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Hanoi, January 11, 2012

CIRCULAR

GUIDING THE IMPLEMENTATION OF A NUMBER OF ARTICLES OF THE LAW ON VALUE-ADDED TAX, GUIDING THE IMPLEMENTATION OF THE DECREE NO. 123/2008/ND-CP OF DECEMBER 08, 2008 AND THE DECREE NO. 121/2011/ND-CP OF DECEMBER 27, 2011 OF THE GOVERNMENT

Pursuant to the Law on Value-added Tax No. 13/2008/QH12 of June 03, 2008;

Pursuant to the Law on Tax Administration No. 78/2006/QH11 of November 29, 2006

Pursuant to the Government's Decree No. 123/2008/ND-CP of December 08, 2008 detailing and guiding the implementation of a number of articles of the Law on Value-added Tax;

Pursuant to the Government's Decree No. 121/2011/ND-CP of December 27, 2011 amending, supplementing a number of articles of the Government's Decree No. 123/2008/ND-CP of December 8, 2008 detailing and guiding the implementation a number of articles of the Law on Value-added Tax;

Pursuant to the Government's Decree No. 118/2008/ND-CP of November 27, 2008 prescribing the functions, tasks, powers and the organizational structure of the Ministry of Finance,

The Ministry of Finance guides the implementation of the value-added tax as follows:

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Circular prescribes the taxable objects, non-taxable objects, tax payers, foundation and methods to calculate, deduct and refund Value-added tax.

Article 2. Taxable objects

Objects of Value-added tax (VAT) means goods, services serving production, business and consumption in Vietnam (including goods, services purchased from overseas organizations, individuals, except for VAT non-taxable objects guided in Article 4 of this Circular.

Article 3. Tax payers

VAT payers are organizations, individuals producing, trading VAT taxable goods, services in Vietnam, regardless of lines, forms, business organizations (hereinafter referred to as business establishments) and organizations, individuals importing goods, purchasing services from foreign countries subject to VAT (hereinafter referred to as importers) including:

1. Business organizations established and registered business under the Law on Enterprises, the Law on State-owned Enterprises (now the Law on Enterprises), the Law on Cooperatives;
2. Economical organizations of political organizations, socio-political organizations, social organizations, socio-professional organizations, People's armed force units, non-business organizations and other organizations;
3. Foreign-owned enterprises and the foreign parties participating in business cooperation under the Law on Foreign Investment in Vietnam (now the Law on Investment); foreign organizations, individuals conducting business in Vietnam but not establishing legal entities in Vietnam;
4. Individuals, households, individuals conducting independent business and other subjects conducting production, business, import.
5. Organizations, individuals conducting business and production in Vietnam purchasing services (including purchasing services attached to goods) from foreign organizations without permanent establishments in Vietnam, individuals living overseas being non-residents of Vietnam, the organizations, individuals purchasing services are the tax payers.

Provisions on permanent establishments and non-residents are implemented in accordance with law on enterprise income tax and law on personal income tax.

Article 4. Objects not subject to VAT

1. Products from cultivation (including products from cultivated forest), breeding, aquatic/maritime products that have not been processed into other products or have just been through preliminary raw process by organizations, individuals producing, catching to sell at the importation stage.

Products having just been through preliminary raw process mean products having just been cleaned, dried, peeled, husked, cut, salted, frozen and by other usual means of preservation.

Example 1: dry, peel, husk, cut products from cultivated products; clean, dry, salt, freeze other aquatic/maritime products.

2. Products being animal breeds, plant breeds, include breeding eggs, breeding animals, breeding plants, seeds, breeding branches, breeding tubers, semen, embryos, genetic materials from cultivations, importations, and commercial business. Animal breeds, plant breeds which are not subject to VAT are products of importers, commercial establishments having animal breeds, plant breeds business registration certificate issued by State management agencies. For products being animal breeds, plant breeds subject to promulgation of standards, quality by the State must satisfy the conditions prescribed by the State.
3. Irrigation and drainage, ploughing and harrowing, dredging in-field channels and canals serving agricultural production; agricultural product harvesting services.
4. Salt products made of sea water, salt from natural mines, refined salt, iodized salt that the main composition is NaCl.
5. State-owned residential houses sold by the State to the tenants.
6. Land use right transfer.

7. Insurances including: life insurance; health insurance, accident insurance for humans, student insurance and insurance services relating to humans: domestic animal insurance, plant insurance and other agricultural insurance services; reinsurance.

8. Financial activities

a) Credit provision services supplied by credit institutions including:

- Loans
- Discounts, rediscounts of transferring instruments and other valuable documents;
- Banking guarantee;
- Financial loans
- Credit card issue;
- Domestic factoring, international factoring regarding banks licensed for international payments;
- Other form of credit provisions as prescribed by law.

Assets for loan security of VAT payers or for transferring ownership rights to lenders are subject to VAT as sold except for VAT non-taxable goods prescribed in Article 4 of this Circular.

Example 2: LLC A mortgages its lines, machinery, equipment to take capital loans at the bank B. As the loan term is due under the credit contract and LLC A fails to pay debts, bank B shall sell the loan security assets (regardless of the asset ownership rights are transferred to bank B or not) to retrieve debts, such assets are subject to VAT.

b) Securities trade including: brokerage, securities sole trade, securities issue underwriting, securities investment consultancy, securities depository, securities investment fund management, securities investment company management, securities investment portfolio management, market organizing services of establishments or centers of securities trading, services relating to securities registered, deposited at Vietnam Securities Depository Center, loans for deposit transaction, advance payments of securities sale and other services as prescribed by the Ministry of Finance.

Activities of information provision, auction of shares of issuing organizations, technical support for online securities transaction of the Stock Exchanges.

c) Capital transfer including transfer of partial or complete invested capital, including sale of the enterprise to another enterprise to conduct production, business; transfer of securities and other forms of capital transfer as prescribed by law.

d) Debt sale

đ) Foreign currency trading

e) Derivative financial services including interest swap, term contract, future contract, foreign currency call, put options and other derivative financial services as prescribed by law.

9. Health care and veterinary services, including medical examination, treatment, prevention for humans or domestic animal, birth control, health care, rehabilitation services for patients,

Medical services include patient transport, sick-room, sick-bed renting of medical establishments; testing, irradiating, radio-graphing, blood and blood products for patients.

For medical treatment service packs (prescribed by the Ministry of Health) including use of medicines, the revenues from medicines in the service pack are not subject to VAT.

10. Public post/telecommunications and universal Internet services under the Government's programs; post/telecommunications services supplied from foreign countries to Vietnam (incoming direction).

11. Public services of streets and residential area hygiene, drainage; maintenance of zoos, flower gardens, parks, urban trees and plants, public lighting; funeral services. Services specified in this point regardless of funding sources. In particular:

a) Public services of streets and residential area hygiene, drainage provided for organizations, individuals including collecting, disposing, transport, processing trash and waste; drainage, wastewater processing; pumping, transporting and processing sludge, cesspool; unclogging sanitation, drainage system, cleaning public restrooms, maintaining hygiene in portable restrooms, collecting, transporting and processing other wastes.

For business establishments providing services such as office cleaning, house cleaning, such services are subject to VAT.

Example 3: If LLC B providing office cleaning services for unit C, corridor and staircase cleaning services for apartment building H, such services are subject to VAT.

b) Maintaining zoos, flower gardens, parks, urban plants and trees including managing, planting, cultivating plants and trees, protecting birds and animals in parks, zoos, public areas, National forests, National gardens.

c) Public lighting including lighting of streets, alleys in residential areas, flower gardens, parks.

d) Funeral services from establishments conducting funeral services including leasing funeral homes, cars serving funerals, burial, cremation, exhumation.

12. Maintenance, repairs and constructions from people's contributions, humanitarian aids regarding cultural, artistic constructions, public service works, infrastructure, residential houses for subjects under preferential social policies.

For other capital sources apart from people's contributions (including contributions and sponsorships from organizations, individuals), humanitarian aids that the other capital sources do not exceed 50% the total capital for the construction, the non-taxable object is the entire value of the construction.

