

**MINISTRY OF FINANCE**

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No. 92/2015/TT-BTC

**SOCIALIST REPUBLIC OF VIETNAM**

**Independence - Freedom - Happiness**

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*Hanoi, June 15, 2015*

**CIRCULAR**

**GUIDELINES FOR VAT AND PERSONAL INCOME TAX INCURRED BY RESIDENTS DOING BUSINESS, AMENDMENTS TO SOME ARTICLES ON PERSONAL INCOME TAX OF THE LAW NO. 71/2014/QH13 ON THE AMENDMENTS TO TAX LAWS AND THE GOVERNMENT'S DECREE NO. 12/2015/NĐ-CP DATED FEBRUARY 12, 2015 ON GUIDELINES FOR THE LAW ON THE AMENDMENTS TO TAX LAWS AND DECREES ON TAXATION**

*Pursuant to the Law on Personal income tax No. 04/2007/QH12 dated November 21, 2007 and the Law No. 26/2012/QH13 dated November 22, 2012 on amendments to the Law on Personal income tax;*

*Pursuant to the Law on Tax administration No. 78/2006/QH11 dated November 29, 2006 and the Law No. 21/2012/QH13 dated November 20, 2012 on amendments to the Law on Tax administration;*

*Pursuant to the Law No. 71/2014/QH13 dated November 26, 2014 on the amendments to tax laws*

*Pursuant to the Law on Value-added tax No. 13/2008/QH12 dated June 03, 2008, amended by the Law on Value-added tax No. 31/2013/QH13 dated June 19, 2013;*

*Pursuant to the Government's Decree No. 65/2013/NĐ-CP dated June 27, 2013 on guidelines for some Articles of the Law on Personal income tax and the Law on amendments to the Law on personal income tax;*

*Pursuant to the Government's Decree No. 83/2013/NĐ-CP dated July 22, 2013 on guidelines for some Articles of the Law on Tax administration and the Law on the amendments to the Law on Tax administration;*

*Pursuant to the Government's Decree No. 12/2015/NĐ-CP dated February 12, 2015 on guidelines for the Law on the amendments to tax laws and decrees on taxation;*

*Pursuant to the Government's Decree No. 209/2013/NĐ-CP dated December 18, 2013 on guidelines for some Articles of the Law on Value-added tax;*

*Pursuant to the Government's Decree No. 215/2013/NĐ-CP dated December 23, 2013 defining the functions, tasks, entitlements and organizational structure of the Ministry of Finance;*

*At the request of Director of the General Department of Taxation;*

*The Minister of Finance provides the below guidelines:*

**Chapter I**

**POLICIES ON VAT AND PERSONAL INCOME TAX INCURRED BY RESIDENTS DOING BUSINESS**

**Article 1. Taxpayers**

1. Taxpayers mentioned in Chapter I of this Circular are residents including individuals, groups of individuals, and households who manufacture and/or trade in goods, services in any field and sector prescribed by law (hereinafter referred to as businessperson or businesspeople). The business fields and sectors also include:

- a) Independent practice in the fields and sectors that are permitted in the practising certificate or license as prescribed by law.
- b) Acting as a lottery, insurance, multi-level marketing agent who directly signs a contract with the lottery company, insurer, or multi-level marketing company.
- c) Business cooperation with other organizations.
- d) Agriculture, forestry, salt production, aquaculture activities that do not satisfy conditions for tax exemption in Point e Clause 1 Article 3 of Circular No. 111/2013/TT-BTC dated August 15, 2013 of the Ministry of Finance.

2. Taxpayers mentioned in Clause 1 of this Article do not include businesspeople whose revenues are VND 100 million/year or lower.

## **Article 2. Tax calculation methods applied by businesspeople paying flat tax**

1. Applied principles:

- a) Businesspeople who pay flat tax (hereinafter referred to as payers of flat tax) are those who earn revenue from trading in goods/services in any field and sector prescribed by law, except for the businesspeople mentioned in Article 3, Article 4, and Article 5 of this Circular.
- b) If the revenue subject to personal income tax (PIT) earned by the businessperson who pays flat tax in the year is VND 100 million/year or lower, the person shall not pay VAT and PIT.

If the revenue subject to PIT earned by a flat tax payer who does not do business for the whole year (less than 12 months of a calendar year) is VND 100 million per year or lower, such person shall not pay VAT and PIT. Persons who do not do business for the whole year include persons who are new to business; persons doing seasonal business; persons who suspend/shut down their business. The actual revenue for calculating tax payable in the year is the revenue earned during the months in which they actually do business. If a payer of flat tax who does not do business for the whole year has received a tax notice from the tax authority, the flat tax shall be reduced according to the months in which the business is suspended or shut down.

Example 1: Mr. A starts his business from April 2015 and expects to earn a revenue of VND 90 million after 09 months of business (averagely VND 10 million/month). The corresponding revenue of a year (12 months) is VND 120 million (> VND 100 million) In this case, Mr. A has to pay VAT and PIT on the actual revenue earned from April 2015, which is VND 90 million.

Example 2: Ms. B has received a tax notice of 2015 from the tax authority. In October 2015, Ms. B suspends/shuts down her business. In this case, she will receive a reduction in flat tax corresponding to the last 03 months of 2015.

- c) Businesspeople who do business as a group or household and earns a revenue of VND 100 million/year or lower shall not pay VAT and PIT. It is considered that the revenue is earned by only 01 representative of the group or household in the tax year.

Example 3. Household C is established by a group of 04 persons. In 2015, household C has a revenue of VND 180 million from business (>VND 100 million). Household C has to pay VAT and PIT on the total revenue of VND 180 million.

d) Businesspeople who are not residents but have permanent business premises in Vietnam shall declare tax as if those who are residents.

## 2. Basis for tax calculation

The basis for tax calculation by a payer of flat tax is the taxable revenue and tax rate.

### a) Taxable revenue

a.1) Revenue subject to VAT and PIT means the tax-inclusive revenue (if taxable) from the sale of goods, payment for processing, commission, provision of services earned in the tax period from the business (hereinafter referred to as taxable revenue).

If the flat tax payer uses invoices of the tax authority, the taxable revenue is based on the flat revenue and revenue on the invoice.

a.2) In case a businessperson fails to determine the flat revenue or the flat revenue is not practical, the tax authority is entitled to impose a flat revenue in accordance with regulations of law on tax administration.

### b) Tax rates

b.1) Tax rates include VAT rate and PIT rate and vary according to the business line as follows:

- Distribution, provision of goods shall incur 1% VAT and 0.5% PIT.

- Service provisions and construction exclusive of building materials shall incur 5% VAT and 2% PIT.

- Manufacture, transport, provision of services associated with goods, construction inclusive of building materials shall incur 3% VAT and 1.5% PIT.

- Other business lines shall incur 2% VAT and 1% PIT.

b.2) The detailed list of business lines and corresponding tax rates is provided in Appendix 01 enclosed herewith.

b.3) The businessperson who involves in multiple business lines shall declare and calculate tax according to the rates applied to each of the business lines. If such businessperson is not able to separate revenue from each business line or it is not practical, the tax authority is entitled to impose a flat revenue upon each of the business line in accordance with regulations of law on tax administration.

### c) Determination of tax payable

$$\begin{aligned} \text{VAT payable} &= \text{Revenue subject to VAT} \times \text{VAT rate} \\ \text{PIT payable} &= \text{Revenue subject to PIT} \times \text{PIT rate} \end{aligned}$$

Where:

- Revenue subject to VAT and revenue subject to PIT are prescribed in Point a and Point b.3 Clause 2 of this Article.

- VAT rate and PIT rate are prescribed in Point b Clause 2 of this Article.

d) Time for determination of taxable revenue

d.1) Flat revenue shall be determined during the period from November 20 to December 15 of the year preceding the tax year.

d.2) If a businessperson is new to business (who does not do business from the beginning of the year) or changes the business scale in the year, the flat revenue of the year shall be determined within 10 days from the beginning date or the changing date.

d.3) Variable revenue (according to invoices) shall be determined at the time prescribed in Point d Clause 2 Article 3 of this Circular.

### **Article 3. Tax calculation methods applied by businesspeople paying tax every time it is incurred**

1. Applied principles:

a) Businesspeople paying tax every time it is incurred include: residents who earn revenue outside Vietnam's territory; persons who do casual business and do not have permanent business premises; persons who engages in business cooperation with other organizations in a way that their personal revenues can be determined.

Depending on the characteristics of the business line, persons doing casual business may decide to declare flat tax as prescribed in Clause 2 of this Circular or declare tax whenever it is incurred as prescribed in this Article.

Permanent business premises are the places where businesspeople carry on their business such as: transaction offices, stores, shops, workshops, warehouses, terminals, depots, etc.

b) If the total revenue from business in the calendar year earned by a businessperson who pays tax whenever it is incurred is VND 100 million or lower, such businessperson shall not pay VAT and PIT.

Example 4: In 2015, Mr. C earns a revenue of VND 40 million from a contract with company X and VND 50 million from a contract with company Y. The total value of two contracts in the year is VND 90 million (< VND 100 million). In this case, Mr. C does not have to pay VAT and personal income tax on the revenue earned from these two contracts. In this case, Mr. C does not have to pay VAT and personal income tax on the revenue earned from these two contracts, which increases the total value of 03 contracts in the year to VND 110 million (> VND 100 million), Mr. C has to pay VAT and PIT on the revenue of VND 110 million from 03 contracts.

2. Basis for tax calculation

The basis for tax calculation by a businessperson who pays tax whenever it is incurred is the taxable revenue and tax rate.

a) Taxable revenue

a.1) Taxable revenue is the tax-inclusive revenue (if taxable) from the sale of goods, payment for processing, commission, provision of services according to the contract, including subsidies, surcharges, damages, fines for breach of contract (with regard to revenue subject to PIT) earned by the businessperson, whether such amounts have been collected or not. Taxable revenue in some cases:

- a.1.1) Taxable revenue from selling goods by instalments is determined according to the lump-sum selling prices of goods exclusive of interest on deferred payment;
- a.1.2) Taxable revenue from goods/services used for exchange or gifting is determined according to selling prices of the same or similar kind goods/services at the time of exchange or gifting;
- a.1.3) Taxable revenue for goods processing is the revenue for the processing including wages, payment for fuel, machines, ancillary materials, and other costs serving the processing of goods;
- a.1.4) Taxable revenue from transport is the total revenue from the charges for transport of passengers, cargo, and luggage earned in the tax period;
- a.1.5) Taxable revenue from construction and installation is the value of the works, work items, or parts that are accepted, transferred, or completed in the calendar year. Revenue from construction and installation exclusive of building materials, machinery and equipment, the taxable revenue does not include the value of building materials, machinery and equipment.

b) Tax rate

VAT rate and PIT rate applied to businesspeople who pay tax whenever it is incurred are the same as that applied to flat tax payers prescribed in Point b Clause 2 Article 2 of this Circular.

c) Determination of tax payable

$$\begin{array}{lclclcl} \text{VAT payable} & = & \text{Revenue subject to VAT} & \times & \text{VAT rate} \\ \text{PIT payable} & = & \text{Revenue subject to PIT} & \times & \text{PIT rate} \end{array}$$

Where:

- Revenue subject to VAT and revenue subject to PIT are prescribed in Point a Clause 2 of this Article.

