

**MINISTRY OF FINANCE**

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**SOCIALIST REPUBLIC OF VIETNAM**

**Independence - Freedom - Happiness**

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No. 111/2013/TT-BTC

*Hanoi, August 15, 2013*

**CIRCULAR**

**ON THE IMPLEMENTATION OF THE LAW ON PERSONAL INCOME TAX, THE LAW ON THE AMENDMENTS TO THE LAW ON PERSONAL INCOME TAX, AND THE GOVERNMENT'S DECREE NO. 65/2013/ND-CP ELABORATING A NUMBER OF ARTICLES OF THE LAW ON PERSONAL INCOME TAX AND THE LAW ON THE AMENDMENTS TO THE LAW ON PERSONAL INCOME TAX**

*Pursuant to the Law on Personal income tax No. 04/2007/QH12 dated November 21, 2007;*

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

*Pursuant to the Law on Tax administration No. 78/2006/QH11 dated November 29, 2006;*

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

*Pursuant to the Government's Decree No. 65/2013/ND-CP dated June 27, 2013 elaborating a number of articles of the Law on Personal income tax and the Law on the amendments to the Law on Personal income tax;*

*Pursuant to the Government's Decree No. 83/2013/ND-CP dated June 22, 2013 elaborating a number of 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. 118/2008/ND-CP dated November 27, 2008, defining the functions, tasks, powers and organizational structure of the Ministry of Finance;*

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

*The Minister of Finance provides guidance on the implementation of the Law on Personal income tax, the Law on the amendments to the Law on Personal income tax, and the Government's Decree No. 65/2013/ND-CP elaborating a number of articles of the Law on Personal income tax and the Law on the amendments to the Law on Personal income tax:*

**Chapter 1.**

**GENERAL PROVISIONS**

## **Article 1. Taxpayers**

Taxpayers are residents and non-residents according to Article 2 of the Government's Decree No. 65/2013/ND-CP elaborating a number of articles of the Law on Personal income tax and the Law on the amendments to the Law on Personal income tax (hereinafter referred to as the Decree No. 65/2013/ND-CP) and earn taxable incomes according to Article 3 of the Law on Personal income tax and Article 3 of the Decree No. 65/2013/ND-CP.

Determination of taxable incomes earned by taxpayers:

Taxable incomes earned by residents are the incomes earned within or outside Vietnam's territory, regardless of locations or payment and receipt.

Taxable incomes earned by non-residents are the incomes earned within Vietnam's territory, regardless of the location of payment and receipt.

1. A resident is a person that meets one of the conditions below:

a) He/she has been present in Vietnam for at least 183 days in a calendar year or for 12 consecutive months from the first day of his/her presence in Vietnam (the date of arrival and date of departure are considered 01 day). The date of arrival and date of departure depends on the certification of the immigration agency on the passport (or laissez-passers) when that person enters and leaves Vietnam. If the person enters and leaves Vietnam within one day, it will be considered a day of residence.

A person in Vietnam defined in this Point is the presence of that person in Vietnam's territory.

b) He/she has a regular residence in Vietnam in one of the following cases:

b.1) He/she has a regular residence according to regulations of law on residence:

b.1.1) For Vietnamese citizens: a place where that person regularly, stably and indefinitely lives and has been registered as a permanent residence as prescribed by regulations of law on residence.

b.1.2) For foreigners: the permanent residence written in the permanent residence card or the temporary residence when applying for the temporary residence card issued by a competent authority affiliated to the Ministry of Public Security.

b.2) He/she rents a house in Vietnam according to regulations of law on housing under a contract that has a term of at least 183 days in the tax year. To be specific:

b.2.1) A person who has no regular residence defined in Point b.1 Clause 1 of this Article will be considered a resident if he/she has a total house lease period of at least 183 days in the tax year under various lease contracts, even if a he/she rents houses in different locations.

b.2.2) The rented houses can be hotels, guesthouses, motels, offices, etc. whether they are rented by the person or their employer.

If the person has a regular residence in Vietnam according to this Clause but his/her actual presence in Vietnam is shorter than 183 days in the tax year and he/she fails to prove his/her residency in any country, that person will be considered a resident of Vietnam.

The residency in another country shall be proved by the Certificate of residence. If the person is a citizen of a country or territory that has signed a tax agreement with Vietnam and does not issue the Certificate of residence, that person shall present a photocopy of the passport to prove the period of residence.

2. A non-resident is a person who fails to meet any of the conditions specified in Clause 1 of this Article.

3. Taxpayers in some specific cases are identified as follows:

a) For the person that earns incomes from business:

a.1) If only one person is registered in the Certificate of Business, the taxpayer is person whose name is registered in the Certificate of Business registration.

a.2) If multiple people are registered in the Certificate of Business registration and participate in the business, the taxpayers are the persons whose names are registered in the Certificate of Business registration.

a.3) If multiple members of a household participate in the business but only one person is registered in the Certificate of Business registration, the taxpayer is the person whose name is registered in the Certificate of Business registration.

a.4) If the person or household does business without the Certificate of Business registration (or practice certificate), the taxpayer is the person doing business.

a.5) When leasing a house, the right to use land, water surface, and other property without business registration, the taxpayer is the person that owns the house, the right to use land, water surface and other property. If the house or the right to use land, water surface, and other property is under the ownership of multiple persons, the taxpayers are all the owners.

b) Other individuals that earn taxable incomes.

b.1) When transferring real estate under a co-ownership, taxpayers are the co-owners of such real estate.

b.2) If the person delegated to manage real estate has the right to transfer real estate or rights similar to those of the real estate owner, the taxpayer is the delegating person.

b.3) If the person that transfers the ownership, the right to use protected entities according to the Law on Intellectual property and the Law on Technology transfers is the co-owner or co-author, the taxpayer is co-owner and co-author that earn incomes from such transfer.

b.4) If multiple persons participate in a franchise according to the Law on Commerce, the taxpayers are all persons that earn incomes from the franchise.

4. The taxpayers defined in Clause 1 and Clause 2 of this Article include:

a) The persons that hold Vietnamese nationality, including the persons sent to work or study overseas, and earn taxable incomes.

b) The persons that do not hold Vietnamese nationality but earn taxable income, including: foreigners working in Vietnam, foreigners that are not present in Vietnam but earn taxable incomes from Vietnam.

## **Article 2. Taxable incomes**

According to Article 3 of the Law on Personal income tax and Article 3 of the Decree No. 65/2013/ND-CP, the incomes subject to personal income tax (hereinafter referred to as taxable incomes) include:

### **1. Incomes from business**

Incomes from business are incomes earned from the production and sale. To be specific:

a) Incomes from production and sale of goods and services that belong to all industries such as: production, goods sale, construction, construction, restaurants, service provision including lease of houses, right to use land, water surface, and other property.

b) Incomes from freelance works of individuals in the fields that are licensed or certificated as prescribed by law.

c) Incomes from agriculture, forestry, salt production, and fishery that are not eligible for tax exemption according to Point e Clause 1 Article 3 of this Circular.

### **2. Incomes from wages and remunerations.**

Incomes from wages and remunerations (hereinafter referred to as wages) are incomes paid to employees from employers, including:

a) Wages, remunerations, and the other amounts paid as wages or remunerations in cash or not in cash.

b) Allowances and benefits, except for:

b.1) Monthly benefits, lump-sum benefits and allowances according to regulations of law on incentives for contributors.

b.2) Monthly allowances and lump-sum allowances for the persons that participate in the resistance movements, national defense, fulfillment of international tasks, and discharged volunteers.

b.3) Benefits for national defense and security; subsidies for the armed forces.

b.4) Benefits for dangerous or harmful works.

b.5) Benefits for employees in disadvantaged areas.

b.6) Irregular allowances for difficulties, occupational accident benefits, occupational illness benefits, lump-sum allowances for childbirth or adoption, maternity leave benefits, post-maternity recovery benefits, benefits for reduction in work ability, lump-sum pension, monthly widow's pension, severance pay, redundancy pay, unemployment benefits, and other benefits according to the Labor Code and the Law on Social insurance.

b.7) Benefits for beneficiaries of social security.

b.8) Benefits for senior officers.

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.

b.10) Benefits for medical employees in villages.

b.11) Occupational benefits.

The allowances and benefits that are not included in taxable incomes as guided in Point b Clause 2 of this Article must be defined by competent authorities.

If the documents on allowances and benefits are applicable to the public sector, other economic sectors and business establishments shall calculate allowances and benefits based on such documents.

If the actual benefits and allowances received are in excess of those stated above, the excess shall be included in taxable incomes.

Lump-sum moving allowances for foreigners that reside in Vietnam and Vietnamese people working overseas shall be deducted in accordance with the labor contract or collective bargaining agreement.

c) Remunerations in the forms of agent commission, brokerage commission, payments for participation in science and technology researches, payments for participation in projects and schemes, royalties according to regulations of law on royalties, payments for teaching, payments for participation in artistic performance, sports, payments for advertising, payments for other services, and other remunerations.

d) Payments for participation in business associations, Boards of Directors, Control Boards, project management boards, management councils, professional associations, and other organizations.

dd) Other benefits in cash or not in cash apart from wages paid to the taxpayer by the employer in any shape or form:

dd.1) Payments for housing, electricity, water supply and ancillary services (if any).

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 paid by the employer on behalf of the employee shall be included in the taxable income according to the actual amount, which must not exceed 15% of the total taxable income (excluding house rent) earned at the workplace.

dd.2) The life insurance premiums, other optional insurance premiums, contributions to the voluntary pension fund paid or made by the employer on the employee's behalf.

dd.3) Membership fees and other expenditure on services serving individuals such as: healthcare, entertainments, sports, recreation. To be specific:

dd.3.1) Membership fees (such as membership card of golf course, tennis course, cultural, artistic, sports clubs, etc.) - if the card specifies the user or group of users. If the card is shared without specific users, the fees are not included in taxable incomes.

dd.3.2) Expenditures on other services serving individuals such as: healthcare, entertainments, sports, recreation, etc. - if the names of the recipients are specified. If the recipient is the collective of employees, not any specific person, it is not included in taxable income.

dd.4) Flat expenditures on stationery, business trips, phone calls, costumes, etc. that are in excess of the limits prescribed by the State. Flat expenditures are not included in taxable income in the cases below:

dd.4.1) For the officials and employees in public service agencies, communist party's agencies, associations: the flat expenditure shall apply guiding documents promulgated by the Ministry of Finance.

dd.4.2) For the employees working in businesses and representative offices: the flat expenditure shall conform to the income that incurs corporate income tax and guiding documents of the Law on Enterprise income tax.

dd.4.3. For the employees in international organizations and representative offices of foreign organizations: the flat expenditure shall comply with regulations of such international organizations and representative offices of foreign organizations.

dd.5) The expenditure on shuttling employees is not included in taxable incomes earned by employees; if the person is shuttled personally, it shall be included in the taxable incomes earned by the shuttled person.

dd.6) The payments for refresher courses for employees, which suit their professions or accords with plans of the employer, shall not be included in the incomes earned by employees.

dd.7) Other benefits.

Other benefits paid to employees by the employers such as: payments during leave period or public holidays; payment for counseling, tax statement services for a particular person or group of people; payment for domestic servants such as driver, cook, and other domestic servants that work under contracts, etc.

e) Rewards in cash or not in cash in any shape or form, including rewards in the form of securities, except for:

e.1) Prize money associated with the titles awarded by the State, including the prize money associated with honorary titles as prescribed by law:

e.1.1) Prize money associated with honorary titles awarded by Ministries, central and provincial agencies and associations, excellent employee titles.

e.1.2) Prize money associated with the awards.

e.1.3) Prize money associated with the titles awarded by the State.

e.1.4) Prize money associated with the awards presented by associations and organizations belonging to central and local political organizations, socio-political organizations, social organizations, professional-social organizations that conforms to their charters and the Law on Emulation and Commendation.

e.1.5) Prize money associated with the Ho Chi Minh Prize and National Prize.

e.1.6) Prize money associated with medals or badges.

e.1.7) Prize money associated with certificates of merit

The powers to decide the commendation and prize money associated with the titles and awards above must be conformable with the Law on Emulation and commendation.

e.2) Prize money associated with national prizes and international prizes recognized by Vietnam.

e.3) Rewards for technical innovations and inventions recognized by competent authorities.

e.4) Rewards for reporting violations of law to competent authorities.

g) The incomes below are not included in taxable incomes:

g.1) Supports provided by the employer for medical examination and treatment of fatal diseases suffered by employees and their families.

g.1.1) Family of the employee in this case include: children, legitimate adopted children, illegitimate children, stepchildren, spouse, parents, parents-in-law; stepparents, legitimate adoptive parents.

g.1.2) The support that is not included in taxable income is the actual paid amount according to hospital bills, but must not exceed the hospital fee paid by the employee and his or her family after the amount paid by the insurer is deducted.

g.1.3) The employer that provide supports shall keep the copies of the hospital bills that are certified by the employer (if the employee and his or her family pay for the remaining amount after the insurer directly pay the medical facility), the copies of the health insurance payment certified by the employer (if the employee and his or her family pays the entire hospital fee and then receive insurance money from the insurer) together with the papers proving the provision of supports for employees and their families who suffer from fatal diseases.

g.2) The amount received according to regulations on using vehicles of state agencies, public service agencies, communist party's organizations, and associations.

g.3) The amount received according to the regulations on public housing.

g.4) Other payments received, apart from wages, for participation in consultation, appraisal, and inspection of legislative documents, Resolutions, political reports, inspectorates, serving votes, citizens; for costumes and other tasks directly serving the operation of the Office of the National Assembly, the Ethnic Communities Council, committees of the National Assembly, the delegations of the National Assembly, the Central Office, the departments of the Communist Party, City/Province Committees and their departments.

g.5) Payment for mid-shift meals, lunch of employees provided by employers that provide mid-shift meals, lunch for their employees in the form of cooking, buying catering services, giving luncheon vouchers.



If the employer pays cash for their employees' meals instead of providing mid-shift meals or lunch, such money is not included in the taxable income if it is conformable with the guidance of the Ministry of Labor, War Invalids and Social Affairs. If the payment is higher than the limit imposed by the Ministry of Labor, War Invalids and Social Affairs, the excess shall be included in taxable incomes.

The expenditures of state-owned enterprises, public service agencies, communist party's agencies, associations shall not exceed the limits imposed by the Ministry of Labor, War Invalids and Social Affairs. For non-public enterprises and organizations, the expenditures shall be decided by the head and the union president, and shall not exceed the limits imposed on state-owned enterprises.

g.6) The payment for round-trip air tickets made by the employer for foreign employees in Vietnam or Vietnamese employees overseas to go home once a year.

The basis for determining the payment for air tickets is the labor contracts and the prices of air tickets from Vietnam to the other country and vice versa.

g.7) The tuition fees for children of foreign employees in Vietnam to study in Vietnam, for children of Vietnamese employees overseas to study overseas from preschool to high school, which are paid by the employer on their behalf.

g.8) The amounts received from sponsors are not included in the taxable income if the sponsorship beneficiary is a member of the sponsoring organization; the sponsorship is funded by government budget or managed in accordance with regulations of the State; from composting literary and artistic works, scientific research, accomplishment of political objectives of the State, or other activities that conforms with their charters.

g.9) The payments paid by the employer for dispatching, reassigning foreign employees in Vietnam in accordance with labor contracts and international work schedules of some industries such as petroleum, mineral extraction.

The basis of determination is the labor contract and the payments for air tickets from Vietnam to the home country of the foreign employee and vice versa.

Example 1: Mr. X is a foreigner dispatched by contractor Y to an oil rig on the continental shelf of Vietnam. According to the labor contract, the work cycle of Mr. X on this oil rig is 28 consecutive working days and 28 days off. The payments made by contractor Y for the air tickets for Mr. X to fly from his country to Vietnam and vice versa for every time of changing shift, the helicopter that take Mr. X from the mainland to the oil rig and vice versa, the residence expense while Mr. X is waiting for the helicopter shall not be included in the taxable income of Mr. X.