Those subject to social policies includes: creditable individuals as prescribed by law on creditable individuals; social protection beneficiaries gaining pensions from the State budget; individuals of poor/semi-poor households and other cases as prescribed by law.

13. Teaching, vocational training as prescribed by law including foreign languages, information technology, dancing, singing, painting, music, circus, sport, physical exercises; children nursing and

teaching, and other occupation aiming to train, develop and improve cultural standard and professional knowledge.

For educational establishments at all levels from pre-school to high school that collect student transport, meal fees and other revenues in forms of authorized collection/spending of student transport, meal, such collection/spending amounts are not subject to VAT.

Boarding revenues of pupils, students; revenues from training activities (including the organization of examinations and certificate issue during the training process) provided by training establishments are not subject to VAT For provision of certificate issue and examination services not attached to training, such services are subject to VAT.

14. Radio and television broadcasting using State budget funds.

15. Publishing, importing, issuing newspapers, magazines, professional news, political books, textbooks, teaching materials, legal document books, technical/scientific books, books printed in ethnic languages, pictures, photographs, posters of propagation including audio/graphic tapes/disks, electronic data; money printing.

Professional newspapers, magazines, news, including transmission of professional newspapers, magazines, news.

Political books are books that propagate the political line of the Party and the State serving political tasks by subjects, topics, serving anniversaries, traditional days of organizations, levels, branches, localities; books collecting and propagating "Good people, good deeds" movement; books containing speeches, theoretical researches of the Party and the State leaders.

Textbooks means books for teaching and learning at all levels from pre-school to high school (including referential books for teacher and students in accordance with the educational program)

Teaching materials are books for teaching and learning in universities, colleges, professional and vocational high schools.

Legal documents books are books containing the State's legal documents.

Technical-scientific books are books for introducing, guiding technical-scientific knowledge directly relating to production and lines of science and engineering.

Books printed in languages of ethnic minority including bilingual text books in national language and the ethnic minority language.

Pictures, photographs, poster of propagation including pictures, photographs, poster, fliers, leaflets serving propagation, mottos, slogan, leaders' pictures, Party's flags, National Flags, Union's flags, Team's flags.

16. Public passenger transport by bus, tram are public passenger transport by bus, tram by intra-provincial, intra-city routes and peripheral outer-provincial routes as prescribed by the Ministry of Transport.

17. Goods which have not been yet produced domestically are imported in the following cases:

a) Machinery, equipment, materials imported to directly use for science research and technology development;

b) Machinery, equipment, spare parts, means of specialized transport and materials need to be imported for petroleum mine exploration and development.

c) Airplanes (including airplane engines), drilling rigs, ship which have not been yet produced domestically are imported to compose fixed assets of enterprises, rented from foreigners to use for production, trading including import for lease.

To be determined as goods which are not subject to VAT at the importation stage prescribed in this clause, importers must present dossiers to customs agencies under the Ministry of Finance's guidance on customs procedures; customs inspection and supervision; export/import duties and tax administration for exported/imported goods.

The list of machinery, equipment, materials able to be produced domestically as the basis for differentiating from those which have not been yet produced domestically and need to be imported to directly use for science research and technology development; The list of machinery, equipment, spare parts, means of specialized transport and materials able to be produced domestically as the basis for differentiating from those which have not been yet produced domestically and need to be imported for petroleum mine exploration and development; the list of airplanes, drilling rigs, ships able to be produced domestically as the basis for differentiating from those which have not been yet produced domestically and need to be imported to compose fixed assets of enterprises, rented from foreigners to use for production, business and lease are promulgated by the Department of Planning and Investment.

18. Weapons, specialized military equipment serving National defense and security

a) Weapons, specialized military equipment serving National defense and security under the List of weapons, specialized military equipment serving National defense and security uniformly promulgated by the Ministry of Finance, the Ministry of National Defense and the Ministry of Public Security.

Weapons, specialized military equipment serving National defense and security which are not subject to VAT must be complete or uniform products, or parts, components, package specialized to assemble and preserve the complete products. For weapons, specialized military equipment serving National defense and security required to repair, the services of repairing weapons, military equipment performed by enterprises of the Ministry of National Defense, the Ministry of Public Security are not subject to VAT.

b) Imported weapons, specialized military equipment (including materials, machinery, equipment, spare parts) serving National defense and security are exempted from import duty as prescribed by the Law on Export, Import duties or import under annual quota approved by the Prime Minister.

Dossiers, procedures regarding weapons, military equipment not subject to VAT at the importation stage are made in accordance with guidance of the Ministry of Finance on customs procedures; customs inspection and supervision; Export, Import duties and tax administration regarding exported, imported goods.

19. Imported goods and goods, services being sold to organizations, individuals for humanitarian aids, non-refundable aids in the following cases:

a) Goods imported in case of humanitarian aids, non-refundable aids and verified by the Ministry of Finance;

b) Gifts for state agencies, political organizations, socio-political organizations, socio-political-professional organizations, social organizations, socio-professional organizations, People's armed force units as prescribed by law provisions on presents and gifts;

c) Presents, gifts given to individuals in Vietnam as prescribed by law provisions on presents and gifts;

d) Personal belongings of foreign organizations, individuals under diplomatic immunity regulations as prescribed by law on diplomatic immunity; goods being belongings of Vietnam citizens residing overseas being brought along when coming back home.

đ) Hand-luggage under duty-free luggage regulations;

The quota of imported goods not subject to VAT at the importation stage is under the quota of import duty exemption prescribed in the Law on export and import Duties and other documents guiding the implementation.

Imported goods by organizations, individuals under diplomatic immunity as prescribed in the Ordinance on diplomatic immunity are not subject to VAT. Subjects under diplomatic immunity purchasing VAT-inclusive goods, services in Vietnam shall be refunded tax as guided in clause 7 Article 18 of this Circular.

Subject, goods, procedures for enjoying VAT exemption guided in this Article are implemented as guided by the Ministry of Finance on VAT refund regarding diplomatic representative agencies, consulates and representative agencies of international organizations in Vietnam.

e) Goods, services being sold to foreign organizations, individuals, international organizations for humanitarian aids, non-refundable aids for Vietnam.

Procedures for international organizations, foreigners purchasing goods, services in Vietnam for humanitarian aids, non-refundable aids for Vietnam not being subject to VAT: international organizations, foreigners must send dispatches to merchandising establishments in which specify name of the international organizations or foreigners purchasing goods, services for humanitarian aids, non-refundable aids, quantities or values of goods, services; verification of the Ministry of Finance on such aids.

During merchandising, business establishments must issue invoices as prescribed by law on invoices, it must specify on the invoices that the goods is sold to foreign organizations, individuals for humanitarian aids, non-refundable aids, not included VAT and dispatches of the international organizations or representative agencies in Vietnam must be saved as the basis for tax declaration. Foreign organizations, individuals, international organizations purchasing VAT-inclusive goods, services in Vietnam for humanitarian aids, non-refundable aids shall be refunded as guided in clause 6 Article 18 of this Circular.

20. Goods in border-gate transfer, transit through Vietnam territory; goods temporarily imported for re-export; goods temporarily exported for re-import; raw materials imported for production, processing exported goods under export processing, production contracts signed with foreign parties;

Goods, services traded between foreign countries and non-tariff zones and among non-tariff zones themselves.

Non-tariff zones include: processing and exporting zones, processing and exporting enterprises, bonded zones, bonded warehouse, special commercial and economic zones, commercial-industrial zones and other economic zones established and enjoying preferential taxes similarly to non-tariff zones under the Prime Minister's Decisions. The trading relationship between these zones and the outside is export-import relationship.

Dossiers, procedures for determination and handling of VAT exemption in these cases are implemented as guided by the Ministry of Finance on customs procedures; customs inspection and supervision; export, import duties and tax administration regarding exported/imported goods.