- VAT rate and PIT rate are prescribed in Point b Clause 2 of this Article.

d) Time for determination of taxable revenue

- For goods sale, it is the time of transfer of the right to own or rights to use the goods, or the time of issuing the sale invoice if it is issued before the transfer of the right to own or rights to use the goods.

- For transport and service provision, it is the time of completion of provision of services for the buyer or the time of issuing the service provision invoice if it is issued before the completion of service provision.

- For construction and installation, it is the time of acceptance and transfer of the completed works, work items, or parts.

**Article 4. Tax accounting method applied by persons leasing property**

1. Applied principles:

a) Persons leasing property (hereinafter referred to as lessors) are those who earn revenue from the lease of their property, including: housing, premises, stores, workshops, warehouses, depots exclusive of accommodation services; lease of means of transport, machinery and equipment without operators; lease of other property without associated services.

Accommodation services not included in property lease mentioned in this point include: provision of short-term lodging establishments for tourists and other guests; provision of long-term lodging establishments for students, workers and the like; provision of lodging establishments together with food and drink services and/or entertainments. Accommodation services do not include: long-term provision of lodging establishments as if permanent establishments such as monthly or annual lease of apartments, which are classified as real estate activities according to Vietnam's System of Business lines.

b) If the total revenue from lease contracts earned in the calendar year is VND 100 million or lower, the lessor shall not pay VAT and PIT. If the lessee pays a lump-sum of rent in advance for many years, the taxpayer shall not pay VAT and PIT if the annual revenue, which equals (=) lump-sum revenue divided by (:) the number years, is VND 100 million or lower.

Example 5: Ms. C signs a housing lease contract for 02 years from October 2015 to the end of September 2015 for a monthly rent of VND 10 million. A lump-sum of rent is paid for 02 years. Taxable revenue of Ms. C and tax payable on the lump-sum from housing lease is determined as follows:

In 2015, Ms. C leases out her house for 03 months (from October to December) and earns a revenue of: 03 months x VND 10 million = VND 30 million (< VND 100 million). Thus, Ms. C does not have to pay VAT and PIT on the house rent in 2015.

In 2016, Ms. C leases out her house for 12 months (from January to December) and earns a revenue of: 12 months x VND 10 million = VND 120 million (> VND 100 million). Thus, Ms. C has to pay VAT and PIT on the house rent in 2015.

In 2017, Ms. C leases out her house for 09 months (from January to September) and earns a revenue of: 09 months x VND 10 million = VND 90 million (< VND 100 million). Thus, Ms. C does not have to pay VAT and PIT on the house rent in 2017.

After determining annual taxable revenue, Ms. C declares tax on the lump-sum of VND 180 million. Taxable revenue is VND 120 million and tax payable for the whole contract is VND 12 million (VND 120 million x (5% + 5%)).

c) Businesspeople who have a co-ownership of a piece of property for lease and earn a revenue of VND 100 million/year or lower shall not pay VAT and personal income tax. It is considered that the revenue is earned by only 01 representative of the group or household in the tax year.

Example 6: A and B are two people who have a co-ownership of a piece of property. In 2015, they agree to lease it out for VND 180 million/year, which is higher than VND 100 million/year. A is the representative who fulfills tax obligations. In this case, A has to pay VAT and PIT on the lease of such property on the revenue of VND 180 million.

## 2. Basis for tax calculation

The basis for tax calculation by a property lessor is the taxable revenue and tax rate.

### a) Taxable revenue

Taxable revenue from property lease is determined as follows:

a.1) Revenue subject to VAT from property lease is the tax-inclusive revenue (if taxable) from rents periodically paid by the lessee under the lease contract and other revenues exclusive of fines and damages received by the lessor under the lease contract.

a.2) Revenue subject to PIT from property lease is the tax-inclusive revenue (if taxable) from rents periodically paid by the lessee under the lease contract and other revenues including fines and damages received by the lessor under the lease contract.

a.3) In case the lessee advances a lump sum for multiple years, the revenue subject to VAT and PIT shall be determined according to the lump sum.

b) Tax rate

- VAT rate on property lease is 5%

- PIT rate on property lease is 5%

c) Determination of tax payable

$$\begin{array}{lclclcl} \text{VAT payable} & = & \text{Revenue subject to VAT} & \times & 5\% \text{ VAT} \\ \text{PIT payable} & = & \text{Revenue subject to PIT} & \times & 5\% \text{ PIT} \end{array}$$

Where:

- Revenue subject to VAT and revenue subject to PIT are prescribed in Point a Clause 2 of this Article.

- VAT rate and PIT rate are prescribed in Point b Clause 2 of this Article.

d) Time for determination of taxable revenue

Time for determination of taxable revenue is the beginning date of each payment term written on the lease contract.

## **Article 5. Tax calculation method applied by persons who directly sign lottery, insurance, multi-level marketing agent contracts**

1. Applied principles:

b) The person who directly signs the lottery, insurance, or multi-level marketing agent contract is the person who directly signs an agent contract with the lottery company, insurer, or multi-level marketing company to sell goods/services at prices fixed by the company and receive commission (hereinafter referred to as agent).

b) If the total commission, bonuses in any shape or form, subsidies and other revenues received by the agent in the year is VND 100 million or lower, the person shall not pay PIT.

Example 7. Mr. D directly signs a contract with lottery company X to act as a level I agent of company X. In 2015, Mr. D receives a total commission of VND 230 million (> VND 100 million) In this case, Mr. D has to pay tax on the revenue of VND 230 million from lottery agent activities.

2. Basis for tax calculation

The basis for tax calculation by a person who acts as a lottery, insurance, or multi-level marketing agent is the taxable revenue and tax rate.

a) Taxable revenue

Taxable revenue is the tax-inclusive revenue (if taxable) from the commission, bonuses in any shape or form, subsidies, and other revenues received by the person from the lottery company, insurer, or multi-level marketing company (hereinafter referred to as commission).

b) PIT rate

Rate of PIT incurred by lottery agents, insurance agents, and multi-level marketing agents is 5%.

c) Determination of tax payable

$$\text{PIT payable} = \text{Revenue subject to PIT} \times 5\% \text{ PIT}$$

Where:

- Revenue subject to PIT is prescribed in Point a Clause 2 of this Article.
- PIT rate is prescribed in Point b Clause 2 of this Article.

d) Time for determination of taxable revenue

Time for determination of taxable revenue is the time the lottery company, insurer, or multi-level marketing company pays commission to the person.

## **Chapter II**

### **ADMINISTRATION OF VAT AND PIT INCURRED BY BUSINESSPEOPLE**

#### **Article 6. Tax declaration by businesspersons paying flat tax**

1. Tax declaration principles:

- a) Persons who pay flat tax shall declare tax once per year at the Sub-departments of taxation of the district where their business premises are located and are not required to make annual tax statements.
- b) Flat tax payers using invoices of tax authorities shall declare and pay taxes on revenues on the invoices quarterly in addition to the flat revenue.
- c) In case a businessperson engages in business cooperation with an organization using property under his/her personal ownership but is not able to determine revenue from business, he/she may authorize the organization to declare and pay flat tax on his/her behalf. The organization shall declare and pay tax on behalf of the person at its supervisory tax authority.

2. Tax declaration documents:

From November 20 to December 05 every year, the tax authority shall hand out tax declarations of the next year to all businesspeople who pay flat tax.

Tax declaration documents submitted by flat tax payers:

- Flat tax payers shall declare tax on flat revenue using declaration form no. 01/CNKD enclosed herewith.
- Flat tax payers using invoices of tax authorities shall declare their revenues according to the invoices in form No. 01/BC-SDHD-CNKD enclosed herewith. They are not required to make

and submit the invoice use report using the form enclosed with Circular No. 39/2014/TT-BTC dated March 31, 2014 of the Ministry of Finance.

- In case a businessperson engages in business cooperation with an organization and authorizes it to declare and pay tax on his/her behalf, the organization shall use form No. 01/CNKD and form No. 01-1/BK-CNKD enclosed where with and submit a photocopy of the business cooperation contract (for the first time of tax declaration of the contract).

### 3. Deadline for submitting tax declarations:

- Flat tax payers shall submit tax declarations by December 15 of the year preceding the tax year.

- Flat tax payers who are new to business or changes their business lines or scale of business in the year shall submit tax declarations within 10 days from the beginning date or changing date.

- Flat tax payer using invoices of the tax authorities shall submit tax declarations by the 30<sup>th</sup> day of the quarter succeeding the quarter in which tax is incurred.

### 4. Determination of flat tax and revenue

a) Flat revenue of a flat tax payer shall remain unchanged for 01 year.

b) Flat tax payers shall determine the flat revenue themselves as the basis for determining the tax payable on form No. 01/CNKD enclosed herewith. If the businessperson is not able to determine the flat revenue, fails to submit the tax declaration, or the flat revenue determined is not practical, the tax authority is entitled to impose a flat revenue in accordance with regulations of law on tax administration.

According to tax declarations submitted by businesspeople and database of tax authorities including: integrated information system of tax authorities; verification and survey results; tax inspection results (if any), tax authorities shall determine flat revenue and flat tax in order to conduct a public enquiry and consult with Tax Advisory Council. This is the basis for Provincial Departments of Taxation to direct and review the making of ... of each sub-department of Taxation of districts.

c) Every flat tax payer who makes changes to their business (business lines, scale, location, etc.) in the year must register the changes in order for tax authorities to re-calculate the flat revenue, flat tax, and other information about the tax payer that is applied to the rest of the tax year. If the tax authority, through inspection, finds that the taxpayer does not make changes to his/her business but flat revenue varies by 50% or more, the tax authority shall only recalculate the flat revenue which is applied to the rest of the tax year. If the business lines are changed, adjustments shall be made accordingly.

