MINISTRY OF FINANCE **-------**	**SOCIALIST REPUBLIC OF VIETNAM** **Independence - Freedom - Happiness** **----------**
No. 26/2015/TT-BTC	*Hanoi, February 27, 2015*

CIRCULAR

GUIDELINES FOR VALUE-ADDED TAX AND TAX ADMINISTRATION IN THE GOVERNMENT'S DECREE NO. 12/2015/NĐ-CP DATED FEBRUARY 12, 2015 ON GUIDELINES FOR THE LAW ON AMENDMENTS TO LAWS, DECREES ON TAXATIONS, AND AMENDMENTS TO CIRCULAR NO. 39/2014/TT-BTC DATED MARCH 31, 2014 OF THE MINISTRY OF FINANCE ON INVOICES FOR GOODS SALE AND SERVICE PROVISION

Pursuant to the Law on Tax administration No. 78/2006/QH11 and the Law No. 21/2012/QH13 on amendments to the Law on Tax administration;

Pursuant to the Law on Value-added tax No. 13/2008/QH12 dated the Law No. 31/2013/QH13 on amendments to the Law on Value-added tax;

Pursuant to the Law No. 71/2014/QH13 on amendments to tax laws;

Pursuant to the Government's Decree No. 51/2010/NĐ-CP dated May 14, 2010 and the Government's Decree No. 04/2014/NĐ-CP dated January 17, 2014 on invoices for goods sale and service provision;

Pursuant to the Decree No. 83/2013/NĐ-CP dated July 22, 2013 on guidelines for the Law on Tax administration and the Law on Amendments to the Law on Tax administration;

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

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

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

At the request of the Director of the General Department of Taxation,

The Minister of Finance provides guidelines for VAT, tax administration, and invoices for goods sale and service provision as follows:

Article 1. Amendments to some Article of Circular No. 219/2013/TT-BTC dated December 31, 2013 of the Ministry of Finance on guidelines for the Law on Value-added tax and the Government's Decree No. 209/2013/NĐ-CP dated December 18, 2013 on guidelines for the Law on Value-added tax (amended by Circular No. 119/2014/TT-BTC dated August 25, 2014 and Circular No. 151/2014/TT-BTC dated October 10, 2014 of the Ministry of Finance) as follows:

1. Clause 1 Article 4 is amended as follows:

"1. Products from farming (including agro-forestry products), breeding, and aquaculture that are produced, caught, sold, or imported and are not processed into other products (hereinafter referred to as unprocessed) or have only been preprocessed.

Preprocessed products are those that have only been cleaned, dried, husked, grinded, milled, threshed, split, cut, salted, put in cold storage (cooled or frozen), preserved with sulfur dioxide, sulfur solution, or other solutions, and other common means of preservation.

Example 2: Company A signs a contract to raise pigs with company B, under which company B provides studs, feeds, veterinary medicines for company A and company A provides, sells pig products to company B. The payment for pig breeding paid by company B and the pig products sold by company A to company B are not subject to VAT.

With regard to pig products received by company B from company A: Whole pigs or fresh meat sold by company B are not subject to VAT; If company B further process pigs into products such as sausage, bacon, grilled chopped meat, or other finished products, they shall be subject to VAT as prescribed."

2. Clause 3a is added to Article 4 as follows:

"3a. Fertilizers are organic and inorganic fertilizers such as phosphate fertilizers, nitrogenous fertilizer (urea), NPK fertilizer, mixed urea, potash; biofertilizers and other fertilizers;

Feeds for livestock, poultry, fish, and other animals (hereinafter referred to as animal feeds), including processed or unprocessed products such as mash, dregs, oil cakes, fish meal, bone meal, shrimp meal, and other types of animal feeds, animal feed additives (such as premix, active ingredients, and carriers) prescribed in Clause 1 Article 3 of the Government's Decree No. 08/2010/NĐ-CP dated February 05, 2010 on management of animal feeds, Clause 2 and Clause 3 Article 1 of Circular No. 50/2014/TT-BNNPTNT dated December 24, 2014 of the Ministry of Agriculture and Rural Development;

Offshore fishing ships are ships ≥ 90CV and engaged in fishing or logistics services serving fishing; machinery and specialized equipment serving extraction and preservation of products on fishing ships ≥ 90CV engaged in fishing or logistics services serving fishing;

Machinery and specialized equipment serving agricultural production, including: tractor; harrowing machine; milling machine; sowing machine; rootdozer; field leveling device; seeding

machine; transplanter; sugarcane planting machine; rice-sowing machine; tiller, cultipacker, fertilizer spreader, pesticide sprayers; machine for harvesting rice, corn, sugarcane, coffee, cotton; machine for harvesting tubers, fruits, roots; tea-cutting machine, tea-picking machines; threshing machine; corn peeling machine; soybean crusher; peanut huller; coffee huller, equipment for preparing coffee, wet rice; dryer for agricultural products (rice, corn, coffee, pepper, cashew nut...), and aquaculture products; machine for collecting, loading sugarcane, straw on the field; machine for egg incubating and hatching ; forage harvester; straw, grass baler; milking machine, and other specialized machines."

3. Point a Clause 8 of Article 4 (amended in Article 8 of Circular No. 151/2014/TT-BTC dated October 10, 2014) is amended as follows:

"a) Credit extension includes:

- Loan;

- Discounted transfer of negotiable instruments and other valuable papers;

- Bank guarantee;

- Finance lease;

- Issuance of credit cards.

Where a credit institution collects fees for issuance of credit cards, the fees collected from the clients that are part of the credit extension process (card issuance fee) according to the regulations on granting loan of the credit institution such as fee for early repayment, penalties for late repayment, fee for debt restructuring, fee for loan management, and other fees that are part of the credit extension process are not subject to VAT.

The fees related to common card transactions that are not part of the credit extension process such as fee for reissuance of PINs, fee for provision of invoice copies, claiming fee, fee for card replacement, fee for card destruction, fee for card conversion, and other fees are subject to VAT.

- Domestic and international factoring for the banks allow to process international payments;

- Revenue from liquidation of collateral by a credit institution or law enforcement authority or by the borrowers themselves with authority of the loaner to repay secured loans, particularly:

+ Collateral that may be sold is assets of a secured transaction registered with a competent authority in accordance with regulations of law on registration of secured transactions.

+ Collateral shall be settled in accordance with regulations of law on secured transactions.

If the owner of the collateral defaults on the debt and has to transfer the collateral to a credit institution for settlement, both parties must follow the prescribed procedure for transferring collateral and are not required to issue VAT invoices.

Where the credit institution takes the collateral to clear debt, credit institution shall record an increase in the value of business assets. When the credit institution sells the assets, VAT must be declared and paid if it is subject to VAT.

Example 3: In March 2015, company A, which pays VAT using credit-invoice method, pledges its machinery and equipment as collateral to take a loan at bank B, which is due in one year (the deadline is March 31, 2016). On March 31, 2016, company A defaults on the loan and has to transfer the collateral to bank B. Company A is not require to issue invoices when transferring the collateral to bank B. When Bank B sells the collateral to recover the debt, the sold collateral is not subject to VAT.

Example 3s: In December 2014, company B, which pays VAT using credit-invoice method, pledges its workshop on land and land use right as collateral to take a loan at commercial bank C, which is due in one year (the deadline is December 15, 2016). Bank C and company B have registered the secured transaction (pledged workshop and land use right) with a competent authority. On December 15, 2016, company B defaults on the debt and bank C agrees in writing to release the collateral so that company B can sell the workshop to repay the debt. When company B sells the workshop in January 2017 to repay the debt, the sold workshop is not subject to VAT.

- Information provision services provided by the units and organizations affiliated to the State bank for credit institutions to use for credit extension in accordance with the Law on the State bank.

Example 4: X is a unit of the State bank and is allowed by the State bank to provide credit information. In 2014, X signs contracts to provide information for some commercial banks to serve their credit extension and other activities. The revenue from provision of credit information serving credit extension is not subject to VAT; the revenue from provision of credit information serving other activities of the commercial banks beyond the Law on the State bank is subject to 10% VAT;

- Other forms of credit extension prescribed by law."