21. Technology transfer as prescribed by the Law on Technology transfer; intellectual property right transfer as prescribed by the Law on Intellectual property. For contracts of technology transfer, intellectual property right transfer attached to machinery, equipment transfer, only the value of the transferred technology, intellectual property rights is not subject to VAT; if such value cannot be separated, VAT shall be imposed on both transferred technology value, intellectual property rights value together with that of the machinery and equipment.

Computer software including software products and software services as prescribed by law

22. Imported gold in forms of bar or ingot and gold not being fashioned into fine arts products, jewelry or other products.

Gold in forms of bar or ingot and gold not being fashioned are identified as prescribed by law on gold trading and management.

23. Exported products being unprocessed exploited natural resources, minerals

Unprocessed exploited natural resources, minerals are natural resources, minerals having not been processed into other products, including minerals being filtered, selected, grinded, crushed, processed for content increase, or natural resources being cut and splitted.

Example 4: Business establishment A exports natural stones in blocks or slabs, the exported natural stone products are not subject to VAT.

Example 5: Business establishment B exports granular and powdery chalky limestone, the exported granular and powdery chalky limestone products are not subject to VAT. For business establishments exporting super fine stone dust (under standards of competent agencies), super fine stone dust coated with acid, these products are defined to be processed into other products and they are subject to VAT upon export.

24. Artificial products used as substitutes for diseased human organs, including products being permanent implanted organs; crutches, wheel-chairs and other tools used exclusively for disabled.

25. Goods, services of business individuals with average monthly income lower than common minimum salary rate applicable to domestic organizations, individuals as prescribed by the Government on region-based minimum salary rates for workers in companies, enterprises, cooperatives, farms, artels, business households, other Vietnam individuals and organizations that hire workers.

26. The following goods, services:

a) Duty-free goods in duty-free shops as prescribed by the Prime Minister.

b) National reserve goods sold by National reserve agencies.

c) State activities that charge fees as prescribed by law on fees and charges.

d) Sweeping and defusing bombs, mines and explosive objects performed by national defense units regarding projects capitalized by the State budget.

In case goods not subject to VAT at the importation stage prescribed in this Article changes use purposes, it is required to declare and pay VAT at the importation stage as prescribed by customs agencies where the customs declaration is registered. Organizations, individuals selling goods in domestic market must declare and pay VAT to directly managing tax agencies as prescribed.

Article 5. Cases not required to declare and pay VAT.

1. Goods, services that tax payers in Vietnam provide from outside Vietnam, except for international transport that points of departure and arrival are overseas;

For business establishments providing services (except for export services) both inside and outside Vietnam, such services are subject to VAT regarding the part of contract value that is performed in Vietnam, except for providing insurance services for imported goods.

Example 6: Company A and Company B (Vietnamese enterprises) sign the lubricant sale contract. Company A purchases lubricant from Singapore, then sells to company B at Singapore seaport., Company A is not required to declare, calculate and pay VAT regarding the revenue from that lubricant sale.

Example 7: Company D signs the art performance contract in Netherlands with unit X being Vietnamese State administration agency. Company D is not required to declare, calculate and pay VAT regarding the revenue from that art performance contract.

Example 8: Company B contracted to provide for company C services of consultancy, survey, design for company C's investment project in Cambodia (company B and company C are Vietnamese enterprises). The contractual services are performed in both Vietnam and Cambodia. Company B is not required to declare, calculate and pay VAT regarding services performed in Cambodia. For revenue from services performed in Vietnam, company B must declare and calculate VAT as prescribed.

Example 9: Insurance company Y (being Vietnamese company) signs the insurance providing contract with LLC X for LLC X's imported goods from France to LLC X's warehouse in Vietnam. Insurance company Y is not required to declare, calculate and pay VAT regarding the revenue from the insurance contract for imported goods signed with LLC X.

2. Revenues from compensation, bonus, supports, emission right transfer and other financial revenues, except for loan interest received by enterprises not being credit institutions.

When receiving revenues from compensations, bonus, support, emission right transfer and other financial revenues, business establishments shall make collection documents as prescribed. For business establishments spending money, the expenditure documents are made based on the spending purposes.

For compensations in goods, services, establishments paying compensations must issue invoices similarly to that of selling goods, services; establishments receiving compensations shall declare and deduct as prescribed.

Example 10: Joint-stock company VC signs the 6-month loan contract with enterprise T and receive the interest. Joint-stock company VC is required to declare and pay VAT regarding the interest from that loan contract.

Example 11: LLC P&C receives the interest from purchasing bonds and dividend from purchasing other enterprises' stocks. LLC P&C is not required to declare and pay VAT regarding the interest from purchasing bonds and the received dividend.

Example 12: Enterprise A receives 50 million VND of compensation for contract termination from enterprise B, enterprises A shall make collection documents and is not required to declare and pay VAT regarding that amount.

Example 13: Enterprise X purchases goods from enterprise Y, enterprise X pays in advance for enterprise Y and receives interest on that deposit, enterprise X is not required to declare and pay VAT regarding the collected interest.

Example 14: Enterprise X sells goods for enterprise Z, the total amount is 440 million VND. According to the contract, enterprise Z must make deferred payment within 3 months, the deferred payment interest rate is 1%/month/total amount of the contract. After 3 months, enterprise X receives from enterprise Z 440 million VND of the total amount of the contract and 13,2 million VND of deferred payment (440 million VND x 1% x 3 months), enterprise X is not required to declare and pay VAT regarding the amount of 13,2 million VND.

3. Organizations, individuals producing or trading in Vietnam purchasing services from foreign organizations without permanent establishments in Vietnam, or overseas individuals being non-resident in Vietnam such as: repairing means of transport, machinery, equipment (including materials and spare parts); advertising, marketing, investment and trade promotion; goods sale and service provision brokerage; training, share of charges of international post, telecommunication services between Vietnam and foreign parties performed outside Vietnam.

4. Non-business organizations, individuals, not being VAT payers are not required to declare and calculate VAT when selling their assets, including selling assets being used for loan security at banks and credit institutions.

Example 15: Mr. A being non-business individual sells 01 4-seat car to Mr. B valued at 600 million VND, Mr. A is not required to declare and calculate VAT regarding the money from selling his car.

Example 16: Mr. E being non-business individual mortgages 01 4-seat car for bank VC to take loans. When the payment term is due and Mr. E fails to make payment to bank VC and the asset being the mortgaged car is sold to recover debts, the amount collected from selling the mortgaged car is not required to declare and calculate VAT.

5. Fixed assets being used and depreciated are not required to issue invoices, declare and pay VAT when being transferred by values on accounting books among the business establishments and member units 100% capitalized by one business establishment or among member units 100% capitalized by one business establishment to serve the production and business of goods and services subject to VAT. Business establishments with transferred assets must have Decisions or Order on assets transfer enclosed with asset origin dossiers.

For assets re-valuated as transferred or transferred to establishments producing, trading goods, services not subject to VAT, it is required to issue VAT invoices, declare and pay VAT as prescribed.

6. Other cases:

Business establishments are not required to declare and pay tax in the following cases:

a) Contributing assets as capital for establishing enterprises. Contributed assets must be enclosed with: written record on contributions as capital for production and business, joint-venture, affiliation contract, written assets valuation record by the Council of delivery and receipt of contributed capital from contributing parties (or written valuation by valuating organizations as prescribed by law) enclosed with the dossier on asset origin.

b) Asset transfer among dependent cost-accounting member units of the enterprise; asset transfer upon division, splitting, consolidation, merging, and enterprise transformation. Transferred assets among dependent cost-accounting member units of the business establishment; For assets transferred upon division, splitting, consolidation, merging and transformation, business establishments with transferred assets must have asset transfer orders enclosed with a set of asset origin dossiers and are not required to issue invoices.

For asset transfer among independent cost-accounting units or among member units with full legal entities in the same business establishment, business establishments with transferred assets must issue VAT invoice, declare and pay VAT as prescribed except for the cases guided in clause 5 of this Article.

c) Payment claiming from third parties in insurance activities.

d) Amounts collected on other's behalf not relating to the sale of goods and services of business establishments.