### 3. Incomes from capital investment

Incomes from capital investment are personal income in the form of:

a) Interest on the loans given to other organizations, enterprises, business households, business individuals and groups of business individuals according to loan contracts or agreements, except for the interests paid by credit institutions and branches of foreign banks according to Point g.1 Clause 1 Article 3 of this Circular.

b) The dividends earned from capital contribution to purchase of shares.

c) Profits from capital contributions to limited liability companies (including single-member limited liability companies), partnerships, cooperatives, joint-ventures, business cooperation contracts, and other forms of business according to the Law on Enterprises and the Law on Cooperatives; profits from capital contribution in the 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.

d) The added value of capital contribution received when the enterprise is dissolved, converted, divided, split, merged, amalgamation, or upon capital withdrawal.

dd) Incomes from interest on bonds, treasury bills, and other valuable papers issued by Vietnamese organizations, except for the incomes defined in Point g.1 and g.3 Clause 1 Article 3 of this Circular.

e) The incomes from capital investment in other forms, including capital contribution in kind, by reputation, rights to use land, patents.

g) Incomes from dividends paid in bonds, incomes from reinvested profit.

#### 4. Incomes from capital transfer.

Incomes from capital transfer are personal income in the form of:

c) Profits from capital contributions to limited liability companies (including single-member limited liability companies), partnerships, cooperatives, business cooperation contracts, people's credit funds, economic organizations, and other organizations.

b) Incomes from securities transfer, including: incomes from transferring shares, call options on shares, bonds, treasury bills, fund certificates, and other securities according to the Law on Securities; incomes from transferring shares of the persons in the joint-stock company according to the Law on Enterprises.

c) Incomes from other forms of capital transfer.

#### 5. Incomes from real estate transfer

Incomes from real estate transfer:

a) Incomes from transferring rights to use land.

b) Incomes from transferring rights to use land and property on the land. Property on the land includes:

b.1) Houses, including future houses.

b.2) Infrastructure and constructions on the land, including off-the-plan constructions.

b.3) Other property on land includes agriculture, forestry and fishery products (such as plants and animals).

c) Incomes from transferring ownership of houses, including future houses.

d) Incomes from transferring rights to use land, rights to rent water surface.

dd) Incomes from capital investment by real estate to establish enterprises or increase capital of enterprises as prescribed by law.

e) Incomes from delegating the management of real estate, if the person delegated to manage real estate has the right to transfer real estate or rights similar to those of the real estate owner.

g) Other incomes from real estate transfer in any shape or form.

The regulations on future houses and constructions in Clause 5 of this Article shall comply with regulations of law on real estate trading.

## 6. Incomes from winning prizes

Incomes from winning prizes are amounts of money or items received by the person in the form of:

a) Winning lottery prizes.

b) Winning prizes from promotion programs when buying products or services according to the Law on Commerce.

c) Winning prizes from the types of betting permitted by law.

d) Winning prizes in the casino permitted by law.

dd) Winning prizes from the games with prizes and the like held by economic organizations, administrative agencies, associations, other organizations and individuals.

## 7. Incomes from copyright

Incomes from copyright are incomes from the transfer of ownership, rights to use the subjects of intellectual property rights according to the Law on Intellectual property, incomes from technology transfers according to the Law on Technology transfers. In particular:

a) The subjects of intellectual property rights are specified in Article 3 of the Law on Intellectual property and relevant guiding documents:

a.1) Subjects of copyright include literary, artistic, and scientific works; subjects of rights relevant to copyright include: video recordings, sound recordings of broadcasted programs, program-carrying satellite signals.

a.2) Subjects of industrial property rights include inventions, industrial designs, integrated circuit designs, business secrets, marks, trade marks, and geographical indications.

a.3) Subjects of rights to plant varieties being propagating materials and harvested materials.

b) Subjects of technology transfers according to Article 7 of the Law on Technology transfers:

b.1) Transfer of technical know-hows.

b.2) Transfer of technological knowledge in the form of technological plans, technological processes, technical solutions, formulae, specifications, drawings, technical diagrams, computer programs, information.

b.3) Transfer of solutions for rationalizing production and technological innovation.

Incomes from transfer of aforesaid subjects of intellectual property rights and technology transfers include re-transfer.

## 8. Incomes from franchising

Franchise is a commercial operation in which the franchiser allows and requests the franchisee to sell goods and services under the conditions set out by the franchiser in the franchise contract.

Incomes from franchising are the incomes the person earned from the aforesaid franchise contracts, including re-franchise according to regulations of law on franchise.

## 9. Incomes from inheritance

Incomes from inheritance are the incomes the person receives under a will or in accordance with regulations of law on inheritance. To be specific:

a) Inherited securities: shares, call options on shares, bonds, treasury bills, fund certificates, and other securities according to the Law on Securities; shares of the person in the joint-stock company according to the Law on Enterprises.

b) Inherited capital in economic organizations and businesses: capital contribution to limited liability companies, cooperatives, partnerships, business cooperation contracts; capital in private enterprises and businesses of the person; capital in associations and funds established within the law, or the entire business if the private enterprise or business is under the ownership of the person.

c) Inherited real estate: rights to use land, rights to use land and property thereon; ownership of houses, including future houses, infrastructure and constructions on land, including off-the-plan constructions; rights to rent land or water surface; other incomes from inheritance being real estate in any shape or form, except for incomes from the inherited real estate mentioned in Point d Clause 1 Article 3 of this Circular.

d) The ownership and use rights of other inherited assets (cars, motorbikes, ships, barges, speedboats, towboats, yachts, airplanes, hunting guns, sporting guns) must be registered with state agencies.

#### 10. Incomes from receipt of gifts

Incomes from receipt of gifts are incomes the person receives from organizations and individuals at home and overseas. To be specific:

a) Gifts being securities: shares, call options on shares, bonds, treasury bills, fund certificates, and other securities according to the Law on Securities; shares of the person in the joint-stock company according to the Law on Enterprises.

b) Gifts being capital in economic organizations and businesses: capital contribution to limited liability companies, cooperatives, partnerships, business cooperation contracts; capital in private enterprises and businesses of the person; capital in associations and funds established within the law, or the entire business if the private enterprise or business is under the ownership of the person.

c) Gift being real estate: rights to use land, rights to use land and property thereon; ownership of houses, including future houses, infrastructure and constructions on land, including off-the-plan constructions; rights to rent land or water surface; other incomes from inheritance being real estate in any shape or form, except for incomes from the gifts being real estate mentioned in Point d Clause 1 Article 3 of this Circular.

d) The ownership and use rights of gifts being other assets (cars, motorbikes, ships, barges, speedboats, towboats, yachts, airplanes, hunting guns, sporting guns) must be registered with state agencies.

#### **Article 3. Tax-free incomes**

1. According to Article 4 of the Law on Personal income tax and Article 4 of the Decree No. 65/2013/ND-CP, tax-free incomes include:

a) Incomes from real estate transfer (including future houses and constructions according to regulations of law on real estate trading) between husband and wife, parents and children; adoptive parents and adopted children; parents-in-law and children-in-law; grandparents and grand children, and among siblings.

The real estate (including future houses and constructions according to regulations of law on real estate trading) that is established by either spouse during the marriage, considered marital property, divided under agreements or judgment of the court when they divorce shall be tax-free.

b) Income from transfer of a person's only house or right to use residential land and property thereon in Vietnam.

b.1) The person that transfers the house and right to use land that are tax-free as prescribed in Point b Clause 1 of this Article must meet all conditions below:

b.1.1) The transferor owns only one house or right to use residential land plot (with or without property thereon) at the time of transfer. To be specific:

b.1.1.1) The house ownership and right to use land shall be determined based on the certificate of rights to use land, ownership of house and other property on land.

b.1.1.2) If the house ownership or rights to use land are shared, the person that has no ownership of houses or rights to use land in other areas shall be eligible for tax exemption, the person that has ownership of houses or rights to use land in other areas is not eligible for tax exemption.

b.1.1.3) If the house ownership or right to use land is the marital property and only property of the husband and wife, the person that has no other private house or land is eligible for tax exemption, the person that has another private house or land is not eligible for tax exemption.

b.1.2) The house or land plot has been under the transferor's ownership 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.

b.1.3) Transferring the entire house or residential land.

If the individual has or shares the ownership of the only house or land use right and transfers part of it, the transferred part is not tax-free.

b.2) The only house and residential land that is tax-free shall be declared by the person and he/she shall be responsible for such declaration. If false declaration is discovered, the person has to pay tax arrears and incur penalties for violations against the laws on tax administration.

b.3) Transfer of future houses and constructions that are not exempt from personal income tax according to Point b Clause 1 of this Article.

c) Incomes from the person's rights to use land allocated by the State that is eligible for land levy exemption or reduction.

The person that transfers the area of land eligible for exemption or reduction of land levies shall declare and pay tax on the incomes from real estate transfer according to Article 12 of this Circular.

a) Incomes from inherited real estate (including future houses and constructions according to regulations of law on real estate trading) between husband and wife, parents and children; adoptive parents and adopted children; parents-in-law and children-in-law; grandparents and grand children, and among siblings.

dd) Incomes from conversion of agricultural land, which is allocated by the State, to rationalize agricultural production without changing land purposes of the household or person engaged in agricultural production.

e) Incomes of households and persons engaged in agriculture, forestry, salt production, and fishery.

Each household/person engaged in production as guided in this Point must:

e.1) Have legitimate rights to use, lease land and water surface to engage in agriculture, forestry, salt production, and fishery.

Present a lease contract if the land or water surface is leased from another organization or person (unless the household or person is assigned to plant, take care of, manage, and protect forests by forestry companies). The household or person that does fishing must have the Certificate of ownership of ships or contract to rent ships used for fishing and direct participation in fishing (except for fishing by trawling nets and other methods of fishery prohibited by law).

e.2) Reside in the locality where the agriculture, forestry, salt production or fishery takes place.

The aforesaid locality is a district, town, or city affiliated to a province (hereinafter referred to as district), or a district adjacent to the area where the production takes place.

Incomes from fishing do not depend on residence.

e) Raw agriculture, forestry products, salt, and fishery products which have not yet been processed into other products or have been preliminarily processed are products that are just cleaned, dried, husked, cut, salted, frozen, and put into ordinary storage.

g) Incomes from interest on deposits at credit institutions and branches of foreign banks, interest on life insurance contracts; incomes from interest on Government bonds.

g.1) The tax-free interest on deposits mentioned in this Point is the income from the interest on deposits in VND, gold, or foreign currencies at credit institutions and branches of foreign banks

established and operated in accordance with the Law on credit institutions in the form of demand deposits, term deposits, savings, certificates of deposit, promissory notes, treasury bills, and other forms of deposits that the depositor should receive both principal and interest.

Bases for identification of tax-free incomes from deposits are the saving book (or saving card), certificates of deposit, exchange bills, treasury bills, and other papers that the depositor should receive both principal and interest.

g.2) Interest on life insurance contract is the interest the person receives under the life insurance contract with the insurer.

The basis for identifying tax-free income from interest on life insurance contract is the note of interest payment from the insurance contract.

g.3) Interest on Government bonds is the interest the person receives from purchasing Government bonds issued by the Ministry of Finance.

Bases for identification of tax-free income from interest on Government bonds are the face values, interest rates, and terms on the Government bonds.

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

The basis for identifying tax-free income from remittances is the papers proving that those amounts are sent from abroad and the payment notes issued by the money-transferring organization (if any).

i) Incomes from the additional payments for working at night or working overtime in excess of wages according to the Labor Code. In particular:

i.1) Tax-free additional payments for working at night or working overtime shall be identified according to the actual total payment for working at night or overtime minus (-) the payment for an ordinary working day.

Example 2: The wages of Mr. A on an ordinary working day is 40,000 VND/hour.

- When working overtime on an working day, he is paid 60,000 VND/hour, thus the tax-free income is:

$$60,000 \text{ VND/hour} - 40,000 \text{ VND/ hour} = 20,000 \text{ VND/ hour}$$

- When working overtime on an holiday, he is paid 80,000 VND/hour, thus the tax-free income is:

$$80,000 \text{ VND/hour} - 40,000 \text{ VND/ hour} = 40,000 \text{ VND/ hour}$$



i.2) The organization or person that pays incomes (hereinafter referred to as income payer) shall make a table specifying the hours of night work, extra hours, additional payments for working at nights and overtime. This table shall be presented by the income payer at the request of the tax authority.

k) Pensions paid by Social Insurance Fund according to the Law on Social insurance; monthly pensions from the voluntary pension fund.

The pensions paid from abroad to the people living and working in Vietnam are tax-free.

m) Incomes from scholarships, including:

m.1) Scholarships funded by government budget, including scholarships given by the Ministry of Education and Training, Services of Education and Training, public schools, and other scholarships funded by government budget.

m.2) Scholarships given by Vietnamese and foreign organizations (including payment for living expenses).

The scholarship giver must keep the decisions on giving scholarships and notes of scholarship payments. Where the person directly receives scholarships from foreign organizations, the person must keep the documents proving the incomes from such scholarships.

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. In particular:

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 insured 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 are 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 regulations of law 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 made 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.

p) Incomes from non-profit charitable trusts accredited by competent authorities, which aim for charity, humanitarianism, and study encouragement.

The aforesaid charitable trusts must be established and operated in accordance with the Government's Decree No. 30/2012/ND-CP dated April 12, 2012 on the organization and operation of social trusts and charitable trusts.

Bases for identification of tax-free incomes from charitable trusts in this Point are written decisions on giving money and notes of support in cash or in kind made by the charitable trusts.

q) Incomes from foreign aids for charitable and humanitarian purposes, whether governmental or non-governmental, that are approved by competent authorities.

The basis for identification of the tax-free income in this Point is written approval for receipt of aids made by the competent authority.

2. The procedure and application for tax exemption in the cases in Points a, b, c, d, dd Clause 1 of this Article shall comply with guiding documents on tax administration.

#### **Article 4. Tax reduction**

According to Article 5 of the Law on Personal income tax and Article 5 of the Decree No. 65/2013/ND-CP, the taxpayers facing difficulties in paying tax due to natural disasters, accidents, or fatal diseases shall receive a tax reduction in proportion to the damage. The reduction shall not exceed the tax payable. In particular:

1. Determination of reduced tax:

a) Tax reduction shall be considered in the tax year. The taxpayer shall receive tax reduction for the tax year in which the taxpayer suffers from natural disaster, fire, accident, or fatal disease.

b) The tax payable used for calculating tax reduction is the total personal income tax payable in the tax year, including:

b.1) The paid or withheld personal income tax on incomes from capital investment, incomes from capital transfer, incomes from real estate transfer, incomes from winning prizes, incomes from royalties, incomes from franchising, incomes from inheritance, and incomes from gifts.

b.2) The personal income tax payable on incomes from business and incomes from wages, remunerations.

c) The basis for calculating the damage eligible for tax reduction is the total expenditure for repairing damage minus the indemnities provided by insurers (if any) or compensations provided by the organization or individual that caused the accident (if any).

d) The reduced tax is determined as follows:

d.1) If the tax payable in the tax year is higher than the damage level, the reduced tax is equal to the damage level.

d.2) If the tax payable in the tax year is lower than the damage level, the reduced tax is equal to the tax payable.

2. The procedure and application for tax reduction shall comply with guiding documents on tax administration.

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

1. Taxable incomes are expressed as VND. The taxable incomes received in foreign currencies must be converted into VND at the average exchange rate on the inter-bank foreign exchange market when the 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 6. Tax period**

1. For residents:

a) Annual tax statement: applicable to incomes from business and incomes from wages, remunerations.

The tax period is the calendar year if the person is present in Vietnam for 183 days or more in the calendar year.

If the person has been present in Vietnam for fewer than 183 days in a calendar year, but has been in Vietnam for 183 days for 12 consecutive months from the date of arrival, the first tax

period is the 12 consecutive months from the date of arrival. In the second year, the tax period is the calendar year.

Example 3: Mr. B is a foreigner who first comes to Vietnam on April 20, 2014. In 2014 up to December 31, Mr. B has stayed in Vietnam for 130 days. In 2015 up to April 19, Mr. B has stayed in Vietnam for 65 days. The first tax period of Mr. B begins on April 20, 2014 and ends on April 19, 2015. The second tax period begins on January 01, 2015 and ends on December 31, 2015.

b) Declaring tax when an income is earned: applicable to incomes from capital investment, incomes from capital transfer, incomes from real estate transfer, incomes from winning prizes, incomes from royalties, incomes from franchising, incomes from inheritance, and incomes from gifts.

c) Tax on incomes from transferring securities shall be declared annually or when it is incurred.