4. Point a.8 and Point a.9 is added to Clause 10 of Article 7 as follows:

“a.8) When a taxpayer receives land use right from another entity, deductible land price when calculating VAT is the price written on the capital contribution contract. If the price for transfer of land use right is lower than the price of contributed land, the former shall apply.

a.9) Where a real estate company signs a contract with a household or individual who have a piece of agricultural land to convert it into housing land and such conversion is conformable with regulations of law on land, taxable price shall equal transfer price minus (-) deductible land

price. Transfer price is the price for compensation corresponding to the area of agricultural land that is withdrawn under a plan approved by a competent authority."

5. The first paragraph of Clause 3 Article 9 is amended as follows:

"3. 0% tax is not applied to:

- Overseas reinsurance; technology transfer, transfer of intellectual property right to abroad; capital transfer, credit extension, overseas securities investment; derivative financial services; outbound postal and telecommunications services (including those provided for the entities in free trade zones; prepaid cards sold overseas or in free trade zones); exported natural resources that are not processed into other products; goods and services provided for individuals that do not register to do business in free trade zones, except for the cases defined by the Prime Minister.

Tobacco, alcohol, and beer that are imported then exported shall not incur output VAT upon export. However, input VAT shall not be deducted."

6. Clause 2 Article 10 is amended as follows:

"2. Ores used for fertilizer manufacture; pesticides and growth stimulants for plants and animals, including:

b) Ores used for manufacture of fertilizers such as apatite ore used for manufacture of phosphate fertilizers, humus used as biofertilizers;

b) Pesticides include plant protection drugs on the List of plant protection drugs issued by those in the List of pesticides complied by the Ministry of Agriculture and Rural Development and other pesticides;

c) Growth stimulants for plants and animals."

7. Clause 3 and Clause 10 of Article 10 are annulled.

8. Clause 11 of Article 10 is amended as follows:

"11. Medical equipment includes machinery and instruments serving healthcare such as: radiographic equipment serving medical examination and treatment, equipment and instruments for surgery and injury treatment; ambulances; instruments for blood pressure measurement, cardiography, blood infusion, syringes; birth control equipment, and other medical equipment certified by the Ministry of Health.

Cotton wool, bandages, gauze pads, and medical tampons; medicines including finished medicines and raw materials, except for functional foods; vaccines; bioproducts, distilled water to mix with injectable medicines or intravenous fluids; caps, clothing, facemasks, gloves, boots, medical towels, breast implants and skin fillers (not including cosmetics); chemicals used for testing and sterilization."

9. Article 14 is amended as follows:

a) Clause 2 Article 14 is amended as follows:

"2. When goods and services (including fixed assets) are purchased to serve the manufacture or sale of both the goods/services that are subject to VAT and goods/services that are not subject to VAT, only VAT on the goods and services serving the manufacture or sale of the goods/services subject to VAT shall be deducted. The taxpayer must separate the deductible input VAT from non-deductible one. Otherwise, input VAT shall be deducted according to the ratio of revenue subject to VAT, revenue not subject to VAT to the total revenue from selling goods and services, including revenue not subject to VAT that cannot be separated.

The taxpayer that sells both goods/services that are subject to VAT and goods/services that are not subject to VAT may temporarily deduct all of the VAT on purchased goods, services, and fixed assets incurred in the month/quarter. At the end of the year, the taxpayer shall determine the actual deductible input VAT in the year and adjust the amount of input VAT deducted during the year.

b) Clause 14a is added to Article 14 as follows:

"14a. Input VAT on goods, services, fixed assets serving manufacture of: fertilizers, specialized machinery and equipment serving agricultural production, offshore fishing ships, animal feeds that are sold domestically shall be included in deductible expenses when determining income subject to corporate income tax instead of being declared and deducted, except for VAT on purchased of goods, services, fixed assets that are incurred before January 01, 2015, written on VAT invoices or proof of VAT payment upon importation and satisfy conditions for deduction, tax refund, and are eligible for tax refund as prescribed in Article 18 of Circular No. 219/2013/TT-BTC dated December 31, 2013 and this Circular."

10. Article 15 (amended in Circular No. 119/2014/TT-BTC dated August 25, 2014 and Circular No. 151/2014/TT-BTC dated October 10, 2014) is amended as follows:

"Article 15. Conditions for input VAT deduction

1. Legitimate VAT invoices for purchases or receipts for payment of VAT on imported goods, or receipts for payment of VAT on behalf of foreign organizations that do not have Vietnamese legal status and the organizations and individuals, and the foreigners that do business or earn income in Vietnam.

2. Proofs non-cash payments for the purchases (including imported goods) that cost VND 20 million or more, except for the imports that cost below VND 20 million each, purchases that cost below VND 20 million inclusive of VAT, and imports being gifts, donations from overseas entities.

Receipts for non-cash payments include bank transfer receipts and other receipts for non-cash payments prescribed in Clause 3 and Clause 4 of this Article.

3. Bank transfer receipts are documentary evidence proving the transfer of money from the buyer's account to the seller's account (both accounts are already registered or notified to tax authority). The buyer is not required to register r notify the tax authority of its loan accounts at credit institutions used for paying suppliers opened at providers of payment services under legitimate payment methods such as checks, payment orders, cash collection orders, bank cards, credit cards, SIM cards (digital wallets), and other means of payment as prescribed (including the case in which the buyer transfers money from the buyer's account to the seller's account in the name of a private company's owner or from the buyer's account in the name of a private company's owner to the seller's account if such accounts have been registered for with tax authorities).

a) Proofs of the buyer's payment to the seller's account or proofs of payments in the manners that are not conformable with applicable regulations of law are not eligible for deduction and refund of VAN on purposes that cost VND 20 million or more.

b) Any purchase that cost VND 20 million or more (VAT-inclusive) shall not be deducted if there is no bank transfer receipt.

c) With regard to goods purchased under a deferred payment plan or instalment plan that cost VND 20 million or more, the taxpayer shall declare and deduct input VAT according to the sale contracts, VAT invoices, and bank transfer receipt, If the bank transfer receipt is not available before the payment deadline according to the contract, the taxpayer may still deduct input VAT.

Where the taxpayer does not have bank transfer receipts when making payments, the taxpayer shall declare a reduction of deducted input VAT on the value of goods/services without bank transfer receipts in the tax period during which the cash payment is made (even if the tax authority and competent authorities have decided an inspection of the tax period in which VAT is declared and deducted.

4. Other cases in which non-cash payments are used for deducting input VAT:

a) If goods and services are purchased by offsetting their value against the value of sold goods and services, or by lending goods under contracts, a certification of this kind of transaction and data comparison record made by both parties is compulsory. If the payment is offset against third party’s debt, a debt offsetting record made by all three parties is compulsory.

b) If the contract allows goods and services to be purchased on credit in the forms of loans or debt offsetting via a third party, it is required to have the loan contract and the receipts for transfer of money from the creditor’s account to the debtor’s account, even when the value of purchased goods and services is offset against the amount paid by the buyer on behalf of the seller or the amount provided for the buyer by the seller.

c) If a third party is authorized to receive the payment for purchases by bank transfer (including the case in which the seller requests the buyer to wire the payment to a third party appointed by the seller), this authorization must be agreed in the contract, and the third party must be a lawful legal person or natural person.

After the payment is made this way, if the remaining value that is paid in cash is VND 20 million or more, tax shall only be deducted if bank transfer receipts are presented.

d) If payment for purchases is wired to a third party's account at a State Treasury, which is opened to enforce money collection, input VAT may be deducted.

Example 68:

Company A buys goods of company B and still owes money to company B. However, company B still owes tax to government budget. According to the Law on Tax administration, when the tax authority collects company B's money and assets that is held by company A to enforce tax decision, the money transferred by company A to the account at the State Treasury is considered bank transfer, and the corresponding VAT on purchased goods may be deducted.

Example 69:

Company C signs a business contract to provide goods with company D, and company D still owes company C for the goods.

A competent authority decides to collect the money owed to company C by company D and transfer it to an account at a State Treasury to resolve disputes over sale contracts between company C and its partners.

When company D transfers money the account at the State Treasury (this transfer is not stipulated in the contract between company C and company D), the transfer is also considered bank transfer and the corresponding VAT on purchased goods may be deducted.

5. When the total value of multiple purchases, each of which costs below VND 20 million, that are made in the same day is VND 20 million or more, tax shall only be deducted if bank transfer receipts are presented. The supplier is a taxpayer that has a TIN and pay VAT directly.