đ) Revenues from goods, services of agent sale and commissions from agent sale at prices prescribed by agent-appointing parties for commission on services such as: post, telecommunication, lotteries, air/car/train/ship ticket sale; international transport agents, agents of aviation, maritime services thereon applied 0% VAT rates; insurance agents.

e) Revenues from goods, sales and agent commissions received from agent sale of goods, services not subject to VAT.

Chapter II

BASES AND METHODS FOR TAX CALCULATION

SECTION 1. BASES FOR TAX CALCULATION

Article 6. Bases for tax calculation

Bases for VAT calculation are taxable prices and tax rates

Article 7. Taxable prices

1. For goods, services sold by production and business establishments, VAT taxable prices are sale VAT-exclusive prices. For goods, services subject to special consumption tax, VAT taxable prices are sale prices including special consumption tax but excluding VAT.

For goods subject to environment protection tax, VAT taxable prices are sale prices including environment protection tax but excluding VAT; for goods subject to both special consumption tax and environment protection tax, VAT taxable prices are sale prices including special consumption tax, environment protection tax but excluding VAT.

2. For imported goods, VAT taxable prices are import prices at border-gates plus (+) import duties (if any), plus (+)special consumption tax (if any), plus (+) environment protection tax (if any). Import prices at border-gates are determined in accordance with provisions on taxable prices of imported goods.

For imported goods eligible for import duty exemption or reduction, VAT taxable prices are import prices plus (+) import tax determined under the tax amount payable after being exempted or reduced.

3. For products, goods and services (including purchased from outside or produced by business establishments themselves) used for exchange, presents, gifts, donations, salary substitutes, VAT taxable prices are VAT taxable prices of goods, services of the same or equivalent kinds at the same time of the happening of these activities.

Example 17: Unit A producing electric fans uses 50 of them to exchange with establishment B for steel. The fan sale price (excluding tax) is 400,000 VND/pcs. The value added taxable price is $50 \times 400,000 \text{ VND} = 20,000,000 \text{ VND}$.

For giving, offering invitations (on which clearly specifying “complimentary”) for art performances, fashion shows, beauty, model contests, sport competitions approved by competent State agencies as prescribed, taxable prices are determined as zero (0).

Establishments organizing art performances shall self-determine and bear responsibility for the quantities of invitations, list of organizations, individuals receiving invitations before the performances or sport competitions take place. Establishments committing fraud acts on collecting money from complimentary invitations shall be handled as prescribed by law provision on tax administration.

Example 18: Joint-stock company X are licensed to hold “Vietnam Beauties contest 20xx” by competent agencies. Apart from tickets printed to sell to audience, company X also prints a number of complimentary invitations to a number of guests to participate in the contest. These invitations are made under the list of receiving organizations, individuals. When declaring VAT, taxable prices of these invitations are determined to be zero (0). In case company X is detected collecting money when giving the invitations, company X shall be handled as prescribed by law provisions on tax administration.

4. Taxable prices for products, goods, services for internal consumption

For products, goods, services taken or provided by business establishments serving the business operation (internal consumption), VAT taxable prices are taxable prices of products, goods, services of the same or equivalent kinds at the time the consumption of goods, services take place. Business establishments are eligible for VAT deduction regarding the VAT invoices of internal consumption serving the production and business of goods and services subject to VAT.

Goods for internal circulation such as internal warehouse transfer, delivering materials, semi-finished products to continue the process of production within the same establishments are not subject to VAT.

Example 19: Unit A producing electric fans uses 50 of them for installing in production workshops. The sale price of these fans (excluding VAT) is 1,000,000 VND/pcs, VAT rate is 10%. The taxable price is $1,000,000 \times 50 = 50,000,000 \text{ VND}$.

Unit A shall issue VAT invoice specifying the price for VAT calculation being 50,000,000 VND, the VAT amount is 5,000,000 VND. Unit A is eligible for tax deduction regarding the invoices of internal consumption.

Example 20: Establishment B producing garments with fibre workshops and sewing workshops. Establishment B delivers finished fibres to sewing workshops to continue the process of production, establishment B is not required to calculate and pay VAT regarding the fibres delivered to sewing workshops

For business establishments using goods, services for internal consumption serving production and business such as transport, aviation, railways, post/telecommunications that are not subject to output VAT, business establishments must impose written regulations specifying objects and limitation of goods, services for internal consumption within the prescribed authority.

5. For activities of asset leasing such as houses, offices, workshops, warehouses, wharves, yards, means of transport, machinery, equipment, VAT taxable prices are VAT-exclusive rents.

For leases with rents paid by instalment or paid in advance for a leasing term, taxable prices are the instalment amounts or the advance payments for a leasing term excluding VAT.

For leases of foreign machinery, equipment, means of transport of foreign countries which have not been produced domestically for sub-leases, the rents payable to foreign countries are deducted from the taxable prices.

Asset rents agreed by the parties are determined under the contract. Should there be any rent bracket prescribed by law, the rents shall be determined under the price bracket.

6. For goods sold in instalment or deferred payment, VAT taxable prices are the price by lump-sum payments excluding VAT of that goods, excluding interest on instalments and deferred payments.

Example 21: The motorbike trading company sells 100cc motorbikes X, the instalment sale price excluding VAT is 25,5 million VND/pcs (including 25 million VND of the sale price and 0.5 million VND of the instalment interest), the price for VAT calculation is 25 million VND.

7. For goods processing, VAT taxable prices are VAT-exclusive processing prices under the processing contract, including remunerations, expenses on fuels, power, secondary materials and other expenses serving the goods processing.

8. For construction and installation, VAT taxable prices are values of the constructions, construction items or the handed-over works excluding VAT.

a) For construction and installation covering materials, VAT taxable prices are construction and installation prices including VAT-exclusive material prices.

Example 22: Construction company B is contracted to work on a construction including material values, the total amount excluding VAT is 1,500 million VND including 1,000 million VND of material values excluding VAT, VAT taxable prices is 1,500 million VND.

b) For construction, installation not covering materials, machinery, equipment, VAT taxable prices are the value of construction and installation excluding the VAT-exclusive value of machinery and equipment.

Example 23: Construction company B is contracted to work on a construction not covering material values. The total VAT-exclusive value of the construction is 1,500 million VND including 1,000 million VND of the VAT-exclusive value of materials supplied by investor A, VAT taxable prices in this case is 500 million VND (1,500 million VND – 1,000 million VND).

c) For construction, installation paid by construction items or values of the completed and handed-over workloads, VAT taxable prices are based on values of construction items or of completed and handed-over workloads excluding VAT.

Example 24: Weaving company X (called party A) hires construction company Y (called party B) to work on construction and installation of the workshop expansion.

The total value of the construction excluding VAT is 200 billion VND including:

- Value of construction: 80 billion VND

- Value of equipment supplied and installed by party B: 120 billion VND.

- VAT 10%: $(80 \text{ billion} + 120 \text{ billion}) \times 10\% = 20 \text{ billion VND}$.

- The total amount payable by party A: 220 billion VND.

- Party A:

+ Get handed-over of workshops, account into fixed asset value increase for depreciation 200 billion VND (excluding VAT)

+ 20 billion VND of VAT shall be declared and deducted from output taxes of sold goods or requested tax refund as prescribed.

In case party A accepts, gets hand over and agrees to pay party B by each construction item (assuming 80 billion VND of the value of construction is accepted, handed-over and agreed to make payment in advance), the taxable price is 80 billion VND.

9. For real estate business, taxable prices are real estate transfer prices minus (-) land prices deducted for VAT calculation.

a) Land prices deducted for VAT calculation are prescribed as follows:

a.1) For land allocated by the State to invest in infrastructure of houses for sales, land prices deducted for VAT calculation includes land levies payable to the State budget (not including exempted or reduced land levies) and compensations for land clearance as prescribed by law.

Example 25: In 2011, real estate company A is allocated land by the State to invest in infrastructure of houses for sale. Land levies payable (not subtracting the exempted, reduced land levies, the compensations for land clearance under the schemes approved by competent agencies) is 30 billion VND. The project is reduced by 20% of the land levies payable.