2. For non-residents:

Each non-resident shall declare tax whenever an income is earned.

Where the business person does not have a fixed business location such as a shop or counter, the tax period is similar to that applicable to the resident earning income from business.

## **Chapter 2.**

### **BASES FOR CALCULATING TAX INCURRED BY RESIDENTS**

#### **Article 7. Bases for calculating tax on taxable incomes from business, wages**

Bases for calculating tax on incomes from business, wages are the assessable income and tax rate. To be specific:

1. Assessable income equals taxable income as guided in Article 8 of this Circular minus (-) the following deductions:

a) Personal deductions guided in Clause 1 Article 9 of this Circular.

b) Insurance premiums and payment to the voluntary pension fund as guided in Clause 2 Article 9 of this Circular.

c) Charitable, humanitarian, and study encouragement contributions (hereinafter referred to as charitable donations) as guided in Clause 3 Article 9 of this Circular.

2. Tax rate

The rate of personal income tax on incomes from business, wages shall apply the progressive tax table in Article 22 of the Law on Personal income tax. To be specific:

Level	Assessable income/year (million VND)	Assessable income/month (million VND)	Tax rate (%)
1	Up to 60	Up to 5	5
2	Over 60 to 120	Over 5 to 10	10
3	Over 120 to 216	Over 10 to 18	15
4	Over 216 to 384	Over 18 to 32	20
5	Over 384 to 624	Over 32 to 52	25
6	Over 624 to 960	Over 52 to 80	30
7	Over 960	Over 80	35

### 3. Tax calculation

Personal income tax on incomes from business, wages is the total tax on each level of income. The tax on each level of income equals the assessable income of that level multiplied by (x) the corresponding tax rate of that level.

For convenience, the abridged method in Appendix 01/PL-TNCN to this Circular may be applied.

Example 4: Mrs. C earns an income of 40 million VND from wages and remuneration in the month, and pay 7% of wages for social insurance premium, 1.5% of wages for health insurance premium. Mrs. C has 2 children under the age of 18, and makes no charitable donations. The preliminary personal income tax incurred by Mrs. C in the month is calculated as follows:

- Taxable income of Mrs. C is 40 million VND.

- Mrs. C is eligible for the deductions below:

+ Personal deduction: 9 million VND

+ Deductions for 02 dependants (02 children):

3.6 million VND x 2 = 7.2 million VND

+ Social insurance, health insurance:

40 million VND x (7% + 1.5%) = 3.4 million VND

Total deduction:

9 million VND + 7.2 million VND + 3.4 million VND = 19.6 million VND

- Assessable income of Mrs. C:

40 million VND - 19.6 million VND = 20.4 million VND

- Tax payable:

Method 1: using the progressive tax table:

+ Level 1: assessable income up to 5 million VND, 5% tax:

5 million VND x 5% = 0.25 million VND

+ Level 2: assessable income from over 5 million VND to 10 million VND, 10% tax:

(10 million VND - 5 million VND) x 10% = 0.5 million VND

+ Level 3: assessable income from over 10 million VND to 18 million VND, 15% tax:

(18 million VND - 10 million VND) x 15% = 1.2 million VND

+ Level 4: assessable income from over 18 million VND to 32 million VND, 20% tax:

(20.4 million VND - 18 million VND) x 20% = 0.48 million VND

- Total preliminary tax payable by Mrs. C in the month:

0.25 million VND + 0.5 million VND + 1.2 million VND + 0.48 million VND = 2.43 million VND

Method 2: Using the abridged method:

+ The assessable income in the month 20.4 million VND is the assessable income in level 4. The personal income tax payable:

20.4 million VND x 20% - 1.65 million VND = 2.43 million VND

4. Converting tax-exclusive incomes into assessable income.

If the wages paid to the employee as guided Clause 2 Article 2 of this Circular are exclusive of tax, they must be converted into assessable income in accordance with Appendix No. 02/PL-TNCN to this Circular. In particular:

a) The income converted into assessable income is the actual income plus (+) benefits paid by the employer on behalf of the employee (if any) minus (-) the deductions. If the amounts paid on

behalf of the employees include the house rent, the house rent shall be included in the converted income, but shall not exceed 15% of the total taxable income incurred at the work place (not including house rent).

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.
- 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 this Circular.
- Deductions include personal deductions, insurance premiums, contributions to the voluntary pension fund, and charitable donations as guided in Article 9 of this Circular.

Example 5: In 2014, according to the labor contract between Mr. D and company X, Mr. D receives a monthly salary of 31.5 million VND. Apart from that, company X pays for the sports club membership of 1 million VND/month on behalf of Mr. D. Mr. D has to pay 1.5 million VND/month for compulsory insurance. Company X is responsible for paying personal income tax on behalf of Mr. D. In the year Mr. D only has a personal deduction for himself, no dependents, and does not make charitable donations.

The monthly personal income tax payable by Mr. D:

- Converted income:

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

- Assessable income (according to Appendix No. 02/PL-TNCN):

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

- Personal income tax payable by Mr. D (according to Appendix No. 01/PL-TNCN):

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

Example 6: Company X also pays 6 million VND/month in house rent on behalf of Mr. D. The monthly personal income tax payable by Mr. D:

Step 1: Calculate the house rent paid on Mr. D's behalf that is included in converted income

- Converted income (exclusive of house rent):

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

- Assessable income (according to Appendix No. 02/PL-TNCN):

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

- Taxable income (exclusive of house rent):

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

- 15% of total taxable income (exclusive of house rent):

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

Thus the house rent included in the converted income is 5.390 million VND/month

Step 2: Calculate assessable income

- Converted income:

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

- Assessable income (converted in accordance with Appendix No. 02/PL-TNCN):

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

- Personal income tax payable:

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

- Monthly taxable income incurred by Mr. D:

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

Or:

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

b) If the person is required to settle tax, the taxable income in the year is the sum of taxable income of each month based on the converted assessable income. If the person earns tax-exclusive incomes from multiple organizations, the taxable income in the year is the sum of taxable income of each month paid by each organization in the year.



Example 7: Mr. D in example 6 above has a contract and earns an income of 12 million VND/month at company Y from January 2014 to May 2014 apart from the incomes earned at company X. Company Y also pays personal income tax on behalf of Mr. D.

Final personal income tax incurred by Mr. D in 2014:

- Taxable income in the year earned by Mr. D at company X:

42.687 million VND x 12 months = 512.244 million VND

- At company Y:

+ Monthly assessable income (converted in accordance with Appendix No. 02/PL-TNCN):

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

+ Taxable income in the year earned at company Y:

13.235 million VND x 5 months = 66.175 million VND

- Total taxable income earned by Mr. D in 2014:

512.244 million VND + 66.175 million VND = 578.419 million VND

- Monthly assessable income:

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

- Personal income tax payable in the year:

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

5. The basis for calculating tax on incomes lottery agents, insurance agents, network marketing is the assessable income and the personal income tax withholding rate. In particular:

a) Assessable income is the taxable income from lottery agents, insurance agents, network marketing, including: commissions of agents, rewards in any shape or form, supports, and other amounts the person receives from lottery companies, insurers and network marketing companies.

b) Taxable income shall be calculated when the income is paid to the person by the lottery company, insurer, or network marketing company.

c) Personal income tax withholding rate:

c.1) The lottery company shall withhold personal income tax on the monthly assessable income earned by the person as follows:

Unit: 1,000 VND

Monthly assessable income	Withholding rate
Up to 9,000	0%
>9,000	5%

c.2) The insurer or network marketing company shall withhold personal income tax on the monthly assessable income earned by the person as follows:

Unit: 1,000 VND

Monthly assessable income	Withholding rate
Up to 9,000	0%
>9,000 - 20,000	5%
>20,000	10%

6. The basis for calculating accrued insurance premiums and accrued contributions to the voluntary pension fund is the accrued premiums for life insurance and other optional insurance, accrued contribution to the voluntary pension fund that is paid or made by the employer on behalf of the employee, and the withholding rate of 10%.

Before providing insurance money and pension for the person, the insurer and the voluntary pension fund shall withhold 10% tax on the accrued insurance premiums and accrued contribution to the voluntary pension fund that is paid or made by the employer on behalf of the employee from July 01, 2013.

The insurer and the voluntary pension fund shall separately monitor the premiums for life insurance and other optional insurance, accrued contribution to the voluntary pension fund that are paid or made by the employer on behalf of the employee as the basis for calculating personal income tax.

## **Article 8. Calculating taxable incomes from business and incomes from wages**

### **1. Incomes from business**

Assessable income from business equal revenue minus rational expenses related to the generation of taxable income in the tax period.

Taxable income from business is calculated as follows:

a) For the person doing business without totally complying with regulations of law on accounting and invoicing.

a.1) The business person that complies with regulations of law on bookkeeping, invoicing and fails to calculate revenue, expenses, and taxable income, (hereinafter referred to as flat-tax payer)

a.1.1) The taxable income incurred by a flat-tax payer is calculated as follows:

$$\text{Taxable income in the tax period} = \frac{\text{Flat revenue in the tax period}}{\text{Flat revenue in the tax period}} \times \text{Proportion of taxable income}$$

Where:

- The flat revenue is determined based on the declaration made by the business person, database of the tax authority, result of investigation into actual revenue carried out by the tax authority, and opinions of the Tax Advisory Council of the commune or ward.

- The proportion of taxable income is specified in Point a.4 Clause 1 of this Article.

a.1.2) For the businessperson paying flat tax using invoices.

a.1.2.1) The flat-tax payer that uses invoice books shall pay personal income tax on the excess, apart from the tax on flat revenue, if the revenue in the quarter on the invoices is higher than the flat revenue.

a.1.2.1) The flat-tax payer that uses invoices sold separately by the tax authority shall declare and pay 10% personal income tax on the taxable income earned at a time.

The taxable income earned at a time is calculated as follows:

$$\text{Taxable income earned at a time} = \frac{\text{Revenue that incurs taxable income earned at a time}}{\text{Revenue that incurs taxable income earned at a time}} \times \text{Proportion of taxable income}$$

Where:

- Revenue that incurs taxable income earned

- The proportion of taxable income is specified in Point a.4 Clause 1 of this Article.

a.1.2.3) If the flat-tax payer that uses invoice books requests a refund of personal income tax, the assessable revenue in the year is calculated as follows:

- If the revenue on invoices of the whole year is lower than the flat revenue, the assessable revenue of the year is the flat revenue.

- If the revenue on invoices of the whole year is higher than the flat revenue, the assessable revenue of the year is the revenue on invoices.

a.2) If the business person is only able to calculate the revenue, not expense, the taxable income is calculated as follows:

$$\text{Taxable income in the tax period} = \frac{\text{Revenue for calculating taxable income in the tax period}}{\text{Revenue for calculating taxable income in the tax period}} \times \text{Proportion of taxable income} + \text{Other taxable incomes in the tax period}$$

Where:

- The calculation of the revenue for calculating taxable income in the tax period is guided in Point b.1 Clause 1 of this Article.

- The proportion of taxable income is specified in Point a.4 Clause 1 of this Article.

- Other taxable incomes are the incomes earned during the business, including: fines for contract violations, fines for late payment, bank interests during payment process; interests on deferred payments or instalment sales, profits on the sales of fixed assets, money from sale of scrap, refuse, and other taxable income.

a.3) For nomadic business persons and non-business persons that need invoices to sell goods and services.

Nomadic business persons and non-business persons that need invoices to sell goods and services shall declare and pay 10% personal income tax on the taxable income earned at a time.

The taxable income earned at a time is calculated similarly to the income earned by the flat-tax payer that uses invoices sold separately by the tax authority shall as guided in Point a.1.2.2 Clause 1 of this Article.

a.4) Proportion of taxable income

The proportion of taxable income to revenue is applicable to the business persons that fail to totally comply with regulations of law on accounting, invoicing, nomadic business persons, and non-business persons:

Activity	Proportion of taxable income (%)
Distributing and supplying goods	7
Service provision, construction (exclusive of materials)	30
Production, transportation, service provisions associated with goods supply, construction, inclusive of materials.	15

Other business activities	12
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If a person engages in multiple trades, the proportion of the primary operation shall apply. If a person engages in multiple trades without being able to identify the primary operation, the proportion of “other business activities” shall apply.

b) The taxable income earned by the business person that properly does accounting and invoicing is calculated as follows:

$$\text{Taxable income in the tax period} = \text{Revenue for calculating taxable income in the tax period} - \text{Deductible expenses in the tax period} + \text{Other taxable incomes in the tax period}$$

b.1) Revenue for calculating taxable income in the tax period

The revenue for calculating taxable income from business every payments for goods sale, processing, commissions, goods and service provision received during the tax period, including subsidies, surcharges, extra pays the business person receives, whether collected or not yet collected, and determined based on accounting books.

b.1.1) The time to calculate revenue for calculating taxable income:

b.1.1.1) For goods sale, it is the time when the ownership of goods or rights to use goods are transferred, or when the sale invoice is issued.

b.1.1.2) For service provision, it is the time the services are completely provided for the customer or when the service invoice is issued. For the lease of houses, rights to use land, water surface, and other assets, it is the effective date of the lease contract.

If the invoice is issued before the ownership of goods is transferred (or before the services are completely provided), the time to calculate revenue is when the invoice is issued, and vice versa.

b.1.2) The revenue for calculating taxable income in some cases are determined as follows:

b.1.2.1) The revenue from instalment sales is determined based on the sale prices of goods paid in a lump sum, exclusive of instalment interest.

b.1.2.2) The revenue from deferred payments for goods are the money earned from the sale of goods or services paid in a lump-sum, exclusive of interest on deferred payments.

If the payment under the instalment or deferral sale contract stretches over multiple tax periods, the revenue is the amount receivables from the buyer in the tax period, exclusive of interest on instalment or deferred payment according to the contractual term.

The calculation of expense when calculating taxable income from instalment sales and deferred payments must be consistent with the revenue.

b.1.2.3) When goods and services are used for exchange, donation, equipment, or rewarding employees, the revenue is calculated based on the sale prices of similar goods and services on the market at those times.

b.1.2.4) Where goods and services created by the business person to serve his or her own business, the revenue is the cost of production of such goods and services.

b.1.2.5) For goods processing, the revenue is the total amount of money earned from the processing, including the remuneration, payment for fuel, machines, ancillary materials, and other payments for goods processing.

b.1.2.6) The revenue from the sale of goods deposited by other business persons is the commission received under the agent or deposit contracts.

b.1.2.7) The revenue from leasing out assets is determined based on the contracted, whether paid or unpaid.

Where the lessee pays the rent for many years in advance, the revenue for calculating taxable income shall be distributed over the number of years being paid, or revenue from the lump-sum payment.

b.1.2.8) The revenue from construction and installation is the value of the building work or work item, or the value of the part handed over. If the construction, installation is exclusive of materials, machinery and equipment, the assessable revenue is the money earned from the construction, installation without the value of raw materials, machinery and equipment.

If the construction, installation is inclusive of materials, machinery and equipment, the assessable revenue is the money earned from the construction, installation inclusive of the value of raw materials, machinery and equipment.

b.1.2.9) Revenue from transport services are the entire revenue from transporting passengers, luggage, and goods that is earned during the tax period.

## b.2) Rational deductible expenses

Rational deductible expenses are actual expenses that are related to the business and have sufficient invoices as prescribed by law. In particular:

b.2.1) Expenditures on wages, allowances, benefits, and other payments to employees under labor contracts, service contracts or collective bargaining agreement according to the Labor Code.

The expenditures on wages do not include wages of the business household owner or the members whose names are stated in the Certificate of Business registration of the business group.

The expenditure on costumes of employees shall not exceed 5,000,000 VND/person/year. The maximum deductible expenditure on costumes both in cash and in kind shall not exceed 5,000,000 VND/person/year. For special industries, this expenditure shall be specified by the Ministry of Finance.

b.2.2) Expenditure on materials, fuel, energy, and goods used for the production and sale of goods and services related to the generation of revenue and taxable income in the period shall be calculated by the business person or households based on their rational consumption levels and actual prices.

Where the consumption levels of some materials, fuel, or goods have been imposed by the State, such levels shall apply.