In case the taxpayer has financially dependent stores that use the same TIN and invoice form, if the invoice shall have the text "Cửa hàng số:" ("Store No.") to differentiate the taxpayer's stores and bears the seal of each store, then each store shall be considered a supplier."

11. Point b.7 Clause 3 of Article 16 is amended as follows:

"b.7) If the foreign party (not applied to individuals) transfers the payment from a deposit account opened by the foreign party at a credit institution in Vietnam, this method of payment must be agreed in the export contract, the contract appendix or its amendment. The payment receipt is the credit note issued by the exporter's bank about the amount received from the foreign buyer's account who signs the contract.

If the importer is a foreign private company and the payment via the account of the private company owner that is opened at a credit institution in Vietnam is agreed in the export contract (or contract appendix, amendment), this payment is considered bank transfer.

When checking the deduction and refund of tax on exported goods that are paid for via the bank account, the tax authority must cooperate with the credit institution where the account is opened to ensure that the payment and transfer is made properly and in accordance with law. Any person who brings money across the border upon entry must declare that such money is for making payment for each particular sale contract and export declaration, and present the sale contracts and export declaration for customs officials to check and compare. In case the entering person is not a representative of the foreign company that directly signs the sale contract with the Vietnamese company, it is required to have a power of attorney (in English or translated into Vietnam together with the original version in the language of an adjacent country) made by the foreign entity that signs such sale contract. This power of attorney is only warrants one time of bringing money into Vietnam and the amount of money under the sale contract must be specified thereon."

12. Article 18 is amended as follows:

a) Clause 3 is amended as follows:

"3. Refund of VAT on new projects of investment

a) When a taxpayer using credit-invoice method has a new project (except for housing for sale) in the same province which is yet to be put into operation, the taxpayer shall declare tax on this project separately and offset the input VAT on the project against VAT on the taxpayer's current business. The maximum VAT on the project that may be offset is equal to the VAT payable on the taxpayer's current business in the same current period.

After offsetting, if the remaining input VAT on the project is VND 300 million or more, it shall be refunded.

After offsetting, if the remaining input VAT on the project is below VND 300 million, it shall be aggregated with the input VAT on the project in the next period.

During the tax period, if input VAT on the taxpayer's business is not completely deducted and the taxpayer incurs input VAT on the new project, the taxpayer shall receive a refund in accordance with Clause 1 and Clause 3 of this Article.

Example 74: Company A has its headquarter in Hanoi. In March 2014, company A has a new project in Hanoi which is yet to be put into operation. Thus, company A must declare input VAT on this project separately. In April 2014, input VAT on the project is VND 500 million; VAT payable on the company's current business is VND 900 million. Company A shall offset VND 500 million of input VAT on the project against VAT on company A's current business (VND 900 million). Thus, the remaining VAT payable by company A in April 2014 is VND 400 million.

Example 74: Company B has its headquarter in Hai Phong. In March 2014. company B has a new project in Hai Phong, which is yet to be put into operation. Thus, company B must declare input VAT on this project separately. In April 2014, input VAT on the project is VND 500

million; VAT payable on company B's current business is VND 200 million. Company B shall offset VND 200 million of input VAT on the project from VAT payable on the current business (VND 200 million). Accordingly, in April 2014, VND 300 million of input VAT on the new project still remains after offsetting. Company B may claim a refund of this amount.

Example 76: Company C has its headquarter in Ho Chi Minh City. In March 2014. company C has a new project in Ho Chi Minh City, which has is yet to be put into operation. Thus, company C must declare input VAT on this project separately. In April 2014, input VAT on the project is VND 500 million; VAT payable on company C's current business is VND 300 million. Company C shall offset VND 300 million of input VAT on the project from VAT payable on the current business (VND 300 million). Accordingly, in April 2014, VND 200 million of input VAT on the new project still remains after offsetting. In this case, this amount of VAT shall not be refund. Instead, company C shall aggregate this VND 200 million with the input VAT on the project in May 2014.

Example 77: Company D has its headquarter in Da Nang City. In March 2014, company C has a new project in Da Nang City which is yet to be put into operation. Thus, company D must declare input VAT on this project separately. In April 2014, input VAT on the project is VND 500 million; VND 100 million of input VAT on the company D's current business still remains after deduction. Thus, in April 2014, input VAT on the project (VND 500 million) may be refunded. The input VAT on the company D's current business that still remains after deduction (VND 100 million) may be refunded in accordance with Clause 1 of this Article.

b) When a taxpayer using credit-invoice method has a new project (except for housing for sale) in another province that has not been in operation. This project has not been inaugurated and registered. The taxpayer shall make a separate declaration of tax on the project, and deduct input VAT on the project from the VAT on the taxpayer's current business. The maximum VAT on the project that may be offset is equal to the VAT payable on the taxpayer's current business in the same current period.

After offsetting, if the remaining input VAT on the project is VND 300 million or more, it shall be refunded.

After offsetting, if the remaining input VAT on the project is below VND 300 million, it shall be aggregated with the input VAT on the project in the next period.

During the period, if input VAT on the taxpayer's business is not completely deducted and the taxpayer incurs input VAT on the new project, the taxpayer shall receive a refund in accordance with Clause 1 and Clause 3 of this Article.

If the project is of national importance, the investment policies and standards of which are decided by the National Assembly, the taxpayer must follow instructions of the Ministry of Finance instead of transferring to the next period.

If the taxpayer decides to establish project management boards or branches in the other provinces to manage the projects on behalf of the taxpayer, the project management boards or branches

must submit separate tax declarations and applications for tax refund to their local tax authority, provided they have their own seals, keep their own records according to accounting laws, and have open accounts at banks, have applied for tax registration and obtained taxpayer ID numbers. When the project, from which the new company derives, is completed and the procedure for business registration and tax registration is completed, the taxpayer who is the investor must aggregate the VAT incurred, the VAT refunded and not refunded, then request the new company to declare tax, pay tax, and claim refund with its supervisory tax authority.

The project to which VAT is refunded according to Clause 2 and Clause 3 of this Article is a project approved by a competent authority in accordance with investment laws. If the project is not approved according to investment laws, it is required to have an investment plan approved by a competent person.

Example 78: Company A has its headquarter in Hanoi. In March 2014, company A has a new project in Hung Yen, which has not been in operation and registered. Company A declares input VAT on this project in Hanoi using the VAT declaration form for projects of investment. In April 2014, input VAT on the project is VND 500 million; VAT payable on company A's current business is VND 900 million. Company A shall offset VND 500 million of input VAT on the project against VAT on company A's current business (VND 900 million). Thus, the remaining VAT payable by company A in April 2014 is VND 400 million.

Example 79: Company B has its headquarter in Hanoi. In March 2014, company B has a new project in Thai Binh, which has not been in operation and registered. Company B declares input VAT on this project in Hai Phong using the VAT declaration form for projects of investment. In April 2014, input VAT on the project is VND 500 million; VAT payable on company A's current business is VND 200 million. Company B shall offset VND 200 million of input VAT on the project from VAT payable on the current business (VND 200 million). Accordingly, in April 2014, VND 300 million of input VAT on the new project still remains after offsetting. Company B may claim a refund of this amount.

Example 80: Company C has its headquarter in Ho Chi Minh City. In March 2014, company C has a new project in Dong Nai, which has not been in operation and registered. Company C declares input VAT on this project in Ho Chi Minh City using the VAT declaration form for projects of investment. In April 2014, input VAT on the project is VND 500 million; VAT payable on company C's current business is VND 300 million. Company C shall offset VND 300 million of input VAT on the project from VAT payable on the current business (300 million VND). Accordingly, in April 2014, VND 200 million of input VAT on the new project still remains after offsetting. In this case, this amount of VAT shall not be refund. Instead, company C shall aggregate this VND 200 million with the input VAT on the project in May 2014.

Example 81: Company D has its headquarter in Da Nang City. In March 2014, company D has a new project in Quang Nam, which has not been in operation and registered. Company D declares input VAT on this project in Da Nang City using the VAT declaration form for projects of investment. In April 2014, input VAT on the project is VND 500 million; VND 100 million of input VAT on the company D's current business still remains after deduction. Thus, in April 2014, input VAT on the project (500 million VND) may be refunded. The input VAT on

company D’s current business that still remains after offsetting (100 million VND) may be refunded in accordance with Clause 1 of this Article."

b) Clause 4 of Article 18 is amended as follows:

"4. In the month (if tax is declared monthly) or in the quarter (if tax is declared quarterly), if input VAT on exported goods and services that remains after deduction is 300 million VND or above, such input VAT shall be refunded by month or by quarter; if the aforementioned input VAT in the month or quarter is below 300 million VND, it shall be offset against tax incurred in the next month or quarter.