Compensations for land clearance under the approved scheme is 15 billion VND.

The total value of subtracted land is calculated as follows:

- The exempted/reduced land levy is: $30 \text{ billion} \times 20\% = 6 \text{ billion (VND)}$;

- The land levy payable to the State budget (not including the exempted/reduced land levy) is: $30 \text{ billion} - 6 \text{ billion} - 15 \text{ billion} = 9 \text{ billion (VND)}$;

- The total land price deducted to calculate VAT including land levies payable to the State budget (not including the exempted/reduce land levy) and compensations for land clearance is $9 \text{ billion} + 15 \text{ billion} = 24 \text{ billion (VND)}$. The total land price deducted is allocated to the number of m^2 of land allowed to do business.

a.2) For State-owned land use right auctions, land prices deducted for VAT calculation are auction winning prices;

a.3) For land lease to construct infrastructure, houses for sale, land prices deducted for VAT calculation are the land rents payable to the State budget (not including the exempted/reduced land rents) and the compensations for land clearance as prescribed by law.

a.4) For business establishments receiving land use right transfer from organizations, individuals, land prices deducted for VAT calculation are land prices at the time of land use right transfer including the value of infrastructure (if any); business establishments are not eligible for deductions of input VAT of the infrastructure calculated in the deducted VAT-exclusive value of rights to use land. If it is not able to determine land prices at the time of transfer, land prices deducted for VAT calculation are land prices prescribed by People's Committees of central-affiliated cities and provinces at the time of signing the transfer contract.

Example 26: In July 2011, company A receive the transfer of rights to use 200m² of land from individual B valued at 6 billion VND. Company A has a notarized Land use right transfer contract in compliance with law provisions on land, receipts of 6 billion payment for individual B. Company A does not invest in any construction on this land plot. In September 2012, company A transfers the rights to use land purchased from individual B stated above valued at 9 billion VND, the land price deducted for VAT calculation is the price at the time of this transfer (6 billion VND).

Example 27: In November 2011, LLC A receives the transfer of rights to use 300m² of land together with workshops on individual B's land valued at 10 billion VND without sufficient documents to determine the land price at the time of transfer. In April 2012, LLC A transfers this 300m² of land valued at 14 billion VND, the land price deducted for VAT calculation is the land price prescribed by People's Committees of central-affiliated cities and provinces at the time of transfer (November 2011)

Example 28: In September 2011, company B purchases 2,000m² of land with part of infrastructure from real estate company A valued at 62 billion VND of total payment price (in particular, the land price not subject to VAT is 40 billion VND, 20 million VND/m²).

On the invoice, company A specifies:

- Transfer price excluding VAT: 60 billion
- Land price not subject to VAT: 40 billion
- VAT on infrastructure: 2 billion
- Total payment: 62 billion VND

Company A shall declare and pay VAT as follows:

VAT payable = Output VAT – Deducted input VAT

Assuming the input VAT for building infrastructure of company A being 1.5 billion VND is eligible for deduction:

VAT payable = 2 billion – 1.5 billion = 0.5 billion VND

Company B continues building infrastructure and builds 10 villas (floor area = 200m²/villa) for sale. Total input VAT is 3 billion VND.

On April 01, 2012, company B is contracted to sell 01 villa to customer C, the transfer price excluding VAT of 01 villa is 10 billion, land prices deducted for VAT calculation for 01 villa being sold:

- The value of land use rights (excluding value of infrastructure) at the time of receiving transfer from company A for 01 villa being sold is: 20 million x 200m² = 4 billion (VND)

- The value of infrastructure allocated for 01 villas is:

$$(20 \text{ billion} : 2,000\text{m}^2) \times 200\text{m}^2 = 2 \text{ billion (VND)}$$

- The value of land use rights (including the value of infrastructure) at the time of receiving transfer from company A deducted when determining the taxable price of 01 villa being sold is: 6 billion VND.

On the invoice, company B specifies:

- The transfer price of 01 villa: 10 billion VND
- The land price deducted not subject to VAT: 6 billion VND
- VAT: 0.4 billion VND [(10 billion – 6 billion) x 10%]
- Total amount payable: 10.4 billion VND

Assuming company B sold 10 villas within the month, when Company B declares and pays for VAT, the VAT payable = the output VAT - the deducted input VAT = 0.4 billion x 10 villas – 3 billion = 1 billion VND.

VAT on the value of infrastructure being 2 billion VND specified on the invoice of receiving the transfer from company A regarding the 10 villas shall not be declared and deducted.

a.5) For real estate establishments conducting business in the form of build-transfer (BT) and exchanging works for lands, land prices deducted for VAT calculation are prices at the time of signing the BT contract as prescribed by law.

b) For construction and trade of infrastructure, building houses for sale, for transfer or for lease, prices for VAT calculation are the collected amounts by the progress of the project or the progress of money collection specified in the contracts.

10. For agent activities, brokerage of goods and services purchase, entrustment of export/import for remunerations or commissions, taxable prices are the VAT-exclusive remunerations, commissions collected from these activities

11. For goods, services using receipts that the printed prices thereof already included VAT such as stamps, transport tickets, lotteries..., the VAT-exclusive prices are determined as follows:

$$\text{The VAT-exclusive price} = \frac{\text{Amount payable (from stamp, ticket sale)}}{1 + \text{tax rate of the goods/service (\%)}}$$

12. For electricity supplied by hydropower plants being dependent-accounting units of the Vietnam Electricity Group, VAT taxable prices to determine the VAT amounts to be paid in the localities where the plants are situated are equal to 60% of the average commercial electricity sale price of the previous year excluding VAT. If the average commercial electricity sale price of the previous year is not determined, VAT taxable prices shall be determined under the tentative prices announced by the Group but not lower than the average commercial electricity sale price of the previous year. Upon determining the average commercial electricity sale price of the previous year, declarations for difference adjustment shall be made in the declaration period of the month when the official price is determined. The determination of the average commercial electricity sale price of the previous year must be made no later than March 31 of the following year.

13. For casino, prized video games, betting entertainment services, taxable prices are the amounts collected from these activities including special consumption tax minus prize amounts paid to customers.

The taxable price is calculated as follows:

$$\text{Taxable price} = \frac{\text{Collected amount}}{1 + \text{tax rate}}$$

Example 29: An establishment conducting casino business records the following figures in the tax period:

- Collected amounts from exchange for customers at the counters before playing: 43 billion VND.

- Amounts paid to customers after playing: 10 billion VND.

Actually-collected amount: 43 billion VND - 10 billion VND = 33 billion VND.

Amount of 33 billion VND is the revenue of the business establishment including VAT and special consumption tax.

The taxable price is calculated as follows:

$$\text{Taxable price} = \frac{33 \text{ billion VND}}{1 + 10\%} = 30 \text{ billion VND}$$

14. For transport, loading/unloading, VAT taxable prices are transport freights and loading/unloading charges excluding VAT, regardless of establishments directly transporting/loading/unloading or hiring others to perform.

15. For tourism services in form of package contract (including meals, accommodations, travels), the package price is considered as VAT-inclusive price.

The taxable price are calculated as follows:

$$\text{Taxable price} = \frac{\text{Package price}}{1 + \text{tax rate}}$$

For package prices including air tickets for tourist coming and leaving Vietnam, meals, accommodation, sightseeing and a number of expenses paid abroad (with legitimate documents), the amounts collected from customers to defray the expenses stated above are deducted from the price (revenue) for VAT calculation.

Example 30: Ho Chi Minh city tourism company performs the tourism contract with Thailand in form of package for 50 tourists in 05 days in Vietnam with the total amount being 32,000 USD. The Vietnam party must cover all expenses on air tickets, meals, accommodations, sightseeing under the agreed program; the two-way air ticket amount thereof is 10,000 USD, the exchange rate is 1USD = 20,000 VND.

