THE MINISTRY OF FINANCE	**THE SOCIALIST REPUBLIC OF VIETNAM**
--------	**Independence - Freedom – Happiness**

No. 151/2014/TT-BTC	*Hanoi, October 10, 2014*

CIRCULAR

ON PROVIDING GUIDANCE ON DECREE NO. 91/2014/ND-CP DATED OCTOBER 1, 2014 OF THE GOVERNMENT ON AMENDMENTS TO DECREES ON TAXATION

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

Pursuant to the Law on personal income tax No. 04/2007/QH12 and Law No. 26/2012/QH13 on amendments to the Law on personal income tax;

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

Pursuant to the Law on Corporate income tax No. 14/2008/QH12 and Law No. 32/2013/QH13 on amendments to the Law on Corporate income tax;

Pursuant to the Decree No. 83/2013/ND-CP dated July 22, 2013 of the Government on providing guidance on implementation of the Law on Tax administration and the Law on amendments to the Law on Tax administration;

Pursuant to the Decree No. 65/2013/ND-CP dated June 27, 2013 of the Government on providing guidance on the Law on personal income tax and the Law on amendments to the Law on personal income tax;

Pursuant to the Decree No. 209/2013/ND-CP dated December 18, 2013 of the Government on providing guidance on the implementation of the Law on Value-added tax;

Pursuant to the Decree No. 218/2013/ND-CP dated December 26, 2013 of the Government on providing guidance on the implementation of the Law on Corporate income tax;

Pursuant to Decree No. 91/2014/ND-CP dated October 1, 2014 of the Government on amendments to Decrees on taxes;

Pursuant to Decree No. 215/2013/ND-CP dated December 23, 2013 of the Government 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 shall provide guidance on implementation of Decree No. 91/2014/ND-CP dated October 1, 2014 of the Government on amendments to Decrees on taxation as follows:

Chapter I

CORPORATE INCOME TAX

Article 1. Point 2.2.e and Point 2.31 Clause 2 Article 6 of the Circular No. 78/2014/TT-BTC dated June 18, 2014 of the Ministry of Finance on providing guidance on implementation of Decree No. 218/2013/ND-CP dated December 26, 2013 of the Government on providing guidance of

implementation of the Law on Corporate income (hereinafter referred to as Circular No. 78/2014/TT-BTC) shall be amended as follows:

“e) Depreciation for cars with fewer than 9 seats (except for cars used for passenger transport, tourism, or hotel operations; cars used for display and test drive by car dealers) in proportion to the portion of cost in excess of 1.6 billion dong per car; depreciation of fixed assets such as civil aircraft or yachts not used for transport of passengers or goods, tourism, or hotel operations.

Passenger cars with fewer than 9 seats used for passenger transport, tourism, or hotel operations are any cars registered under the names of enterprises which, in their business registration certificates, have registered one of these business lines: passenger transport, travel or hotel business, and have been licensed for doing business as prescribed in legal documents on transport, travel or hotel business.

Civil airplanes and yachts not used for cargo, passenger and tourist transport business are those of enterprises having registered and recorded the depreciation of fixed assets but not registered the passenger transport, travel or hotel business in their business registration certificates.

In case an enterprise transfers or liquidates cars with fewer than 9 seats, the residual value of such car equals (=) the actual cost of the fixed assets minus (-) the accumulated depreciation of the fixed assets according to regulations on management, use, and depreciation of fixed assets by the time of the car transfer or liquidation.

Example 8: Company A buys a car with fewer than 9 seats at a cost of VND 6 billion. It shall liquidate the car after making 1-year depreciation. The depreciation amount is VND 1 billion according to regulations on management, use, and depreciation of fixed assets (the depreciation period is 6 years according to regulations on fixed asset depreciation) The depreciation amount to be included in deductible expenses under tax policies is VND 1.6 billion/6 years = VND 267 million. Company A liquidates the car for VND 5 billion.

The income from the car liquidation = VND 5 billion - (VND 6 billion - VND 1 billion) = VND 0”

Expenditures that are not relevant to assessable revenue, excluding the expenses below:

- The actual expenditures on HIV/AIDS prevention at workplace, including expenditure on provision of training in HIV/AIDS prevention for employees, expenditure on raising employees’ awareness of HIV/AIDS prevention, fees for HIV consultation, examination and testing, and expenditure on supporting employees who are HIV sufferers.

- Expenditures on performance of duties pertaining to security and defense education, training, activities of militia forces and other defense and security duties as prescribed;

- The actual expenditures on operations of Party Communist Party organizations and social-political organizations in the businesses.

- Direct expenditures on the employees’ welfare: expenditures on employees’ family occasion; expenditures on holiday allowance or treatment support; expenditures on professional training; expenditures on supporting employees’ families affected by natural disasters, hostilities, accidents, illness; expenditures on providing reward for employees’ children due to their educational achievements; expenditures on allowances for traveling during holidays of the employees and other welfare expenditures.

The total expenditures incurred in the tax year must not exceed actual average 1 month's salary.

The actual average 1 month's salary equals (=) wage-fund released within a year divided (:) by 12 months. Wage-fund established within a year shall be prescribed in 2.5.c Clause 2 Article 6 of Circular No. 78/2014/TT-BTC dated June 18, 2014 of the Ministry of Finance.

Example: Company A has actual wage-fund released in 2014 by VND 12 billion, the average 1 month's salary of company A incurred in the tax year 2014 shall be determined as follows: (VND 12.000.000.000 : 12 months) = VND 1.000.000.000

- Other special expenditures of each field shall apply guidance of the Ministry of Finance".

Article 2. Clause 14 Article 7 of Circular No. 78/2014/TT-BTC shall be amended as follows:

Differences from the revaluation of assets as prescribed to contribute capital or transfer assets upon division, splitting, consolidation, merger or conversion (except for equitization or restructuring of the enterprises whose charter capital is wholly held by the state) shall be specifically determined as follows:

a) Increase or decrease resulting from the revaluation of assets is the difference between the re-evaluated value and the residual book value of assets and shall be included once in other incomes (for increase) or deducted from other incomes (for decrease) in a tax period for determining taxable incomes of businesses having their assets re-evaluated;

b) Increase or decrease resulting from the revaluation of land use rights (hereinafter referred to as land) for: capital contribution (in which the land transferee may gradually aggregate this value with deductible expenses), transfer upon division, splitting, consolidation, merger or conversion; or for capital contribution to investment projects to build houses and infrastructure facilities for sale shall be included once in other incomes (for increase) or deducted from other incomes (for decrease) in a tax period for determining taxable incomes of the land transferor;

Particularly, the increase resulting from the revaluation of land for the creation of fixed assets used in production and business activities which must not be depreciated or gradually aggregated with deductible expenses may be gradually included in other incomes of the land transferor for up to 10 years from the year in which the land is contributed as capital. The land transferor shall notify the number of years they will aggregate the increase with other incomes when making the declaration of corporate income tax of the starting year of declaration of this income (the year in which the land to be contributed as capital are re-evaluated).