### 5. First public enquiry

The tax authority shall conduct the first public enquiry to seek opinions about flat revenues and flat tax by posting documents publicly. Documents to be posted include: A list businesspeople exempt from VAT and/or PIT; a list of businesspeople who have to pay tax; and a list of businesspeople using invoices of tax authorities. The first public enquiry shall be conducted as follows:

a) The Sub-department of taxation of each district shall post the documents at the Sub-department of taxation, the People's Committee of the district, the gate or a suitable location of the People's Committees of communes within the district, offices of tax collector teams,

management boards of markets, etc. in order to ensure convenient obtainment of information. The first public enquiry shall take place from December 20 to December 31 every year.

b) Sub-department of taxation of the district shall send posted documents to the People's Councils and Fatherland Front Agencies of the district and communes therein by December 20; specify the address and deadline for receiving feedbacks from the People's Council and Fatherland Front Agencies which is December 31.

c) By December 20 every year, Sub-departments of taxation shall send form No. 01/TBTDK-CNKD enclosed herewith (notice of estimated flat revenue and flat tax) together with form No. 01/CKTT-CNKD enclosed herewith (information sheet) to each businessperson, specify the address and time for the Sub-departments of taxation to receive feedbacks from businesspeople (if any) which is December 31. The notice may be sent directly to businesspeople (the receipt of the notice must be confirmed by taxpayers) or by tax authorities by registered mail.

Preliminary information sheets shall be sent to businesspeople within the district, including both businesspeople who have to pay tax and who do not. If the market, street, and neighborhood that has 200 businesspeople or fewer, the Sub-department of taxation shall print and hand out the information sheet to every businessperson. If the market, street, or neighborhood has more than 200 businesspeople, the Sub-department of taxation shall print and hand out the information sheet to not more than 200 businesspeople. If the market has more than 200 businesspeople, the Sub-department of taxation shall print and hand out the information sheet to each businessperson by their business lines.

d) The Sub-department of taxation has the responsibility to publish the posting location and address for receiving feedbacks (including phone numbers, fax numbers, address, email address).

e) Sub-departments of taxation shall collect and consolidate feedbacks from the people, taxpayers, the People's Councils and Fatherland Front Agencies of the district and communes therein, then consider changing the regulated entities, estimated flat revenues and flat taxes before consulting with Tax Advisory Council.

## 6. Consulting Tax Advisory Council

Each Sub-department of taxation shall consult Tax Advisory Council during the period from January 01 to January 10 every year about documents posted for the first public enquiry and the feedbacks. The minutes of consultation meeting with Tax Advisory Council must be made and bear the signatures of members of Tax Advisory Council. The minutes must specify opinions about changes of taxpayers, revenues, taxes of each businessperson which serve as the basis for making the tax register.

Tax Advisory Councils mentioned in this Circular Article Tax Advisory Councils established in accordance with regulations of law on tax administration.

## 7. Making and approving tax registers

According to tax declarations submitted by flat tax payers, investigation results, feedbacks obtain from the first public enquiry, minutes of meeting with Tax Advisory Council, and instructions from the Department of Taxation of the province, Sub-departments of taxation shall make and approve their tax registers by January 15.

Every month, depending on the business status of businesspeople (new businesses; suspension/shutdown of businesses; change of business scale or business lines, or change of tax

calculation method, etc.) and changes of tax policies which affect the flat revenues and tax payable, the Sub-department of taxation shall adjust the tax register and re-inform flat tax payers of tax payable in the month or quarter.

#### 8. Responsibility of Provincial Departments of Taxation for directing, supervising Sub-departments of taxation making their tax registers

Provincial Departments of Taxation have the responsibility to use tax administration database to analyze, assess, and direct the making of tax registers of Sub-departments of taxation as follows:

a) Departments of Taxation shall carry out annual inspections of at least 20% of Sub-departments of taxation in terms of adherence to regulations on risk management of determination of flat revenues and flat taxes. Inspection results given by Provincial Departments of Taxation are one of the bases for Sub-departments of taxation to make and approve tax registers of flat tax payers.

b) While performing its tasks, each Department of Taxation shall carry out periodic inspections of at least 10% of the Sub-departments of taxation in the first, second, and third quarter. The inspection results are the basis for estimating flat revenues and flat taxes of the next year. Flat revenue and flat tax applied to the rest of the tax year shall be adjusted in accordance with instructions of Point c Clause 4 Article 6 of this Circular.

c) Contents of the inspection by Provincial Department of Taxation mentioned in Clause 8 of this Article include: inspection of the administration database; comparison of information about business registration and tax registration; inspection of at least 15% of local businesspeople, 100% businesspeople classified as risky according to the criteria prescribed in Point c Clause 12 Article 6 of this Circular.”

#### 9. Notice of tax payable and deadline for paying tax

##### a) Sending tax notice

a.1) The tax authority shall send the tax notice (form No. 01/TBT-CNKD) together with the information sheet (form No. 01/CKTT-CNKD) to every flat-tax payers (including both businesspeople who have to pay tax and who do not) by January 20 every year. The notice shall be sent to every businessperson whether directly (taxpayers' confirmation is required) or by express mail.

Official information sheets shall be sent to businesspeople within the district, including both businesspeople who have to pay tax and who do not. If the market, street, and neighborhood that has 200 businesspeople or fewer, the Sub-department of taxation shall print and hand out the information sheet to every businessperson. If the market, street, or neighborhood has more than 200 businesspeople, the Sub-department of taxation shall print and hand out the information sheet to not more than 200 businesspeople. If the market has more than 200 businesspeople, the Sub-department of taxation shall print and hand out the information sheet to each businessperson by their business lines.

a.2) In case of change of flat tax because of change of business scale, business lines, or tax policies, the tax authority shall send form No. 01/TBT-CNKD enclosed herewith (tax notice) to flat tax payers by the 20<sup>th</sup> of the month succeeding the month in which tax is changed.

a.3) In case of a new flat tax payer, the tax authority shall send form No. 01/TBT-CNKD (tax notice) to the tax payer by the 20<sup>th</sup> of the month succeeding the month in which tax is incurred.

## b) Deadline for paying tax

b.1) According to the tax notice, flat tax payers shall pay VAT and PIT of the quarter by the last day of the quarter.

b.2) Flat tax payers that use invoices of tax authorities shall pay tax on revenues on invoices by the deadline for declaring tax on revenues on the invoices as prescribed in Clause 3 of this Article.

## 10. Second public enquiry

The tax authority shall conduct the second public enquiry into official revenues and taxes of businesspeople of the year. The second public enquiry shall be conducted as follows:

### a) Tasks of Department of Taxation of the province

Department of Taxation of the province shall publish information about flat-tax payers by January 30 on the website of tax authorities, including: A list businesspeople exempt from VAT and/or PIT; a list of businesspeople who have to pay tax; and a list of businesspeople using invoices of tax authorities.

In case of a new businessperson or change of tax payable or change of business status, the Department of Taxation shall publish or adjust information on the website of tax authorities by the last day of the month succeeding the month in which the business is inaugurated or the change occurs.

### b) Tasks of Sub-departments of taxation:

b.1) The Sub-department of taxation of each district shall post the documents at the Sub-department of taxation, the People's Committee of the district, and the gate or a suitable location of the People's Committees of communes within the district, offices tax collector teams, management boards of markets, etc. in order to ensure convenient obtainment of information.

b.2) Sub-department of taxation of the district shall send posted documents to the People's Councils and Fatherland Front Agencies of the district and communes therein by December 20, specify the address and deadline for receiving feedbacks from the People's Council and Fatherland Front Agencies.

b.3) The Sub-department of taxation has the responsibility to publish the posting location and address for receiving feedbacks (including phone numbers, fax numbers, address, email address).

b.4) Documents published by the Sub-department of taxation are the same as those posted by the Department of Taxation on the website of tax authorities.

## 11. Cases of flat tax reduction

### a) The flat tax payer suspends/shuts down the business

The flat tax payer suspends/shuts down the business shall send a notification to the tax authority at least one day before suspension or shutdown. The tax authority shall determine the reduction in flat tax according to the duration of suspension or time of shutdown and issue a decision of tax reduction (form No. 03/MGTH) or notice of no tax reduction (form No. 04/MGTH enclosed with Circular No. 156/2013/TT-BTC). The reduction in flat tax is determined as follows:

If the business is suspended for the whole month (from the 1<sup>st</sup> to the last day of the month) or longer, the flat tax payable in the quarter shall be reduced by 1/3. If the business is suspended for

two whole months or longer, the flat tax payable in the quarter shall be reduced by  $\frac{2}{3}$ . If the business is suspended for the whole quarter, the flat tax payable in the quarter shall be cancelled. If the business is suspended for less than a month, flat tax payable in the month shall not be reduced.

Example 8: Household A has a flat tax payable in 2015 of VND 12 million, which means VND 3 million/quarter. Household A suspends its business continuously from February 20 to June 20. It will be considered that household A suspends its business in March, April, and May. So tax incurred by household A shall be reduced due to business suspension as follows: tax payable in the first quarter is reduced by  $\frac{1}{3}$  (VND 1 million), tax payable in the second quarter is reduced by  $\frac{2}{3}$  (VND 2 million).

b) The flat-tax payer suffers from a natural disaster, conflagration, accident, or fatal disease

The flat-tax payer that suffers from a natural disaster, conflagration, accident, or fatal disease shall submit an application for tax exemption or reduction (form No. 01/MGTH enclosed with Circular No. 156/2013/TT-BTC) to the tax authority within 90 days from the end of the calendar year.

The tax authority shall consider granting tax reduction according to the damage. Nevertheless, the reduction shall not exceed the amount of tax payable.

c) The flat-tax payer changes the tax declaration method

Any flat-tax payer that wishes to switch over to pay tax whenever it is incurred shall follow the procedures in Point a Clause 11 of this Article during the months in which flat tax is not paid.

