-structure/corporate-income-tax#:~:text=In%20Vietnam%2C%20Corporate%20Income%20Tax,activities%20in%20Vietnam%2C%20and%20others)**)**

## Scope

* **Art 2, Clause 1**: **Corporate income taxpayer** means any organization conducting activities of production and/or business in goods and services which earns taxable income as stipulated in this Law (hereinafter referred to as an enterprise), comprising: (the organizations according to Article 2, Clause 1)

*(a) An enterprise established pursuant to the law of Vietnam.*

*(b) An enterprise established pursuant to foreign law (hereinafter referred to as a foreign enterprise) with or without a resident establishment in Vietnam.*

*(c) An enterprise established pursuant to the Law on Co-Operatives.*

*(d) A professional entity established pursuant to the law of Vietnam.*

*(dd) Any other organization conducting activities of production [and/or] business which earns income.*

* **Art 2, Clause 2**: An enterprise which earns taxable income must pay corporate income tax as follows: (regarding to Article 2, Clause 2)

*(a) An enterprise established pursuant to the law of Vietnam must pay tax on taxable income arising in Vietnam and on taxable income arising outside Vietnam;*

*(b) A foreign enterprise with a resident establishment in Vietnam must pay tax on taxable income arising in Vietnam and on taxable income arising outside Vietnam and relating to the operation of such resident establishment;*

*(c) A foreign enterprise with a resident establishment in Vietnam must pay tax on taxable income arising in Vietnam and not relating to the operation of the resident establishment;*

*(d) A foreign enterprise which does not have a resident establishment in Vietnam must pay tax on taxable income arising in Vietnam.*

* **Art 2, Clause 3**: **Resident establishment of a foreign enterprise** means a production and/or business establishment via which a foreign enterprise conducts part or all of its production and/or business activities in Vietnam, comprising: (as content below)

*(a) Branches, operational offices, plants, workshops, means of transportation, mines, petroleum fields, gas fields, mines and any other location in Vietnam where natural resources are mined;*

*b) Construction sites; and construction, installation and assembly works;*

*(c) Establishments providing services including consultancy services provided via people working for such establishment or via other organizations or individuals;*

*(d) Agents of foreign enterprises;*

*(dd) Representatives in Vietnam where they are representatives with authority to sign contracts in the name of the foreign enterprise, or where they are representatives without authority to sign contracts in the name of the foreign enterprise but regularly deliver goods or provide services in Vietnam.*

## 3. TAX CALCULATION

**Tax bases and Tax rates**

1. **For main production and business activities**

Based on **Circular 78/2014/TT-BTC,** CIT is determined based on the following formulas:

**CIT payable = [CIT assessable income - The deduction for setting up of science and technology fund (if any)] x CIT rate**

Of which:

**CIT assessable = CIT taxable income - (CIT exempt income + Losses carried forward)**

**CIT taxable income = Revenue - Deductible expense + Other taxable income**

**CIT = [Taxable income from main business activities - CIT exempt income - Losses carried forward - Deduction for setting up of science and technology fund (if any)] x CIT rate**

**Taxable income from the main business activities = Revenue for taxable income calculation - CIT deductible expense**

**Revenue for taxable income (*Article 5, Circular 78/2014/TT-BTC)***  calculation is determined according to the following principles:

* **Revenue for taxable income calculation is the entire proceeds from the sale of goods, processing fees, and service provision fees, including price subsidies, surcharges and extras, which an enterprise is entitled to**, regardless of whether money has been received or not.

The timing of revenue for taxable income calculation is determined as follows:

* For the sale of goods, it is when the goods’ ownership and use rights were transferred to the buyer.
* For service provision, it is when the service provision was completed or when a service invoice was issued.

**Expense are deductible** for CIT calculation purpose when

* Not on the list of non-deductible expenses specified in **Clause 2, Article 6, Circular 78/2014/TT-BTC**, and
* Fully satisfy the following conditions:
* Being actual expenses arising for production and business activities of enterprises;
* Being supported with adequate invoices and documents as required by law;
* For purchase of goods or services with invoice value from VND 20 million (inclusive of VAT), there must be a non- cash payment voucher.