Where a taxpayer both exports and domestically sells goods/services in the month/quarter, such taxpayer may receive a refund of VAT on exported goods/services if the input VAT that remains after being offset against VAT on goods/services sold domestically is 300 million VND or above.

Refundable VAT on exported goods/services is calculated as follows:

$$\text{Input VAT that remains after deduction in the tax period} = \text{Output VAT on goods and services sold domestically} - \text{Total input VAT deducted in the tax period (including input VAT on goods and services serving export and domestic business incurred in the tax period and the input VAT transferred from the previous tax period.}$$

$$\text{Input VAT on exported goods/services} = \text{Input VAT that remains after deduction in the tax period} \times \frac{\text{Total revenue from export in the tax period}}{\text{Total revenue from sale of taxable goods/services, revenue exempt from tax declaration (including revenue from export) in the tax period}} \times 100\%$$

If input VAT on exported goods/services that remains after deduction is below 300 million VND, the taxpayer must transfer it to the next tax period instead of claiming a refund. If input VAT on exported goods/services that remains after deduction is 300 million VND or above, the taxpayer may claim a refund.

Example 82:

In March 2014, Company X declares its VAT as follows:

- VAT transferred from the previous period: VND 0.15 billion.

- Input VAT (on goods and services serving export and domestic business) incurred in the month: 4.8 billion VND.

- The total revenue is VND 21.6 billion, including VND 13.2 billion in revenue from export, and VND 8.4 billion in revenue from domestic sale.

Ratio of revenue from export to total revenue = 13.2/21.6 x 100% = 61%

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

Refundable VAT on exported goods is calculated as follows:

Input VAT that remains after deduction in the month	=	0.84 billion - (0.15 + 4.8) billion
	=	- 4.11 billion (VND)

Thus, input VAT that remains in the month after deduction is VND 4.11 billion.

- Input VAT on exported goods:

Input VAT on exported goods	=	4.11 billion x 61%
	=	2,507 billion (VND)

Input VAT on exported goods that remains after offsetting and deduction is VND 2.507 billion, which is larger than 300 million VND. Thus, the taxpayer may claim a VAT refund of VND 2.507 billion. VND 1.603 billion in input VAT on goods and services sold domestically (VND 4.11 billion - VND 2.507 billion) shall be transferred to the next period instead of being refunded.

The recipient of refund in some cases: In case of export entrustment, the business establishment having the goods exported under entrustment is the recipient of refund; In case of forwarding processed goods, the business establishment that signs the export processing contract with the foreign party is the recipient of refund; In case of exporting goods for execution of an overseas construction, the exporter is the recipient of refund; In case of domestic export, the establishment that has the domestic exports is the recipient of refund."

c) Clause 5 of Article 18 is amended as follows:

"5. When a company is transferred, converted, acquired, consolidated, totally or partially divided, bankrupt, or shut down, it will receive a refund of paid VAT or input VAT that remains after deduction.

If the business establishment that has not been in operation is dissolved and does not incur output VAT on the primary business according to the project of investment, such business establishment is not required to immediately adjust the VAT that was declared, deducted, or refunded. The business establishment must notify the supervisory tax authority of its dissolution, bankruptcy, or shutdown as prescribed.

After completing legal procedures for dissolution or bankruptcy, refundable VAT shall be settled in accordance with regulations of law on dissolution, bankruptcy, and tax administration; unrefundable VAT shall not be refunded.

Where a business establishment is shut down and does not incur output VAT on the primary business, refunded VAT must be returned to state budget. If assets subject to VAT are sold, it is not required to adjust input VAT on the sold assets.

Example 83: In 2015, company A is not put into operation. Input VAT incurred during the investment stage which has been refunded by the tax authority in August 2015 is VND 700 million. Because of difficulties, in February 2016, the company A's dissolution is decided and notified to the tax authority. The tax authority shall not retrieve the refunded VAT before company A completes the legal procedures for dissolution. 20 days before the official dissolution of company A in October 2016, company A sells one (01) asset which was invested. In this case, company A is not required to adjust input VAT on the sold asset (which was refunded by the tax authority). With regard to unsold assets, company A must make adjustment to return the refunded VAT."

Article 2. Amendments to Circular No. 156/2013/TT-BTC dated November 06, 2013 of the Ministry of Finance on guidelines for the Law on Tax administration; the Law on the amendments to the Law on Tax administration, and Decree No. 83/2013/NĐ-CP dated July 22, 2013 (amended in Circular No. 119/2014/TT-BTC dated August 25, 2014 of the Ministry of Finance and Circular No. 151/2014/TT-BTC dated October 10, 2014) as follows:

1. Article 11 (amended in Circular No. 119/2014/TT-BTC dated August 25, 2014) is amended as follows:

a) Point dd Clause 1 of Article 11 is amended as follows:

“dd) Where the taxpayer engages in a extraprovincial construction, installation, or sale with the value of VND 1 billion or higher inclusive of VAT, or extraprovincial real estate transfer (except for the case in Point c Clause 1 of this Article) without establishing an affiliate in that province (hereinafter referred to as extraprovincial business), the taxpayer must submit a tax declaration to the tax authority of the locality where the extraprovincial business takes place.

Directors of local Departments of Taxation shall decide the place where tax on extraprovincial business is declared.

Example 16: Company A, which has its headquarter in Hai Phong, signs a contract to sell cement to company B, which has its headquarter in Hanoi. According to the contract, goods shall be delivered to the company B's construction site in Hanoi. This sale is not considered extraprovincial. Company A shall declare VAT in Hai Phong and is not required to declare the VAT on revenue from the contract with company B in Hanoi.

Example 17: Company B has its headquarter located in Ho Chi Minh City. Its warehouses in Hai Phong and Nghe An are not meant to trade. When company B sells goods from the warehouse in Hai Phong to a company C in Hung Yen, company B is not required to declare VAT in the provinces where the warehouses are located.

Example 18:

- Company A, which has its headquarter in Hanoi, signs a contract with company B for construction consultancy, survey, and design in Son La in which company B is an investor. This activity is not considered extraprovincial. Company A shall declare VAT on this contract in Hanoi where its headquarter is situated, not Son La.

- Company A, which has its headquarter in Hanoi, signs a contract with company C to execute a construction in Son La (including the survey, and design) in which company C is an investor. The construction value is over VND 1 billion inclusive of VAT. Company A shall declare VAT on extraprovincial construction under this contract in Son La.

- Company A, which has its headquarter in Hanoi, signs a contract with company Y to execute a construction in Son La (including the survey, and design) in which company Y is an investor. The construction value is VND 770 million inclusive of VAT. Company A shall declare VAT on extraprovincial construction under this contract in Son La.

Example 19: Company B, which has its headquarter in Hanoi, sells air conditioners to their customers in Hoa Binh (including installation). Company B is not required to declare tax in Hoa Binh.

Example 20: Company A, which has its headquarter in Hanoi, buys 10 houses from company B in Ho Chi Minh City, then sells these houses and issue invoices to their customers. In this case company A must declare and pay tax on revenue from extraprovincial real estate transfer at a tax authority in Ho Chi Minh City.

b) Point e of Clause 1 is amended as follows:

"e) Where the taxpayer has an extraprovincial construction project that relates to multiple localities such as roads, power line, water, oil, gas pipeline, etc. and thus is not able to determine the revenue earned from each province, the taxpayer shall include declaration of VAT on revenue from the extraprovincial construction in the VAT declaration at the headquarter and pay VAT in the provinces where the construction is project. VAT payable in the provinces is determined according to the ratio of investment in the project in each province, which is

calculated by the taxpayer, multiplied by (x) 2% of revenue from the construction of the project (exclusive of VAT).

Paid VAT (according to tax payment receipts) on interprovincial construction shall be deducted from the tax payable on the VAT declaration (form No. 01/GTGT) submitted by the taxpayer at the headquarter's locality.