## 12. Other regulations on tax administration of flat-tax payers

a) The businessperson who hires 10 employees or more must establish an enterprise as prescribed by the Law on Enterprises. If the businessperson has not established an enterprise, the tax authority shall impose flat tax. The tax authority shall make and send the list of such businesspeople to the business registration authority.

b) Tax authorities have the responsibility to issue taxpayer ID numbers (TIN) to businesspeople according to information on their tax declaration documents and follow tax administration procedures using the tax administration application of tax authorities.

c) Provincial Departments of Taxation shall establish a set of risk criteria applied to flat-tax payers by type and area of tax payers, such as:

- Flat-tax payers doing business at bordering markets;
- Flat-tax payers selling building materials derived from natural resources (sand, stones, gravel, timber, timber products, etc.);
- Businesspeople whose taxable revenues are unreasonable in comparison to costs (business areas, leases of business premises, value of assets, equipment, stores, warehouses, cost of electricity and water supplied), quantity of vehicles, employees, goods (goods purchased, displayed, in stock, etc.)
- Flat-tax payers who hire 10 employees or more without establishing enterprises;
- Flat-tax payers using invoices of tax authorities;
- Flat-tax payers having 02 business locations or more;

- Flat-tax payers having outstanding tax.

d) Sub-departments of taxation shall update information about developments of flat-tax payers. On November 01 every year, Sub-departments of taxation and Provincial Departments of Taxation must finish building the database about flat-tax payers (including those on the list of businesspeople exempt from VAT and/or PIT) based on information from taxpayers' profiles, results of verification and inspection of tax authorities, and information provided by relevant regulatory agencies.

e) General Department of Taxation shall provide guidance on procedures and methods for establishing and using the database about flat-tax payers according to regulations of the Ministry of Finance to serve risk management in tax inspection and tax collection.

### **Article 7. Tax declaration and payment by businesspeople paying tax whenever it is incurred**

#### 1. Tax declaration principles:

a) Businesspeople shall declare and pay VAT and/or PIT whenever it is incurred if the revenue in the calendar year is higher than VND 100 million.

b) Businesspeople who engage in business cooperation with other organizations using property under their personal ownership and are able to determine the revenues shall declare such organizations to declare and pay tax on their behalf. The said organizations shall declare and pay tax on behalf of the cooperating businesspeople at their supervisory tax authorities.

#### 2. Tax declaration documents:

Tax declaration documents submitted by businesspeople paying tax whenever it is incurred include:

- The declaration form No. 01/CNKD enclosed herewith.

- A photocopy of the contract for provision of goods/services (if any);

- A photocopy of the acceptance record or contract finalization record (if any);

- Photocopies of documents proving origins of goods such as: statement of purchases of domestic farm produces; statement of goods purchased from or exchanged with border residents for goods imported by border residents; invoices issued by sellers for imported goods purchased from domestic sellers; or relevant documents proving goods are manufactured by the taxpayers themselves;

- In case a businessperson engages in business cooperation with an organization and authorizes it to declare and pay tax on his/her behalf, the organization shall use form No. 01/CNKD and form No. 01-1/BK-CNKD enclosed where with and submit a photocopy of the business cooperation contract (for the first time of tax declaration of the contract).

#### 3. Places for submitting tax declaration documents:

- Businesspeople paying tax whenever it is incurred shall submit their tax declaration documents at Sub-departments of taxation of the districts where they reside (temporarily or permanently).

- Businesspeople doing wholesaling shall submit tax declaration documents in the administrative divisions where they apply for business registration.

- In case a businessperson engages in business cooperation with an organization and authorizes it to declare and pay tax on his/her behalf, the organization shall submit tax declarations to its supervisory tax authority.

4. Deadline for submitting tax declarations:

Businesspeople paying tax whenever it is incurred shall submit tax declaration documents by the 30<sup>th</sup> day of the quarter succeeding the quarter in which taxable revenue is earned.

5. Deadline for paying tax:

Deadline for paying tax is the same as the deadline for submitting tax declarations.

**Article 8. Deducting, declaring, paying tax incurred by property lessors**

1. The lessor declares tax directly:

Property lessors who declare tax directly are persons who sign lease contract with other persons; persons who sign lease contract with organizations other than business organizations (regulatory agencies, associations, international organizations, embassies, consulates, etc.); person who signs lease contract with enterprises, business organizations which do not require the lessee to pay tax on the lessor's behalf.

a) Tax declaration principles

- The lessor shall declare VAT and/or PIT if the revenue from lease of property in the calendar year is over VND 100 million.

- The lessor may choose between declaring tax by payment term or once per year. If there is a change to the lease contract which leads to a change to the taxable revenue, payment term, or lease term, the lessor shall make an additional declaration in accordance with the Law on Tax administration during the tax period in which the change occurs.

- The lessor may declare tax on each contract or multiple contract using the same declaration if the prices of property are under the management of the same local tax authority.

b) Tax declaration documents:

Documents for declaration of tax on property lease by an individual include:

- The declaration form No. 01/TTS enclosed herewith;

- The appendix form No. 01-1/BK-TTS enclosed herewith (for the first tax declaration of the contract or contract appendix);

- A photocopy of the lease contract, contract appendix (for the first tax declaration of the contract or contract appendix);

- A photocopy of the letter of attorney (if the lessor authorizes a legal representative to declare and pay tax).

c) Places for submitting tax declaration documents:

Tax declaration documents shall be submitted to the Sub-department of taxation of the district where the leased property is located.

d) Deadline for submitting tax declarations

- The deadline for submitting tax declaration documents is the 30<sup>th</sup> day of the quarter succeeding the quarter in which the lease term begins if the lessor declares tax by payment term.

Example 9: Mr. X has a house lease contract for 02 years from April 10, 2015 to April 9, 2017. Rents are paid every 03 months. If Mr. X declares tax quarterly, the deadlines for declaring tax will be July 30, 2015 (the 30<sup>th</sup> day of the first month of the third quarter), October 30, 2015, and so on.

If the lease contract stipulates that rents are paid every 6 months and Mr. X also declares tax every 6 months, the deadlines for declaring tax will be July 30, 2015 (the 30<sup>th</sup> day of the first month of the third quarter), January 30, 2016 (the 30<sup>th</sup> day of the first month of the first quarter), and so on.

- The deadline for submission of tax declarations by businesspeople declaring tax once per year is the 90<sup>th</sup> day from the end of the calendar year.

dd) Deadline for paying tax

Deadline for paying tax is the same as the deadline for submitting tax declarations.

2. The enterprise or business organization declares and pays tax on behalf of the property lessor:

If the lease contract with an enterprise or business organization (hereinafter referred to as lessee) stipulates that the lessee shall pay tax on behalf of the lessor, the lessee shall deduct tax, declare and pay tax on behalf of the lessor, including VAT and PIT.

a) Deducting tax

The lessee shall deduct VAT and PIT before paying the rent to the lessor of the lessor's revenue from the lease of such property in the calendar year is over VND 100 million. If the lessor earns revenues from multiple places in the year and estimates (or determines) that the total revenue exceeds VND 100 million per year, the lessor may authorize the lessee to declare and pay tax on his/her behalf even if the contract value with such lessee is VND 100 million per year or lower.

The tax deducted shall be determined in accordance with Clause 2 Article 4 of this Circular.

b) Tax declaration principles

The lessee who declares tax on behalf of the lessor must write it on the tax declaration and append the seal on the declaration. On the tax declaration and tax payment receipt, the taxpayer is still the lessor.

The lessee that declares that on behalf of the lessor shall use form No. 01/TTS for each contract or for multiple contracts on the same declaration if the prices of property are under the management of the same local tax authority.

c) Tax declaration documents:

Documents for declaration of tax on property lease by an individual include:

- The declaration form No. 01/TTS enclosed herewith;
- The appendix form No. 01-1/BK-TTS enclosed herewith;
- A photocopy of the lease contract, contract appendix (for the first tax declaration of the contract or contract appendix).

d) Places for submitting tax declaration documents; deadline submitting tax declaration documents and deadline for paying tax

The places for submitting tax declaration documents; deadline submitting tax declaration documents and deadline for paying tax in case the lessee declares and pays tax on behalf of the lessor are the same as those in case the lessor declares tax himself/herself prescribed in Point c, Point d, and Point dd Clause 1 of this Article.

**Article 9. Deducting tax, declaring tax, paying tax incurred by lottery, insurance, and multi-level marketing agents.**

1. Deducting tax

The lottery company, insurer, multi-level marketing company who pays commission to the agent shall deduct PIT if the company determines that the commission paid to the agent in the calendar year exceeds VND 100 million.

If the businessperson earns revenues from multiple sources in the year and estimates (or determines) that the total revenue exceeds VND 100 million per year, he/she may authorize the company to deduct tax from the commission even if the commission paid by the company is VND 100 million per year or lower.

The tax deducted shall be determined in accordance with Clause 2 Article 5 of this Circular.

2. Tax declaration principles:

- If the lottery company, insurer, or multi-level marketing company that deducts personal income tax from revenues of the agent shall declare tax monthly or quarterly. Rules for determining whether to declare tax monthly or quarterly are provided for in Point a Clause 1 Article 16 of Circular No. 156/2013/TT-BTC.

- The lottery company, insurer, or multi-level marketing company shall declare tax monthly or quarterly and is not required to make an annual statement of deduction of PIT incurred by their agents.

- The lottery, insurance, or multi-level marketing agent who has to pay additional tax because the company did not deduct tax (the revenue is below the taxable level) will use the annual declaration form No. 01/TKN-XSBHĐC enclosed herewith.

3. Tax declaration documents:

a) Monthly, quarterly tax declaration documents of deducting organization:

- The lottery, insurance, or multi-level marketing company shall deduct tax on the commission paid to the agent using the declaration form No. 01/XSBHĐC enclosed herewith.

- The declaration of the last month or last quarter of the year must be enclosed with the appendix form No. 01-1/BK-XSBHĐC enclosed herewith whether tax is deducted or not.

b) Annual tax declaration documents submitted by the agent who directly declares tax

Lottery agents, insurance agents, and multi-level marketing agents who declare tax annually shall use the declaration form No. 01/TKN-XSBHĐC enclosed herewith,

c) Places for submitting tax declaration documents:

- The lottery, insurance, and multi-level marketing companies who deduct tax on the commission paid to their agents shall submit tax declaration documents to its supervisory tax authority.

- Lottery agents, insurance agents, and multi-level marketing agents who declare tax annually shall submit tax declaration documents to Sub-departments of taxation of the district where they reside (whether temporarily or permanently).

d) Deadline for submitting tax declaration documents:

- Lottery, insurance, and multi-level marketing companies shall submit monthly tax declaration documents by the 20<sup>th</sup> of the month succeeding the month in which tax is incurred.

- Lottery, insurance, and multi-level marketing companies shall submit quarterly tax declaration documents by the 30<sup>th</sup> of the quarter succeeding the quarter in which tax is incurred.

- Businesspeople declaring tax annually shall submit tax declaration documents within 90 days from the end of the calendar year.

dd) Deadline for paying tax

- Lottery, insurance, and multi-level marketing companies shall pay monthly/quarterly tax by the deadline for submitting monthly/quarterly tax declaration documents.

- Businesspeople who declare tax annually shall pay tax by the deadline for submitting annual tax declarations.