In case after capital contribution, businesses continue to transfer capital in the form of land (including also the case of capital contribution ahead of the 10-year time limit), the income from the transfer of capital in the form of land shall be calculated and declared for tax payment as income from real estate transfer.

The difference resulting from the revaluation of land includes: the difference between the re-evaluated value and book value of land if land use term is indefinite, or the difference between the re-evaluated value and value of land that remains after aggregation with income if land use term is limited.

c) Businesses that receive assets contributed as capital or assets transferred upon division, splitting, consolidation, merger or conversion of the company may depreciate such assets or gradually aggregate them with expenses according to the revaluation price (unless the value of land use rights is ineligible for depreciation or aggregation with expenses under regulations)."

Article 3. Clause 3 Article 8 of Circular No. 78/2014/TT-BTC shall be amended as follows:

“3. The income derived from the execution of the contract for scientific research and technological development shall be eligible for tax exemption until expiration of that contract but not more than 3 years from the day on which the revenue is earned;

The income derived from the sale of products that are results of new technologies applied in Vietnam for the first time shall be eligible for tax exemption but not more than 5 years from the day on which the revenue is earned;

The income derived from the sale of experimental products during the experimental production period shall be applied to relevant laws.

a) The income derived from the execution of the contract for scientific research and technological development eligible for tax exemption must satisfy the following requirement:

- The scientific research activity registration is certified;

- Such scientific research and technological development contract is certified by a competent state management agency in charge of science.

b) The income derived from the sale of products that are results of new technologies applied in Vietnam for the first time is eligible for tax exemption if such technologies are certified by a science authority”.

Article 4. Clause 9 Article 8 of Circular No. 78/2014/TT-BTC shall be amended as follows:

"9. Income of the Vietnam Development Bank derived from credit extension serving investment in development, or credit extension serving export assigned by the State; income of Bank for Social Policies derived from credit extension to the poor and other subjects enjoyed preferential treatment policy; income of Vietnam Asset Management Company; income of government grants derived from revenue-generating activities assigned by the State : Vietnam social insurance fund, Deposit insurance corporation, Health insurance fund, Apprenticeship enhancement fund, Overseas employment support fund of the Ministry of Labor, Famer support fund, Vietnam legal aid fund, Public-utility telecommunications fund, Local development investment fund, Vietnam environmental protection fund, Credit guarantee fund for small and medium-sized businesses, Cooperative development aid fund, Poor women support fund, Fund for Protection of citizens and legal entities abroad, Housing development fund, Fund for small and medium-sized corporate development, Fund for National scientific and technological development, National technological innovation fund; incomes of non-profit Fund for Land development and other funds of the State prescribed or established and operated by the Government or Prime Minister are deriving from operations assigned by the State.”

In case the units earn incomes derived from operations other than revenue-generating operations assigned by the State, they must calculate and pay tax as prescribed”.

Article 5. Point e and g are added to Clause 5 Article 18 of Circular No. 78/2014/TT-BTC as follows:

“e) With regard to a licensed investment project, if the investment capital, stage, and rate of progress are registered in the initial investment dossier sent to investment licensing agency provided that the subprojects conducted on schedule, the subprojects shall be treated as a subproject of the first investment project granted the first license (except for force majeure

events, objective difficulties in the site clearance, administrative procedures of regulatory agencies, disasters, conflagration or other difficulties or force majeure events). As a result, such subprojects shall be eligible for tax incentives for the rest of incentive period from the day on which the subprojects earn the income eligible for tax incentives.

If the investment project is licensed before January 1, 2014 and its investment stages are conducted as registered, such subprojects shall be eligible for tax incentives for the rest of incentive period from January 1, 2014.

In case the incomes of subprojects of first investment projects are eligible for corporate income tax incentives before January 1, 2014 as prescribed in legislative documents issued before January 1, 2014, the tax incentives shall remain unchanged.

During the execution of subprojects, if the investment authority (prescribed in the Law on investment No. 59/2005/QH11 dated November 29, 2005 and guiding documents) grants an extension of the project deadline and the project progress meets the extended deadline, the investor shall be eligible for tax incentives as prescribed.

g) If an investment project is provided with tax incentives and new investments in machinery and equipment are regularly made during the period 2009 - 2013, the additional income earned from such investments shall be eligible for the same tax incentives for rest of incentive period from tax period 2014."

Article 6. Clause 3 Article 20 of Circular No. 78/2014/TT-BTC shall be amended as follows:

"3. The incomes from performing new investment projects prescribed in Clause 4, Article 19 of Decree No. 78/2014/TT-BTC dated June 18, 2014 of the Ministry of Finance and income of the business from performing new investment projects in industrial parks (except for industrial parks located in socially and economically advantaged areas) shall be eligible for tax exemption for 2 years and 50% tax reduction for the next 4 years.

The socially and economically advantaged areas prescribed in this Clause are urban districts of special class cities or the class I cities affiliated to the central and the class I cities affiliated to provinces, not including urban districts of the aforesaid cities converted from districts from January 1, 2009; where an industrial park is located in both advantaged and disadvantaged areas, the determination of tax incentive for such industrial park depends on the actual location of the investment project.

The determination of special class cities, or class I cities prescribed in this Clause shall comply with regulations of Decree No. 42/2009/ND-CP dated May 7, 2009 of the Government on classification of cities and guiding documents of this Decree (if any)".

Article 7. Clause 8 Article 23 of Circular No. 78/2014/TT-BTC shall be amended as follows:

"**8.** If the period of tax incentives is still unexpired due to the export ratio but the business is no longer eligible for tax incentives for textile and garment products from January 11, 2007 and other products from January 01, 2012 because of commitments to WTO, it may decide whether to apply preferential tax rates and tax exemption period successively or concurrently for the remaining time to textile and garment products from 2007 and to other products from 2012 depending on the business' fulfillment of requirements (apart from export ratio and use of domestic raw materials) in accordance with the legislative documents on corporate income tax which is effective from the day on which the business is issued with the establishment license to

the effective date of the Decree No. 24/2007/ND-CP dated February 14, 2007 of the Government providing guidance on implementation of Law on corporate income tax, or in accordance with regulations of legislative documents on corporate income tax at the time in which tax incentives are adjusted due to the commitments to WTO.

If the adjustments in this Circular are more advantageous than the adjustments in the previous legislative documents although the business chose the plan prescribed in such documents (whether the businesses has undergone an inspection or not). The businesses shall make amendments as prescribed in the Law on Tax administration and guiding documents on implementation of tax administration and their wrong declaration due to amendments shall not face penalties for violations against the laws on taxation. In case the tax paid by the business is larger than the payable tax according to the amendments, the tax payer may decide whether to offset it against the tax payable of next tax period or claim a tax refund as prescribed. In case the businesses made adjustments in accordance with WTO commitment for textile or garment products as prescribed in the previous legislative documents, if they incur penalties for violations against taxes, calculation of late payment interest and they have paid fines and late payment interest, they are not required to make any adjustments".