All loss of materials, assets, capital, and goods shall not be included in the rational expense, except for the uncompensated loss caused by natural disaster, fire, epidemics, and force majeure.

Where some supplies and goods used for both personal consumption and business, only the proportion used for business is included in expense.

b.2.3) Depreciation, expenditures on maintenance of fixed assets used for production or sale of goods and services. In particular:

b.2.3.1) The depreciation of fixed assets shall be included in rational expense when the conditions below are satisfied:

- The fixed assets are used for production and business.
- There are sufficient invoices and papers proving such fixed assets are under the ownership of the business person.
- The fixed assets are monitored and managed in the accounting book of the business person in accordance with the current management and accounting regime.

The depreciation of cars with 09 seats or fewer shall not be included in rational expense.

b.2.3.2) The depreciation of fixed assets shall be included in rational expense in accordance with the regulations on managing, using and depreciating fixed assets.

b.2.3.3) The fixed assets that are fully depreciated but still used for production or business shall not be depreciated any longer.

The depreciation of fixed assets used for both business and other purposes shall be included in rational expense based on the proportion of their use for business.

b.2.4) Interest the loans serving production and sale of goods and services that is related to the generation of revenue and taxable income.

The rate of interest on loan is the actual interest rate in loan contracts with credit institutions, branches of foreign banks or economic organizations. Where the loan is not given by a credit institution, branch of a foreign bank or economic organization, the interest on loans is determined according to the loan contract and shall not exceed 1.5 times the fundamental interest rate announced by the State bank of Vietnam when the loan is taken.

The aforesaid interest does not include the interest on the loan taken to make capital contribution to the establishment of a business.

b.2.5) Administrative expense, including:

b.2.5.1) Expenditure on electricity, water supply, telephone, stationery, audit, legal services, designing, insurance on assets, technical services, and other external services.

b.2.5.2) Expenditures on the acquisition of assets that are not fixed assets such as expenditure on the purchase and use of technical documents, patents, licenses for technology transfer, trade marks shall be gradually distributed to the operating expense.

b.2.5.3) Rents for fixed assets according to lease contracts. If the rent for lease contract for many years is paid in a lump sum, it shall be gradually distributed to the production, operating expense over the years during which such fixed assets are used.

b.2.5.4) Expenditures on other external services and outsourced services serving the production and sale of goods and services with invoices.

b.2.5.5) Expenditure on the sale of goods and services, including: expenditure on preservation, packaging, transportation, loading, storage, and warranty of products.

b.2.6) Taxes, fees, charges, land rents payable that are related to the production and sale of goods and services (except for the input VAT, personal income tax that are withheld, other taxes, fees, charges and other receipts that are not included in expense as prescribed by law), including:

b.2.6.1) License tax, export tax, import tax, excise duty, resource tax, levy on agricultural land, levy on non-agricultural land, environmental protection tax, land rent, water surface rent.

b.2.6.2) VAT that may be included in expense as prescribed by law.

b.2.6.3) The fees and charges paid by the business to government budget according to regulations of law on fees and charges.

b.2.7) Allowances for business trips of employees (not including payments for transport and accommodation) shall not exceed twice the limits imposed by the Ministry of Finance that are applicable to officials and civil servants.

The payments for transport and accommodation of the employee on a business trip may be included in deductible expense when calculating taxable income if they have sufficient and valid



invoices. If the business person provides a flat allowance for transport and accommodation for the employee, it shall be included in deductible expense according to regulations of the Ministry of Finance applicable to officials and civil servants.

b.2.8) Other expenditures related to the generation of revenue and taxable income that have valid invoices.

b.3) Other taxable incomes

Other taxable incomes are the incomes earned during the business, including: fines for contract violations, fines for late payment, bank interests during payment process; interests on instalment plans, profits on the sales of fixed assets, money from sale of scrap, refuse, and other taxable income.

c) For the group of business persons

If multiple people have their names stated in a Certificate of Business registration, including the case in which multiple people have their names stated in a certificate of rights to use land, ownership of house and other property on land when the building or premises are leased out (hereinafter referred to as group of business persons) the taxable income earned by each person shall be distributed using one of the methods below after the taxable income from business is calculated according to Point a and Point b Clause 1 of this Article:

c.1) According to the proportion of capital contribution of each person in the Certificate of Business registration.

c.2) According to agreements among the persons.

c.3) According to the average income per person if the Certificate of Business registration does not specify the proportions of capital contributions or agreement on income distribution among the persons.

Based on the taxable income of every person participating in the business calculated as stated above, each individual shall make deductions as guided in Article 9 of this Circular to calculate their assessable income and personal income tax payable.

2. Taxable income from wages

a) The taxable income from wages equals the sum of wages, remunerations and other incomes considered wages received by the taxpayer in the tax period as guided in Clause 2 Article 2 of this Circular.

b) Time to calculate taxable income:

Taxable income from wages and remuneration shall be calculated when the income is paid to the taxpayer.

The taxable income from accrued insurance premium guided in Point dd.2 Clause 2 Article 2 of this Circular shall be calculated when the insurer or the voluntary pension fund pays the insurance money.

3. The taxable income of a person that earns incomes from both business and wages is the sum of taxable income from business and wages.

## **Article 9. Deductions**

The deductions guided in this Article are the amounts deducted from the taxable income of the person before calculating taxable income from wages, remunerations, and business. In particular:

### 1. Personal deductions

According to Article 19 of the Law on Personal income tax, Clause 4 Article 1 of the Law on the amendments to the Law on Personal income tax, and Article 12 of the Decree No. 65/2013/ND-CP:

a) Personal deduction is the amount of money deducted from the taxable income before calculating tax on incomes from business, or wages earned by the resident taxpayer.

If the resident earns income from both business and wages, one deduction from the total income from business and wages shall be made.

### b) Levels of personal deductions

b.1) Deduction for the taxpayer: 9 million VND/month, 108 million VND/year.

b.2) Deduction for each dependant: 3.6 million VND/month.

### c) Calculating deduction

c.1) Personal deduction for the taxpayer:

c.1.1) The taxpayer that has multiple sources of income from wages and business shall calculate the personal deduction for himself in a place at a time (considered a full month).

c.1.2) The foreigner being a resident in Vietnam shall make personal deduction from January (or the month of arrival if the person comes to Vietnam for the first time) until the month in which the labor contract expires and that person leaves Vietnam in the tax year (considered a full month).

Example 8: Mr. E is a foreigner that comes to work in Vietnam continuously from March 01, 2014. On November 15, 2014, the labor contract expires and Mr. E goes home. Mr. E is present in Vietnam for 183 days from March 01, 2014 until the date of departure. Thus in 2014, Mr. E is a resident and may make a personal deduction from January until the end of November 2014.

Example 9: Mrs. G is a foreigner who comes to Vietnam for the first time on September 21, 2013. On June 15, 2014, the labor contract expires and Mrs. G leaves Vietnam. Mrs. G is present in Vietnam for 187 days during the period from September 21, 2013 to June 15, 2014. Thus in the first tax year (from September 21, 2013 to September 20, 2014), Mrs. G is considered a resident in Vietnam and may make a personal deduction from September 2013 until the end of June 2014.

c.1.3) If the person has not made personal deduction or the deduction does not cover 12 months in the tax year, the person may make deduction for 12 months before settling tax.

c.2) Deduction for dependants

c.2.1) The taxpayer may make deductions for his or her dependants if the taxpayer has applied for tax registration and been issued with the tax code.

c.2.2) When registering deductions for dependants, the taxpayer shall be issued with tax codes for dependants and make preliminary deductions in the year from the registration date. The dependants that are registered before this Circular takes effect are still eligible for deductions until being issued with tax codes.

c.2.3) If the taxpayer has not made deductions for dependants in the tax year, the deductions for dependants shall be made from the month in which the custody is given when the taxpayer settles tax and registers deductions for dependants. Deductions for other dependants, who are defined in Point d.4 Clause of this Article, must be registered by December 31 of the tax year, otherwise the deduction for the whole tax year shall not be made.

c.2.4) The deduction for a dependant shall apply to only one taxpayer in the tax year. Where multiple taxpayers have the same dependant to provide for, they shall reach an agreement on the person that makes the deduction for such dependant.

d) Dependants include:

d.1) Children, legitimate adopted children, illegitimate children, stepchildren. To be specific:

d.1.1) Children under 18 years of age.

Example 10: A child of Mr. H born on July 25, 2014 is considered a dependant from July 2014.

d.1.2) Children from 18 years of age and over that are disabled and incapable of work.

d.1.3) Children studying in Vietnam or overseas in universities, college, vocational schools, including children from 18 years of age and over in high schools (including the period awaiting university enrolment result from June to September in 12<sup>th</sup> grade) that have no income or have the average monthly income of  $\leq 1.000.000$  VND in the year from all sources.

d.2) The taxpayer's spouse that meets the conditions in Point dd Clause 1 of this Article.

d.3) The taxpayer's parents, parents-in-law, stepparents, legitimate adoptive parents that meet the conditions in Point dd Clause 1 of this Article.

d.4) Other dependants that the taxpayer has to provide for, who meet the conditions in Point dd Clause 1 of this Article, including:

d.4.1) The taxpayer's brothers and sisters.

d.4.2) The taxpayer's grandparents, aunts, uncles.

d.4.3) The taxpayer's nieces and nephews.

d.4.4) Other people to provide for as prescribed by law.

dd) A person that meets the conditions below shall be considered a dependant mentioned in Point d.2, d.3, d.4 Clause 1 of this Article:

đ.1) The person of working age must meet all conditions below:

dd.1.1) The person is disabled and incapable of work.

dd.1.2) The person has no income or his average monthly income from all sources does not exceed 1,000,000 VND.

dd.2) The people outside working age shall have no income or their average monthly income from all sources shall not exceed 1,000,000 VND.

e) The disabled that are incapable of work mentioned in Point dd.1.1 Clause 1 of this Article are the people regulated by regulations of law on the disabled and ill people incapable of works (sufferers from AIDS, cancer, chronic kidney failure, etc.)

g) Documents proving dependants

g.1) Children:

g.1.1) For children under 18 years of age: photocopies of the Certificates of birth and ID cards (if any).

g.1.2) For children from 18 years of age and over that are disabled and incapable of work:

g.1.2.1) Photocopies of the Certificates of birth and ID cards (if any).

g.1.2.2) Photocopies of Certificates of disability according to regulations of law on the disabled.

g.1.3) For children in school mentioned in Point d.1.3 Clause 1 of this Article:

g.1.3.1) Photocopies of the Certificates of Birth.

g.1.3.2) Photocopy of the student's cards or declarations certified by the schools, or other papers proving the study at such schools.

g.1.4) For adopted children, illegitimate children, stepchildren: apart from the aforesaid papers, other papers proving the relationship are required, such as photocopies of the decisions on certification of adoption made by competent authorities.

g.2) For spouse:

- A photocopy of the ID card

- A photocopy of the household book (which proves the husband and wife relationship) or a photocopy of the Certificate of marriage.

If the spouse is of working age, other papers proving the dependant's incapability of work are required, apart from the aforesaid papers, such as the Certificate of disability according to regulations of law on the disabled that are incapable of works, a photocopy of the medical record of the ill person incapable of work (sufferer from AIDS, cancer, chronic kidney failure, etc.)

g.3) For parents, parents-in-law, stepparents, legitimate adoptive parents:

- Photocopies of ID cards

- Papers proving the relationship between the dependants and the taxpayer such as a photocopy of the household book (if their names are in the same household book), certificates of birth, decisions on certification of adoptions made by competent authorities.

If they are of working age, other papers proving the dependants' incapability of work are required, apart from the aforesaid papers, such as Certificates of disability according to regulations of law on the disabled that are incapable of works, photocopies of the medical records of the ill persons incapable of work (sufferers from AIDS, cancer, chronic kidney failure, etc.)

g.4) For other people mentioned in Point d.4 Clause 1 of this Article, the proving documents include:

g.4.1) photocopies of Certificates of birth or ID cards.

g.4.2) Other legitimate papers to determine the custody as prescribed by law.

If the dependants are of working age, other papers proving the dependants' incapability of work are required, apart from the aforesaid papers, such as the Certificate of disability according to regulations of law on the disabled that are incapable of works, photocopies of medical records of ill persons incapable of work (sufferers from AIDS, cancer, chronic kidney failure, etc.)

The legitimate papers mentioned in Point g.4.2 Clause 1 of this Article are any legal document that proves the relationship between the taxpayer and the dependant, such as:

- Photocopies of the papers proving the custody (if any).
- A photocopy of the household book (if their names are in the same household book).
- A photocopy of the certificate of temporary residence of the dependent (if their names are not in the same household book).
- A declaration that the dependant is living with the taxpayer, which is made by the taxpayer according to the form provided in documents on tax administration and certified by the People's Committee of the commune where the taxpayer resides.
- A declaration that the dependant is residing locally and living alone, which is made by the taxpayer according to the form provided in documents on tax administration and certified by the People's Committee of the commune where the taxpayer resides.

g.5) If the resident is a foreigner, equivalent legal documents proving the dependant are required.

g.6) Where the taxpayer working in an economic organization, a public service provider has specified his/her dependants being his parents, spouse, children, and other dependants in his or her résumé, the documents proving the dependants are the documents mentioned in Point g.1, g.2, g.3, g.4, g.5 Clause 1 of this Article, or only the dependant registration form certified by the head of the unit on the left is required.

The head of the unit is only responsible for the names of dependants, their years of birth and relationship with the taxpayer. The taxpayer is responsible for other information.

h) Declaration of deduction for dependants

h.1) The taxpayer that earns 09 million VND/month or less from business or wages might not register dependants.

h.2) The taxpayer that earns over 09 million VND/month from business and wages shall follow the procedure below to make deductions for dependants:

h.2.1) For taxpayers that earn incomes from wages:

h.2.1.1) Registration of dependants

h.2.1.1.1) First registration of dependants:

The taxpayer that earns income from wages shall submit 02 applications for dependant registration (using the form provided in guiding documents on tax administration) to the income payer as the basis for calculating deductions for dependants.

The income payer shall keep 01 application and submit 01 application to the local tax authority when submitting the personal income tax statement of that person in accordance with the Law on Tax administration.

The person that directly declares tax at the tax authority shall submit 01 application for dependant registration (using the form provided in guiding documents on tax administration) to the tax authority that monitors the income payer when submitting his declaration of personal income tax in accordance with the Law on Tax administration.

#### h.2.1.1.2) Registering changes of dependants:

Where the number of dependants are changed (increased or decreased), the taxpayer shall make an additional declaration using the form provided in guiding documents on tax administration, and submit it to the income payer (or to the tax authority if the taxpayer declares tax directly at the tax authority).

#### h.2.1.2) Locations and deadline for submitting documents proving the dependants:

- h.2.1.2) The location for submission of documents proving the dependants is a place where the taxpayer submits the application for dependant registration:

The income payer shall keep the documents proving the dependants and present them when the tax authority carries out tax inspections.

- The documents proving the dependants shall be submitted within 03 months from the day on which the application for dependant registration is submitted (including the registration of change of dependants).

If the taxpayer fails to submit documents proving dependants by the aforesaid deadline, no deductions for dependants shall be made and the tax payable shall be adjusted.

#### h.2.2) Where the taxpayer earns incomes from business

##### h.2.2.1) Registration of dependants

h.2.2.1.1) The business person that pays tax according to declarations shall submit an application for dependant registration, using the form provided in guiding documents on tax administration, to the local tax authority together with the provisional tax statement. Where the number of dependants are changed (increased or decreased), the taxpayer shall make an additional declaration of the change using the form provided in guiding documents on tax administration, and submit it to the local tax authority.

h.2.2.1.2) The business person that pays flat tax shall declare deductions for dependants in the flat tax statement.

h.2.2.2) The documents proving the dependants shall be submitted within 03 months from the day on which the declaration of deductions is made (including the change in number of deductions or commencement of the business).

h.2.2.3) If the taxpayer fails to submit documents proving dependants by the aforesaid deadline, no deductions for dependants shall be made and the tax payable shall be adjusted. The taxpayer that pays flat tax shall adjust the flat tax.

i) The taxpayer shall register and submit proving documents for a dependant once throughout the deduction period. Where the taxpayer changes the workplace or business location, the application for dependant registration and proving documents shall be similarly submitted as guided in Point h.2.1.1.1 Clause 1 of this Article.