The taxpayer shall make a Table of VAT distribution among the provinces where the project is present (form No. 01-7/GTGT enclosed herewith) and submit it together with the VAT declaration to the Provincial Department of Taxation to which tax is paid."

c) Point b Clause 3 of Article 11 is amended as follows:

"b) A monthly, quarterly declaration dossier consists of:

- A VAT declaration form No. 03/GTGT enclosed herewith (instead of VAT declaration form No. 01/GTGT enclosed with Circular No. 119/2014/TT-BTC dated August 25, 2014 of the Ministry of Finance).

Where the taxpayer engages in a extraprovincial business or extraprovincial real estate transfer or has a manufacturing facility located in a province other than that in which the headquarter is located, the taxpayer shall enclose the following documents with the VAT declaration form:

- The table of paid VAT on revenue from extraprovincial business (if any) using form 01-5/GTGT enclosed with Circular No. 156/2013/TT-BTC.

- The table of VAT distribution between the headquarter and the manufacturing facilities that do not keep accounting records (if any) using the form No. 01-6/GTGT enclosed with Circular No. 156/2013/TT-BTC.

- The table of VAT distribution among the provinces where the intraprovincial project is present (if any) using the form No. 01-7/GTGT enclosed herewith."

d) Point b Clause 5 of Article 11 is amended as follows:

"b) The monthly/quarterly declaration of VAT on revenue using direct method is form 04/GTGT and the enclosed with Circular No. 156/2013/TT-BTC."

e) Clause 6 Article 11 is amended as follows:

"6. VAT on extraprovincial business and extraprovincial real estate transfer that does not fall into the cases mentioned in Point c Clause 1 of this Article shall be declared as follows:

a) The taxpayer that engages in extraprovincial business or extraprovincial real estate transfer shall provisionally declare VAT at 2% if goods incur 10% VAT, or at 1% if goods incur 5%

VAT on revenue exclusive of VAT and submit the provisional declaration to the tax authority in the locality where the business or transfer takes place.

b) The declaration of VAT on extraprovincial business or extraprovincial real estate transfer shall be made using form 05/GTGT enclosed with Circular No. 156/2013/TT-BTC.

c) The declaration of VAT on extraprovincial business shall be submitted whenever revenue is earned. If many tax declarations must be submitted in one month, the taxpayer may request the tax authority to permit monthly submission of tax declarations.

d) When declaring tax at the supervisory tax authority, the taxpayer must aggregate the revenues that are earned and the paid VAT on extraprovincial business in the tax declaration. The paid tax (according to the tax receipt) on extraprovincial business or extraprovincial real estate transfer shall be deducted from the VAT payable according to the VAT declaration submitted in the locality where the headquarter is situated."

2. Clause 3 Article 13 is amended as follows:

"3. A declaration dossier consists of:

- A SET declaration form No. 01/TTĐB enclosed with Circular No. 156/2013/TT-BTC.

3. Article 20 is amended as follows:

a) Point dd Clause 3 of Article 20 is amended as follows:

"d) Declaring tax incurred by foreign transport companies:

The shipping agencies or forwarding agents of foreign transport companies (hereinafter referred to as agents of transport companies) shall pay tax on behalf of the foreign transport companies

Declarations of tax incurred by a foreign transport company shall be submitted to the supervisory tax authority of its agent.

Tax incurred by foreign transport companies shall be provisionally paid every quarter and finalized every year."

b) Point d2 Clause 3 of Article 20 is amended as follows:

"d.2) Notice of eligibility for tax exemption or reduction according to Agreements:

If the foreign transport company is eligible for tax exemption or reduction according to a Double taxation agreement between Vietnam and another country/territory, the following procedure shall be followed:

The foreign transport company or its agent shall send the tax authority a dossier that consists of:

- The Notice of eligibility for tax exemption or reduction under Agreements (form 01/HTQT enclosed herewith);

- The original or certified true copy of the Certificate of residence (consularly legalized) issued by the tax authority of the country/territory where the foreign shipping company is situated in the year preceding the year in which the Notice of tax exemption or reduction is consularly legalized.

Such documents must be kept by the agent or representative office in Vietnam of the foreign transport company in accordance with the Law on Accounting, Decrees providing guidelines for the Law on Accounting, and Maritime Code, and shall be presented to the tax authority on request.

If the foreign transport company or its agent authorizes a legal representative to apply the Agreement, the original Letter of attorney must be submitted.

At the end of the tax year, the foreign transport company or its agent shall send the tax authority a certificate of residence that has been consularly legalized in that year.

If a notice of eligibility tax exemption or reduction was sent in the previous year, in the next years the foreign transport company or its agent is only required to notify the changes to information provided in the notice (form No. 01/HTQT) which was submitted in the previous year, and provide corresponding documents.

If the foreign transport company has multiple agents in different provinces of Vietnam, or the agent has multiple branches or representative offices (hereinafter referred to as branches) in different provinces of Vietnam, the foreign transport company or its agent shall submit the original (or certified true copy) of the Certificate of residence that has been consularly legalized to the Department of Taxation of the province where the agent of the foreign transport company is situated, and consularly legalized photocopies of the Certificate of residence to the Departments of Taxation of the provinces where the branches are situated, specifying the place where the original (or certified true copy) of the Certificate is submitted in the Notice of eligibility for tax exemption or reduction.

4. Article 27 is amended as follows:

“Article 27. Tax payment currencies; determination of revenues, expenditures, taxable prices, and amounts payable to state budget

1. Taxpayers shall pay taxes and other amounts payable to state budget in VND, except for cases in which foreign currencies are permitted by law.

2. If the taxpayer is required to pay tax in foreign currency but a competent authority allows payment in VND, the taxpayer and tax authority shall exchange the amounts payable into foreign currency according to the amount in VND on the receipt for payment to state budget and the exchange rates prescribed in this Clause, particularly:

If money is paid at a commercial bank, credit institution, or State Treasury, the buying rate announced by the commercial bank or credit institution where the taxpayer's account is opened at the payment time shall apply.

Example: Company X has to pay some amounts in foreign currency and is permitted by a competent authority to pay in VND. Company X opens accounts at 3 banks which are Bank A, Bank B, and Bank C. On March 21, 2015, buying rate of USD is 21,300 VND/USD at Bank A, 21,310 VND/USD at Bank B, 21,305 VND/USD at bank C. On March 21, 2015, company X pays tax in VND at credit institution D or State Treasury in district E, company X may apply the buying rate of Bank A, Bank B, or Bank C. If company X pays tax in VND at Bank A, the rate of 21,300 VND/USD shall apply.

3. If there are revenues, expenditures, taxable prices in foreign currencies, they must be converted into VND at the practical exchange rates according to instructions of the Ministry of Finance in Circular No. 200/2014/TT-BTC dated December 22, 2014 on corporate accounting practice:

- The practical exchange rate for revenue statement is the buying rate announced by the commercial bank where the taxpayer's account is opened.

- The practical exchange rate for income statement is the selling rate announced by the commercial bank where the taxpayer's account is opened at the time of making the payment.

- Instructions of the Ministry of Finance in Circular No. 200/2014/TT-BTC shall apply to other particular cases."

5. Point a and Point d Clause 1 of Article 31 (amended in Clause 1 Article 21 of Circular No. 151/2014/TT-BTC) is amended as follows:

1. Point a and Point d Clause 1 of Article 31 is amended as follows:

"a) Property damage caused by natural disasters, blazes, or accidents that directly affects the business operation.

Property damage means the damage to the taxpayer's property that can be measured by money, such as: machinery, equipment, supplies, goods, buildings, cash, and valuable papers.

Accidents are the unexpected incidents due to external causes that affect the taxpayer's business, not violations of law. The following events are considered accidents: traffic accidents, occupational accidents; fatal diseases; infection of epidemic during the time and in the area considered an epidemic hotspot by a competent agency; and other force majeure events

The list of fatal diseases is specified in corresponding legislative documents".

"d) The taxpayer fails to pay tax on time due to other difficulties."

6. Point c Clause 1, Point c Clause 2, and Point c Clause 3 of Article 31 of Circular No. 156/2013/TT-BTC, and Clause 2 of Article 21 of Circular No. 151/2014/TT-BTC of the Ministry of Finance are annulled

In cases of tax deferral prescribed in Point c Clause 1 Article 31 of Circular No. 156/2013/TT-BTC, decisions on tax deferral granted by tax authorities before January 01, 2015 are still effective until they expire.