Chapter II

VALUE-ADDED TAX

Article 8. Point a Clause 8 Article 4 of Circular No. 219/2013/TT-BTC dated December 31, 2013 of the Ministry of Finance on providing guidance on implementation of the Law on Value-added tax and Decree No. 209/2013/ND-CP dated December 18, 2013 of the Government on providing guidance on implementation of the Law on Value-added tax (hereinafter referred to as Circular No. 219/2013/TT-BTC) shall be amended as follows:

"a) Credit extension services including:

- Grant loans;

- Discount or rediscount negotiable instruments and other valuable papers;

- Issue the bank guarantee;

- Grant finance lease;

- Issue credit card.

In case the credit institutions collect the charges relating to credit card issuance, the fees for credit extension services (issuance fees) charged from the clients such as prepayment penalties, late payment fees, debt rescheduling, management of loans and other fees in the process of credit extension shall be not subject to VAT.

The normal card transaction fees not in the process of credit extension such as, PIN regeneration fees, transaction invoice's copy issuance fees, refund claiming fees, fees for replacement of lost cards, fees for cancellation of credit card, credit card conversion fees and other fees shall be subject to VAT.

- Carry out domestic factoring; or international factoring to permitted banks;

- Sell collateral for loans by credit institutions or competent judgment-executing agencies, or borrowers sell the collateral themselves by delegation of lenders to repay the secured loans, in particular:

+ The sold collateral for loans is an asset in secured transactions which is registered with competent agencies as prescribed in regulations of law on registration of secured transactions.

+ Collateral for loans shall be handled as prescribed in regulations of law on secured transactions.

If the person having the collateral is still unable to pay the debt by the deadline and has to transfer the asset to the credit institution for handling in accordance with law, the parties shall carry out procedures for transfer of the security asset under regulations.

In case a credit institution receives collateral instead of receiving repayment from its debtors, it shall record such collateral as an increase in its asset value serving its business operation as prescribed. In case an institution sells its assets serving its business operation and such assets are subject to VAT, the institution must declare and pay VAT as prescribed.

Example 3: In March 2014, Company A (a business entity that pays VAT using credit-invoice method) puts its production lines and machinery as collateral for a 1-year loan granted by Bank B (due on March 31, 2015). On March 31, 2015, Company A becomes insolvent so that it must transfer its collateral to Bank B. The procedures for transferring collateral shall be conducted as prescribed in regulations of law on handling with collateral. If Bank B sells such collateral to recover the its debts, that collateral shall be not subject to VAT.

Example 3a: In December 2014, Company B (a business entity that pays VAT using credit-invoice method) puts its workshops and land use rights (hereinafter referred to as land) as collateral for a 1-year loan granted by Commercial Bank C, (due on March 31, 2015). Commercial Bank C and Company B had registered secured transactions (a mortgage on its workshop and land) with competent agencies. On December 15, 2016, Company B becomes insolvent and Commercial Bank C grants a discharge of B’s mortgage in writing in order that Company B sells its workshops to repay debt. In January 2017, if Company B sells its workshops, the sold workshops shall not be subject to VAT.

- Provision of credit information services provided by units affiliated to the State bank to credit institutions which use in credit extension operations prescribed in regulations of Law on the State bank.

Example 4: X is a unit affiliated to the State bank and permitted to provide credit information services. In 2014, X concludes a service contract with multiple commercial banks for serving credit extension operations and other operations of commercial banks, its revenue from the services serving credit extension operation shall be not subject to VAT, and its revenue from the services serving other operations of commercial banks not prescribed in regulations of Law on the State bank shall be subject to VAT at 10%.

- Other credit extension methods prescribed in corresponding regulations of law".

Article 9. Clause 3 Article 14 of Circular No. 219/2013/TT-BTC shall be amended as follows:

“3. The input VAT on fixed assets, machinery, and equipment, including the input VAT on the lease of these assets, machinery, and equipment, and other input VAT relating to assets, machinery, and equipment such as warranty or repair shall be not deducted and shall be included

in costs of fixed assets or the deductible expense prescribed in Law on corporate income tax and other documents providing guidance on implementation in the following cases: specialized fixed assets used for the manufacture of weapons and military equipment for security and defense; fixed assets, machinery, equipment of credit institutions, reinsurers and life insurers, securities companies, medical facilities, training institutions; civil aircraft and yachts not used for commercial cargo transport, passenger transport, tourism, or hotel operation.

With regard to fixed assets being cars with fewer than 9 seats (except for cars used for cargo transport, passenger transport, tourism, or hotel operation; cars used for display and test drive by car dealers) whose value are over VND 1.6 billion (not including VAT), the input VAT amount in proportion to the amount in excess of VND 1.6 billion shall not be deducted."

Article 10. Point c Clause 3 Article 15 of Circular No. 219/2013/TT-BTC shall be amended as follows:

"c) With regard to purchase of goods/services under an instalment plan or deferred payment plan that is valued at VND 20 million or above, the business entities shall declare and deduct the input VAT according to the sale contract, VAT invoice, and bank transfer receipt. If the bank transfer receipt is not available because the payment is not due, the business entities may declare and deduct input VAT".

If the bank transfer receipt is not available, the business entities must declare and decrease the deducted VAT in proportion to value of goods or services without bank transfer receipt in the tax period incurred the cash payment (including cases in which tax authorities and regulatory bodies had decision on inspection in the tax period during the declared and deducted VAT is incurred)."

Chapter III

PERSONAL INCOME TAX

Article 11. Point dd.1 Clause 2 Article 2 of Circular No. 111/2013/TT-BTC dated August 15, 2013 of the Ministry of Finance on providing guidance on implementation of the Law on personal income tax, Law on amendments to the Law on personal income tax and Decree No. 65/2013/ND-CP of the Government on providing guidance on the Law on personal income tax and Law on amendments to the Law on personal income tax (hereinafter referred to as Circular No. 111/2013/TT-BTC) shall be amended as follows:

"dd) Other monetary or non-monetary benefits other than salaries and wages paid to taxpayers by employers in any shape or form:

dd.1) House rents, charges for electricity, water and associated services (if any), not including: benefits from houses provided by the employers for workers working in the industrial zones, economic zones or in disadvantaged or severely disadvantaged areas

In case a worker living at his work place, his/her taxable income shall be calculated according to ratio of his usable area to his work place area according to house rent or depreciation expenses, charges for electricity, water and other services.

The house rent paid by the employer shall be included in taxable income according to the actual amount of money, provided that it does not exceed 15% of total taxable income (not including house rent) of the business."