#### **Article 10. Authorizing tax collection**

Tax authorities of the administrative divisions in which electronic tax collection is not applied shall authorize other organizations to collect tax from flat-tax payers. The authorization must be made into a contract between the head of the tax authority and the organization authorized to collect tax (hereinafter referred to as authorized collector).

Authorize collectors include: management boards of markets, shopping malls, enterprises having nationwide networks that enable people to pay tax such as postal and telecommunication enterprises, electricity enterprises, etc.

The authorized collectors prescribed in this Article shall receive funding from tax authorities.

Tax authorities shall use their budgets to pay authorized collectors under contracts.

The Director of the General Department of Taxation shall organize the uniform authorization of tax collection nationwide according to applicable regulations on authorizing tax collection and regulations of this Article.

### **Chapter III**

#### **AMENDMENTS TO OTHER REGULATIONS ON PERSONAL INCOME TAX**

**Article 11. Amendments to Article 2 of Circular No. 111/2013/TT-BTC dated August 15, 2013 on guidelines for the Law on Personal income tax and Law on amendments to the Law on Personal income tax and the Government's Decree No. 65/2013/NĐ-CP on guidelines for some Articles of the Law on Personal income tax and Law on amendments to the Law on Personal income tax (hereinafter referred to as Circular No. 111/2013/TT-BTC):**

*1. Point b.9 Clause 2 Article 2 is amended as follows:*

“b.9) Lump-sum benefits for the persons reassigned to the areas facing extreme economic and social difficulties, lump-sum supports for officers working for sovereignty over sea and islands as prescribed by law. Lump-sum moving allowances for foreigners that move and reside in Vietnam and Vietnamese people that go to work abroad, and Vietnamese people that have long-term residence overseas then go back to work in Vietnam.”

**2. Point dd.1 Clause 2 Article 2 is amended as follows:**

Payments for housing, electricity, water supply and associated services (if any), not including: benefits in terms of housing, electricity, water supply, and associated services (if any) of housing built by the employer for serving employees in industrial parks free of charge; housing built by the employer in disadvantaged areas and extremely disadvantaged areas that is provided free of charge for employees working therein.

If the person stays at the workplace, the taxable income depends on the house rent or depreciation expense, payments for electricity, water supply, and other services according to the ratio of area that person uses to the total area of the workplace.

The house rent, payment for electricity and water supply, and payment for associated services (if any) paid by the employer on behalf of the employee shall be included in taxable income according to the actual amount paid on behalf of employees. Nevertheless, the amount must not exceed 15% of the total taxable income (excluding house rent, payment for electricity, water supply, and associated services (if any)) earned at the workplace regardless of income payer.”

**3. Point dd.2 Clause 2 Article 2 is amended as follows:**

“dd.2) The life insurance premiums, premiums of other optional insurance with accrual of premiums, voluntary pension insurance premiums or contributions to the voluntary pension fund paid on the worker’s behalf.

If the employer buys optional insurance without accrual of premiums for employees (including insurance of insurers that are not established under Vietnam’s law but permitted to sell insurance in Vietnam), such premiums shall not be included in taxable income of employees. Optional insurance without accrual of premiums are insurance products such as: health insurance, death insurance (except for death insurance with refund policy), etc. from which policyholders do not receive the accrued amount of premiums apart from the insurance payout or indemnities paid by the insurer under insurance policies.”

**4. Point dd.5 Clause 2 Article 2 is amended as follows:**

“dd.5) The expenditure on shuttling employees is not included in taxable incomes of employees according to rules and regulations of the employer.”

**5. Point g.10 is added to Clause 2 Article 2 as follows:**

“g.10) The amounts given by the income payer for employees’ family affairs shall comply with rules and regulations of the income payer and the guidance on determination of income subject to corporate income tax of instructional documents of the Law on Corporate income tax”

**6. Point c Clause 3 Article 2 is amended as follows:**

“c) Profits from capital contributions to limited liability companies, partnerships, cooperatives, joint-ventures, business cooperation contracts, and other forms of business under the Law on Enterprises and the Law on Cooperatives; profits from capital contribution in establishment of

credit institutions according to the Law on credit institutions, capital contributions to securities investment fund and other investment funds that are established and operated within the law.

Profits from capital investment of private companies and single-member limited liability companies under the ownership of individuals shall not be included in taxable income.”

**Article 12. Amendments to Article 3 of Circular No. 111/2013/TT-BTC:**

***1. Point b.1.2 Clause 1 Article 3 is amended as follows:***

“b.1.2) The house or land use right has been possessed for at least 183 days before they are transferred.

The time for determine the house ownership or land use right is the date of the certificate of land use right, ownership of house and other property on land. In case the certificate is reissued or replaced under regulations of law land, the time for determine the house ownership or land use right is the date of the certificate of land use right, ownership of house and other property on land before reissuance or replacement”

***2. Point h Clause 1 of Article 3 is amended as follows:***

“h) Income from remittances is the amount of money the person receives from their relatives being Vietnamese people residing abroad, Vietnamese people that work or study abroad;

In case a person receives a remittance from a foreign relative from abroad which comply with regulations on encouragement of remittance of money from abroad to Vietnam of the State bank of Vietnam, it will be exempt from tax as prescribed in this Point.

The basis for identifying tax-free incomes mentioned in this Point is papers proving that those amounts are sent from abroad and the payment notes issued by the money-transferring organization (if any).”

***3. Point n Clause 1 of Article 3 is amended as follows:***

“n) Incomes from indemnities under the contract for life insurance, non-life insurance, or health insurance; compensation for occupational accidents; compensation and support according to regulations of law on compensation, support, and relocation; compensations provided by the State and other compensations prescribed by law. To be specific:

n.1) Incomes from indemnities under the contract for life insurance, non-life insurance, or health insurance are the money the life insurer, non-life insurer, or health insurer provided for the policyholders according to the concluded insurance contracts. The basis for identifying such indemnity is the written decision on indemnity made by the insurer or the court and the notes of indemnity payment.

n.2) The income from the compensation for an occupational accident is the money the employee receives from his or her employer or the social insurance fund after suffering from an accident at work. The basis for identifying such compensation is the written decision on compensation made by the employer or the court and the notes of compensation payment.

n.3) Incomes from compensations and supports according to legislation on compensation, support, and relocation are the compensations and supports provided by the State when withdrawing land, including incomes from the compensations and supports provided by economic organizations as prescribed.

The basis for identifying incomes from aforesaid compensations and supports is the decisions on land withdrawal, compensations, and relocation issued by competent authorities, and notes of compensation payment.

n.4) Incomes from compensations provided by the State and other compensations prescribed by regulations of law on compensations provided by the State are the compensations for the wrongful decisions on penalties for administrative violations made by competent persons or competent authorities which infringe the interests of the person; incomes from compensation for the miscarriage of justice during criminal proceedings. The basis for identifying such compensations is the decision made by competent authorities that the organization or individual that makes the wrongful decision to provide compensations and the notes of compensation payment.

n.5) Incomes from off-contract damages prescribed by Civil Code.”

***4. Point r is added to Clause 1 of Article 3 as follows:***

“r) Incomes from wages and remunerations of Vietnamese crewmembers from working for foreign shipping companies of Vietnamese shipping companies that provide international transport services.”

***5. Point s is added to Clause 1 of Article 3 as follows:***

“s) Incomes of individuals being ship owners or individuals having the right to use the ships from provision of goods/services directly serving offshore fishing.”

**Article 13. Amendments to Article 5 of Circular No. 111/2013/TT-BTC:**

**“Article 5. Converting taxable income into VND**

1. Revenues and incomes subject to PIT are expressed as VND.

Revenues and taxable incomes received in foreign currencies must be converted into VND at the buying rate of the bank where the person opens the transaction account at the time incomes are earned.

In case a taxpayer does not have a transact account in Vietnam, foreign currencies shall be converted into VND at the buying rate of Vietcombank at the time incomes are earned.

The foreign currencies without rates of exchange into VND shall be converted into a foreign currency that has a rate of exchange into VND.

2. Non-cash taxable incomes must be converted into VND at the market prices of such products/services or the similar products/services when the incomes are earned.”

**Article 14. Amendments to Article 7 of Circular No. 111/2013/TT-BTC:**

***1. Point a Clause 4 of Article 7 is amended as follows:***

“a) The income converted into assessable income is the actual income received (not including tax-free incomes) plus (+) benefits paid by the employer on behalf of the employee (if any) minus (-) the deductions. If the employer applies presumptive tax or presumptive house rent, the income to be converted into assessable income do not include such presumptive tax and presumptive house rent”. If the amounts paid on behalf of the employees include the house rent, the actual house rent shall be included in the converted income. Nevertheless, the house rent

must not exceed 15% of the total taxable income incurred at the workplace regardless of income payer (not including actual house rent and presumptive house rent (if any)).

Formula for calculating converted income:

$$\text{Converted income} = \text{Actual income} + \text{Amounts paid on the employee's behalf} - \text{Deductions}$$

Where:

- Actual income is the tax-exclusive wages the employee receives every month (exclusive of tax-free income).
- The amounts paid on the employee's behalf are the benefits in cash or in kind paid to the employee by the employer as instructed in Point dd Clause 2 Article 2 of Circular No. 111/2013/TT-BTC, Clause 2, Clause 3 and Clause 4 Article 11 of Circular No. 92/2015/TT-BTC.
- Deductions include personal deductions, insurance premiums, contributions to the voluntary pension fund, and charitable donations as guided in Article 9 of Circular No. 111/2013/TT-BTC and Circular No. 92/2015/TT-BTC."

**2. Clause 6 of Article 7 is amended as follows:**

"6. The basis for calculating accrued premiums of optional insurances is the accrued premiums of life insurance (except voluntary pension insurance) and other optional insurances paid by the employer on behalf of the employee with the deduction rate of 10%.

In case the employer buys life insurance (except voluntary pension insurance) and/or other optional insurances with accrual of insurance premiums for the employee from the insurer(s) established and operating under Vietnam's law, the employee is not required to include the accrued premiums to taxable income when the employer buys the insurance(s). When the contract matures, the insurer shall deduct 10% tax from the accrual of premiums paid by the employer for the employee from July 01, 2013. In case the premium accrual is paid by instalments, 10% tax shall be deducted from each payment.

In case the employer buys life insurance (except voluntary pension insurance) and/or other optional insurances with accrual of insurance premiums for the employee from the insurer(s) not established and operating under Vietnam's law, the employer has the responsibility to deduct 10% tax from the premiums before paying the employee.

Insurers the responsibility to monitor premiums of life insurance other optional insurances bought by employers for their employees in order to calculate PIT."