7. Point d Clause 3 of Article 31 is amended as follows:

"d) In the case mentioned in Point d Clause 1 Article 31 of Circular No. 156/2013/TT-BTC:

- A written request for tax deferral (form 01/GHAN enclosed with Circular No. 156/2013/TT-BTC);

- Documents sent by the supervisory tax authority to its superior tax authority, certifying the special difficulties that cause the taxpayer to not pay tax on time;

- Copies of the documents about the deferral, cancellation, exemption, reduction of tax issue by the tax authority over the previous 02 years (if any);

- The decisions of competent authorities that affect the taxpayer's business operation.

8. Point b.2 Clause 2 of Article 32 is amended as follows:

"b.2) Pay on behalf of the taxpayer the tax, interest at 0.05% per day if the taxpayer fails to pay tax by the deadline for paying tax by monthly instalments."

9. Clause 2 of Article 34 is amended as follows:

"2. Determination of late payment interest

a) If tax debt is incurred from January 01, 2015, late payment interest shall be 0.05% per day on the tax paid behind schedule.

b) If tax debt is owed before January 01, 2015 but is not paid by January 01, 2015, fines and late payment interest shall be charged in accordance with the Law No. 78/2006/QH11 on Tax administration and the Law No. 21/2012/QH13 on amendments to the Law on Tax administration for the period before January 01, 2015; and in accordance with Law No. 71/2014/QH13 on amendments to tax laws for the period from January 01, 2015.

Example 44: Taxpayers B owes VND 100 million in VAT according to the VAT declaration on August 2014, which is due on September 22, 2014 (September 20, 2014 and September 21, 2014 are days off). Taxpayer B pays tax on January 20, 2015. The late payment period extends from September 23, 2014 to January 20, 2015. The late payment interest is VND 6.2 million. In particular:

- Before January 01, 2015, late payment interest is calculated as follows:

+ 90 days from January 23, 2014 to December 21, 2014: VND 100 million x 0.05% x 90 days = VND 4.5 million.

+ 10 days from December 22, 2014 to December 31, 2014: VND 100 million x 0.07% x 10 days = VND 0.7 million.

- 20 days from January 01, 2015 to January 20, 2015: VND 100 million x 0.05% x 20 days = VND 1 million."

"e) If the taxpayer's insufficient tax declared before January 01, 2015 is found by the tax authority after January 01, 2015 during inspection or by the taxpayer, late payment interest shall be charged an interest at 0.05% per day on the deficit of tax payable until tax is fully paid."

10. Article 34a is added as follows:

Article 34a. Exemption of late payment interest

1. In case a taxpayer supplies goods/services paid by state budget but has not been paid the unit that uses state budget (hereinafter referred to as state budget user) and thus fails to pay tax on time, such taxpayer is not required to pay late payment interest.

In case a taxpayer supplies goods/services that are partially paid by state budget and partially paid by non-state sources but has not been paid by the state budget user and thus fails to pay tax on time, such taxpayer is not required to pay interest on the tax corresponding to the amount to be paid by state budget.

State budget users are units that open accounts at State Treasury and allocated with state budget as prescribed by the Law on State budget.

Example: Taxpayer A supplies goods for unit B (who uses state budget) for VND 100 million, VND 40 million of which is paid by state budget, VND 60 million is paid by non-state sources. Taxpayer A has not received the payment of VND 100 million from unit B.

If taxpayer A has a tax debt of VND 70 million, the taxpayer A is not required to pay late payment interest on VND 40 million of tax.

2. The period and amount of tax exempt from late payment interest in case the taxpayer supplies goods/services covered by state budget but has not received payment from the state budget user

a) Late payment interest on tax debt shall not be charged if such tax debt does not exceed the amount that is not paid by state budget.

If the taxpayer owes tax debts of multiple tax periods, the total tax debt must not exceed the amount that is not paid by state budget.

b) The period exempt from late payment interest extends from the deadline for paying tax to the day on which the state budget user pays the taxpayer. Nevertheless, this period must not exceed the duration of the delay in paying the taxpayer.

3. Procedures for exemption of late payment interest

a) The taxpayer exempt from late payment interest as prescribed in Clause 1 of this Article shall provide the supervisory tax authority with the written confirmation made by the state budget user that the taxpayer has not been paid (form 01/TCN enclosed herewith).

b) The tax authority shall issue a decision on inspection at the taxpayer's premises. The inspection shall last up to 03 working days. After inspection, the tax authority shall:

- Notify the taxpayer of exemption of late payment interest if the taxpayer is eligible.

- Notify the taxpayer of the liability to late payment interest (tax debt, fine, and late payment interest) if the taxpayer is not eligible and enforce the implementation of tax decisions as prescribed by law.

Example:

On February 20, 2015, taxpayer A submits the VAT declaration, according which the tax payable is VND 30 million. At that time, the taxpayer has not received the payment of VND 100 million from state budget. After inspection, the tax authority determines that taxpayer A is not required to pay late payment interest on the VAT of VND 30 million of tax until the taxpayer is paid by state budget.

On March 31, 2015, taxpayer A submits the annual declaration of corporate income tax, according which the tax payable is VND 80 million. At that time, the taxpayer still has not received the payment of VND 100 million from state budget. Therefore, the taxpayer A is still not required to pay late payment interest on the VAT of VND 70 million of tax until the taxpayer is paid by state budget. If the taxpayer A has not paid the remaining amount of tax which is VND 10 million, late payment interest shall be charged.

c) After being paid by state budget, the taxpayer shall pay tax and notify the tax authority using form 02/TCN enclosed herewith in order for the tax authority to recalculate the tax debts, late payment interest, and determine the period of exemption from late payment interest.

4. The taxpayer is responsible for paying tax as soon as being paid by the state budget user.

5. The state budget user is responsible for confirm the taxpayer's situation and take legal responsibility for such confirmation.

6. Responsibilities of the tax authority:

a) The tax authority shall supervise the fulfillment of the taxpayer' tax liability. If the tax authority finds that the taxpayer has been paid by the state budget user but still fails to promptly lay tax debt, the tax authority shall issue a notice of tax debt, fine, and late payment interest, which is charged for the period beginning after the payment date, and enforce tax decisions as prescribed by law.

b) The tax authority shall delays enforcing tax decisions in case of exemption from late payment interest prescribed in this Article.

7. Responsibilities of the State Treasury

The State Treasury is responsible for cooperating with the tax authority in provision of information about payment to state budget."

11. Article 35 is amended as follows:

a) Clause 2 is amended as follows:

"2. Determination of late payment interest exempted

a) Where the taxpayer suffers from a natural disaster, conflagration, accident, or epidemic, the late payment interest on tax debt at the time of such event shall be exempt. Nevertheless, the amount of exempted interest must not exceed the value of property or assets being damaged.

b) Where the taxpayer suffers from a fatal disease, the late payment interest on tax debt at the time of catching the disease shall be exempt. Nevertheless, the amount of exempted interest must not exceed the medical examination and treatment cost."

c) Where the taxpayer suffers from another force majeure event, the late payment interest on tax debt at the time of such event shall be exempt. Nevertheless, the amount of exempted interest must not exceed the value of property or assets being damaged.

b) Point b.1 and Point b.2 of Clause 3 is amended as follows:

"b.1) The following documents must be provided if the damage is caused by a natural disaster, conflagration, accident, or epidemic:

- A damage assessment report issued by a competent authority such as Valuation Council established by the Service of Finance or a valuation organization that provide valuation services under contracts, or Valuation Center of the Service of Finance;

- A written certification that the taxpayer suffers from damage caused by a natural disaster, conflagration, accident, or epidemic and the occurrence time made by the police station of the commune, the People's Committee of the commune, the management board of the industrial zone, export-processing zone, or economic zone where the natural disaster, accident, or epidemic occurs, or a rescue service agency;

- A claim for compensation approved by the insurer (if any);

- The documents specifying the responsibilities of the entities responsible for paying compensation (if any).

b.2) If the individual suffers from a fatal disease, it is required to have a certification of medical treatment issued by a legitimate medical facility, which contains the certification time, documents proving the cost of medical examination and treatment; receipts for payment for the cost of medical examination and treatment by the insurer (if any)."

c) Clause 5 is added to Article 35 as follows:

"5. Procedures for processing applications for exemption of late payment interest:

a) Within 60 days from the occurrence date of the natural disaster, conflagration, accident, epidemic, fatal disease, or another force majeure event, the taxpayer shall make and submit an application for exemption of late payment interest to the supervisory tax authority.

b) If the application is not satisfactory, within 03 working days from the day on which it is received, the tax authority shall request the taxpayer in writing to provide explanation or complete the application. The taxpayer must provide explanation or complete the application within 10 working days from the day on which the request is made by the tax authority.