Article 12. Point c Clause 2 Article 26 of Circular No. 111/2013/TT-BTC shall be amended as follows:

"c) A resident earns an income from his salaries, wages, or business must make a declaration if there are additional taxes payable or overpaid taxes which claim the tax refund or offset against the tax in the next tax period, except for the following cases:

c.1) A person has tax payable which is smaller than provisionally paid tax, but he does not claim a tax refund or offset against the tax in the next tax period.

c.2) A person or a business household earns an income from their business and has paid taxes using flat tax method.

c.3) A person or a business household who only earns an income from leasing out their houses or lands paid taxes according to their declaration at their leasing houses or lands.

c.4) A person who earns both an income from their salaries or wages from an at least 3-month labor contract with a company and other incomes at other companies provided that it is not more than VND 10 million and his income has been withheld at 10% by his employer, he is only required to make a declaration for that income on request.

c.5) A person who earns both an income from their salaries or wages from an at least 3-month labor contract and other incomes from leasing out his houses or lands provided that his average revenue in a year is not more than VND 10 million paid taxes at their leasing houses or lands, he is only required to make a declaration for that income on request.

c.6) A person who is an insurance agent, a lottery agent, or a multi-level marketing agent whose personal income tax has been withheld by the income payer shall not make a declaration of that income."

Article 13. Clause 5 Article 30 of Circular No. 111/2013/TT-BTC shall be amended as follows:

"5. With regard to a person using a transferred real estate during the period from July 1, 1994 to before January 1, 2009, if he is granted a Certificate of land use right, house ownership and other property thereon by regulatory agencies according to his application sent from January 1, 2009, he is eligible for paying personal income tax (01) time. If a person using a transferred real estate before July 1, 1994, he is eligible for personal income tax exemption.

From January 1, 2009 (implementation of the Law on personal income tax), every person that transfers real estate, whether under a notarized contract, a handwritten document, or no contract at all, must pay personal income tax on every transfer."

Chapter IV

TAX ADMINISTRATION

Article 14. Point dd, Clause 1, Article 10 of Circular No. 156/2013/TT-BTC dated November 6, 2013 of the Ministry of Finance on providing guidance on the Law on Tax administration; Law on amendments to the Law on Tax administration and the Decree No. 83/2013/ND-CP dated July 22, 2013 of the Government (hereinafter referred to as Circular No. 156/2013/TT-BTC) shall be amended as follows:

“dd) If the taxpayer’s business operation is suspended and tax is not incurred, the tax declaration for the suspension period might not be submitted. If the taxpayer’s business is not suspended over the whole calendar year or tax year, the annual declaration must be submitted.

dd.1) If the taxpayer applies for business registration at a business registration authority, the business registration authority shall be informed in writing when the taxpayer suspends or resumes their business operation.

The business registration authority must inform tax authority in writing of the information of business suspension or resumption of the taxpayer within 02 working days from the day on which the document is received. In case the tax payer register for business suspension, the tax authority must inform the business registration authority in writing of unpaid tax to the government budget of the taxpayer within 02 working days from the day on which the document is received.

dd.2) If a taxpayer applies for TIN at the tax authority, he must inform supervisory tax authority in writing within 15 days preceding the day on which the business is suspended. The notification shall contain:

- Name of business, address of premises, TIN;

- Suspension period, beginning date and ending date of the suspension period;

- Reasons for suspension;

- Full name and signature of the legal representative of the businesses, representative of business group or owner of business household.

At the end of the suspension period, the taxpayer must make a tax declaration as prescribed. If the taxpayer resumes their businesses ahead of period prescribed in notification of business suspension, he must notify supervisory tax authority in writing and make a tax declaration as prescribed".

Article 15. Point c Clause 2 Article 11 of Circular No. 156/2013/TT-BTC shall be amended as follows:

“b) Quarterly declaration of VAT

b.1) The taxpayers eligible to declare VAT quarterly

The VAT taxpayers that earn total revenue of VND 50 billion or less from the sale of goods and/or services in the preceding year shall be eligible to declare VAT quarterly.

The taxpayer that has just begun his business shall declare VAT quarterly. In the next calendar year after 12 months of business, VAT declarations shall be declared whether monthly or quarterly depending on the revenue from the sale of goods and/or services in the preceding calendar year (12 months).

Example 21:

- Company A begins its business from January 2015, thus VAT shall be declared quarterly in 2015 In 2016, tax shall be declared monthly or quarterly depending on the revenue in 2015 (12 months).

- Company A begins its business from January 2015, thus VAT shall be declared quarterly in 2014 and 2015.

In 2016, tax shall be declared monthly or quarterly depending on the revenue in 2015.

Taxpayers must determine their eligibility to declare tax quarterly themselves.

Any taxpayer eligible to declare VAT quarterly that wishes to declare tax monthly shall send a notification (using the form No. 07/GTGT enclosed herewith) to the supervisory tax authority not later than the submission of the VAT declaration of the first month of the tax year in which VAT are declared monthly.

b.2) Period of quarterly declaration

- VAT shall be declared monthly or quarterly throughout the calendar year and the 3-year period. The first stable period begins on October 1, 2014 and ends on December 31, 2016.

Example 22: In 2013, company C earns total revenue of VND 18 billion, thus it is eligible to declare VAT quarterly from October 1, 2014. If the revenue earned in 2014, 2015 or 2016 declared by the company (including adjustments), or determined by the inspector is VND 55 billion, company C shall keep declaring VAT quarterly until the end of 2016. The new declaration period shall be determined from 2017 according to the revenue earned in 2016.

Example 23: In 2013, company D earns revenue of VND 57 billion, thus it shall declare VAT monthly. If the revenue earned in 2014 declared by the company (including adjustments), or determined by the inspectors is VND 48 billion, company D shall keep declaring VAT monthly until the end of 2016. The new declaration period shall be determined from 2017 according to the revenue earned in 2016.

- In the quarterly declaration stable period, if the taxpayers discovered themselves or by the inspector that revenue earned in preceding year of that period is above VND 50 billion, taxpayers not eligible to declare VAT quarterly of that period shall declare VAT monthly from the following year of the year in which the revenue is discovered.

Example 24: In 2013, company E states total revenue of VND 47 billion in the VAT declaration, which makes it eligible to declare VAT quarterly from October 1, 2014. In 2015, the inspector concludes that the taxable revenue earned in 2013 is in access of VND 5 billion against self-declared figure of VND 22 billion. Consequently, company E must declare VAT monthly in 2016. From 2017, new tax declaration period shall be determined according to the revenue earned in 2016.

Example 25: In 2013, company G states total revenue of VND 47 billion in the VAT declaration, which makes it eligible to declare VAT quarterly from October 1, 2014. In 2015, company G makes an adjusted declaration themselves specifying that the taxable revenue earned in 2013 is in access of VND 5 billion against self-declared figure of VND 52 billion. Consequently, company G shall declare VAT monthly from 2016. From 2017, new tax declaration period shall be determined according to the revenue earned in 2016.