The VAT taxable prices of this contract is determined as follows:

+ VAT taxable revenue:

$$(32.000\text{ USD} - 10.000\text{ USD}) \times 20.000\text{ VND} = 440.000.000\text{ VND}$$

+ The VAT taxable prices:

$$\frac{440.000.000\text{ VND}}{1 + 10\%} = 400.000.000\text{ VND}$$

Example 31: Hanoi tourism company is contracted to take tourists from Vietnam to China at the package price of 400USD/person in five days, Hanoi tourism company must pay to China tourism company 300USD/person, the revenue for VAT calculation of Hanoi tourism company is 100USD/person (400 USD - 300 USD).

16. For pawning services, the amounts receivable from these services including the interest receivable from pawn loans and other revenue from the sale of pawned items (if any) are considered VAT-inclusive prices.

The taxable price are calculated as follows:

$$\text{Taxable prices} = \frac{\text{Amount receivable}}{1 + \text{tax rate}}$$

Example 32: Pawning company has 110 million VND of revenue in the tax period.

VAT taxable prices is determined:

$$\frac{110\text{ million VND}}{1 + 10\%} = 100\text{ million VND}$$

17. For VAT taxable books sold at the released prices (cover prices) as prescribed by the Law on Publication, such prices are considered VAT-inclusive prices to calculate VAT and revenues of the establishments. For books sold at prices different from that on the cover, VAT shall be calculated on the sale prices.

18. For printing activities, taxable prices are printing costs. For printing establishments performing print contracts that the total payment amounts cover both printing costs and paper costs, taxable prices are included paper costs.

19. For services of assessment agents, compensation examination agents, agents claiming compensation from third parties, agents handling compensated goods wholly enjoyed remunerations or commissions, the VAT taxable prices are remunerations or commission enjoyed (not yet subtracted any expense) collected by the insurers excluding VAT.

20. For service provisions performed both in Vietnam and abroad, taxable prices are the value of services performed in Vietnam stipulated in the service providing contracts. For contract not separating the value services performed in Vietnam, taxable prices are determined by the ratio (%) of expenses arisen in Vietnam on the total expense.

Example 33: Joint-stock company B provides service of seminar and survey for Center X, the service includes 2 part: organizing seminars in Vietnam and organizing survey and study in Thailand. The contractual value of the entire service package is 500 million VND in which the value of seminar organizing services in Vietnam is 150 million VND; the expense on air tickets from Thailand to Vietnam (and vice versa), meals, accommodations, survey and study in Thailand under the program is 350 million VND.

VAT taxable prices = the VAT-inclusive value of services performed in Vietnam/(1 + VAT rate). In particular: taxable prices is determined:

$$\frac{150 \text{ million VND}}{1 + 10\%} = 136,363,640 \text{ VND}$$

Example 34: Company D provides services of consultancy, survey, making feasibility report for the investment project in Lao for company X. The total revenue excluding VAT that company D receives is 5 billion VND. The contract between the two enterprises that are not be separated the revenue collected from services performed in Vietnam and that in Lao. The calculated expense in Lao (on survey, exploration) is 1,5 billion VND and expense in Vietnam (on synthesizing, making report) is 2,5 billion VND.

$$\text{VAT taxable prices} = 5 \text{ billion} \times \frac{2,5 \text{ billion}}{2,5 \text{ billion} + 1,5 \text{ billion}} = 3.125 \text{ billion}$$

21. For service purchases prescribed in clause 5 Article 3 of this Circular, taxable prices are the total amount payable in the service contract excluding VAT.

22. Taxable prices for goods, services prescribed from clause 1 to clause 21 of this Article are inclusive of extra charges and additional fees apart from the prices for goods, services that business establishments collect.

For business establishments applying form of sale price reduction, commercial discounts for customers (if any), VAT taxable prices are the prices reduced, discounted commercially for customers. For price reduction, commercial discounts based on quantities or revenue from goods, services, the discounted, reduced amounts of the sold goods shall be calculated and adjusted on goods sale, services invoices of the last purchase or in the following period. For amounts of price reduction, commercial discounts made at the end of the program (period) of price reduction or the sold goods discounts, establishments shall issue adjustment invoices enclosed with the list of invoices required to adjust, amounts, taxes of adjustment. Based on the adjustment invoices, the buyer and the seller shall declare, adjust revenues from purchases, sales, output taxes, input taxes.

Taxable prices are calculated in Vietnam dong. Tax payers collecting revenue in foreign currency must convert them into Vietnam dong at the average exchange rates on the inter-bank foreign currency market announced by the State Bank at the time of revenue generation to determine the taxable prices.

Article 8. The time of determining VAT taxable prices

1. For sale of goods, it is the time of the transfer of rights to use or own goods to purchasers, regardless of those being paid or unpaid

2. For service provisions, it is the time of completing the service provision or the time of service providing invoice issue, regardless of those being paid or unpaid.
3. For electricity and fresh water supply, it is the date of recording electricity or consumed water indicators on the gauges for making bills.
4. For real estate business, infrastructure construction, building houses for sale, transfer or lease, it is the time of collecting money under the contractual progress of the project or the collection. Based on the collected amounts, business establishments shall declare output VAT arisen in the period.
5. For construction and installation, it is the time of acceptance and handover of the construction, construction items, completed workloads of construction and installation regardless of those being paid or unpaid.
6. For imported goods, it is the time of customs declaration registration.

Article 9. 0% tax rate

1. 0% tax rate is applicable to export goods, services, constructions, installations of works for processing and exporting enterprises; international transport; goods, services not subject to VAT when being exported, except for cases not being applied 0% tax rate guided in clause 3 of this Article.

a) Exported goods includes:

- Goods exported to foreign countries, including entrustment of export;
- Goods being sold in non-tariff zones as prescribed by the Prime Minister; goods being sold to duty-free shops;
- Cases considered export as prescribed by law:
- + Goods being transitionally processed as prescribed by commercial law provisions on purchases, sales of international goods and agent services of sales, purchases and goods processing with foreign parties.
- + Goods exported on-spot as prescribed by law.
- + Goods exported to be sold in overseas fairs and exhibition.

b) Export services include services directly provided for organizations, individuals overseas or organizations, individuals in non-tariff zones.

Overseas organizations are foreign organizations without permanent establishments in Vietnam and not being VAT payers in Vietnam;

Overseas individuals are foreigners not residing in Vietnam, Vietnam citizens residing overseas and not present in Vietnam during the provision of services.

Organizations, individuals in non-tariff zones are organizations, individuals applied business registration and other cases as prescribed by the Prime Minister.

c) International transport prescribed in this clause includes passenger, luggage, goods transport by international routes from Vietnam to abroad or from abroad to Vietnam, or both the departure and arrival are overseas, regardless of having means of direct transport or not. For international transport contracts include domestic routes, such domestic routes are considered belonging to the international transport.

Example 35: Transport company X in Vietnam has international ships. This company is contracted to transport goods from Singapore to Korea. The revenue collected from goods transport from Singapore to Korea is the revenue from international transport.

d) Services of aviation, maritime providing directly for overseas organizations or through agents, include:

Aviation services applying 0% tax rate: airway meal supply; aircraft takeoff and landing; aircraft parking, aircraft security; passenger, luggage, goods security scanning; luggage conveyers at terminals; ground commercial and technical services; aircraft protection; aircraft towing, aircraft pilotage; passenger embark/disembark ramp leases; incoming and outgoing flight control; crew/passenger transport within the aircraft parking lot; goods loading, checking; passenger services on international airways from Vietnam airports (passenger service charges).

Maritime services applying 0% tax rate: ship tugging, maritime pilotage; maritime salvage; wharves, buoys; loading/unloading; mooring/unmooring; opening/closing cargo hold hatches; hold cleaning; cargo inspection, delivery and registration.

đ) Other goods and services:

- Work construction and installation for processing and exporting enterprises.
- Goods, services not subject to VAT when being exported, except for cases not applying 0% tax rate as guided in clause 3 of this Article;
- Airplane, ship repairs services provided for foreign organizations, individuals.