## 2. Deductions for insurance premiums and contributions to the voluntary pension fund

a) Insurance premiums include premiums for social insurance, health insurance, unemployment insurance and professional liability insurance, which is compulsory for some professions.

b) Contributions to the voluntary pension fund

The contributions to the voluntary pension fund are deducted from the taxable income, but the deduction shall not exceed 01 million VND/month (12 million VND/year) when the employee participates in voluntary pension plans guided by the Ministry of Finance, even the employee participates in multiple pension funds. The basis for determining deductible income is photocopies of payment bills given by the voluntary pension fund.

Example 11: Mr. Y contributes to the voluntary pension fund by concluding insurance contracts with insurers or other enterprises allowed to provide voluntary pension plans. If such voluntary pension plans are conformable with regulations of the Ministry of Finance and approved by the Ministry of Finance, Mr. Y shall have the amounts below deducted from his taxable income:

- If his contribution to the voluntary pension fund is 800,000 VND/month, which is equivalent to 9,600,000 VND/year, the deduction from his taxable income shall be 9,600,000 VND/year.

- If his contribution to the voluntary pension fund is 2,000,000 VND/month which is equivalent to 24,000,000 VND/year, the deduction from his taxable income shall be 12,000,000 VND/year.

c) Where the foreigner being a resident in Vietnam, the Vietnamese person being a resident but working overseas earns incomes from business or wages overseas and pays compulsory insurance premiums required by the country where the person holds the nationality or works that are similar to those in Vietnam such as social insurance, health insurance, unemployment insurance, professional liability insurance, and other compulsory insurance, such insurance premiums may be deducted from the taxable income from business and wages when calculating personal income tax.



Foreigners and Vietnamese people who pay the aforesaid insurance premiums overseas shall have them provisionally deducted from the income in the year (if supporting documents are provided). Deductions shall be officially made when they settle tax. If no supporting documents are provided for immediate deduction, a lump-sum deduction shall be made when settling tax.

d) Insurance premiums and contributions to the voluntary pension fund in the year shall be deducted from the taxable income earned in that year.

dd) The documents proving the aforesaid deductible insurance premiums are photocopies of payment receipts issued by the insurers or written certification made by the income payer that the insurance premiums are withheld or paid (if they are paid by the income payer on behalf of the employee).

### 3. Deductible charitable donations.

a) The charitable donations shall be deducted from the taxable income from business and wages before calculating the tax incurred by a resident taxpayer. To be specific:

a.1) Donations to the establishments that take care of disadvantaged children, the disabled, and the homeless elderly people.

The establishments that take care of disadvantaged children, the disabled, and the homeless elderly people must be established and operated in accordance with the Government's Decree No. 68/2008/ND-CP dated May 30, 2008 on the conditions and procedure for establishing, the structure, operation, and dissolution of social protection organizations, the Government's Decree No. 81/2012/ND-CP dated October 08, 2012 on amendments to the Government's Decree No. 68/2008/ND-CP dated May 30, 2008 on the conditions and procedure for establishing, the structure, operation, and dissolution of social protection organizations, and the Government's Decree No. 109/2002/ND-CP dated December 27, 2002 on amendments to the Government's Decree No. 195/CP dated December 31, 1994 elaborating and providing guidance on the implementation of a number of articles the Labor Code on hours or work and rest.

The documents proving the donations to the establishments that take care of disadvantaged children, the disabled, and the homeless elderly people are valid notes of receipts of such establishments.

a.2) The contributions to charitable, humanitarian and study encouragement funds established and operated in accordance with the Government's Decree No. 30/2012/ND-CP dated April 12, 2012 on the organization and operation of non-profit social funds, charitable funds, and other documents related to the management and use of sponsorships.

The documents proving charitable donations are valid notes of received made by the central or provincial organizations and funds.

b) The charitable donations made in a tax year shall be deducted from the taxable income earned in that tax year. The donations that are not completely deducted shall be deducted from the

taxable income earned in the next tax year. The maximum deduction shall not exceed the assessable income from wages and business earned in the tax year in which the charitable donations are made.

### **Article 10. Bases for calculation of tax on incomes from capital investment.**

Bases for calculation of tax on incomes from capital investment are the assessable income and tax rates.

#### 1. Assessable income

Assessable income from capital investment is the taxable income earned by the individual according to Clause 3 Article 2 of this Circular.

2. The tax rate on the income from capital investment is 5% according to the whole income tax table.

#### 3. Time to calculate the assessable income

The assessable income from capital investment shall be calculated when the taxpayer is paid by the income payer.

The times to calculate assessable income in some cases:

a) The income from additional value of capital contribution guided in Point d Clause 3 Article 2 of this Circular shall be calculated when the person actually receives the income when the enterprise is dissolved, converted, divided, merged, amalgamated, or when the capital is withdrawn.

b) The income from reinvested profit as guided in Point g Clause 3 Article 2 of this Circular shall be calculated when the person transfers or withdraws capital.

c) The income from dividend in shares guided in Point g Clause 3 Article 2 of this Circular shall be calculated when the person transfers his shares.

d) Where the individual receives an income from outward investment in any shape or form, the assessable income shall be calculated when the person receives the income.

#### 4. Tax calculation

$$\text{Personal income tax payable} = \text{Assessable income} \times 5\% \text{ tax}$$

### **Article 11. Bases for calculation of tax on incomes from capital transfer**

#### 1. For income from transferring contributed capital

Bases for calculating tax on incomes from transferring contributed capital are assessable income and the tax rate.

a) The assessable income from transferring contributed capital equals the transfer price minus the purchase price of the transferred capital and rational expenses related to the generation of the income from transferring capital.

Where the enterprise does bookkeeping in foreign currencies and the contributed capital is transferred in foreign currencies, the transfer price and purchase price of the capital are also expressed as foreign currencies. Where the enterprise does bookkeeping in VND and the contributed capital is transferred in foreign currencies, the transfer price shall be expressed VND according to the average exchange rate on the inter-bank foreign exchange market announced by the State bank of Vietnam when the transfer is made.

#### a.1) Transfer price

Transfer price is the amount of money the individual receives under the capital transfer contract.

If the transfer contract does not specify the price or the price stated in the contract is not conformable with the market price, the tax authority may impose a transfer price in accordance with regulations of law on tax administration.

#### a.2) Purchase price

The purchase price of the transferred capital is the value of contributed capital when the transfer is made.

The value of contributed capital at that time includes the value of the capital contributed to the establishment of the enterprise, value of additional contributions, value of purchased capital, and value of capital from reinvested profit. In particular:

a.2.1) For capital contributed to the establishment of the enterprise, it is the value of capital when the contribution is made. The value of contributed capital is determined based on accounting books and invoices.

a.2.2) For additional capital contribution, it is the value of the additional capital contribution when the additional contribution is made. The value of additional capital contribution is determined based on accounting books and invoices.

a.2.3) For purchased capital, it is its value when the purchase is made. The purchase price is determined based on the contract to buy capital contribution. If the contract to buy capital contribution does not specify the price or the price stated in the contract is not conformable with the market price, the tax authority may impose a purchase price in accordance with regulations of law on tax administration.

a.2.4) For the capital from reinvested profit, it is the value of the reinvested profit.

a.3) Deductible expenses when calculating taxable income from capital transfer are rational expenses that are related to the generation of income from capital transfer with valid invoices as prescribed. In particular:

a.3.1) The expenditures on legal procedures necessary for the transfer.

a.3.2) The fees and charges paid to the government budget when following the transfer procedure.

a.3.3) Other expenditures related to the capital transfer.

b) Tax rate

The rate of personal income tax on the income from transferring contributed capital is 20% according to the whole income tax table.

c) Time to calculate the assessable income

Assessable income shall be calculated when the capital transfer contract takes effect. Where making contribution from another capital contribution, the assessable income from transferring capital shall be calculated when the person transfers or withdraws capital.

d) Tax calculation

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

2. For income from transferring securities

Bases for calculating tax on incomes from transferring securities are assessable income and the tax rate.

a) Assessable income

The assessable income from transferring securities is the sale price of securities minus the purchase price and rational expense related to the transfer.

a.1) Sale price of securities:

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

a.1.2) The sale price of securities of a public company that are not traded at the Stock Exchange but only transferred via the system of the Vietnam Securities Depository is the price stated in the securities transfer contract.

a.1.3) The sale price of securities that do not fall into the cases above is the actual transfer price stated in the transfer contract or the price in the accounting book of the latest unit that transfers securities before the transfer is made.

If the transfer contract does not specify the sale price or the sale price stated in the contract is not conformable with the market price, the tax authority may impose a sale price in accordance with regulations of law on tax administration.

a.2) Purchase price of securities:

a.2.1) The purchase price of securities of a public company that are traded at the Stock Exchange is the transaction price at the Stock Exchange. The transaction price is based on the order matching result of prices from transactions at the Stock Exchange.

a.2.2) The purchase price of securities of a public company that are not traded at the Stock Exchange but only transferred via the system of the Vietnam Securities Depository is the price stated in the securities transfer contract.

a.2.3) The purchase price of the securities that are purchased at auction is the price written in the announcement of auction winner made by the auction holder and the payment note.

a.2.4) The purchase price of the securities that do not fall into the cases above is the actual transfer price stated in the transfer contract or the price in the accounting book of the latest unit that transfers securities before the transfer is made.

If the transfer contract does not specify the purchase price or the purchase price stated in the contract is not conformable with the market price, the tax authority may impose a purchase price in accordance with regulations of law on tax administration.

a.3) Deductible expenses when calculating taxable income from transferring securities are rational expenses that are related to securities transfer with valid invoices as prescribed, including:

a.3.1) The expenditures on legal procedures necessary for the transfer.

a.3.2) The fees and charges paid by the transferor when following the transfer procedure.

a.3.3) The charge for securities depository prescribed by the Ministry of Finance and note of receipts of the securities company.

a.3.4) The charge for investment entrustment, fees for management of securities investment portfolio based on the notes of receipts of the entrusted unit.

a.3.5) Charge for securities transfer brokerage.

a.3.6) Charge for investment counseling services and information provision.

a.3.7) Charge for account transfer and ownership transfer via the Vietnam Securities Depository (if any).

a.3.8) Other expenditures with valid supporting documents.

b) Tax rate and tax calculation

b.1) When applying the tax rate of 20%

b.1.1) Application rules

The person that transfers securities shall apply the tax rate of 20% if he has obtained tax registration and a tax code when settling tax, and able to calculate the assessable income from each type of securities as guided in Point a Clause 2 Article 11 of this Circular.

The purchase price of securities is calculated by the average total purchase price of each type of securities sold in the period as follows:

$$\text{Average purchase price of each type of securities sold} = \frac{\text{Opening cost price} + \text{Cost price during the period}}{\text{Opening quantity of unsold securities} + \text{Quantity of new securities during the period}} \times \text{Quantity of securities sold}$$

b.1.2) Tax calculation

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

When settling tax, the person that applies the tax rate of 20% may deduct the tax provisionally paid at the rate of 0.1% in the tax year.

b.2) When applying the tax rate of 0.1%

The person that transfers securities shall provisionally pay a 0.1% tax on the securities transfer price at a time, including the case in which the 20% tax rate applies.

Tax calculation:

$$\text{Personal income tax payable} = \text{Securities transfer price at a time} \times 0.1\% \text{ tax}$$

c) Time to calculate the assessable income

Time to calculate assessable income from transferring securities:

c.1) For securities of a public company that are traded at the Stock Exchange, it is the time the taxpayer receives the income from securities transfer.

c.2) For securities of a public company that are not traded at the Stock Exchange but only transferred via the system of the Vietnam Securities Depository, it is the time the ownership is transferred at the Vietnam Securities Depository.

c.3) For the securities that do not fall into the cases above, it is the time the securities transfer contract takes effect.

c.4) When making capital contribution by securities without paying tax when making capital contribution, the time to calculate income from transferring securities to make capital contribution is the time the person transfers, withdraws capital.

d) When receiving shares paid as dividend.

When receiving shares paid as dividend, the person might delay paying personal income tax when receiving shares. When transferring such shares, the person shall pay personal income tax on the income from capital investment and the income transferring securities. To be specific:

d.1) The basis for determining the personal income tax payable on the income from capital investment is the value of dividend in the accounting book or the quantity of actual shares received multiplied by (x) the face value of such shares and the rate of personal income tax on the income from capital investment.

If the transfer price of the shares paid as dividend is lower than the nominal price, the personal income tax on capital investment shall be calculated at the market price when the transfer is made.

If the person transfers the same type of securities after receiving shares paid as dividend, the person shall declare and pay personal income tax on the all the shares paid as dividends.

d.2) The basis for calculating the personal income tax payable on the income form transferring securities is guided in Point b Clause 2 of this Article.

Example 12: Mr. K is a shareholder of joint-stock company X (listed at the Stock Exchange). In 2011, Mr. K receives 5,000 shares paid as dividend by company X (the face value of a share is 10,000 VND). In February 2014, Mr. K transfers 2,000 shares of company X at a price of 30,000 VND per share. In August 2014, Mr. K transfers 7,000 shares at a price of 20,000 VND per share.

When making the transfer, Mr. K has to pay personal income tax on the income from capital investment and the income from transferring securities. To be specific:

\* For the transfer in February 2014:

- The personal income tax on the income from capital investment:

$$(2,000 \text{ shares} \times 10,000 \text{ VND}) \times 5\% = 1,000,000 \text{ VND}$$

- The personal income tax (preliminary) on income from transferring securities:

$$(2,000 \text{ shares} \times 30,000 \text{ VND}) \times 0.1\% = 60,000 \text{ VND}$$

\* For the transfer in August 2014:

- The personal income tax on the income from capital investment:

$$(3,000 \text{ shares} \times 10,000 \text{ VND}) \times 5\% = 1,500,000 \text{ VND}$$

- The personal income tax (preliminary) on income from transferring securities:

$$(7,000 \text{ shares} \times 20,000 \text{ VND}) \times 0.1\% = 140,000 \text{ VND}$$

## **Article 12. Bases for calculation of tax on incomes from real estate transfer**

Bases for calculating tax on incomes from transferring contributed capital are assessable income and tax rates.

### 1. Assessable income

a) The assessable income from transferring rights to use land without constructions thereon equals the transfer price minus (-) the cost price and rational expenses.

#### a.1) Transfer price

The transfer price of rights to use land is the price stated in the transfer contract when the transfer is made.

If the transfer price is not identifiable or the price stated in the transfer contract is lower than the land price imposed by the People's Committee of the province when the transfer is made, the transfer price is based on the land price list made by the People's Committee of the province.

#### a.2) Cost price:

The cost price of rights to use land in some cases is calculated as follows:

a.2.1) The cost price of the land allocated by the State that is subject to land levy is based on the notes of land levy receives made by the State.



a.2.2) The cost price of the land allocated by the State that is exempt from land levy or eligible for land levy reduction is based on the price imposed by the People's Committee of the province when land is transfer.

a.2.3) The cost price of land of which the rights to use are transferred from other organizations and individuals is based on the price stated in the transfer contract when the transfer is received.

a.2.4) The cost price of rights to use land put up for auction is the successful bid.

a.2.5) The cost price of land of which the origin does not fall into the cases above is determined based on the documents proving the fulfillment of financial obligations to the state when the certificate of rights to use land, ownership of houses and other property on land is issued.

a.3) Rational expenses:

The deductible expenses when calculating incomes from transferring rights to use land are the expenses related to the transfer with valid invoices, including:

a.3.1) The fees and charges related to the grant of rights to use land that are paid to the government budget by the transferor.

a.3.2) The expenditure on land recovery and leveling (if any).

a.3.3) Other expenditures related to the transfer of rights to use land such as expenditures on legal procedure for transferring, expenditure on measurement services.

b) The assessable income from transferring rights to use land with constructions there on, including off-the-plan constructions equals the transfer price minus (-) the cost price and rational expenses.

b.1) Transfer price

The transfer price is the price stated in the transfer contract when the transfer is made.

If the contract does not specify the transfer price or the transfer price stated in the contract is lower than the price imposed by the People's Committee of the province, the transfer price shall be determined based on the list of land prices and the house prices made by the People's Committee of the province when the transfer is made.