- In the stable monthly declaration period, if the taxpayers discovered themselves or by the inspector that revenue earned in preceding year of that period is VND 50 billion or less, taxpayers eligible to declare VAT quarterly of that period shall decide whether to make declaration monthly or quarterly from the following year of the year in which the revenue is discovered to the end of stable period.

- If the businesses make declarations quarterly before the effective date of this Circular, the first stable period shall be determined until the end of December 31, 2016.

b.3) Method of determining revenue from sale of goods or services in the preceding year (to determine the entities eligible to declare VAT quarterly)

- The revenue from sale of goods or services is total revenues stated on the VAT forms of tax periods in the calendar year (including taxable and non-taxable revenues).

- Where the taxpayer declares taxes at the head office on behalf of their affiliates, the revenues from sale of goods and services shall include the revenues earned by their affiliates

Article 16. Article 12 of Circular No. 156/2013/TT-BTC shall be amended as follows:

" **Article 12.** Declaration of corporate income tax (hereinafter referred to as CIT)

1. Responsibility for submitting CIT declarations to tax authorities

a) The taxpayers shall submit CIT declarations to the supervisory tax authorities.

b) Where the taxpayer has an affiliate that keep accounting records independently, the affiliate shall submit its CIT declarations to its supervisory tax authority.

c) Where the taxpayer has an affiliate that keep accounting records dependently, such affiliate is not required to submit CIT declarations. The taxpayer must include the tax incurred by the affiliate in the CIT declaration at its headquarter.

d) Where the taxpayer has a manufacturing facility (including processing or assembling facility) that keep accounting records dependently and is located in province of which other than the taxpayer's head office, the taxpayer must include the tax incurred by the manufacturing facility in the CIT declaration at its headquarter.

dd) If an associate of a corporation or general company which keep accounting records dependently has determined their revenue, expense, and taxable income, it shall declare and pay CIT to the supervisory tax authority.

e) If an associate engages in another business than the common business of the corporation or general company, and can separate the revenue from such business, the associate shall submit CIT declarations to the supervisory tax authority.

If another method of tax declaration must be applied, the corporation or general company must request the Ministry of Finance to provide guidance.

2. CIT shall be declared whenever it is incurred, annually, or when a decision on division, consolidation, merger, conversion, dissolution, or shut down of the company is made. with regard to the conversion of company, if the transferee receives whole tax liabilities of the transferor before conversion (such as conversion from limited liability company into joint-stock company or conversely; conversion from state-owned company into joint-stock company and other cases prescribed in regulations of law), it shall not declare taxes until a decision on conversion of company is made, and it shall only declare taxes annually as prescribed.

Cases of CIT declarations whenever it its incurred:

- CIT on real estate transfer shall be declared whenever it is incurred by the taxpayer that is not a real estate company, or by the real estate company that wishes to do.

- CIT shall be declared whenever it is incurred by any foreign organization that does business in Vietnam or earns income in Vietnam (hereinafter referred to as foreign contractor) from capital

transfer but its operations do not comply with regulations of the Law on Investment or the Law on Businesses.

3. CIT declarations

CIT declaration shall include annual CIT declarations and CIT declarations that up to the time a decision on division, consolidation, merger, conversion, dissolution, or shut down of the company is made.

b) CIT declarations shall include:

b.1) CIT declarations form using form No. 03/TNDN enclosed herewith.

b.2) An annual financial statement or a financial statement that up to the time a decision on division, consolidation, merger, conversion, dissolution, or shutdown of the company is made.

b.3) An appendix or appendices enclosed with the tax declaration form issued together with Circular No. 156/2013/TT-BTC and this Circular (on a case-by-case basis):

- Appendix of business performance using form 03-1A/TNDN, 03-1B/TNDN, or 03-1C/TNDN issued together with Circular No. 156/2013/TT-BTC.

- Appendix of loss transfer using form No. 03-2/TNDN issued together with Circular No. 156/2013/TT-BTC.

- Appendices of CIT incentives:

+ Form No. 03-3A/TNDN: CIT incentives for new businesses that are established from a project of investment, for businesses that change its location, and for new projects of investment issued together with Circular No. 156/2013/TT-BTC.

+ Form No. 03-3B/TNDN: CIT incentives for businesses that invest in new production line, expansion, technological innovation, environmental improvement, or productivity growth (expansion investment) issued together with Circular No. 156/2013/TT-BTC.

+ Form No. 03-3C/TNDN: CIT incentives for businesses that employ people from ethnic minorities, or manufacturing, construction, transport businesses that employ many female workers issued together with Circular No. 156/2013/TT-BTC.

- Appendix of CIT paid overseas that is deductible using form No. 03-4/TNDN issued together with Circular No. 156/2013/TT-BTC.

- Appendix of CIT on real estate transfer using form No. 03-5/TNDN enclosed herewith.

- Appendix of reports on the use of science and technology fund (if any) using form No. 03-6/TNDN issued together with Circular No. 156/2013/TT-BTC.

- Appendix of information about related transactions (if any) using form No. 03-7/TNDN issued together with Circular No. 156/2013/TT-BTC.

- Appendix of calculation of CIT incurred by the company that has manufacturing facilities that keep accounting records dependently and are located in other provinces other than the headquarter using form No. 03-8/TNDN issued together with Circular No. 156/2013/TT-BTC.

- Where a company has a project of investment overseas, additional documents required by the Ministry of Finance must be included apart from the aforementioned documents.

4. CIT declarations on real estate transfer prescribed in regulation of law on corporate income tax

a) If a company makes a real estate transfer in the same province as its headquarter, the tax declaration shall be submitted at the supervisory tax authority (Department of Taxation or Sub-department of taxation). Where a company has its headquarter in a province but makes a real estate transfer in another province, the Director of the Department of Taxation where the real estate transfer takes place shall decide the place to submit the tax declaration.

b) Any companies that do not regularly make real estate transfer shall submit a provisional CIT declaration whenever a real estate transfer is made.

Such companies are the companies that are not licensed to trade in real estate.

CIT declaration for each real estate transfer is the declaration form of tax on real estate transfer using form No. 02/TNDN enclosed herewith.

At the end of the year, the tax on real estate transfer must be separated when making the CIT declaration at the headquarter. At the headquarter, CIT on real estate transfer shall be handled as follows: if the tax paid is less than the tax payable in the declaration form, the company must pay the outstanding tax to government budget. If the tax paid is more than the tax payable in the declaration form, the overpaid tax shall be deducted from outstanding CIT on other business operations, or from the CIT payable in the next period, or claimed a tax refund as prescribed. If the real estate transfer leads to a loss, the company must offset such loss against the profit of other business operations (if any) from January 1, 2014, and against the profit in the next years according to the laws on corporate income tax.

c) The companies regularly make real estate transfer shall submit quarterly CIT declarations. Such companies are the companies that are not licensed to trade in real estate.