**CIT exempt incomes (*Article 8, Circular 78/2014/TT-BTC* )**

Income exempt from CIT includes many types of income, for example:

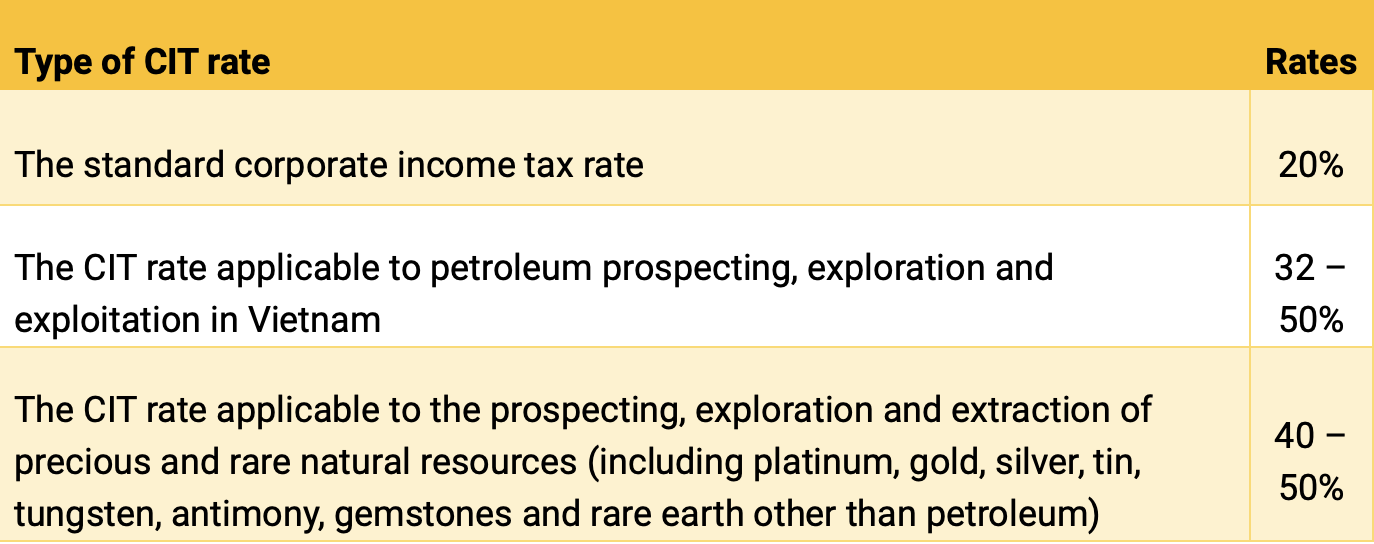
* Income from farming, animal husbandry, aquaculture and salt production of the cooperative;
* Incomes of cooperatives operating in the fields of agriculture, forestry, fishery and salt production in areas with difficult socio-economic conditions or areas with special socio-economic conditions difficult; Incomes of enterprises from cultivation, husbandry and aquaculture in extremely difficult socio-economic areas; Income from fishing activities;
* Incomes divided from capital contribution, share purchase, joint venture or economic association with domestic enterprises, after contributed capital recipients, share issuers or joint venture or association parties have paid CIT under the Law on CIT, including those eligible for CIT incentives.
* Income from production and business activities of goods and services of enterprises with an average number of employees who are disabled people, people recovering from drug addiction, and people infected with HIV in the year accounts for 30% or more of the total Average number of employees per year of the enterprise.

**Losses carried forward (Article 9, *Circular 78/2014/TT-BTC* )**

The loss amount after the finalization of CIT of the previous tax years will be fully and continuously carried forward for CIT calculation of subsequent years, for no more than 5 consecutive years counting from the following year when the losses incurred.

**The deduction for setting up of science and technology fund (Article 10, *Circular 78/2014/TT-BTC* )**

**CIT rates (Article 11, *Circular 78/2014/TT-BTC* )**

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**QnA:**

What is the maximum number of consecutive years that a company can carry forward and deduct losses from previous years for calculating Corporate Income Tax (CIT)?

## 4. TAX DECLARATION AND PAYMENT REGIME

The process of CIT declaration and finalization for all activities will be done through HTKK software (provided via the website of the General Department of Taxation)

**Provisional CIT declaration**

On a quarterly basis, an enterprise does not need to submit the quarterly CIT declaration.