If house prices are not imposed by the People's Committee of the province, the transfer price is based on the regulations imposed by the Ministry of Construction on house classification, standards and limits of fundamental construction, actual residual value of constructions on land.

For off-the-plan constructions, it is based on the proportion of capital contribution to the total contract value multiplied by (x) the construction price imposed by the People's Committee of the province. If the People's Committee of the province has not imposed the unit price, the rate of

construction investment announced by the Ministry of Construction, which is effective when the transfer is made, shall apply.

#### b.2) Cost price

The cost price is determined based on the price stated in the transfer contract when the purchase is made. If the real estate is not received from a transfer, the cost price is based on the documents proving the fulfillment of financial obligations to the State when the certificate of rights to use land, ownership of land and property on land is issued.

#### b.3) Rational expenses:

The deductible expenses when calculating incomes from transferring rights to use land are the expenses related to the transfer with valid invoices, including:

b.3.1) The fees and charges related to the grant of rights to use land that are paid to the government budget by the transferor.

b.3.2) The expenditure on land recovery and leveling.

b.3.3) The expenditure on building, upgrading, repairing infrastructure and constructions on land.

b.3.4) Other expenditures related to the real estate transfer such as expenditures on legal procedure for transferring, expenditure on measurement services.

#### c) Assessable income from transferring ownership of houses, including future houses.

The assessable income from transferring house ownership equals the sale price minus (-) the purchase price and rational expenses.

##### c.1) Sale price:

The sale price is the actual transfer price based on the market price and stated in the transfer contract.

If the house transfer price stated in the contract is lower than the house price imposed by the People's Committee of the province when the transfer is made or the transfer contract does not specify the transfer price, the transfer price shall be determined based on price imposed by the People's Committee.

##### c.2) Purchase price

The purchase price is determined based on the prices stated in the contract. If the house is not a transferred house or repurchased house, the purchase price is based on the documents proving the fulfillment of financial obligations to the State when the certificate of rights to use land, ownership of land and property on land is issued.

c.3) Rational expenses:

The deductible expenses are the expenses incurred during the transfer with valid invoices, including:

c.3.1) The fees and charges related to the grant of house use right that are paid to the government budget by the transferor.

c.3.2) The expenditure on repairing and upgrading the house.

c.3.3) Other expenditures related to the transfer.

d) Assessable income from transferring the rights to rent land/water surface

The assessable income from transferring the rights to rent land/water surface equals the sublease price minus (-) the initial rent and relevant expenses.

d.1) Sublease price:

The sublease rent equals the rent stated in the contract when transferring the rights to rent land/water surface.

If the sublease price in 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 rent list made by the People's Committee of the province.

d.2) Rent:

The rent is determined based on the lease contract.

d.3) Rational expenses:

The deductible expenses are the expenses incurred during the transfer with valid invoices, including:

d.3.1) The fees and charges related to the grant of rights to rent land/water surface that are paid to the government budget by the transferor;

d.3.2) The expenditure on land/water surface recovery;

d.3.3) Other expenditures related to the transfer of the rights to rent land/water surface.

2) Tax rate

The rate of tax on real estate transfer is 25% of the assessable income.

Where the taxpayer fails to determine the cost price or fails to provide documents to determine the cost price or purchase price or rent, and legal documents for determining relevant expenses as the basis for calculating the assessable income, the tax rate of 2% of the transfer price of sale price or sublease price shall apply.

### 3. Time to calculate the assessable income

The assessable income from real estate transfer shall be calculated when the person initiates the procedure for real estate transfer as prescribed by law.

### 4. Tax calculation

a) Where the assessable income is identifiable, the personal income tax on the income from real estate transfer shall be calculated as follows:

$$\text{Personal income tax payable} = \text{Assessable income} \times 25\% \text{ tax}$$

b) Where the taxpayer fails to determine the cost price or fails to provide documents to determine the cost price or purchase price or rent, and legal documents for determining relevant expenses as the basis for calculating the assessable income, the personal income tax shall be calculated as follows:

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

c) Where the transferred real estate is under a co-ownership, the tax liability incurred by each taxpayer is proportional to their portion 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 legal documents are provided, the tax liability incurred by each taxpayer shall be evenly divided.

## **Article 13. Bases for calculation of tax on incomes from royalties**

Bases for calculating tax on incomes from royalties are the assessable income and tax rate.

### 1. Assessable income

The assessable income from royalties is the excess over 10 million VND of income according to the transfer contract, regardless of the number of payments or times the taxpayer receives money when transferring the subjects of intellectual property rights or technology transfer.

If the transfer of the same subject of intellectual property rights or technology transfer to a transferee is made into multiple contracts, the assessable income is excess over 10 million VND of incomes from all transfer contracts.

If the subject of transfer is under a co-ownership, the assessable income shall be divided among the co-owners. The division ratio depends on the Certificate of ownership or rights to use issued by competent authorities.

2. The rate of personal income tax on the income from royalties is 5% according to the whole income tax table.

3. Time to calculate the assessable income

The assessable income shall be calculated when the royalty is paid.

4. Tax calculation

$$\text{Personal income tax payable} = \text{Assessable income} \times 5\% \text{ tax}$$

#### **Article 14. Bases for calculation of tax on incomes from franchising**

Bases for calculating tax on incomes from franchising are the assessable income and tax rate.

1. Assessable income

The assessable income from franchising is the excess over 10 million VND of income according to the transfer contract, regardless of the number of payments or times the taxpayer receives money.

If the franchise for the same subject is made into multiple contracts, the assessable income is the excess over 10 million VND of all franchise contracts.

2. Tax rate

The rate of personal income tax on the income from franchising is 5% according to the whole income tax table.

3. Time to calculate the assessable income

The assessable income from franchising shall be calculated when the payment for franchise is made between the franchiser and franchisee.

4. Tax calculation

$$\text{Personal income tax payable} = \text{Assessable income} \times 5\% \text{ tax}$$

#### **Article 15. Bases for calculation of tax on incomes from winning prizes**

Bases for calculating tax on incomes from prizes are the assessable income and tax rate.

#### 1. Assessable income

The assessable income from a prize is the excess over 10 million VND of the prize the taxpayer receives, regardless of the number of times of prize money receipt.

If a prize is won by multiple people, the assessable income shall be divided among the prizewinners. The prizewinners shall present legal evidence. If no legal evidence is provided, the prize is considered won by one person. Where a person wins multiple prizes in a game, the assessable income is calculated based on the total value of prizes.

Assessable income from some games of chance:

a) The assessable income from a lottery prize is the excess over 10 million VND of 01 lottery prize without any deduction.

b) The assessable income from promotion prize in kind is the excess over 10 million VND of the prize that is converted into cash at the market price when the prize is given without any deduction.

c) Assessable income from betting, casino, and prizes from centers of games with prizes (hereinafter referred to as game centers):

c.1) Assessable income from betting is excess over 10 million VND of the prize that the player receives without any deduction.

c.2) Assessable income obtained from casinos and game centers are the excess over 10 million VND of the prize the player receives in a game. in particular:

c.2.1) The income from prize of a game is the difference between the amount cashed out and the amount cashed in by the player in a game.

The income from prize in foreign currencies must be converted into VND at an applicable exchange rate announced by the State bank when the income is earned.

c.2.2) The amount of cash paid and received in a game is determined as follows:

c.2.2.1) For the game is played using intermediary currencies (chips, tokens) according to the Financial management regulation on games with prizes promulgated by the Minister of Finance:

c.2.2.1.1) The cash-out received by the player in a game is the total value of tokens/chips exchanged for cash by the player during the game.

c.2.2.1.2) The cash paid by the player in a game is the total value of cash exchanged for tokens/chips by the player during the game.

The basis for determining the cash received and paid during a game is the exchange invoices (using the form provided in the Financial management regulation on games with prizes promulgated by the Minister of Finance) and other invoices according to current regulations of law on accounting.

Example 13: Mr. M has exchanged cash for chips 3 times since he gets in and gets out of the game center. The total value of 3 exchanges is 500 USD. Chips are exchanged for cash twice with a total value of 700 USD. Thus the income from prizes and assessable income earned by Mr. M is determined as follows:

- Income from winning prizes = 700 USD – 500 USD = 200 USD.

- Assessable income = 200 USD x USD/VND exchange rate - 10 million VND

c.2.2.2) For games using slot machines:

c.2.2.2.1) The cash-out received by the player in a game is the total value of cash taken from the machine after a game is over minus the jackpot (if any).

c.2.2.2.2) The cash paid by the player in a game is the total value of cash inserted in the machine from by the player during the game.

The income from jackpots, periodic prizes for lucky customers and similar prizes is the entire value of the prize without any deduction.

Example 14: Mr. N plays with a slot machine using cash. In a game, Mr. N has keys in totally 300 USD. After the game is over, Mr. N withdraws out 1,500 USD in cash from the machine. In that game, Mr. N also wins a jackpot being 1,000 USD (accrued in the cash out). Based on the cash-in and cash-out, the incomes from prizes and assessable incomes earned by Mr. N are calculated as follows:

- The income from the jackpot earned by Mr. B is the entire value of the jackpot:

+ Income from the prize = 1000 USD

+ Assessable income = 1000 USD x USD/VND exchange rate - 10 million VND.

- The income earned by Mr. B from winning prizes from the slot machine:

+ Income from winning prizes:

= 1500 USD - 1000 USD - 300 USD = 200 USD.

+ Assessable income:

= 200 USD x USD/VND exchange rate - 10 million VND.

c.2.3) If the taxable income is not identifiable as guided in Point c.2 Clause 1 of this Article, the prize provider or casino shall pay tax on the total cash-out at a fixed rate on behalf of the prizewinner. When applying the fixed rate of personal income tax, the prize provider or casino shall apply for a registration with the tax authority and announce that the prizes given to prizewinners are post-tax incomes. The fixed tax rate shall be guided by the Ministry of Finance.

c.2.4) A “game” is determined as follows:

- If the game is played using intermediary currencies, the game begins when the player enters the game center and ends when such player leaves the game center.

- For slot machines, the game begins when the player insert cashes in the machine (keys in/cashes in) and ends when the player withdraws cash from the machine (cashes out).

- When a jackpot, periodic prize for the lucky customer or prize in other forms is won, it is consider a separate game.

d) The income form prizes won in games with prizes or competitions is calculated when the every prize is received. The value of prize equals the excess over 10 million VND of prize money the player receives without any deductions.

2. The rate of personal income tax on the income from prizes is 10% according to the whole income tax table.

3. Time to calculate the assessable income

The assessable income from prizes shall be calculated when the prizewinner receives the prize.

4. Tax calculation:

$$\begin{array}{rcccl} \text{Personal income tax} & = & \text{Assessable} & \times & 10\% \text{ tax} \\ \text{payable} & & \text{income} & & \end{array}$$

## **Article 16. Bases for calculation of tax on incomes from inheritance and gifts**

Bases for calculating tax on incomes from inheritance and gifts are the assessable income and tax rate.

1. Assessable income

The assessable income from inheritance and gifts is the excess over 10 million VND of the inheritance or gifts received. The value of inheritance and gifts is determined as follows:

a) The value of inheritance and gifts being securities is the value of securities when the ownership transfer is registered. In particular:



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

a.2) The value of securities that do not fall into the case above is based on the latest book value provided by the corresponding issuer before the securities ownership is registered.

b) The assessable income from the inheritance and gifts being contributions to businesses is the value of the contributions based on their latest book values of the companies before the contribution ownership is registered.

c) The value of inheritance and gifts being real estate is determined as follows:

c.1) The value of rights to use land is based on the land price list made by the People's Committee of the province before the person registers the rights to use real estate.

c.2) The value of houses and constructions on land is based on the regulations of competent authorities in charge of house classification, construction standards and limits imposed by competent authorities, residual value of the house or construction when the ownership is registered.

If the value is not identifiable, the prices imposed by the People's Committee of the province shall apply.

d) For inheritance and gifts being other assets of which the ownership or rights to use must be registered with state agencies: the value of assets are based on the prices imposed by the People's Committee of the province when the person registers the ownership or rights to use inheritance and gifts.

2. The rate of personal income tax on the income from inheritance and gifts is 10% according to the whole income tax table.

3. Time to calculate the assessable income

The assessable income from inheritance and gifts is calculated when the person registers the ownership or rights to use of inheritance and gift.

4. Tax payable:

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

### **Chapter 3.**

## **BASIS FOR CALCULATING TAX INCURRED BY NON-RESIDENTS**

### **Article 17. Incomes from business**

The rate of personal income tax on incomes from business earned by a non-resident equals the revenue from business multiplied by (x) the tax rate.

1. Revenue:

The revenue from business earned by a non-resident is determined similarly to the revenue used to calculate tax on incomes earned by a resident from business guided in Clause 1 Article 8 of this Circular.

2. Tax rate

The rates of personal income tax on incomes from business earned by non-residents in each field and industry:

- a) 1% for goods sale.
- b) 5% for service provision.
- c) 2% for production, construction, construction, and other businesses.

Where the non-resident earns revenues from various fields but fails to separate the revenue from each field, the highest tax rate shall apply to the total revenue.

**Article 18. Incomes from wages**

1. The rate of personal income tax on incomes from wages earned by a non-resident equals the taxable income from wages multiplied by (x) 20% tax.

2. The taxable income from wages earned by a non-resident is similar to that earned by a resident guided in Clause 2 Article 8 of this Circular.

The taxable income from wages earned in by a non-resident that works both in Vietnam and overseas without being able to separate the income earned in Vietnam shall be calculated as follows:

a) Where the foreigner is not present in Vietnam:

$$\text{Total income earned in Vietnam} = \frac{\text{Number of working days in Vietnam}}{\text{Number of working days in the year}} \times \text{Pre-tax global income from wages} + \text{Other pre-tax taxable income earned in Vietnam}$$

Where: the number of working days in the year is calculated in accordance with the Labor Code of Vietnam.

b) Where the foreigner is present in Vietnam:

$$\text{Total income earned in Vietnam} = \frac{\text{Number of days in Vietnam}}{365 \text{ days}} \times \text{Pre-tax global income from wages} + \text{Other pre-tax taxable income earned in Vietnam}$$

Other pre-tax taxable incomes earned in Vietnam mentioned in Point a and Point b above are other benefits in cash or not in cash apart from wages that are provided for the employee or paid on the employee's behalf by the employer.

### **Article 19. Incomes from capital investment**

The personal income tax on incomes from capital investment earned by a non-resident equals the total taxable income earned by the non-resident from capital investment in other organizations and individuals in Vietnam multiplied by (x) 5% tax.

The assessable income, time to calculate assessable income from capital investment earned by the non-resident are similar to those of a resident guided in Clause 1 and Clause 3 Article 10 of this Circular.

### **Article 20. Incomes from capital transfer**

1. The personal income tax on the income from capital transfer earned by a non-resident equals the total amount of money the non-resident receives from the transfer of capital invested in organizations and individuals in Vietnam multiplied by (x) 0.1% tax, whether the transfer is made in Vietnam or overseas.

The total amount of money the non-resident receives from the transfer of capital invested in organizations and individuals in Vietnam is the capital transfer price without any deductions, including the cost price.

2. The transfer price in some cases:

a. When transferring contributed capital, the transfer price is similar to that of a resident guided in Point a.1 Clause 1 Article 11 of this Circular.

b. When transferring securities, the transfer price is similar to that of a resident guided in Point a.1 Clause 2 Article 11 of this Circular.

3. Time to calculate the assessable income:

b) The assessable income from transferring contributed capital earned by a non-resident shall be calculated when the capital transfer contract takes effect.

b) The time to calculate the assessable income from transferring securities earned by a non-resident is similar to that earned by a resident as guided in Point c Clause 2 Article 11 of this Circular.

## **Article 21. Incomes from real estate transfer**

1. The personal income tax on the income from real estate transfer earned by a non-resident equals the transfer price multiplied by (x) 2% tax.

The aforesaid transfer price is the total amount the non-resident receives from the real estate transfer without any deductions, including the cost price.

2. The real estate transfer price of a non-resident is similar to that of a resident guided in Points a.1, b.1, c.1, d.1 Clause 1 Article 12 of this Circular.

3. The income from real estate transfer shall be calculated when the non-resident initiates the procedure for real estate transfer as prescribed by law.