If the taxpayer fails to comply with the tax authority's request, the taxpayer shall not be eligible for exemption of late payment interest.

c) If the application is satisfactory, within 10 working days from the day on which it is received, the tax authority shall send one of the following documents to the taxpayer:

c.1) A written refusal to grant exemption of late payment interest if the taxpayer is not eligible.

c.2) A decision to grant exemption of late payment interest if the taxpayer is eligible."

12. Article 40 is amended as follows:

"Article 40. Fulfillment of tax liability before leaving Vietnam

1. The Vietnamese people that emigrate to reside overseas, Vietnamese people residing overseas, foreigners must fulfill their tax liability before leaving Vietnam.

2. The immigration agency must stop an individual from leaving Vietnam when receiving a written or electronic notification from a tax authority that the person has not fulfilled their tax liability."

13. Clause 2 Article 54 is amended as follows:

“2. An application for tax refund consists of:

- A written request for tax refund according to a Double taxation agreement (form 02/ĐNHT enclosed herewith).

- The original copy (or certified true copy) of the consularly legalized Certificate of residence issued by a tax authority of the home country, specifying the tax year.

- Photocopies of the business contract, service contract, agent contract, entrustment contract, technology transfer contract, or labor contract with the Vietnamese entity, certificate of deposit in Vietnam, certificate of capital contribution to a company in Vietnam (depending on the income earned) that are certified by the taxpayer.

- Certification of the operation period and performance according to the contract by the Vietnamese party (except for the case of tax refund to a foreign transport company).

- A letter of attorney if the taxpayer authorizes a legal representative to follow the procedure. If the taxpayer authorizes a legal representative to claim tax refund that is transferred to the account of another entity, consular legalization (if the authorization is made overseas) or notarization (if the authorization is made in Vietnam) is required.

If the taxpayer fails to provide sufficient information or documents, explanation must be provided in the aforesaid request for refund (form 02/ĐNHT) for the tax authority to consider.”

14. Article 58 is amended as follows:

a) Clause 2 is amended as follows:

“2. Cases of inspection before tax refund

- Refund is demanded according to an international agreement to which Vietnam is a signatory. Point b Clause 14 Article 2 of this Circular shall apply to applications for tax refund under Double Taxation Agreements submitted by foreign transport companies shall.

- The taxpayer claims the refund of tax for the first time (except for personal income tax). If the taxpayer submits the application for tax refund for the first time and is eligible for tax refund, inspection shall be carried out before tax refund. If the taxpayer submits the application for tax refund for the first time but is not eligible for tax refund, the next application for tax refund is still considered the first application.

- The taxpayer claims a tax refund within 02 years from the imposition of penalty for tax offences.

When the taxpayer makes multiple claims for tax refund over the aforesaid 02-year period: if the tax authority does not found understatement of tax payable or overstatement of refundable tax according to Clause 33 Article 1 of the Law on the amendments to the Law on Tax

administration, or any of the tax offences mentioned in Article 108 of the Law on Tax administration and Clause 34 Article 1 of the Law on the amendments to the Law on Tax administration, the taxpayer is exempt from inspection before tax refund from the second claim. When making the subsequent claims, if the taxpayer is found making incorrect declaration or committing one of the tax offences in Clause 33 Article 1 of the Law on the amendments to the Law on Tax administration, Article 108 of the Law on Tax administration, and Clause 34 Article 1 of the Law on the amendments to the Law on Tax administration, inspection shall be carried out before refund over the 02-year period.

- The payment for goods and services mentioned in the application for tax refund is not made via a bank, including the goods traded domestically, imported goods, and exported goods. This regulation is not applied to applications for VAT refund. In particular: If payment for the goods and services in the application is not made via a bank, the tax authority shall not carry out an inspection at the taxpayer's premises before refund, and shall not refund the VAT on such goods and services.

- The company is acquired, consolidated, partially or fully divided, dissolved, bankrupt, converted, or shut down; the state-owned company is allocated, sold, or leased.

- The taxpayer fails to provide explanation or complete the application for tax refund, or fails to prove the accuracy of the tax declared. This regulation does not apply to the goods and services eligible for tax refund."

b) Clause 4 is amended as follows:

"4. Inspection after tax refund

a) In the following cases, the inspection must be carried out within 01 year from the day on which the decision to refund tax is issued:

- The company declares a lost in 02 consecutive years preceding the year in which the decision to refund tax is issued, or suffers from a loss that exceeds the owner's equity in the year preceding the year in which the decision to refund tax is issued. The loss is determined according to the terminal declaration of corporate income tax or the inspection record made by a competent authority (if any).

- If tax on real estate trading, sale, and service provision is refunded but the company fails to separate the refundable tax on real estate trading, sale, and service provision, and the ratio of revenue from real estate trading, sale, and service provision to the total revenue is 50% or more when the refund is claimed, an inspection shall be carried out after refund (within 01 year from the day on which the decision to refund tax is issued).

- The company changes its location twice over 12 months before the issuance of the decision to refund tax.

- The company's taxable income and refundable tax fluctuate sharply over 12 months before the issuance of the decision to refund tax.

- The foreign transport company requests a tax refund according to a Double Taxation Agreement.

b) In other cases than those mentioned in Point a of this Clause, inspection shall be carried out after tax refund in accordance with risk management principles within 10 years from the day on which the decision on tax refund is issued."

Article 3. Amendments to Circular No. 39/2014/TT-BTC dated March 31, 2014 on guidelines for the Government's Decree No. 51/2010/NĐ-CP dated May 14, 2010 and the Government's Decree No. 04/2014/NĐ-CP dated January 17, 2014 on invoices for goods sales and service provision as follows:

1. Point k Clause 1 of Article 4 is amended as follows:

"k) Invoices must be written in Vietnamese. If a text must be written in a foreign language, it must be put between a pair of brackets ( ) below the Vietnamese text, and must be smaller than the Vietnamese text.

The number written on invoices are natural numbers: 0, 1, 2, 3, 4, 5, 6, 7, 8, 9. There is a dot (.) after every three zeros (0) from the right, and there is a comma (,) before the decimal number. It is permitted to do the opposite: place a comma (,) after every three zeros (0) from the right, and there is a dot (.) before the decimal number;

The total payment on the invoice must be written in words. IF the text on invoices is Vietnamese without diacritics, such text must not lead to confusion of the invoice contents.

Invoices of the same template used by an entity must have the same dimensions. In case invoices are printed by cash registers using paper rolls, the lengths of invoice may vary according to the quantity of goods sold."

2. The last paragraph of Point b Clause 1 of Article 6 is amended as follows:

"- There is a written request for permission to use self-printed invoices (Template 3.14 of Appendix 3 enclosed herewith) granted by a supervisory tax authority. Within 5 working days from the receipt of the written request for permission, the supervisory tax authority must offer opinions about conditions for using self-printed invoices (template 3.15 of Appendix 3 enclosed herewith).

Within 05 working days, if the supervisory tax authority does not make a written response, the enterprise may use self-printed invoices. The head of the tax authority is responsible for the unavailability of written response."

3. Clause 4 is added to Article 7 as follows:

“4. Taxpayers (both organizations and individuals) whose business pose high tax risks must make electronic invoices and electronically send information on which to tax authorities to receive authentication codes from tax authorities. The cases in which electronic invoices having authentication codes of tax authorities shall be specified by the Ministry of Finance.”

4. The last paragraph of Point b Clause 1 of Article 8 is amended as follows:

Within 5 working days from the receipt of the written request, the supervisory tax authority must make a response (template 3.15 of Appendix 3 enclosed herewith).

Within 05 working days, if the supervisory tax authority does not make a written response, the enterprise may use self-printed invoices. The head of the tax authority is responsible for the unavailability of written response.”