2. Condition for applying 0% tax rate

a) For exported goods:

- Having exported goods sale, processing contract; export entrusting contract;
- Having receipts of payment for exported goods through banks and other documents as prescribed by law;
- Having customs declarations as prescribed in clause 2 Article 16 of this Circular.

b) For export services:

- Having service providing contracts with organizations, individuals overseas or organizations, individuals in non-tariff zones;
- Having receipts of payment for exported goods through banks and other documents as prescribed by law;
- Having written commitments of overseas organizations being foreign organizations without permanent establishments in Vietnam or not being VAT payers in Vietnam; written commitments of overseas

individuals being foreigners not residing in Vietnam, Vietnam citizens residing overseas and not present in Vietnam during the provision of services.

For particularly aircraft and ship repairs services provided for overseas organizations and individuals, it is necessary to complete import procedures when bringing aircrafts and ships into Vietnam and export procedures when the repair is done apart from the conditions on receipts stated above in order to be eligible for 0% tax rate.

c) For international transport:

- Having passenger/luggage/goods transport contracts between the transporters and the transport hirers by international routes from Vietnam to abroad or from abroad to Vietnam or both departure and arrival points are overseas in appropriate forms prescribed by law. For passenger transport, the transport contracts are tickets. International transport establishments must comply with the law provisions on transport.

- Having receipts of payment through banks or other payment methods considered payments through banks. For individual transport, it is required to have direct receipts of payment.

d) For aviation and maritime services:

d.1) Aviation services applying 0% tax rate must be performed within the international airports, aerodromes, cargo terminals and meet the following conditions:

- Having service providing contracts with overseas organizations, foreign airlines or written service requests of overseas organizations, foreign airlines;

- Having service receipts of payment through banks or other payment methods considered payments through banks. For irregular, unscheduled and non-contracted services provided for overseas organizations, foreign airlines, it is necessary to have direct receipts of the overseas organizations, foreign airlines.

The conditions on contracts and receipts stated above are not applicable to passenger services on international flights from Vietnam international airports (passenger service charges).

d.2) Maritime services applying 0% tax rate must be performed within the port areas and meet the following conditions:

- Having service contracts with overseas organizations, ship agents or written service requests from overseas organizations or ship agents;

- Having receipts of service payment through banks by overseas organizations or receipts of service payment through banks by the ship agents to the service providing establishments or other payment methods considered payment through banks.

3. Cases not applying 0% tax rate includes:

- Reinsurance to abroad; technology transfer, intellectual property right transfer to abroad; capital transfer, credit funding, securities investment to abroad; derivative financial services; outgoing post/telecommunication services (including post/telecommunication services provided for organizations, individuals in non-tariff zones; provision of mobilephone card included number code, face value sent to abroad or into the non-tariff zones); exported products being exploited natural resources, minerals not

being processed into other products; goods, services provided for individuals without business registration in non-tariff zones, except for other cases as prescribed by the Prime Minister;

- Gasoline, oil sold to business establishments in non-tariff zones for cars purchased domestically;

- Cars sold to organizations, individuals in non-tariff zones.

- Services provided for organizations, individuals in non-tariff zones include: leases of houses, workshops, halls, offices, hotels, warehouses, yards; worker transport; eating and drinking services (except for catering services, eating and drinking services in non-tariff zones).

- The post-provision services performed in Vietnam provided for overseas organizations, individuals not applying 0% tax rate include:

+ Sport competitions, art/cultural performances, entertainments, conventions, hotels, trainings, advertisings, travel services;

+ Online payment services, digitalization services.

The cases not applying 0% tax rate prescribed in this clause shall apply the corresponding tax rate of goods, services being sold and supplied domestically.

Article 10. The tax rate of 5%

1. Fresh water serving production and life, excluding bottled water and other beverages subject to application of 10% tax rate.

2. Fertilizer, fertilizer producing ore; pesticides and growth stimulants for livestock and plants.

a) Fertilizer includes organic and inorganic fertilizers such as: potassium fertilizer, nitrogenous fertilizer, NPK fertilizer, mixed nitrogenous fertilizer, phosphate fertilizer, potash fertilizer; microbiological fertilizer and other kinds of fertilizers.

b) Fertilizer producing ores are the one making materials for fertilizer production such as Apatite ore for potassium fertilizer production, mud for microbiological fertilizer production.

c) Pesticides and growth stimulants for livestock and plants.

3. Feed for cattle, poultry and other kinds of food for livestock including processed or unprocessed feed such as bran, mash, oil cakes, fish powder, bone powder, shrimp powder and other kinds of feed for cattle, poultry and livestock.

4. Services of digging, embanking and dredging channels, canals, ponds and lakes for agricultural production; services of cultivating, tending, preventing and eliminating pests for plants; services of preliminarily processing and preserving agricultural products (except for dredging in-field channels and canals prescribed in clause 3 Article 4 of this Circular).

Services of preliminary processing and preserving agricultural products includes drying, peeling, husking, slicing, grinding, salting, freezing and other usual means of preservation.

5. Products from cultivation, breeding, aquatic/maritime products that have not been processed or have just been through preliminary process such as cleaning, drying, peeling, husking, slicing, salting, freezing and other usual means of preservation at the trading stage.

Unprocessed products from cultivation guided in this point include grain, rice, corn, potatoes, cassava, wheat.

6. Preliminarily processed rubber latex such as crepe, Ribbed Smoked sheets, strips or granules; preliminarily processed pine resin; nets, net ropes and yarns for weaving fishing nets, yarns and ropes for exclusive use in weaving fishing nets, regardless of materials.

7. Raw and fresh food; unprocessed forest products at the trading stage, except for timber, bamboo sprout and products prescribed in point 1 Article 4 of this Circular.

Raw and fresh food includes food not being cooked or processed into other products, or food after being through preliminary process in forms of cleaning, peeling, slicing, freezing, drying still staying fresh and raw such as meat, shrimp, crab, fish and other aquatic/maritime products. For seasoned food, 10% tax rate shall apply.

Unprocessed forest products include products exploited from natural forests: rattan, bamboo, mushroom, cat's ear fungus, roots, leaves, medicinal plants, resin and other forest products.

Example 36: LLC A producing seasoned fresh cat-fish under this process: after being caught, fresh cat-fish are sliced and seasoned with sugar, salt, solpitol and then packed, frozen. These products are not subject to 5% tax rate but subject to 10% one.

8. Sugar; by-products in sugar production including molasses, bagasse, dregs.

9. Products made of jute, sledge, bamboo, sorrel chit, rattan, neohouzeaua, leaves, straw, coconut shell, water hyacinth and other handicrafts made of materials from agriculture being products produced and processed from jute, sledge, bamboo, rattan, neohouzeaua, leaves such as: just carpets, jute yarns, jute bags, coir carpets, jute or sledge mat, sorrel broom, ropes, strings made of bamboo, coir; bamboo blinds and curtains, bamboo brooms, palm-leaf hats; bamboo chopsticks, preliminarily processed cotton; news paper.

10. Machinery, equipment serving agricultural production including plowing machines, harrowing machines, transplanting machines, sowing machines, grain plucking machines, combined harvester-threshers, harvesters, pesticide sprayers or spraying machines.

11. Medical equipment and tools including exclusive machinery and tools used in medicine such as: scanners, projectors serving diagnosis and treatment; exclusive equipment and tools serving surgery, injury treatment; ambulances; blood-pressure and cardiovascular gauges, blood transfusion devices; syringes, needles; birth control instruments and other exclusive equipment for medicine.

Medical cotton, bandages, gauzes and medical hygienic bandages; preventive and curative medicines, including finished medicines, materials for medicine production except for functional foods; vaccines, medical biological products, distilled water for preparation of injections and transfusion fluids; chemicals for medical tests and sterilization; hat, clothing, face masks, gloves, surgery tools, pelvic limb covers, shoe covers, towels, medical gloves.

12. Teaching aids serving teaching and studying include models, pictures, boards, chalks, rulers, compass and exclusive equipment for teaching, research and scientific experiments.