## **Article 22. Incomes from royalties and franchise**

1. Tax on incomes from royalties

a) The tax on incomes from royalties earned by a non-resident equals excess over 10 million VND of income from each contract to transfer the subjects of intellectual property rights, technology transfers in Vietnam multiplied by 5% tax.

The determination of incomes from royalties is guided in Clause 1 Article 13 of this Circular.

b) The income from royalties shall be calculated when the non-resident receives the royalties from the payer.

2. Incomes from franchising

a) The tax on incomes from franchising earned by a non-resident equals the excess over 10 million VND of income from each franchise contract in Vietnam multiplied by 5% tax.

The determination of incomes from franchising is guided in Point 1 Clause 14 of this Article.

b) The assessable income from franchising shall be calculated when the payment for franchise is made between the franchiser and franchisee.

## **Article 23. Incomes from prizes, inheritance, and gifts**

1. The personal income tax on incomes from prizes, inheritance, or gifts earned by a non-resident equals the assessable income calculated as guided in Clause 2 of this Article multiplied by (x) the 10% tax.

2. Assessable income

a) The assessable income from winning a prize earned by a non-resident is the excess over 10 million VND of the prize won in Vietnam.

The income from winning prizes earned by a non-resident is similar to that earned by a resident as guided in Clause 1 Article 15 of this Circular.

b) The taxable income from inheritance and gifts earned by a non-resident is the excess over 10 million VND of the inheritance or gift received in Vietnam.

The income from inheritance and gifts earned by a non-resident is similar to that earned by a resident as guided in Clause 1 Article 16 of this Circular.

### 3. Time to calculate the assessable income

a) The assessable income from prizes shall be calculated when the organization or person in Vietnam pays the prize money to the non-resident.

b) The assessable income from inheritance is calculated when the person registers the ownership or rights to use the assets in Vietnam.

c) The assessable income from gift is calculated when the person registers the ownership or rights to use the assets in Vietnam.

## **Chapter 4.**

### **TAX REGISTRATION, TAX DEDUCTION, TAX STATEMENT, TAX SETTLEMENT, TAX REFUND**

#### **Article 24. Tax registration**

##### 1. The entities that must apply for tax registration

According to Article 27 of the Decree No. 65/2013/ND-CP, the entities that are required to apply to personal income tax registration are:

a) Income payers, including:

a.1) Business organizations and individuals, including their branches, dependent units, affiliates that do bookkeeping separately and have separate legal entities.

a.2) State administrative agencies.

a.3) Political organizations, socio-political organizations, socio-professional organizations.

a.4) Public service agencies.

a.5) International organizations and foreign organizations.

a.6) Project management boards, representative offices of foreign organizations.

a.7) Other income payers.

b) Persons that earn taxable incomes, including:

b.1) The persons that earn incomes from production or business, including freelancers; the person and households engaged in agricultural production that are not exempt from personal income tax. The persons that earn incomes from production or business who apply for the registration of personal income tax together with other taxes.

b.2) The wage earners, including foreigners working for foreign contractors and foreign sub-contractors in Vietnam.

b.3) The persons that transfer real estate.

b.4) The persons that earn other taxable incomes (if required).

c. The dependants eligible for personal deductions.

The entities mentioned in Point a, Point b and Point c Clause 1 of this Article are not required to apply for new tax registration if tax registration has been obtained and tax codes have been issued. The person that earns multiple taxable incomes shall apply for tax registration once. The tax code shall be used to make declare all kinds of incomes.

## 2. Tax registration application

The tax registration procedure and application are specified in guiding documents on tax administration.

## 3. Places where applications for tax are submitted

a) Places where applications for tax are submitted are specified in guiding documents on tax administration.

b) Places where applications for tax are submitted in some particular cases:

b.1) The person that earns income from wages shall submit the application for tax registration to the income payer or the local tax authority that monitors the income payer. The income payer shall aggregate and submit the applications for tax registration to the local tax authority.

b.2) The person that earns income from multiple sources: business, wages, other taxable incomes may submit the application for tax registration to the income payer or the local Sub-department of taxation.

b.3) The person that earns other taxable incomes may submit the application for tax registration at any tax authority.

#### 4. Tax registration in some particular cases:

a) The representative of the group of business person shall apply for tax registration as guided in order to obtain the personal tax code. The tax code of the representative of the group of business person shall be used to declare tax, pay VAT, excise duty, license tax incurred by the whole group, and used to declare personal income tax incurred the representative himself. Other capital contributors in the group must apply for tax registration in order to obtain separate tax codes in the same way a business person does.

b) If the person that transfers real estate has not had a tax code, the tax authority shall automatically issue a tax code to the person based on the personal information in the real estate transfer dossier.

c) If a dependant for whom the taxpayer applies for a deduction has not had a tax code, the tax authority shall automatically issue the tax code to the dependant based on the dependant's information in the application for deduction (the form is provided in guiding documents on tax administration) made by the taxpayer.

### **Article 25. Tax deduction and certificate of tax deduction**

#### 1. Tax deduction

Tax deduction is an act of calculating and withholding the tax payable from the taxpayer's income by the income payer before the income is paid to the tax payer.

##### a) Incomes earned by non-residents:

The organization or individual that pays taxable incomes to the non-resident shall withhold the personal income tax from the income before it is paid. The determination of tax being withheld is guided in Chapter III (from Article 17 to Article 33) of this Circular.

##### b) Incomes from wages

b.1) The income payer shall deduct tax from incomes of residents that sign labor contracts for 03 months or longer according to the progressive tax table, including the persons that sign such contracts at various places.

b.2) The income payer shall still withhold tax from the incomes earned residents that sign labor contracts for 03 months but resign before such labor contracts expire according to the progressive tax table.

b.3) The income payer shall withhold tax from the incomes earned by the foreigners working in Vietnam based on the duration of work in Vietnam written in the contract or letter of

introduction according to the progressive tax table (if the person has worked in Vietnam for at least 183 days in the tax year) or the whole income tax table (if the person has worked in Vietnam for fewer than 183 days in the tax year).

b.4) The insurer, The voluntary pension fund shall withhold personal income tax from the accrued insurance premiums and contributions to the voluntary pension fund as guided in Clause 6 Article 7 of this Circular.

b.5) The determination of tax withheld from incomes from wages earned by residents is guided in Article 7 of this Circular; the determination of tax withheld from incomes from wages earned by non-residents is guided in Article 18 of this Circular.

c) Incomes from activities of insurance agents, lottery agents, and network marketing

The lottery companies, insurers and network marketing companies that pay incomes for the persons running lottery agents, insurance agents, or network marketing shall withhold personal income tax from their incomes before paying. The determination of tax being withheld is guided in Clause 5 Article 7 of this Circular.

d) Incomes from capital investment

The payer of incomes from capital investment as prescribed in Clause 3 Article 2 of this Circular shall withhold personal income tax from incomes before they are paid to the earners, unless the persons declare tax themselves as guided in Clause 9 Article 26 of this Circular. The determination of tax being withheld is guided in Article 10 of this Circular.

dd) Incomes from transferring securities

0.1% tax on the transfer price shall be withheld from every income from securities transfer before the income is paid to the transferor. Tax shall be withheld as follows:

dd.1) For securities traded at the Stock Exchange:

dd.1.1) The securities company or commercial bank where the person opens the depository account shall withhold 0.1% personal income tax on the transfer price as before the income is paid to the person. The determination of tax being withheld is guided in Point b.2 Clause 2 Article 11 of this Circular.

dd.1.1) The asset management company to which the person entrusts the management of securities investment portfolio shall withhold 0.1% personal income tax on the transfer price of the entrusting person according to the distribution table sent to the depository bank where the company opens its depository account.

dd.2) For securities transfer without the transaction system of the Stock Exchange:



dd.2.1) For securities of a public company that has applied for securities registration at the Vietnam Securities Depository:

The securities company, commercial bank where the person opens the depository account shall withhold 0.1% personal income tax on the transfer price before initiating the procedure for transferring the securities ownership at the Vietnam Securities Depository.

dd.2.2) For securities of a joint-stock company that is not a public company, issues securities and authorizes a securities company to manage the list of shareholders:

The securities company authorized to manage the list of shareholders shall withhold 0.1% personal income tax on the transfer price before initiating the procedure for transferring the securities ownership.

The person that transfers securities shall present the transfer contract to the securities company when initiating the procedure for transferring securities ownership.

e. Incomes earned by non-residents from transferring contributed capital

The organization or person that receives capital contribution from a non-resident shall withhold 0.1% personal income tax on the transfer price.

g) Incomes from winning prizes:

The prize provider shall withhold personal income tax before providing prizes to the prizewinner. The determination of tax being withheld is guided in Article 15 of this Circular.

h) Incomes from royalties and franchising

The organization or person that pay incomes from royalties or franchising shall withhold personal income tax before the income is paid to the person. The tax withheld equals the excess over 10 million VND of the income according to the transfer contract multiplied by (x) 5% tax. If the contract has a high value and is paid in instalments, when paying the first instalment the organization or person that pay incomes shall subtract 10 million VND from the payment, then withhold the amount that equals the remaining amount multiplied by 5% tax. Income tax on the next instalments shall be withheld from each instalment.

i) Withholding tax in other cases

The organization or person that pays a total income from 2 million VND to a resident that does not sign a labor contract (as guided in Point c and Point d Clause 2 Article 2 of this Circular) or that signs a labor contract for less than 03 months shall withhold 10% tax on the income before it is paid to the person.

For the person that earns only a taxable income as stated above but the total taxable income estimated after personal deductions are made does not reach the taxable level, the person shall

make and send a commitment (the form is provided in the guiding documents on tax administration) to the income payer as the basis for temporarily exempting the income from personal income tax.

Based on the commitment made by the income earner, the income payer shall not withhold tax. At the end of the tax year, the income payer shall make a list of persons that earn incomes below that taxable level (the form is provided in the guiding documents on tax administration) and send it to the tax authority. The persons are responsible for the commitments they made. Any deceit discovered shall be penalized in accordance with the Law on Tax administration.

The persons that make commitments as guided in this Point shall obtain tax registration and have tax codes when the commitments are made.

## 2. Certificate of tax withheld at source

a) After withholding tax as guided in Clause 1 of this Article, the income payer shall issue certificates of tax withheld at source at the request of the persons that have tax withheld from their incomes. The certificate of tax withheld at source shall not be issued if the person delegates the tax settlement.

b) Issuance of certificates of tax withheld at source in some particular cases:

b.1) If the person does not sign a labor contract or signs a labor contract for less than 03 months, the person is entitled to request the income payer to issue the certificate of tax withheld at source every time tax is withheld, or issue a single certificate of tax withheld at source for multiple withholdings in the same tax period.

Example 15: Mr. Q signs a service contract with company X to cultivate ornamental plants on the company's premises once per month from September 2013 to April 2014. Company X pays an income of 03 million VND per month to Mr. Q. In this case, Mr. Q may request company X to issue monthly or one certificate of tax withheld at source, which reflects the tax withheld over the period from September 2013 to December 2013, and one certificate of tax withheld at source over the period from January 2014 to April 2014.

b.2) If the person signs a labor contract for more than 03 months, the income payer shall issue only one certificate of tax withheld at source in a tax period.

Example 16: Mr. R signs a long-term labor contract (from September 2013 till the end of August 2014) with company Y. In this case, if Mr. R is required to settle tax at the tax authority and requests company Y to issue the certificate of tax withheld at source, company Y shall issue 01 certificate which reflects the tax withheld from September 2013 till the end of December 2013, and 01 certificate for the period from January 2014 till the end of August 2014.

## **Article 26. Tax statement and tax settlement**

The payer of taxable incomes and the person that earns taxable incomes shall declare tax and settle tax in accordance with the procedure provided in guiding documents on tax administration. Rules for declaring tax in some cases:

1. Tax statements made by payers of taxable income.

a) The income payers that withhold personal income tax shall declare tax monthly or quarterly. The income payer might not declare tax if no personal income tax is withheld in the month or in the quarter.

b) The monthly or quarterly tax statement shall be made from the first month in which tax is withheld, and is applicable to the whole tax year. To be specific:

b.1) The income payer that withholds personal income tax on 50 million VND or more in a month in at least one declaration of shall declare tax monthly, unless the income payer is required to declare tax quarterly.

b.2) The income payers that do not declare tax monthly as stated above shall declare tax quarterly.

c) The payer of taxable income shall declare and settle tax on behalf of the authorizing person, whether or not tax is withheld.

2. Tax statements made by residents that earn incomes from wages and business

a) Residents that earn incomes from wages shall directly declare tax at tax authorities. To be specific:

a.1) Residents that earn incomes from wages paid by international organizations, embassies, and consulates in Vietnam without withholding tax shall directly declare tax quarterly at tax authority.

a.2) Residents that earn incomes from wages paid by overseas organizations and individuals shall directly declare tax quarterly at tax authorities.

b) Residents, groups of residents that earn incomes from business shall directly declare tax at tax authorities. To be specific:

b.1) Business persons, groups of business persons that pay tax according to tax declaration method are business persons, groups of business persons that comply with regulations of law on accounting and invoices and the business persons, groups of business persons that fail to separate expense from revenue. They shall declare tax quarterly.

b.2) Business persons, groups of business persons that pay flat tax are business persons, groups of business persons that do not comply with the regulations of law on accounting and invoices and fail to determine revenue, expense, and taxable income. They shall declare tax annually.

b.3) The nomadic business persons shall declare personal income tax every time it is incurred.

b.4) The business persons that use invoices sold separately by tax authorities shall declare personal income tax every time revenue is earned.

b.5) The non-business persons that sell goods and services and need to issue invoices to their customers shall declare tax when it is incurred.

b.6) The person or group of persons that earns income from leasing out houses, rights to use land, water surface and other property shall declare tax quarterly or every time it is incurred.

c) The person that earns income from wages, business shall settle tax when tax is incurred or overpaid or offset against the next period, except for the cases below:

c.1) The person whose tax payable is tax smaller than the provisional tax paid does not apply for tax refund or offset it against tax the next period.

c.2) The person or business household has only one source of income from business and has paid flat tax.

c.3) The person or household only earns income from leasing out houses, rights to use land and has paid tax according to declaration in locality where such houses or land are situated.

c.4) The wage earner signs a labor contract for 03 months or more with a unit and earns an average monthly income of no more than 10 million VND from other places in the year, 10% tax on which has been withheld at source by the income payer; This income shall not be declared without the request of the person.

c.5) The wage earner signs a labor contract for 03 months or more with a unit, earns an average monthly income of no more than 20 million VND from leasing houses, rights to use land in the year, and has paid tax in the locality where such houses or land are situated. This income shall not be declared without the request of the person.

b.1) The wage earner shall request another organization or person to settle tax on their behalf in the following cases:

d.1) The person that only earns incomes from wages signs a labor contract for 03 months or more in a unit and is actually working at that unit when delegating the making of tax statement, even he has not worked for 12 months in the year.

d.2) The wage earner signs a labor contract for 03 months or more and earns other incomes as guided in Point c.4 and Point c.5 Clause 2 of this Article.

dd) The income payer shall only settle tax on the income that they pay on the person's behalf.

e) Rules for settling tax in some cases:

e.1) The resident that earns an income overseas and has pay personal income tax on that income overseas shall have the tax paid overseas deducted. The amount of tax deducted shall not exceed the tax payable on the income earned overseas according to Vietnam's tax table. The ratio is based on the ratio of income earned overseas to the total taxable income.

e.2) The person earns incomes form wages and has been present in Vietnam in the first calendar year for fewer than 183 days, but has been present in Vietnam for 183 days or more within 12 consecutive months from the date of arrival.

- In the first tax year: make and submit the tax settlement form by the 90<sup>th</sup> day from the end of the 12 consecutive months.

- From the first tax year: make and submit the tax settlement form by the 90<sup>th</sup> day from the end of the calendar year. The remaining tax payable in the second tax year is calculated as follows:

$$\text{Remaining tax payable in the second tax year} = \text{Tax payable in the second tax year} - \text{Deductible duplicated tax}$$

Where:

$$\text{Tax payable in the second tax year} = \text{Assessable income in the second tax year} \times \text{Personal income tax rate according to the progressive tax table}$$

$$\text{Deductible duplicated tax} = \frac{\text{Tax payable in the first tax year}}{12} \times \text{Number of months in which tax is duplicated}$$

Example 17: Mr. S is a foreign who first comes to Vietnam and works under a labor contract from June 01, 2014 to May 31, 2016. In 2014, Mr. S has been present in Vietnam for 80 days and earned 134 million VND in wages. In 2015, Mr. S is present in Vietnam for 110 days during the period from January 01, 2015 until the end of May 31, 2015, and earns 106 million VND in wages. From June 01, 2015 to December 31, 2015, Mr. S has been in Vietnam for 105 days and earned 122 million VND in wages. Mr. S does not apply for deductions for dependants and does not pay insurance premiums or make charitable donations.