However, the enterprise must make quarterly provisional CIT payment for the first three quarters of the tax year based on the business result, with the following conditions:

* If the total provisional tax amount paid in four quarters is > 80% of the annual finalized tax liability: the taxpayer needs to make payment of the outstanding CIT liability of the tax year.
* If the total provisional tax amount paid in four quarters is < 80% of the annual finalized tax liability: In addition to the outstanding CIT liability of the tax year, the taxpayer also needs to pay the late payment interest applied from the date succeeding the payment deadline of the fourth quarter.

(Clause 3, Article 1, [Decree 91/2022/ND-CP](https://docs.google.com/document/d/1e6XGkzOcDq9MRm75NFNDScFYDZR63pdD/edit?usp=sharing&ouid=111722714711234851693&rtpof=true&sd=true))

**Finalization**

The steps to finalize CIT are as follows:

* Select the finalization Form No. 03/TNDN
* Select the tax period, business lines, and necessary appendices for declaration (03-1A/TNDN and 03-2A/TNDN are two basic appendices that enterprises normally do business and production should have)
* Enter information on the income statement in Appendix 03-1A/TNDN, loss transfer information in Appendix 03-2A/TNDN and other appendices (if any). After entering the data in the appendix, it will automatically be transferred to the final settlement declaration 03/TNDN.

**Payment Regime**

Enterprises are required to make quarterly provisional CIT payments (no later than the 30th day of the next quarter) based on the quarterly business results. The total provisional CIT payment of 4 quarters of a tax year must not be less than 80% (“80% rule”) of the total CIT liability for the year. Any shortfall will be subject to late payment interest, counting from the deadline for payment of the quarter 4 provisional CIT liability.

Final payment of CIT is due with the final CIT return (i.e. the last day of the third month as of the ending date of a calendar year or a financial year).

## 5. TAX REFUND

**In what case are taxes refunded?**

article 70 clause 2 & article 60 clause 1 - Law on tax administration (38/2019/QH14),

* If the tax, late payment interest or fine paid by a taxpayer is greater than the amount payable and
* the taxpayer no longer has outstanding tax, late payment interest or fine.
* the taxpayer wishes to have the overpaid amount be offset or refunded

**Process?**

* Within 03 working days from the day on which the request form for tax refund is received, the tax authority shall inform the taxpayer in writing of whether the claim is granted or rejected (Article 72), and then conduct tax inspection to determine whether or not the refund is allowed and the actual refund amount according to Article 77 (under the same law)

**In what case the overpaid tax, late payment interest or fine shall not be refunded?**

Article 60 clause 3 - Law on tax administration 38/2019/QH14

* The taxpayer refuses to receive the overpaid amount in writing
* The taxpayer no longer operates at the registered address
* The overpaid amount has been announced through mass media and the taxpayer does not claim the refund within 01 years from the date of announcement.
* The overpaid amount has been paid for more than 10 years and the taxpayer does not request an offsetting or refund.

<https://vietanlaw.com/vietnams-tax-administration-law-38-2019-qh14-425672/>

## 6. TAX EXEMPTION (ART 8 - No. 78/2014/TT-BTC)

* **Art 8, Clause 3**: For incomes from the performance of scientific research and technological development contracts; the sale of products turned out from trial production and production with technologies applied for the first time in Vietnam. The maximum tax exemption duration is one (1) year from the date of commencing the performance of the contracts or commencing trial production or production with technologies applied for the first time in Vietnam.

=> must satisfy the following conditions: the research contract must be certified by a competent state management agency in charge of science.

* **Art 8, Clause 6**: Incomes divided from capital contribution, share purchase, joint venture or economic association with domestic enterprises, after contributed capital recipients, share issuers or joint venture or association parties have paid CIT under the Law on CIT, including those eligible for CIT incentives.

Example: Enterprise B receives contributed capital from enterprise A. Pre-tax income corresponding to enterprise A’s contributed capital in enterprise B is VND 100 million.

- Case 1: Enterprise B is ineligible for CIT incentives and has fully paid CIT, including enterprise A’s income, then the income enterprise A receives from capital contribution is VND 78 million [(VND 100 million - (VND 100 million x 22%)], and enterprise A will be exempt from CIT on this amount.