**Article 15. Amendments to Point b Clause 2 Article 9 of Circular No. 111/2013/TT-BTC**

"b) Contributions to the voluntary pension fund and payment for voluntary pension insurance

The contributions to the voluntary pension fund and payment for voluntary pension insurance are deducted from the taxable income. Nevertheless, the deduction shall not exceed VND 01 million/month if the employee participates in voluntary pension plans as instructed by the Ministry of Finance, including the amounts paid by the employer on behalf of the employee and

the amounts paid by the employee himself/herself, even if employee participates in multiple pension funds. The basis for determination of deductible incomes is photocopies of receipts for payments issued by the voluntary pension fund or insurer.”

**Article 16. Amendments to Point a and Point b Clause 2 Article 11 of Circular No. 111/2013/TT-BTC**

“a) Assessable income

The assessable income from transferring securities is the price of each transfer.

a.1) Securities transfer price is determined as follows:

a.1.1) The transfer price of securities of a public company traded at the Stock Exchange is the transaction price at the Stock Exchange. The executed price is based on the order matching result of prices from transactions at the Stock Exchange.

a.1.2) The transfer price of securities in cases other than the above is the price written on the transfer contract or actual transfer price or the price in the accounting book transferor when the latest financial statement is made before the time of transfer according to regulations of law on accounting.

b) Tax rate and tax calculation:

Securities transferee shall pay 0.1% tax on the price of each transfer.

Tax calculation:

$$\text{PIT payable} = \text{Price of each transfer} \times 0.1\% \text{ tax}$$

**Article 17. Amendments to Article 12 of Circular No. 111/2013/TT-BTC:**

**“Article 12. Basis for calculating tax on incomes from real estate transfer**

The basis for calculating tax on incomes from real estate transfer is the price of each transfer and tax rate.

1. Transfer price

a) The price of transfer of right to use land without constructions thereon is the price written on the transfer contract at the time of transfer.

If transfer contract does not specify the price or the price written on the transfer contract is lower than the land prices imposed by the People’s Committee of the province at that time, the land price imposed by the People’s Committee of the province at that time shall apply.

b) The price of transfer of right to use land having constructions thereon, including off-the-plan constructions, is the price written on the transfer contract at the time of transfer.

If transfer contract does not specify the land price or the land price written on the transfer contract is lower than the land prices imposed by the People’s Committee of the province at that time, the land price imposed by the People’s Committee of the province at that time shall apply.

In case of transfer of a house associated with land, the value of the house, infrastructure, and architectural works on the piece of land shall be determined according to the prices imposed by the People’s Committee of the province. If prices are not imposed by the People’s Committee of

the province, regulations of the Ministry of Construction on classification of houses, standards, basic construction norms, and value of remaining constructions on land shall apply.

For off-the-plan constructions, if the contract does not specify the transfer price of the transfer price is lower than the ratio of capital contribution to total contract value multiplied by (x) land price and price imposed by the People's Committee of the province, the transfer price shall equal the price imposed by the People's Committee of the province multiplied by (x) ratio of capital contribution to total contract value. If the People's Committee of the province has not imposed the unit prices, the rate of construction investment announced by the Ministry of Construction which is applicable when the transfer is made shall apply.

a) The price of transfer of right to lease land/water surface is the price written on the transfer contract at the time of transfer.

If the sublease price written on the contract is lower than the price imposed by the People's Committee of the province when the sublease is taken, the sublease rent is based on the price list compiled by the People's Committee of the province.

## 2. Tax rate

Tax on real estate transfer is 2% of the transfer price or sublease price.

## 3. Time for taxing real estate transfer is determined as follows:

- If the transfer contract does not require the buyer to pay tax on behalf of the seller, the taxing time is the effective date of the transfer contract as prescribed by law;

- If the transfer contract requires the buyer to pay tax on behalf of the seller, the taxing time is time of registration of the right to own or right to use the real estate. In case the person receives an off-the-plan house or land use right associated with off-the-plan constructions, the taxing time is the time the person submits tax declaration documents to the tax authority.

## 4. Tax calculation

a) PIT on income from real estate transfer is calculated as follows:

$$\text{PIT payable} = \text{Transfer price} \times 2\% \text{ tax}$$

b) In case the transferred real estate is under a co-ownership, the tax liability incurred by each taxpayer is proportional to their portions of real estate ownership. The basis for determining the portion of ownership is legal documents such as the initial capital contribution agreements, the testament, or the decision on division made by the court, etc. If no legitimate documents are provided, the tax liability incurred by each taxpayer shall be evenly divided."

## **Article 18. Amendments to Point c Clause 1 Article 15 of Circular No. 111/2013/TT-BTC**

"c) Assessable income from betting is the amount of prize in excess of VND 10 million received by the player without any deductions."

## **Article 19. Amendments to Article 16 of Circular No. 111/2013/TT-BTC:**

### ***1. Point a Clause 1 of Article 16 is amended as follows:***

a) The value of inheritance and gifts being securities is the value of securities at the time of registration of ownership transfer. Assessable income from an inheritance or gift being securities

is the value of the inheritance or gift in excess of VND 10 million regardless of ticker symbols without any deductions at the time of registration of securities ownership transfer. To be specific:

a.1) The value of securities traded at the Stock Exchange is based on the reference price at the Stock Exchange at the time of registration of securities ownership.

a.2) The value of securities in cases other than the above is based on the book value provided by the corresponding issuer at the time of making the latest financial statement before the time of registration of securities ownership.”

***2. Point d Clause 1 of Article 16 is amended as follows:***

“d) For inheritance and gifts being other assets of which the right to ownership or right to enjoyment must be registered with regulatory agencies: the value of assets are based on the prices imposed by the People’s Committee of the province at the time the person registers the right to ownership or right to enjoyment of inheritance and gifts.

If the person who receives the inheritance or gift being imported goods has to pay taxes on the import of such goods, the property value subject to PIT is the price imposed by the People’s Committee of the province at the time of registration of right to ownership or right to enjoyment of the property minus (-) taxes paid by the person during the import stage.”

**Article 20. Amendments to Article 25 of Circular No. 111/2013/TT-BTC:**

***1. Point b.4 Clause 1 Article 25 is amended as follows:***

“b.4) Insurers have the responsibility to deduct tax on accrual of life insurance premiums paid by the employer on behalf of the employee (except voluntary pension insurance) or other optional insurances with accrual of premiums provided by insurers established and operating under Vietnam’s law. The amount of tax deducted is specified in Clause 2 Article 14 of Circular No. 92/2015/TT-BTC.

Before paying the employee, the employer has the responsibility to deduct tax from the premiums of life insurance or other optional insurances with accrual of insurance bought by the income payer for the employee from insurers not established and operating under Vietnam’s law but permitted to sell insurance in Vietnam. The amount of tax deducted is specified in Clause 2 Article 14 of Circular No. 92/2015/TT-BTC.”

***2. Point c Clause 1 Article 25 is amended as follows:***

“c) Incomes from operation of insurance agents, lottery agents, and network marketing agents; incomes from lease of property to enterprises and/or business organizations.

Lottery companies, insurers and network marketing companies have the responsibility to deduct PIT before paying agents whose commission is over VND 100 million/year. The amount of tax deducted is specified in Clause 2 Article 9 of Circular No. 92/2015/TT-BTC.

The enterprise or business organization who leases property from a person has the responsibility to deduct VAT and PIT before paying the lessor if the amount paid to the lessor is over VND 100 million/year and the lease contract stipulates that the lessee pays tax on behalf of the lessor. The amount of tax deducted is specified in Clause 2 Article 8 of Circular No. 92/2015/TT-BTC.”

**Chapter IV**

## **AMENDMENTS TO OTHER REGULATIONS ON ADMINISTRATION OF PERSONAL INCOME TAX**

**Article 21. Amendments to Article 16 of Circular No. 156/2013/TT-BTC dated November 06, 2013 of the Ministry of Finance on guidelines for some Articles of the Law on Tax administration; the Law on the amendments to the Law on Tax administration, and the Government's Decree No. 83/2013/NĐ-CP dated July 22, 2013 (hereinafter referred to as Circular No. 156/2013/TT-BTC):**

***1. Point a.3 Clause 1 Article 16 is amended as follows:***

“a.3) Payers of taxable wages shall declare PIT on behalf of wage earners and make annual statement of PIT if authorized by wage earners, whether tax is deducted or not. If incomes are not paid, annual statements of PIT is not required.

In case the income payer is dissolved or shut down and pays incomes without deducting PIT, the income payer shall not make annual PIT statements and is only required to submit the list of incomes recipients in the year (if any) to the tax authority using form No. 05/DS-TNCN enclosed with Circular No. 92/2015/TT-BTC within 45 days from the issuance date of the decision on dissolution or shutdown.

In case the income-paying organization is divided, consolidated, merged, converted, dissolved, or bankrupt under Company law, the organization must make a statement of deducted PIT within 45 days from the date of division, consolidation, merger, conversion, dissolution, or bankruptcy, and provide documents about tax deduction for employees in order for them to make their own PIT statements. In case of enterprise conversion, if the transferee inherits every tax liability of the old enterprise (such as conversion from a limited liability company to a joint-stock company or vice versa, conversion of wholly-state-owned enterprise into a joint-stock company, and other cases prescribed by law), the old enterprise is not required to make a tax statement up to the time of issuance of the decision on enterprise conversion. The transferee shall make annual statements as prescribed.”

***2. Point b.1 Clause 1 of Article 16 is amended as follows:***

“b.1) Monthly and quarterly declaration:

- The income payer shall deduct tax from salaries and wages using declaration form No. 05/KK-TNCN enclosed with Circular No. 92/2015/TT-BTC.

- Income payers that deduct tax on incomes from capital investment, securities transfer, copyright, franchise, prizes earned by residents and non-residents; from business operation of non-residents; organizations and individuals that receive transferred of capital from non-residents shall declare tax using the declaration form 06/TNCN enclosed with Circular No. 92/2015/TT-BTC.

- Lottery companies, insurers and network marketing companies that deduct taxes from commissions of agents shall declare tax using the declaration form No. 01/XSBHĐC enclosed with Circular No. 92/2015/TT-BTC.

- The declaration of the last month or last quarter of the year must be enclosed with the appendix form No. 01-1/BK-XSBHĐC enclosed with Circular No. 92/2015/TT-BTC, whether tax is deducted or not).”