The personal income tax payable by Mr. S is calculated as follows:

+ in 2014, Mr. S is a non-resident, but for the period of 12 consecutive months from June 01, 2014 to the end of May 31, 2015, Mr. S has been present in Vietnam for totally 190 days (80 days + 110 days). Thus Mr. S is a resident in Vietnam.

+ In the first tax year from June 01, 2014 to May 31, 2015):

- Total taxable income in the first tax year:

134 million VND + 106 million VND = 240 million VND

- Personal deduction: 9 million VND x 12 = 108 million VND

- Assessable income: 240 million VND - 108 million VND = 132 million VND

- Personal income tax payable in the first tax year: 60 million VND x 5% + (120 million VND - 60 million VND) x 10% + (132 million VND - 120 million VND) x 15% = 10.8 million VND

+ In the second tax year (from January 01, 2015 to the end of December 31, 2015), Mr. S has been present in Vietnam for 215 days (110 days + 105 days) and is considered a resident in Vietnam.

- Taxable income earned in 2015:

106 million VND + 122 million VND = 228 million VND

- Personal deduction: 9 million VND x 12 = 108 million VND

- Assessable income in 2015:

228 million VND - 108 million VND = 120 million VND

- Personal income tax payable in the 2015:

(60 million VND x 5%) + (120 million VND - 60 million VND) x 10% = 9 million VND

+ When settling tax in 2015, tax is duplicated in 5 months (from January 2015 to May 2015)

- Deductible duplicated tax:

(10.8 million VND/12 months) x 5 months = 4.5 million VND.

- Personal income tax payable in the 2015:

9 million VND - 4.5 million VND = 4.5 million VND

e.3) The resident that is a foreigner terminates the labor contract in Vietnam and settles tax at the tax authority before departure.

e.4) The person that leases out houses, rights to use land, water surface and other property shall settle personal income tax, except for the cases in which tax settlement is exempt as guided in Point c.3 and Point c.5 Clause 2 of this Article. In particular:

e.4.1) The person that declares tax quarterly or when it is incurred under a contract that is due within 01 year shall settle tax in the same way the persons that pay tax according to declarations do.

e.4.2) Where the person declares tax when it is incurred under a contract that is due after 01 year and receives a deposit for a lease period, the person shall settle tax in one of the following methods: if all tax is settled in the first year, the revenue is the lump-sum payment and personal deductions shall be made for a year, not the next; if tax is settled annually, the income from the lump-sum payment shall be provisionally declared and personal deductions shall be made for the first year, the revenue from leasing out property shall be redistributed in the next years and personal deductions shall be calculated when they arise.

e.5) The persons that earn incomes from the insurance agents, lottery agents, or network marketing shall directly settle tax at the tax authorities if required.

e.6) The persons that earns incomes from wages, business, and are eligible for tax reduction due to natural disasters, fire, accidents, fatal diseases shall directly settle tax at tax authorities.

e.7) The non-resident business persons, groups of business persons that have fixed business premises in Vietnam shall settle tax in the same way residents do.

### 3. Declaring tax on incomes form real estate transfer

a) The persons that earn incomes from real estate transfer shall declare tax when it is incurred, including the persons eligible for tax exemption. Declaring tax in some cases:

a.1) If the person puts up his rights to use land or house ownership as collateral loans or making payment at credit institutions, branches of foreign banks and fails to pay debts when they are due, the branches of foreign banks and credit institution shall liquidate, sell such real estate, declare and pay personal income tax on the person's behalf before setting the person's debts.

a.2) If the person mortgages his rights to use land or house ownership to take loans or make payment with other organizations or persons, then transfers the whole or part of such real estate to pay debts, the person that has the rights to use land or house ownership shall declare and pay personal income tax, or the organization/person doing the transfer procedure on the person's behalf) shall declare and pay personal income tax on the person's behalf before settling the debt.

a.3) Where a person transfers the real estate to another organization or person under a court's decision, the transferor shall declare and pay personal income tax, or the organization/person holding the auction shall declare and pay personal income tax on behalf of the transferor. The real estate that is confiscated and put up for auction by competent authorities, personal income tax shall not be paid.

a.4) In case of every person that transfers land and houses that do not fall into the case in which agricultural land is converted to serve production, which is eligible for exemption of personal

income tax as guided in Point dd Clause 1 Article 3 of this Circular, each person that transfers land and houses shall declare and pay personal income tax.

a.5) If an organization/person declares personal income tax on real estate transfer on behalf of another person, such organization/person shall state “On behalf of the taxpayer or the taxpayer's legal representative”, sign, write the full name, and append the organization’s seal (if any). The taxpayer in the tax return and tax receipts is still the person that transfers real estate.

b) Real estate authority shall only initiate the procedure for transferring the ownership, rights to use real estate after the personal income tax invoices are presented, or the tax authority certifies that the income from real estate transfer is eligible for tax exemption or deferred tax collection.

#### 4. Declaring tax on incomes from capital transfer (except for securities transfer)

a) The person that transfers contributed capital shall declare tax when a transfer is made, whether or not incomes are earned.

b) The person that earns incomes from transferring contributed capital is not required to directly declare tax at the tax authority. The transferee shall withhold tax as guided in Point e Clause 1 Article 25 of this Circular and declare tax when it is incurred.

c) If the company changes the list of capital contributors when transferring capital without documents proving that the capital transferor has fulfilled the tax obligations, the transferee company shall declare and pay tax on the person’s behalf.

The transferee company that pays tax on the person’s behalf shall also declare personal income tax on the person’s behalf. Such company shall state “On behalf of the taxpayer or the taxpayer's legal representative”, sign, write the full name, and append the company’s seal (if any). The taxpayer on the tax return and tax receipts is the transferor (when transferring a resident’s capital) or the transferee (when transferring a non-resident’s capital).

#### 5. Declaring tax on incomes from transferring securities

a) The person that transfers securities of a public company at the Stock Exchange is not required to declare tax directly at the tax authority. The account owner, commercial bank where the person opens his depository account, the asset management company where the person entrusts the management of the investment portfolio shall declare tax as guided in Clause 1 Article 26 of this Circular.

b) Where the person transfers securities without the transaction system of the Stock Exchange:

b.1) The person that transfers securities of a public company registered at the Vietnam Securities Depository is not required to declare tax directly at the tax authority. The securities company, commercial bank where the person opens his depository account shall withhold tax and declare tax as guided in Clause 1 Article 26 of this Circular.



b.2) The person that transfers securities of a joint-stock company that is not public company that authorizes a securities company to shareholder list is not required to declare tax directly at the tax authority. The authorized securities company shall withhold tax and declare tax as guided in Clause 1 Article 26 of this Circular.

c) The persons transferring securities that do not fall into the cases in Point a, Point b Clause 5 of this Article shall declare tax when it is incurred.

d) If the company changes the list of shareholders when transferring securities without documents proving that the securities transferor has fulfilled tax obligations, the transferee company shall declare and pay tax on the transferor's behalf.

If transferee company that declares tax on the transferor's behalf, the transferor company shall also declare personal income tax on the person's behalf. Such company shall state "On behalf of the taxpayer or the taxpayer's legal representative", sign, write the full name, and append the company's seal (if any). The taxpayer in the tax return and tax receipts is the securities transferor.

dd) The securities transferor shall directly settle tax at the tax authority at the year's end if he wishes to settle tax.

#### 6. Declaring tax on incomes from inheritance and gifts

a) The persons that earn incomes from inheritance or gifts shall declare tax when it is incurred, including the persons eligible for tax exemption.

b) Relevant state agencies and organizations shall only initiate the procedure for transferring the ownership or rights to use real estate, securities, contributed capital, and other assets, the ownership or right to use of which must be registered, to the inheritor or recipient after having the tax receipt or certification that the incomes from inheritance or gifts being real estate are tax-free.

#### 7. Declaring tax on overseas incomes earned by residents

The resident that earns incomes overseas shall declare tax when it is incurred. The resident that earns incomes for wages overseas shall declare tax quarterly.

#### 8. Declaring tax on overseas incomes earned in Vietnam but received overseas by non-residents

a) The non-resident that earns incomes in Vietnam but receives them overseas shall declare tax when it is incurred. The non-resident that earns incomes from wages in Vietnam but receives them overseas shall declare tax quarterly.

b) The non-resident that earns incomes from real estate transfer, capital transfer (including securities transfer) in Vietnam but receives them overseas shall declare tax when it is incurred as guided in Clause 3, Clause 4 and Clause 5 of this Article.

9. Declaring tax on incomes from capital investment when receiving shares as dividends or reinvested profit.

The person that receives shares as dividends or reinvests profit is not required to declare and pay tax upon receipt. When transferring capital, withdrawing capital, or dissolving the enterprise, the person shall declare and pay tax on the incomes from capital transfer and capital investment.

10. Declaring tax on incomes from transferring capital, securities, real estate when making contributions using another capital contribution, securities, or real estate.

The person that contributes capital using contributed capital, securities, or real estate is not required to declare and pay tax when making the contribution. When transferring capital, withdrawing capital, or dissolving the enterprise, the person shall declare and pay tax on the incomes from transferring capital, real estate when making contributions and transferring.

11. Declaring tax on incomes from bonus shares

The person might not pay tax on wages when receiving bonus shares from the employer. The person shall declare tax on the incomes from transferring shares and wages when transferring bonus shares.

#### **Article 27. Responsibilities of Vietnamese organizations that sign service contracts with foreign contractors that do not operate in Vietnam**

When an organization established and operated within Vietnam's law (hereinafter referred to as Vietnamese party) signs a contract to purchase services of a foreign contractor that signs labor contracts with foreign employees in Vietnam, the Vietnamese party shall notify the foreign contractor of the obligations to pay personal income tax incurred by the foreign employees, the obligations to provide information about the foreign employees, including their names, nationalities, passport numbers, working duration, positions, and incomes for the Vietnamese party. The Vietnamese party shall provide such information for the tax authority at least 07 days before the foreign employee starts to work in Vietnam.

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

1. The refund of personal income tax applies to the persons that have registered and obtain tax codes when they submit the tax settlement form.
2. If the person has delegated the income payer to settle tax, tax refund shall be made via the income payer. The income payer shall offset the overpaid and underpaid tax. After offsetting, the overpaid tax shall be offset against the tax in the next period or refunded on request.
3. The person that declares tax directly may choose to claim a tax refund or offset it against the tax in the next period at the same tax authority.

4. Person eligible for the refund of personal income tax that submits the tax settlement behind schedule is exempt from fines for overdue tax statement.

## **Chapter 5.**

### **IMPLEMENTATION**

#### **Article 29. Effects**

1. This Circular takes effect on October 01, 2013.

Regulations on personal income tax policies in the Law on amendments to the Law on Personal Income Tax, and the Decree No. 65/2013/ND-CP will come into force from the effective date of the Law and Decree (July 01, 2013).

Guidelines for personal income tax in the Circular No. 84/2008/TT-BTC dated September 30, 2008, Circular No. 10/2009/TT-BTC dated January 21, 2009, Circular No. 42/2009/TT-BTC dated March 09, 2009, Circular No. 62/2009/TT-BTC dated March 27, 2009, Circular No. 161/2009/TT-BTC dated August 12, 2009, Circular No. 164/2009/TT-BTC dated August 13, 2009, Circular No. 02/2010/TT-BTC dated January 11, 2010, Circular No. 12/2011/TT-BTC dated January 26, 2011, Circular No. 78/2011/TT-BTC dated June 08, 2011, Circular No. 113/2011/TT-BTC dated August 04, 2011 of the Ministry of Finance are abolished.

2. Guidelines for personal income tax that are provided by the Ministry of Finance before this Circular takes effect and at odds with the guidance in this Circular are abolished.

#### **Article 30. Responsibility to implement**

1. The Law on Tax administration and its guiding documents shall apply to other contents related to tax administration that are not guided in this Circular.

2. The issues and difficulties pertaining to personal income tax that arise before January 01, 2013 shall comply with the effective guiding documents at that time.

3. The application of taxable income rate to the business persons guided in Article 8 of this Circular shall be implemented from January 1, 2014.

4. For the contracts to sell floors, contribute capital to obtain the right to buy floors, houses, and apartments that are signed before the effective date of the Government's Decree No. 71/2010/ND-CP dated June 23, 2010 elaborating and providing guidance on the implementation of the Law on Housing, and allowed to be transferred by the investors, tax shall be declared and paid similarly to transferring future houses.

5. If the person receives a land before January 01, 2009, applies for and issued with the certificate of rights to use land, ownership of houses and other property on land, only the

personal income tax on the last transferred is paid. The tax on the previous transferred shall not be collected.

From January 01, 2009 when the Law on Personal income tax takes effect, the person that transfers real estate under a notarized contract or handwritten agreement shall pay personal income tax on the each transfer.

6. The persons eligible for personal income tax incentives before the Law on the amendments to the Law on Personal income tax takes effect are still eligible for such incentives for the remaining period.

7. When Socialist Republic of Vietnam signs International Agreements of which the regulations are different from this Circular, such the regulations of such International Agreements shall apply.

Organizations and individuals are recommended to report the difficulties that arise during the implementation to the Ministry of Finance (the General Department of Taxation) for consideration and settlement./.

**PP THE MINISTER  
DEPUTY MINISTER**

**Do Hoang Anh Tuan**

#### **APPENDIX 01/PL-TNCN**

*(promulgated together with the Circular No. 111/2013/TT-BTC dated August 15, 2013 of the Ministry of Finance)*

#### **CALCULATIN TAX ON WAGES AND BUSINESS ACCORDING TO THE PROGRESSIVE TAX TABLE**

The progressive method for calculating tax is abridged as follows:

Level	Assessable income/month	Tax rate	Tax payable	
			Method 1	Method 2
1	Up to 5 million VND	5%	0 million VND + 5% of assessable income	5% of assessable income

2	From over 5 million VND to 10 million VND	10%	0.25 million VND + 10 % of assessable income in excess of 5 million VND	10% of assessable income - 0.25 million VND
3	From over 10 million VND to 18 million VND	15%	0.75 million VND + 15 % of assessable income in excess of 10 million VND	15% of assessable income - 0.75 million VND
4	From over 18 million VND to 32 million VND	20%	1.95 million VND + 20 % of assessable income in excess of 18 million VND	20% of assessable income - 1.65 million VND
5	From over 32 million VND to 52 million VND	25%	4.75 million VND + 25 % of assessable income in excess of 32 million VND	25% of assessable income - 3.25 million VND
6	From over 52 million VND to 80 million VND	30%	9.75 million VND + 30 % of assessable income in excess of 52 million VND	30% of assessable income - 5.85 million VND
7	From over 80 million VND	35%	18.15 million VND + 35 % of assessable income in excess of 80 million VND	35% of assessable income - 9.85 million VND

#### **APPENDIX 02/PL-TNCN**

*(promulgated together with the Circular No. 111/2013/TT-BTC dated August 15, 2013 of the Ministry of Finance)*

#### **CONVERSION OF TAX-EXCLUSIVE INCOMES TO ASSESSABLE INCOMES (FROM WAGES)**

No.	Converted income/month	Assessable income
1	Up to 4.75 million VND	Converted income/0.95
2	From over 4.75 million VND to 9.25 million VND	(converted income - 0.25 million VND)/9
3	From over 9.25 million VND to 16.05 million VND	(converted income - 0.75 million VND)/0.85
4	From over 16.05 million VND to 27.25 million VND	(converted income - 1.65 million VND)/0.8
5	From over 27.25 million VND to 42.25 million VND	(converted income - 3.25 million VND)/0.75
6	From over 42.25 million VND to 61.85 million	(converted income - 5.85 million

	VND	VND)/0.7
7	From over 61.85 million VND	(converted income - 9.85 million VND)/0.65

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