At the end of the tax year, the company shall make a CIT declaration on whole the real estate transfers stated in the quarterly CIT declarations or when it is incurred.

At the headquarter, CIT on real estate transfer shall be handled as follows: if the provisional paid taxes during the year are less than the amounts payable in the CIT declarations, the company must pay the outstanding taxes to government budget. If the provisional tax paid is more than the tax payable in the declaration form, the overpaid tax shall be deducted from outstanding CIT on other business operations, or from the CIT payable in the next period, or claimed a tax refund as prescribed. If the real estate transfer leads to a loss, the company must offset such loss against the profit of other business operations (if any) from January 1, 2014, and against the profit in the next years according to the laws on corporate income tax.

d) Where a company executes projects for infrastructure or housing for sale or for lease and collects advances from customers, in any shape or form:

- If the company has determined the expenses in proportion to recorded revenues (including accrued expenses of unfinished work estimates in proportion to recorded revenues, it shall pay CIT according to the difference between revenues and expenses.

- If the company is not able to determine the expenses in proportion to recorded revenues, it shall provisionally pay CIT at 1% of the revenue, and such revenue is not yet included to taxable revenue in the year.

When the property is transferred, the company must declare the terminal CIT declaration on real estate transfer.

5. If the businesses or organizations pay CIT according to rate(%) of revenue from sale of goods or services prescribed in regulations of law on corporate income tax, they shall annually declare CIT using form No. 04/TNDN enclosed herewith.

If businesses or organizations (paying CIT according to rate (%) of revenue from sale of goods or services prescribed in regulations of law on corporate income tax) that do not regularly sell goods or services subject to corporate income tax may declare taxes whenever it is incurred using form No. 04/TNDN enclosed herewith, which are not required to submit annual declarations annually.

6. d) Where the taxpayer has a manufacturing facility (including processing or assembling facility) that keep accounting records dependently and is located in province of which other than the taxpayer's headquarter, the taxpayer must include the tax incurred by the manufacturing facility in the CIT declaration at its headquarter.

a) Circulation of documents between State Treasuries and Tax authorities

The taxpayers shall determine themselves CIT paid for headquarter and other facilities which keep accounting records dependently prescribed in regulations of law on corporate income tax in order to send a CIT receipt to the local governments where their headquarter and manufacturing facilities are situated. The receipt must specify that the payment is transferred to a government's account at a State Treasury at the same administrative level with the tax authority of the locality where their headquarter and manufacturing facilities are situated.

The State Treasury where the headquarter is located shall transfer money and the receipt to relevant State Treasury for recording the tax incurred by manufacturing facilities.

b) Tax declaration

The company shall submit the tax declaration where its headquarter is situated, the outstanding CIT is the total CIT payable determined in declaration minus the provisional paid tax where its headquarter and manufacturing facilities are situated. The CIT that is refundable or payable must also be distributed according to the proportion paid where the head office and manufacturing facilities are situated.

7. CIT declarations on capital transfer

a) The incomes from capital transfer may be considered another other incomes. Any company that earns incomes from capital transfer must determine and write the CIT on capital transfer in the annual declaration forms.

Where the company sells part of or the single-member limited liability, the ownership of which is represented by an organization in the form of capital transfer together with real estate, CIT shall be declared and paid quarterly at the tax authority where the transfer is made (form 02/TNDN - Declaration of CIT on real estate transfer); the annual declaration shall be submitted where the its headquarter is situated.

b) CIT shall be declared whenever it is incurred by any foreign organization that does business in Vietnam or earns income in Vietnam (hereinafter referred to as foreign contractor) from capital

transfer but its operations do not comply with regulations of the Law on Investment or the Law on Businesses.

The capital transferee shall determine, declare, deduct, and pay the CIT payable on behalf of the foreign organization. If the transferee is also a foreign organization that does not comply with the Law on Investment and the Law on Enterprises, the company established under Vietnam's law in which capital is invested by that foreign organization must declare and pay the CIT payable on behalf of the foreign organizations.

The tax declaration must be submitted within 10 days from the day on which the competent authority approves the capital transfer or the transfer date agreed by all parties in the transfer contract (if the transfer is not subject to approval).

A declaration dossier consists of:

- A declaration form of CIT on capital transfer (using form No. 05/TNDN issued together with Circular No. 156/2013/TT-BTC);

- A photocopy of the transfer contract. If the transfer contract is written in a foreign language, it must be translated into Vietnamese, which contains at least the following information: the transferor, the transferee, time of transfer, transfer contents; rights and obligations of every party, contract value, deadline, method of payment and currency.

- A photocopy of the decision on approval for capital transfer made by a competent authority (if any);

- A copy of certificate of capital contribution;

- Original legitimate documents of expenditures.

If it is required to provide additional documents, the tax authority must notify the transferee within the day in which the dossier is received (if the dossier is submitted directly), or within 03 days from the day on which the dossier is received (if the dossier is sent by post or electronically).

Places: Tax declarations shall be submitted to the tax authority where the foreign transferor applied for tax registration.

8. Inspection of CIT terminal declarations applied to the businesses performing division; consolidation; merger; conversion; dissolution; or shut down.

8.1. The tax authority must inspect terminal tax declaration of business within 15 working days, from the day on which relevant documents on terminal tax declaration sent by the taxpayer is received in the case prescribed in Point 8.2 of this Clause.

8.2. Cases of dissolution, or shut down that tax authority is not required to make terminal tax declaration:

a) A business or an organization that pay CIT according to rate(%) of revenue from sale of goods or services prescribed in regulations of law on corporate income tax performing dissolution, or shut down.

b) A business that is dissolved or shut down, but it does not earn revenues and use invoices from the day on which Certificate of Business registration or Certificate of Corporate registration is granted up to the time of their dissolution, or shut down.

c) A business that pay CIT as their declaration shall be dissolved, or shut down if they meet the following requirements:

- There is an average revenue which is over VND 1 billion per year (from the year in which the terminal tax has not been declared or it has not been undergone any tax inspection up to the time of its dissolution, or shut down).

- From the year in which the terminal tax has not been declared or it has not been undergone any tax inspection up to the time of its dissolution, or shut down, the business has not been penalized for legal violations against tax evasion.

- The amount of CIT paid from the year in which the terminal tax has not been declared or it has not been undergone any tax inspection up to the time of its dissolution, or shut down is more than the amount of CIT determined by the rate % of revenue from sale of goods or services.

With regard to cases prescribed in Point 8.2. a, b, and c, within 05 working days from the day on which documents sent by the taxpayer are received (including decision on dissolution, or shut down; documentary evidence that the taxpayers satisfy all requirements and paid adequate taxes payable – if any), the tax authority shall certify that the taxpayer finished his tax liabilities.