**3. Clause 2 of Article 16 is amended as follows:**

“2. Direct declaration of tax incurred by residents earning incomes from salaries, wages

a) Rules for declaring tax

a.1) The following persons shall declare tax directly:

- Residents that earn incomes from wages paid by international organizations, embassies, consulates in Vietnam that do not deduct tax;
- Residents that earn income from wages paid from abroad.

a.2) Tax declaration method

Residents earning incomes from wages shall declare tax directly every quarter and make annual tax statements.

a.3) Annual tax statement

The residents earning incomes from wages shall submit a annual tax statement if additional tax is incurred, tax refund is claimed, or overpaid tax is offset against tax in the next period except for the following cases:

- The tax payable is smaller than paid tax without claim for refund or offsetting against tax in the next period.
- The wage earner that signs a labor contract for 03 months or longer with an employer, earns an additional income of not more than VND 10 million other places, and have had 10% tax deducted from his/her income by the income payer shall not make a statement of such income if not requested.
- In case the employer buys life insurance (except voluntary pension insurance) and/or other optional insurances with accrual of insurance premiums for the employee and the employer or insurer has deduct 10% PIT from the premiums paid by the employer as prescribed in Clause 2 Article 14 of Circular No. 92/2015/TT-BTC, statement of this income is not required.

a.4) Authorizing tax statement

a.4.1) A wage earner shall authorize the wage payer to pay tax on his/her behalf in the following case:

- The person only earns income from wages and signs an employment contract for at least 03 months with one wage payer, and is still working for such wage payer when authorizing the tax statement, even if he/she has not worked for the full 12 months in the year.
- In case the wage earner signs an employment contract for at least 03 months with one wage payer and is still working for such wage payer when authorizing the tax statement, even if he/she has not worked for the full 12 months in the year and earns an average monthly income of not more than VND 10 million from other income payers who have deducted 10% tax, the wage earner shall not make a statement of such additional income if not requested.
- The wage earner is reassigned from an organization to a new organization in case of division, merger, consolidation, or conversion of the enterprise. If such wage earner authorizes tax statement at the end of the year, the new organization must collect documents about deduction of

PIT issued by the old organization (if any) as the basis for consolidating incomes and taxes deducted and stated on behalf of the wage earner.

a.4.2) The wage payer only pays make a statement on behalf of the wage earner of the income from wages paid by the wage payer. If the income is paid after a division, merger, consolidation, or conversion of the enterprise and the statement is made on behalf of the wage earner who is reassigned from the old organization to the new organization, the new organization has the responsibility to make a statement which includes the income paid by the old organization.

a.5) Some cases of tax statements:

- When a resident who earns income from wages is present in Vietnam for fewer than 183 days in the first calendar year, and for more than 183 days in 12 consecutive months from the first day he/she arrives in Vietnam.

+ In the first tax year, the tax statement shall be submitted within 90 days from the end of the 12-month period of presence in Vietnam.

+ In the second tax year, the tax statement shall be submitted within 90 days from the end of the calendar year.

- The foreign resident who finishes his/her employment contract in Vietnam shall make a tax statement before exit in accordance with instructions in Point b.2 of this Clause.

If a foreign resident who finishes his/her employment contract in Vietnam has not made a tax statement before exit, he/she may authorize the income payer or another entity to make the tax statement according to Civil Code. The authorized entity is responsible the tax authority for the PIT payable by the foreign resident. In this case the tax statement must be submitted within 45 days from the day of exit.

- Residents who earn wages and are eligible for tax reduction due to a natural disaster, conflagration, accident, or fatal disease have to make tax statement themselves and submit application for occasional tax reduction in accordance with instructions in Clause 1 Article 46 of Circular No. 156/2013/TT-BTC.

b) Tax declaration documents

b.1) Monthly declaration documents:

Residents earning wages shall declare tax directly using form No. 02/KK-TNCN enclosed with Circular No. 92/2015/TT-BTC.

b.2) Tax statement

b.2.1) Wage earners who are not permitted to authorize their wage payers to make tax statements shall declare tax directly using the following forms:

- Tax statement form No. 09/KK-TNCN enclosed with Circular No. 92/2015/TT-BTC.

- Appendix form No. 02-1/BK-QTT-TNCN enclosed with Circular No. 92/2015/TT-BTC if the taxpayer claims deductions for dependants.

- Photocopies of documents proving the amount of tax deducted, paid in the year, or paid overseas (if any). The individual is responsible for the accuracy of such documents. If the income-paying organization does not provide documents about tax deduction to the taxpayer

because the organization has been shut down, the tax authority shall consider processing the tax statement without documents about tax deductions based on the database of tax authorities.

If the foreign tax authority does not verify paid tax according to their jurisdiction, the taxpayer may submit a photocopy of the Certificate of tax deduction (specifying the tax declaration number) issued by the income payer, or a photocopy of a banking notice of overseas tax payment, which is certified by the taxpayer.

- Photocopies of invoices proving the contributions to charitable funds, humanitarian funds, or scholarship funds (if any).

- If a person receives income from an international organization, embassy, consulate, and receives income from abroad, it is required to have documents proving the amount paid by the overseas income payer.

b.2.2) Income earners authorize the income payers to declare tax on their behalf:

Income earners may authorize income payers to make tax statements using form No. 02/UQ-QTT-TNCN enclosed with Circular No. 92/2015/TT-BTC which is enclosed with photocopies of invoices and documents proving the contribution to charitable, humanitarian, or scholarship funds (if any).

c) Places for submitting tax declaration documents

c.1) Places for submitting quarterly tax declaration documents

The persons that earn income from wages shall submit tax declaration documents to Departments of Taxation of the provinces where they work or where the works are done (if they are not working in Vietnam).

c.2) Places for submitting tax statements

c.2.1) The persons that earn income from wages and declare tax themselves shall submit the tax statements to Departments of Taxation where their tax declaration documents were submitted in the year.

c.2.2) Persons earning wages from two wage payers or more and shall directly submit their tax statements as follows:

- The tax statement shall be submitted to the supervisory tax authority of the wage payer where the wage earner claims personal deductions. In case the wage earner changes the workplace and claims personal deductions at the last wage payer, the tax statement shall be submitted to the supervisory tax authority of the wage payer. If the wage earner changes the workplace claiming personal deductions, the tax statement shall be submitted to the Sub-department of taxation of the district where the wage earner resides (whether temporarily or permanently).

- If the wage earner has not claimed personal deductions at any wage payer, the tax statement shall be submitted to the Sub-department of taxation of the district where the wage earner resides (whether temporarily or permanently).

c.2.3) If the person does not sign an employment contract or signs an employment contract for less than 03 months, or sign a service contract with one or some income payers who have deducted 10% tax, the tax statement shall be submitted to the Sub-department of taxation of the district where the person resides (whether temporarily or permanently).

c.2.4) If the person earns wages from multiple payers but does not work for any of them when making the tax statement, the tax statement shall be submitted to the Sub-department of taxation of the district where the person resides (whether temporarily or permanently).

d) Deadline for submitting tax declaration documents

- The quarterly tax declaration must be submitted within the first 30 days of the quarter succeeding the quarter in which tax is incurred.

- The annual tax statement shall be submitted within 90 days from the end of the calendar year.

dd) Deadline for paying tax

The deadline for paying tax is the deadline for submitting the quarterly tax declaration or annual tax statement.”

**4. Point b.1 Clause 3 Article 16 is amended as follows:**

“b.1) Declaration documents for income from real estate transfer include:

- The PIT declaration form No. 03/BĐS-TNCN enclosed with Circular No. 92/2015/TT-BTC.

- A photocopy, which bears the taxpayer’s signature, of the certificate of land use rights, ownership of house or other constructions on land. When transferring a contract to buy an off-the-plan construction, a photocopy of the contract signed with the project owner or the project owner real estate exchange, or a photocopy of the contract to contribute capital for the right to buy the house/apartment signed before the effective date of Decree No. 71/2010/NĐ-CP shall be submitted.

- Real estate transfer contract When transferring a contract to buy an off-the-plan construction, a notarized contract to buy the off-the-plan construction or the notarized contract to transfer the capital contribution contract for the right to buy the house/apartment shall be submitted. When transferring the second contract to buy an off-the-plan construction onwards, the previous contract must be presented. When the rights to the real estate are delegated, a delegation contract shall be submitted.

- Documents for identification of entities eligible for tax exemption prescribed in Point b.2 of this Clause (in case transfer of real estate is exempt from personal income tax).

- Documents proving capital contribution as prescribed by law (when transferring real estate as capital contribution, which is eligible for deferral of PIT).

The tax authority shall send a notice of tax payable (form 03/TBT-BĐS-TNCN enclosed herewith Circular No. 92/2015/TT-BTC) to the tax payers.

**5. Point c and Point d Clause 3 of Article 16 is amended as follows:**

“c) Places for submitting tax declaration documents

The taxpayer shall tax declaration documents and real estate transfer documents to the single-window office or Sub-department of taxation of the district where the real estate is located. The documents may be submitted to the land registry office of the district where the real estate is located if the single-window system is not adopted in the district.

If the individual transfers an off-the-plan construction, tax shall be declared and paid at the Sub-department of taxation of the district where such construction is located or a collector authorized by tax authorities.

d) Deadline for submitting tax declaration documents

- If the transfer contract does not require the buyer to pay tax on behalf of the seller, tax declaration documents shall be submitted within 10 days from the effective date of the transfer contract as prescribed by law.

- If the transfer contract requires the buyer to pay tax on behalf of the seller, tax declaration documents shall be submitted by the time of registration of the right to own or right to use real estate. In case the taxpayer receives an off-the-plan house or land use right associated with off-the-plan constructions, documents shall be submitted by the time the taxpayer submits tax declaration documents to the tax authority.”

**6. Clause 5 of Article 16 is amended as follows:**

“5. Declaring tax on income from securities transfer

a) Tax declaration principles

a.1) The person that transfers securities of a public company at a Stock Exchange is not required to directly declare tax. The securities company, the commercial bank where the person opens his/her depository account, the asset management company entrusted by the person to administer the investment portfolio shall declare tax in accordance with Clause 1 Article 16 of Circular No. 156/2013/TT-BTC.

a.2) When a person transfers securities without using the transaction system of a Stock Exchange:

- The person that transfers securities of a public company and has registered at a Vietnam Securities Depository shall not declare tax directly. The securities company, commercial bank where the person opens his/her depository account shall deduct tax and declare tax in accordance with Clause 1 Article 16 of Circular No. 156/2013/TT-BTC.

- The person that transfers securities of a joint-stock company which is not yet a public company and is authorized by a securities issuer to administer the list of shareholders shall not declare tax directly. The securities company authorized to administer the list of shareholders shall deduct tax and declare tax in accordance with Clause 1 Article 16 of Circular No. 156/2013/TT-BTC.

a.3) The persons transferring securities other than those mentioned in Point a.1 and Point a.2 shall declare tax whenever tax is incurred.

a.4) If an enterprise changes its shareholder list because of securities transfer without documents proving the transferor’s fulfillment of his/her tax liability, the enterprise of the transferor shall declare and pay tax on behalf of the transferor.