5. Clause 2 Article 9 is amended as follows:

“2. The notice of invoice publication must specify: Name, TIN, address, phone number of the invoice-publishing unit, types of invoices (names, symbols of invoices, template numbers, commencement dates, quantity of published invoices (a range of numbers)), name and TIN of the printing facility (if invoices are ordered), name and TIN (if any) of the provider of invoice-printing software (if invoices are self-printed), names and TINs (if any) of intermediary provider of electronic invoices (applied to electronic invoices); date of the notice of invoice publication, name and signature of the legal representative, and the organization’s seal.

Any bank, credit institution, or its branches that use their own invoices for service charges shall send a notice of invoice publication enclosed with the invoice template to the tax authority, register the invoice number structure. The quantity of published invoices is not required to be registered.

In case the name and/or address of the business organization is changed but the published invoices on which the name and address are printed are not used up and the taxpayer wishes to keep using such ordered invoices, the new name and/or address shall be stamped next to the existing name and address. A notice of information adjustment shall be sent to the supervisory tax authority (template 3.13 Appendix 3 enclosed herewith).

When the business organization is moved and thus under the management of a new tax authority but it wishes to keep using the published invoices that remain, an invoice use report shall be submitted to the new tax authority and the new address shall be stamped on the invoice. A manifest of remaining invoices (template 3.1 in Appendix 3 enclosed herewith) and a notice of information adjustment shall be sent to the new tax authority (specifying the number of remaining invoices). In case the business organization does not wish to use the published invoices that remain, they shall be destroyed. A report on invoice destruction and a new notice of invoice publication shall be sent to the new tax authority.

In case the contents of the notice of invoice publication are changed, the business organization must make a new notice of invoice publication in accordance with instructions in this Clause.”

6. Clause 2 is added to Article 14 as follows:

“2. Taxpayer (both organizations and individuals) engaged in hotel and restaurant business, supermarket business, and other business lines using cash register systems and shopkeeper software to receive payments, they must be connected with tax authorities to send information to tax authorities according to their plan.”

7. Article 16 is amended as follows:

a) Point b Clause 1 of Article 16 (amended in Clause 3 Article 5 of Circular No. 119/2014/TT-BTC) is amended as follows:

b) When selling goods and services, including those used for trade promotion, advertising, samples, goods and services used for donation, exchange, or paid as salaries (except for goods internally circulated or internally used to proceed production), the seller must issue invoices.

Information on invoices must match the actual transactions; no erasure and change may be made; the ink used must be inedible and consistent in color; red ink is not permitted; numbers and text must be written continuously without interruption. Do not write on printed text. Any blank space shall be crossed out. It is not required to cross out blank space on self-printed invoices or ordered invoice issued by computers.”

b) Point d Clause 2 of Article 16 is amended as follows:

b) With regard to the item “Tên, địa chỉ, mã số thuế của người bán” (name, address, TIN of the seller), “tên, địa chỉ, mã số thuế của người mua” (name, address, TIN of the buyer): The buyer must write the full name or abbreviated name if it can help identify the correct buyer/seller. The TIN must be written correctly.

If the name or address of the buyer is too long, the seller may shorten some common nouns (P instead of Phường (ward), Q instead of Quận (district), TP instead of Thành Phố (city), etc.) as long as the house number, names of the street, ward, district, city, name of the company are written and conformable with business registration or tax registration of the company.

In case goods are sold by an affiliated unit of the organization using a separate TIN, the name, address, and TIN of such affiliated unit must be written. If the affiliated unit does not have a TIN, the TIN of the headquarter shall be written.

When a buyer of goods or services worth VND 200,000 or more does not take the invoice or provide his/her name, address, and TIN, an invoice shall still be issued and say “người mua không lấy hóa đơn" (“the buyer refuses to take this invoice”) or “người mua không cung cấp tên, địa chỉ, mã số thuế" (“the buyer refuses to provide his/her name, address, TIN”).

If buyers refuse to take invoices at an oil/gas retail outlet, an invoice for total revenue from buyers that refuse to take invoices in the day shall be issued.

If the buyer's name or address on an issued invoice is incorrect but the buyer's TIN is correct, only an adjustment note is required instead of an adjusted invoice. Instructions of the Ministry of Finance in Article 20 of Circular No. 39/2014/TT-BTC shall apply to other cases of mistakes."

8. The following forms are enclosed with this Circular:

a) Form TB01/AC: Notice of invoice issuance for organizations and enterprises, which replaces form TB01/AC enclosed with Circular No. 39/2014/TT-BTC.

b) Form TB02/AC: Notice of invoice issuance for Provincial Departments of Taxation, which replaces form TB02/AC enclosed with Circular No. 39/2014/TT-BTC.

c) Form BC01/AC: Report on invoice printing/provision of invoice printing software, which replaces form BC01/AC enclosed with Circular No. 39/2014/TT-BTC.

9. Point 2.4 of Appendix 4 is amended as follows:

"2.4. Use of invoices, receipts for goods/services on sale, advertising, samples, donation, gifts by VAT payers applying credit-invoice method:

a) Goods/services used on sale must have invoices bearing the names and quantities of goods, specifying that they are on sale, samples in accordance with regulations of law on VAT.

Goods/services used as gifts or paid as salaries must have VAT invoices (or sale invoices) bearing all necessary information and VAT calculation methods as if they are sold to customers."

Article 4. Effect

1. This Circular takes effect from the effective date of the Law No. 71/2014/QH13 on amendments to tax laws and the Government's Decree No. 12/2015/NĐ-CP on guidelines for the Law on Amendments to tax laws and decrees on taxation.

2. Clause 2 Article 1 of this Circular shall apply to the contracts to buy agriculture machinery signed before the effective date of the Law No. 71/2014/QH13 (those mentioned in Clause 11 Article 10 of Circular No. 219/2013/TT-BTC, which is amended in Clause 2 Article 1 of this Circular) under which the right to ownership, right to enjoyment are transferred after the effective date of the Law no. 71/2014/QH13.

3. With regard to contracts to build offshore fishing ships signed before January 01, 2015 at VAT-inclusive prices, if the ships are not done and transferred by January 01, 2015, Clause 2 Article 1 of this Circular shall apply to the total value of such ships.

4. For the purpose of simplifying tax formalities, regulations on List of invoices, receipts for purchases and sales, and regulations on exchange rates applied when determining revenues and calculating taxes in the following documents shall be annulled:

- Circular No. 05/2012/TT-BTC dated January 05, 2012 of the Ministry of Finance, which provides guidelines for the Government's Decree No. 26/2009/NĐ-CP dated March 16, 2009 and Decree No. 113/2011/NĐ-CP dated December 08, 2011 on elaboration of the Law on special excise duty.

- Circular No. 219/2013/TT-BTC dated December 31, 2013 of the Ministry of Finance on guidelines for the Law on Value-added tax and the Government's Decree No. 209/2013/NĐ-CP dated December 18, 2013 on guidelines for the Law on Value-added tax.

- Circular No. 156/2013/TT-BTC dated November 06, 2013 of the Ministry of Finance on guidelines for the Law on Tax administration; the Law on Amendments to the Law on Tax administration, and the Government's Decree No. 83/2013/NĐ-CP dated July 22, 2013.

- Circular No. 119/2014/TT-BTC dated August 25, 2014 of the Ministry of Finance on amendments to Circular No. 156/2013/TT-BTC dated November 06, 2013; Circular No. 111/2013/TT-BTC dated August 15, 2013; Circular No. 219/2013/TT-BTC dated December 31, 2013; Circular No. 08/2013/TT-BTC dated January 10, 2013; Circular No. 39/2014/TT-BTC dated March 31, 2014; and Circular No. 78/2014/TT-BTC dated June 18, 2014.

5. Notices of tax exemption or reduction according to International Agreements submitted to tax authorities before this Circular takes effect shall be retained together with relevant documents in accordance with this Circular by agents or representative offices in Vietnam of foreign transport companies.

6. During the implementation of this Circular, if the documents cited in this Circular are amended or replaced, the new documents shall apply.

Article 5. Responsibility for implementation

1. The People’s Committees of provinces shall direct competent authorities to implement regulations of the Government and instructions of the Ministry of Finance.

2. Tax authorities shall instruct taxpayers to implement this Circular.

3. The entities regulated by this Circular must comply with instructions in this Circular.

Difficulties that arise during the implementation of this Circular should be reported to the Ministry of Finance for consideration./.

PP MINISTER
DEPUTY MINISTER

Do Hoang Anh Tuan