- Case 2: Enterprise B is eligible for 50% reduction of the payable CIT amount and has fully paid CIT, including enterprise A’s income according to the reduced CIT amount, then the income enterprise A receives from capital contribution is VND 89 million [(VND 100 million - (VND 100 million x 22% x 50%)], and enterprise A will be exempt from CIT on this amount.

- Case 3: Enterprise B is eligible for CIT exemption, then the income enterprise A receives from capital contribution is VND 100 million, and enterprise A will be exempt from CIT on this amount.

## 7. Rewarding & Punishment:

Rewarding and punishing behaviors in corporate income tax is a way for governments to influence the behavior of corporations and achieve certain policy objectives.

**Rewarding:**

Governments often use tax incentives to reward desirable behaviors and activities. By reducing the tax burden on these activities, governments aim to encourage companies to engage in socially beneficial behavior.

**>1st type of rewards is: Incentives being preferential tax rates:**

According to *Chapter VI,* [*Circular 78/2014/TT-BTC*](https://docs.google.com/document/d/1y3qoOnasySoqNgwEmll2-E2SHiNSBrq6/edit?rtpof=true) :

| The CIT rate of **10%** apply for **15 years** | The tax rate of **10%** | The tax rate of **17%** apply for **10** years |
| --- | --- | --- |

**> Incentives being duration of tax exemption and reduction:**

In accordance with Circular No. 78/2014/TT-BTC, the incentives for tax exemption and reduction durations are prescribed as follows:

| Tax exemption for 4 years and 50% reduction of payable tax amounts for 9 subsequent years are applicable to: | Tax exemption for 4 years and 50% reduction of payable tax amounts for 5 subsequent years | Tax exemption for 2 years and 50% reduction of payable tax amounts for 4 subsequent years |
| --- | --- | --- |

**Punishment**

**According to Article 6 - Law on Tax Administration 2019, prohibited activities in tax administration include:**

**According to Article 138 - Law on Tax Administration 2019**

**1. Penalties for tax administrative offenses include:**

a) Warning;

b) Fine.

**2. Fines for tax offenses:**

a) The maximum fines for the offences specified in Article 141 of this Law shall comply with regulations of law on administrative penalties;

Fine for understatement of tax payable or overstatement of tax eligible for refund, remission or cancellation is 10-20% of the difference

d) The fine for tax evasion specified in Article 143 of this Law shall be 01 – 03 times the tax evaded.

**3. Remedial measures include:**

a) Full payment of outstanding tax;

b) Payment of tax incorrectly exempted, reduced, refunded or canceled.

## 8. Discussion

**Case 1:** Company doesn’t have a welfare fund. Every year during the Mid-Autumn Festival and the Lunar New Year, they buy gifts for employees.

Are these gift expenses included in the expense when calculating CIT, and does the company have to issue an invoice for these gifts?

Answer:

In Clause 4, Article 3 of Circular No. 25/2018/TT-BTC dated March 16, 2018 of the Ministry of Finance (amending and supplementing Article 6 of Circular No. 78/2014/TT-BTC) regulated that expenses having the nature of welfare, which is directly paid to employees, is deductible when determining taxable income.

Based on the above provisions, companies may treat these expenses as deductible expenses for CIT purposes as welfare expenditures, if these expenses were directly paid to employees, supported by sufficient invoices and documents according to regulations, and not exceed the average 01 month’s actual salary paid in the tax year.

**Case 2:** Company installs rooftop solar power systems for constructions. Some constructions have installed the system and tested to connect with the electricity authority before December 31, 2020 so that customers can get preferential electricity rates. However, the actual construction is not completed 100% with the outstanding tasks such as cleaning, etc. Will the revenue from the installation of this electrical system be recognized in 2020 or 2021 tax year?

Answer:

According to point m, clause 3, Article 5 of Circular No. 78/2014/TT-BTC (amended and supplemented in Circular No. 96/2015/TT-BTC) on revenue determination to calculate taxable income, for construction and installation activities, the revenue is the value of constructions or construction items or constructions and installation volume which was already tested and accepted. Therefore, if the project had been tested and accepted, and the invoice had been issued in 2020, the revenue must be recognized in 2020 CIT calculation.