8.3. If a business that is dissolved, or shut down does not satisfy the requirements prescribed in Point 8.2 of this Article, according to actual requirement, the supervisory tax authority of the tax payer shall hire independent audit companies, tax agents to inspect terminal tax declaration as prescribed in Article 18 of this Circular".

Article 17. Point a shall be added to Article 12 of Circular No. 156/2013/TT-BTC as follows:

"Article 12a. Quarter CIT payment and annual tax declaration

According to business result, the taxpayers shall make the payment of CIT in the quarter within 30 days of quarter succeeding the quarter in which tax is incurred; they shall not submit the provisional CIT declaration quarterly.

Every business that makes financial statements quarterly as prescribed in regulations of law (such as state-owned enterprises, businesses listed on securities market and other cases as prescribed) shall determine the amount of CIT in each quarter according to quarterly financial statements and regulations of law on taxation.

Every business that not required to make the financial statements quarterly shall determine the amount of CIT in each quarter according to paid CIT in previous years and estimated business result in that year.

In case total paid taxes in the tax period is less than the CIT payable determined in declaration by 20% or above, the company must pay late payment interest of portion of difference from provisional paid tax and tax payable determined in declaration in excess of 20% from the next day of deadline for paying taxes in quarter IV of the company to the day on which the actual outstanding tax is paid.

If CIT paid quarterly is less than CIT payable determined in declaration by 20% and the company pay taxes later than regulated deadline (deadline for submitting annual tax declaration), the late payment interest shall be charged from the deadline to actual paid outstanding tax.

During an tax inspection conducted by competent agencies after annual tax declaration of a company, if it is found that the taxes payable is more than the declared taxes, the company shall

be charged late payment interest on the total taxes payable in excess from the next day of deadline for submitting annual tax declaration to the actual paid day.

Example 1: In the tax periods of 2014, Company A provisionally paid VND 80 million in CIT, when making the annual declaration, CIT payable determined in declaration is VND 90 million, an increase of VND 10 million; therefore the difference from CIT payable determined by declaration and provisional CIT paid in the year is lower than 20%, as a result, the company shall only pay CIT payable of VND 10 million after declaration to government budget in accordance with regulated time limit. If the company pays this differential tax, its late payment interest shall be charged as prescribed.

Example 2: Company B has fiscal year which is the same as calendar year. In the tax periods of 2015, Company B provisionally paid VND 80 million in CIT, when making the annual declaration, CIT payable determined in declaration is VND 110 million, an increase of VND 30 million.

20% of tax payable determined in declaration is: 110 x 20% = VND 22 million.

The difference portion of tax in excess of 20% is: VND 30 million – VND 22 million = VND 8 million.

Therefore, company B must pay the tax payable after declaration which is VND 30 million. Concurrently, the company shall be charged late payment interest on portion of differential taxes by 20% or above (VND 8 million) from the next day of deadline for paying taxes in quarter IV of the company (from January 31, 2016) to the actual day paying tax arrears compared with taxes payable determined in declaration. The remaining differential tax (30 – 8 = VND 22 million) that the company pays late, it shall be charged late payment interest from the next day of deadline for submitting declaration (from April 1, 2016) to the actual tax payment day.

In 2017, during an tax inspection at the company B, if the CIT payable of B inspected is VND 160 million by the tax authority (an increase in VND 50 million against CIT payable determined in declaration), company B shall be penalized for the portion of tax increase due to its violations against the laws on taxation as prescribed, Where such VND 50 million shall be charged late payment interest as prescribed (from April 1, 2016 to the actual payment day), and without separation of the portion of taxes in excess of 20%.

Example 3: In the tax periods of 2014, Company C provisionally paid VND 80 million in CIT, when making the annual declaration, CIT payable determined in declaration is VND 70 million, the overpaid tax of VND 10 million shall be considered provisionally paid tax of next year or claimed a tax refund as prescribed.

Article 18. Point b shall be added to Article 12 of Circular No. 156/2013/TT-BTC as follows:

"Article 12b. The mechanism for hiring independent audit companies, tax agents by the tax authority to inspect the companies being dissolved, or shut down for their terminal tax declaration:

1. Rights and responsibility for independent audit companies, or tax agents

1.1. When performing service contract for tax declaration, an independent audit companies, or a tax agent shall have rights below:

a) Performing tasks and receiving remuneration according to the contract concluded with the tax authority.

b) Requesting taxpayers to provide satisfactory documents, materials and necessary information relating to tax declaration according to the contract conclude with the tax authority.

1.2. Responsibility for independent audit companies, or tax agents

a) Take legal responsibility for result of provision of tax declaration services according to declaration of taxpayers. During an inspection of tax declaration, if there is any error related to taxes payable or refunded taxes, the independent audit company or the tax agent must pay tax arrears, or the portion of refunded taxes in excess to the government budget, and shall be penalized for violations against the laws on taxation similarly to cases of violation committed by the taxpayer.

b) Provide the satisfactory materials or documentary evidences for proving the accuracy of having tax declaration audited at the request of tax administration agencies.

c) Keep secret about information of taxpayers. If a taxpayer has adequate evidence that an independent audit company, or a tax agent fails to fulfill its responsibility, and causes damage to the taxpayer, he is entitled to request the tax authority to terminate the service contract.

2. Rights and responsibility of supervisory tax authorities of taxpayers

a) Select and conclude a service contract with an independent audit companies, or a tax agent.

b) Receive application for tax declaration of taxpayers and send them to the independent audit companies, or the tax agent.

c) Notify taxpayers of auditing tax declaration conducted by the independent audit companies, or the tax agent.

d) Use their budget to pay the independent audit companies, or the tax agents.

dd) Be entitled to unilaterally terminate the contract in case the independent audit companies, or the tax agent is inspected for violations against the contract.

3. The Director of the General Department of Taxation shall issue regulations to guide tax authorities through use of budget and budget sources paid the independent audit company, or the tax agent according to service contract in order to audit terminal tax declaration of companies being dissolved, or shut down".

Article 19. Point a.3 Clause 1 Article 16 of Circular No. 156/2013/TT-BTC shall be amended as follow:

“a.3) Payers of taxable incomes shall declare and pay personal income tax (hereinafter referred to as PIT) on behalf of the authorizing individuals, whether tax is deducted or not. If payers do not pay any incomes, they shall not make PIT declaration.

In case the payers being dissolved, or shut down pay incomes but PIT is not deducted, the payers shall not declare PIT, but only provide the tax authorities with list of employers being paid incomes in a year (if any) using form No. 25/DS-TNCN enclosed herewith within 45 days from the day on which the decision on dissolution, or shut down is made.

Article 20. Clause 2 Article 23 of Circular No. 156/2013/TT-BTC shall be amended as follow:

“2. Declaration and payment of corporate income taxes (CIT) on hydroelectric generation

Hydropower producers shall declare and pay CIT in accordance with Article 16 and Article 17 of this Circular.