The enterprise of the transferor shall also complete the tax declaration on behalf of the transferor. The declarant shall write “PP” before “Tax payer or representative of tax payer” on the tax declaration, and then add the declarant signature, full name, and the company’s seal. The name of the securities transferor must be expressed as the taxpayer on the tax receipts.

b) Tax declaration documents

Documents submitted by the person that transfers securities and directly declares tax mentioned in Point a.3 of this Clause include:

- Tax declaration form No. 04/CNV-TNCN enclosed with Circular No. 92/2015/TT-BTC;
- A photocopy of the securities transfer contract.

c) Places for submitting tax declaration documents

The persons that declare tax whenever tax is incurred mentioned in Point a.3 of this Clause shall submit tax declaration documents to the supervisory tax authority of the issuer of the securities they transfer.

d) Deadline for submitting tax declaration documents

- The person required to declare tax directly submit tax declaration documents within 10 days from the day on which the securities transfer contract comes into force.
- If the enterprise pays tax on behalf of the person, tax declaration documents must be submitted before the list of shareholders is changed.

dd) Deadline for paying tax

The deadline for paying tax is the deadline for submitting the tax declaration declarations and annual tax statement.”

**Article 22. Amendments to Clause 5 Article 33 of Circular No. 156/2013/TT-BTC**

“5. Tax state on behalf of the taxpayer shall be offset against tax deducted by the income payer. If tax is not completely offset, the income payer must pay tax arrears to state budget. If tax is overpaid after offsetting, it will be automatically offset against the tax payable of the next period by the tax authority. The income payer may also make a request for refund using form No. 01/ĐNHT enclosed with Circular No. 156/2013/TT-BTC and send it to the supervisory tax authority.”

**Article 23. Amendments to Article 53 of Circular No. 156/2013/TT-BTC:**

“Article 53. Refund of PIT

Only the person having TINs shall receive PIT refund.

When a taxpayer authorizes the income payer to make the annual tax statement, tax shall be refunded via the income payer.

If the taxpayer declares tax himself/herself, overpaid tax shall be refunded or offset against the tax payable in the next period.

1. Tax refund in case income payer is authorized by taxpayers to makes annual tax statements on their behalf.

After offsetting overpaid tax against tax arrears and tax is still overpaid, the income payer shall submit an application for tax refund to the supervisory tax authority. An application for tax refund consists of:

- A request for refund (form 01/ĐNHT enclosed with Circular No. 156/2013/TT-BTC).
- Photocopies of tax receipts bearing the signature of the legal representative of the income payer.

2. If tax is overpaid in case the wage earner directly declares tax, makes the annual tax statement, the wage earner is not required to submit the application for tax refund. Instead, he/she shall write the amount of tax refund in box 47 “Amount of tax refund” or box 49 “Tax offset against next period” in the tax statement form No. 02/QTT-TNCN.”

#### **Article 24. Changes and replacement of tax forms and templates**

1. Form No. 01/THKH and 01A/KK-HĐ enclosed with Circular No. 156/2013/TT-BTC are replaced with form No. 01/CNKD enclosed with this Circular.
2. Form No. 02/THKH and 01/KK-TTS enclosed with Circular No. 156/2013/TT-BTC are respectively replaced with form No. 01/TB-CNKD and 01/TTS enclosed with this Circular.
3. Form No. 01/KK-BHĐC and 01/KK-XS enclosed with Circular No. 156/2013/TT-BTC are replaced with form No. 01/BHXSĐC enclosed with this Circular.
4. Form No. 02-1/BK-BH, 02-1/BK-ĐC, and 02-1/BK-XS enclosed with Circular No. 156/2013/TT-BTC are replaced with form No. 01-1/BK-BHXSĐC enclosed with this Circular.
5. Form No. 21a/XN-TNCN and 21b/XN-TNCN enclosed with Circular No. 156/2013/TT-BTC are replaced with form No. 09/XN-NPT-TNCN enclosed with this Circular.
6. Form No. CTT-50 enclosed with Decision No. 1042/1998/QĐ-BTC dated August 15, 1998 of the Ministry of Finance is replaced with form No. CTT-50 enclosed with this Circular. This form will be provided for businesspeople paying flat tax.
7. Forms No. KK-TNCN, 05-1/BK-TNCN, 05-2/BK-TNCN, 05-3/BK-TNCN, 02/KK-TNCN, 11/KK-TNCN, 11-1/TB-TNCN, 04-2/KK-TNCN, 07/KK-TNCN, 09/KK-TNCN, 09-3/KK-TNCN, 16/ĐK-TNCN, 04-2/TNCN, 23/CK-TNCN, 03/KK-TNCN, 17/TNCN, 18/MGT-TNCN enclosed with Circular No. 156/2013/TT-BTC are respectively replaced with forms No. 05/QTT-TNCN, 05-1/BK-TNCN, 05-2/BK-TNCN, 05-3/BK-TNCN, 05/KK-TNCN, 03/BĐS-TNCN, 03/TBT-BĐS-TNCN, 04/UQ-QTT-TNCN, 02/KK-TNCN, 02/QTT-TNCN, 02-1/BK-QTT, 02/ĐK-NPT-TNCN; 02/UQ-QTT-TNCN, 02/CK-TNCN; 06/TNCN, 07/CTKT-TNCN, 08/MGT-TNCN enclosed with this Circular. The forms and templates are listed in Appendix 02 of this Circular.

### **Chapter V**

#### **IMPLEMENTATION**

##### **Article 25. Implementation**

1. This Circular comes into force from July 30, 2015 and is applied to the tax period 2015 onwards. Regulations on businesspeople paying flat tax using invoices of tax authorities shall apply to tax periods from January 01, 2015.
2. Persons who have lease contracts for many years and have declared and paid tax according to previous regulations are not required to adjust the amount of tax declared and paid.
3. Persons who transfer real estate and have applied for registration of right to ownership or right to enjoyment of real estate, or have submitted tax declaration documents before January 2015 which apply 25% tax may apply 2% tax if they have not received any tax notice from tax authority by December 31, 2014.
4. Point b.2.2, b.2.3, and b.2.4 Clause 1 of Article 16, Article 22 of Circular No. 156/2013/TT-BTC are annulled.

5. Regulations on VAT and PIT incurred by businesspeople in Article 16 and Article 21 of Circular No. 156/2013/TT-BTC are annulled.

6. Regulations on PIT incurred by businesspeople in Article 7, Article 8, and Article 9 of Circular No. 111/2013/TT-BTC are annulled.

7. Point d Clause 6 Article 2 on PIT on casino prizes of Circular No. 111/2013/TT-BTC is annulled.

8. Sub-departments of taxation of districts shall send the lists of business households exempt from VAT and/or PIT and the lists of business households paying flat tax to the People's Councils and Fatherland Front Agencies of districts and communes by August 30, 2015. The lists must also be publicly posted at Sub-departments of taxation and the People's Committees of districts, at the gates or suitable locations of the People's Committees of communes, offices of tax collector teams, management boards of markets to ensure convenient obtaining of information by the people and businesspeople.

Difficulties that arise during the implementation of this Circular should be reported to the Ministry of Finance (General Department of Taxation) for consideration./.

**PP MINISTER  
DEPUTY MINISTER**

**Do Hoang Anh Tuan**

#### **APPENDIX 01**

**LIST OF BUSINESS LINES SUBJECT TO VAT AND PIT AND TAX RATES**  
(enclosed with Circular No. 92/2015/TT-BTC dated June 15, 2015 of the Ministry of Finance)

<b>No.</b>	<b>Business line</b>	<b>VAT rate</b>	<b>PIT rate</b>
<b>1.</b>	<b>Distribution, provision of goods</b>		
	- Wholesaling, retailing of goods (except for value of goods sold by agents for commissions)	1%	0.5%
<b>2.</b>	<b>Services, construction exclusive of building materials</b>		
	- Accommodation services including: provision of short-term lodging establishments for tourists and other guests; provision of long-term lodging establishments for students, workers and the like; provision of lodging establishments together with food and drink services and/or entertainments Accommodation services do not include: provision of long-term lodging establishments as if permanent establishments such as monthly or annual lease of apartments, which are classified as real estate activities according to Vietnam's System of Business lines.	5%	2%
	- Material handling services and other ancillary services for transport		

	<p>such as terminal operation, selling tickets, parking services;</p> <ul style="list-style-type: none"> <li>- Postal and courier services</li> <li>- Brokerage, auction, and agent commission services;</li> <li>- Legal consultation, financial consultation, accounting, auditing; tax agent services, customs agent services;</li> <li>- Data processing services, lease of gateways, IT and telecommunication equipment;</li> <li>- Office support services and other business support services;</li> <li>- Sauna, massage, karaoke, dance club, billiards, Internet, gaming services;</li> <li>- Tailoring and laundering services; hairdressing services;</li> <li>- Other repair services including repairs of computers and domestic appliances;</li> <li>- Fundamental construction consultancy, design, and supervision services;</li> <li>- Other services;</li> <li>- Construction and installation exclusive of building materials (including installation of industrial machinery and equipment)</li> </ul>		
	<ul style="list-style-type: none"> <li>- Lease of property including: <ul style="list-style-type: none"> <li>+ Houses, land, stores, workshops, warehouses, depots except for accommodation services</li> <li>+ Lease of vehicles and other machinery and equipment without operators.</li> <li>+ Lease of other property without associated services</li> </ul> </li> </ul>	5%	5%
	- Lottery, insurance, multi-level marketing agent activities	-	5%
<b>3.</b>	<b>Manufacturing, transport, services associated with goods, construction inclusive of building materials</b>		
	<ul style="list-style-type: none"> <li>- Manufacturing, processing of goods;</li> <li>- Extraction and processing of minerals;</li> <li>- Passenger transport, cargo transport;</li> <li>- Services associated with goods such as training, maintenance, technology transfers associated with goods sale;</li> <li>- Food and beverage services;</li> <li>- Repair and maintenance of machinery, equipment, and vehicles;</li> <li>- Construction and installation inclusive of building materials (including installation of industrial machinery and equipment)</li> </ul>	3%	1.5%
<b>4.</b>	<b>Other business activities</b>		1%

- Manufacturing of products subject to 5% VAT under credit-invoice method	2%
- Provision of services subject to 5% VAT under credit-invoice method	
- Activities not enumerated in groups 1, 2, and 3 above.	-
- Other services not subject to VAT	

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