Some cases of declaring and paying CIT:

a) Every hydropower company that keeps accounting records independently shall pay CIT in the province where their headquarter is situated. If such company has affiliated hydropower producers in other provinces, CIT shall be paid in the provinces where the headquarter and the hydropower producers are located according to the laws on corporate income taxes;

The hydropower producers affiliated to EVN (including affiliated hydroelectric producers and affiliated hydropower plants) that are located in other provinces than the head office of EVN and the general companies, CIT shall be paid in the provinces where the headquarter and the affiliated hydropower producers are located.

b) In case the hydropower plant (having the turbines, hydroelectric dams, and primary facilities) spreads over multiple provinces, the CIT incurred by the hydropower plant shall be paid to provincial budgets in proportion to the investment in the provinces (having the turbines, hydroelectric dams, and primary facilities) . The hydropower producer shall send a table of CIT distribution to each province using form 02-1/TD-TNDN enclosed herewith. The hydropower producer shall declare CIT in the province where the headquarter is situated, then send a photocopy of the CIT declaration using form No. 03/TNDN enclosed herewith, Appendix of CIT calculation of companies having affiliated facilities using form No. 03-8/TNDN issued together with Circular No. 156/2013/TT-BTC (if companies have affiliated facilities) and Table of CIT distribution paid by hydropower producers to provinces using form No. 02-1/TD-TNDN enclosed herewith to the tax authorities to which CIT is distributed.

c) In case a hydropower producer has multiple hydro plants, where there are plants located in provinces other than the province in which the producer's head office located, if the expense incurred by each hydropower plant of the hydroelectricity producer is not determinable, the CIT to be paid in the province where the hydropower plant is located equals (=) the CIT payable in the period multiplied by (x) the ratio of generation of the plant to the total generation of the hydropower producer.

Article 21. Point a and d Clause 1, Point c Clause 2 Article 31 of Circular No. 156/2013/TT-BTC shall be amended as follow:

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

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

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

Accidents are the unexpected incidents due to external causes that affect the taxpayer’s business, not violations of law. Cases considered accidents including: traffic accidents; occupational accidents; deadly diseases; infectious diseases during time and at places that is announced infectious diseases by competent agencies; or other force majeure events.

List of deadly diseases shall be complied with corresponding regulations of law”.

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

Other difficulties include: ..

- Go bankrupt;

- Managers of companies prescribed in regulations of the Law on businesses or owners of business household suddenly die;

- Managers of companies prescribed in regulations of the Law on businesses or owners of business household are missing”.

2. Point c Clause 2 of Article 31 shall be amended as follows:

“c) The taxpayers mentioned in Point c Clause 1 of this Article may defer the payment of tax debt up to the time of requesting an extension. The amount of deferred tax must not exceed the amount of unsettled liabilities to government budget, including the cost of consultancy, supervision, survey, design, planning of the contracts for fundamental works between the taxpayer and the investor, which is covered or funded by government budget. Tax payment must not be deferred for more than 02 years from the deadline.

Example 41: On December 26, 2014, the tax authority receives a request for tax deferral from company D, which is made on December 23, 2014 together with application for tax deferral, in particular:

According to the investor’s certification, the outstanding amount payable by government budget to the taxpayer is VND 100 million. Company D is owes totally VND 250 million in tax, including VND 60 million in VAT that is due on July 21, 2014, and VND 190 million in corporate CIT that is due on July 30, 2014.

If documents are satisfactory, company D may defer totally VND 100 million in tax, including:

VND 60 million in VAT from July 22, 2014 until July 21, 2016.

VND 40 million in CIT from July 31, 2014 until July 30, 2016.

The remaining VND 150 million must be paid to government budget.

c.1) With regard to outstanding tax permitted to be deferred for 01 year, if the taxpayer has been paid by government budget and it is less than 02 years from the deadline when the request for deferral is made, they shall be considered to be granted deferral for another 1 year.

The taxpayers send written request for tax deferral and certification of investors of outstanding capital payable by the investors to taxpayers up to the day on which an application for another tax deferral is made.

Example: The government budget owes taxpayer A VND 100 million, A owes VND 100 million in VAT, and this outstanding tax shall be due on May 20, 2013.

The tax authority grant the approval for tax deferral with VND 100 million and shall be deferred until May 20, 2014.

On November 26, 2014, the government budget has not pay VND 100 million to A and A request for tax deferral to the tax authority. 60 million VND in VAT shall be deferred until May 20, 2015.”

c.2) If the government budget repays the investment of infrastructural development during the deferral period, the taxpayer shall pay tax right after the date of payment. In particular:

- If repaid investment is equal to or higher than the amount of deferred tax, the taxpayer shall immediately pay the deferred tax to government budget.

- If repaid investment is smaller than the amount of deferred tax, the taxpayer shall immediately pay an amount tax equal to the repaid investment

The taxpayer may choose to pay one of the deferred taxes in part or in full.

The remaining outstanding tax shall be deferred until the end of the deferral period, or until investment is repaid by government budget during the deferral period.

c.3) If the competent authority finds that the taxpayer does not pay the deferred tax when investment is repaid by government budget, a late payment interest on the deferred tax shall be charged from the day succeeding the date of payment as prescribed in Article 34 of Circular No. 156/2013/TT-BTC."

Chapter V

IMPLEMENTATION

Article 22. Effect

This Circular shall come into effect from November 15, 2014.

Except that regulations in Chapter I of this Circular shall be applied to the corporate income tax from 2014.

Article 23. Replacement of terms and forms below:

1. Replacement of "Industrial zones in the administrative divisions of urban districts of special class cities, class I cities affiliated to the central and industrial zones in the administrative divisions of class I cities affiliated to provinces" prescribed in Circular No. 78/2014/TT-BTC with terms "Industrial zones in the administrative divisions of special class cities, class I cities affiliated to the central and class I cities affiliated to provinces, not including aforesaid districts converted from towns from January 1, 2009".

2. Replacements of Form No. 02/TNDN, 03/TNDN, 03-5/TNDN, 04/TNDN, 02-1/TD-TNDN enclosed with Circular No. 156/2013/TT-BTC with new equivalent Form enclosed herewith.

Article 24. Temporarily, CIT shall not been collected (including cases in which a Decision on handling with tax collection is granted, or businesses are undergone complaints handling) applied to facilities involved in private sectors such as education, vocational training, heath, culture, sport, or environment but have not satisfied with the List of types, scale, or standards applied to facilities involved in private sectors such as education, vocational training, heath, culture, sport, or environment prescribed in regulations of the Prime Minister until new guiding documents of regulatory agencies are granted.

Article 25. Implementation

1. People's Committees of provinces shall direct regulatory agencies to implement regulations of the Government and guidance of the Ministry of Finance.

2. The tax authorities are responsible for providing guidance for organizations or individuals to implement regulations of this Circular.

3. Regulated entities of this Circular must implement the regulations of 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