13. Cultural activities, exhibitions, sport; art performances; film production, film importation, publication and projection.

a) Cultural activities, exhibitions, sport except for revenue from activities such as: goods sale, lease of yard, booths at fairs and exhibition.

b) Art performances such as: traditional drama and musicals, singing, dancing, music, plays, circus; other art performances and performance organizing services of theaters or traditional drama and musical, singing, dancing, music, plays, circus troupes with operation license issued by competent State agencies.

c) Film production; film importation, publication and projection except for products prescribed in clause 15 Article 4 of this Circular.

14. Toys; books of all kinds except for VAT non-taxable books prescribed in clause 15 Article 4 of this Circular;

15. Scientific and technological services being activities serving science research and technology development; activities relating to intellectual property; services of information, dissemination and application of technological and scientific knowledge and practical experiences under contractual services of science and technology prescribed in the Law on Science and Technology, excluding online games and Internet-based entertainment services.

Article 11. The tax rate of 10%

The tax rate of 10% is applicable to goods, services not being prescribed in Article 4, Article 9 and Article 10 of this Circular.

VAT rates prescribed in Article 10, Article 11 are uniformly applicable to each kind of goods, services at the stages of importation, production, processing or commercial business.

Example 37: If the garments are applied 10% tax rate, these products are all applied 10% tax rate at stages of importation, production, processing and commercial business.

Scraps, wastes collected to recycle and reuse shall be applied the VAT rates of their kinds when being sold.

Example 38: Sauce dreg being scrap collected from the process of fish sauce production shall be applied the tax rate of sauce dreg when it is sold. Sauce dreg being used as feed for cattle or fertilizer or materials for fertilizer production shall be applied 5% tax rate when it is sold.

Establishments trading diverse goods or providing diverse services applying different VAT rates must declare VAT separately at each rate prescribed for each kind of goods/service; in case the tax rates are not separated, establishments must calculate and pay at the highest tax rate for goods/services that they produce, trade or provide.

During the course of implementation, if VAT rates prescribed in the VAT tariff under the List of preferential tariff contrary to guidance of this Circular, they shall be applied in accordance with guidance of this Circular. For VAT rates not being uniformly applicable to the same kind of goods imported or produced domestically, local tax agencies and local customs agencies shall report to the Ministry of Finance to get timely guidance for uniform implementation.

Section 2. TAX CALCULATION METHODS

Article 12. Tax deduction method

1. Tax deduction methods are applicable to: business establishments fully performing regulations on accounting, invoices, documents as prescribed by law provisions on accounting, invoices documents and registering tax payment under tax deduction methods; except for subjects applying the direct tax calculation on added value guided in Article 13 of this Circular.

2. Determination of VAT amount payable:

VAT amount payable: = Output VAT amount - Deducted input VAT amount

In which:

a) The output VAT amount is equal to the total VAT amount of sold goods, services written on the VAT invoice.

VAT written on VAT invoices is equal to the taxable prices of sold taxable goods, services multiplied by (x) the VAT rates of those goods, services.

In case of using receipts on which the total amount payable is the VAT-inclusive one, the output VAT is determined by the total amount payable minus (-) the taxable prices prescribed in clause 11 Article 7 of this Circular.

Business establishments subject to tax calculation by tax deduction methods must calculate and pay VAT of goods, services being sold. When issuing sale or service invoices, business establishments must specify the VAT-exclusive prices, VAT amount and the total amounts payable by the purchasers. For invoices only specifying the total amount payable (except for special documents) not presenting VAT-exclusive prices and VAT, the VAT of the goods, services being sold must be calculated on the total amount payable written on invoices and documents.

Example 39: The enterprise selling steel with sale price of F6 steel is 11,000,000 VND/ton; 10% VAT equals 1,100,000 VND/ton. For enterprises only specifying the sale price being 12,100,000 VND/ton on a number of invoices, the VAT calculated on sale revenue shall be 12,100,000 VND/ton x 10% = 1,210,000 VND/ton instead of calculated on the VAT-exclusive price being 11,000,000 VND/ton.

Business establishments must comply regulations on accounting, invoices, documents as prescribed by law on accounting, invoices and documents. Invoices recorded with wrong VAT rates but not being adjusted by business establishments, then detected by tax agencies during the inspection shall be handled as follows:

For business establishments trading goods or providing services: if the VAT rates written on invoices are higher than the prescribed VAT rates in legal documents on VAT, such establishments must declare and pay VAT at the rates written on the invoices; if the VAT rates written on invoices are lower than the prescribed VAT rates in legal documents on VAT, such establishments must declare and pay VAT at the rates prescribed in legal documents on VAT.

b) Input VAT is equal to (=) the total VAT amount on VAT invoice of goods, services (including fixed assets) serving production and business of VAT taxable goods, services, the VAT amount on tax receipts of imported goods or receipts of VAT payment on behalf of foreign parties under the Ministry of Finance's guidance regarding foreign organizations without Vietnam's legal entities and foreign individuals conducting business or earning revenues in Vietnam.

For purchased goods, services are the one used special documents on which the payment prices are the VAT-inclusive one, the VAT-exclusive prices and input VAT are determined based on the VAT-inclusive prices and the calculation methods guided in clause 11 Article 7 of this Circular.

The deductible VAT amount is determined under the principles of VAT deduction prescribed in Article 14, Article 15, Article 16, Article 17 of this Circular.

Example 40: In the period, company A pays the deductible input services being special type:

The total amount payable is 110 million VND (included VAT), this kind of service is applied 10% tax rate, the deductible input VAT is calculated as follows:

$$\frac{110 \text{ million}}{1 + 10\%} \times 10\% = 10 \text{ million VND}$$

The VAT-exclusive price is 100 million VND, VAT is 10 million VND.

In case invoices recorded with wrong VAT rates but not being adjusted by business establishments detected by tax agencies during the inspection shall be handled as follows:

For business establishments purchasing goods, services: if the VAT rates written on invoices are higher than the prescribed VAT rates in legal documents on VAT, the input tax shall be deducted at the tax rates prescribed in legal documents on VAT; if detected that sellers have declared and paid at the tax rates written on invoices and the tax agencies directly managing such sellers have verified, the input tax shall be deducted at the tax rates written on invoices; if the VAT rates written on invoices are lower than the tax rates prescribed in legal documents on VAT, the input tax shall be deducted at the tax rates written on the invoices.

Article 13. Direct calculation method on added value

1. The method of direct calculation on added value is applicable to the following subjects:

a) Individuals, business households failing to observe or inadequately observing the regulations on accounting, invoices, documents as prescribed by law.

b) Foreign organizations, individuals conducting business not in compliance the Law on Investment and other organizations (including economic organizations of political organizations, socio-political organizations, social organizations, socio-professional organizations, People's armed force units, non-business organizations and other organizations) failing to observe or inadequately observing the regulations on accounting, invoices, documents as prescribed by law, except for foreign organizations, individuals providing goods, services for petroleum exploration, exploitation and development.

For foreign organizations, individuals providing goods, services for petroleum exploration, exploitation and development, the Vietnam parties shall be responsible for making deduction and payment as a substitute at the ratio prescribed by the Ministry of Finance. For foreign organizations, individuals registering, declaring and paying under the deduction method, the paid tax amount at the ratio prescribed by the Ministry of Finance shall be deducted from the tax amount payable.

c) Business of gold, silver and gems

For business establishments conducting both gold, silver, gem trading and gold, silver, gem fashioning, tax rates of these activities are calculated under the method of direct calculation on added value.

2. Determining the VAT amount payable

The VAT amount payable under the method of direct calculation on added value is equal to the added value of sold goods, services subject to tax multiplied by (x) the tax rates applicable to such goods, services.

a) The added value of goods, services is determined equal to the total amount payable of goods, services being sold minus (-) the total amount payable of corresponding goods, services being purchased.

Total amount payable of goods, services being sold are the actual sale prices written on goods, services invoices including VAT and other extra fees, charges earned by the seller regardless of those being paid or unpaid.

The total amount payable of goods, services being purchased are equals to the VAT-inclusive value of goods, services being purchased or imported serving production and business of the corresponding VAT taxable goods, services being sold.

Determining added value regarding the following lines:

- For production and business activities, the added value is the difference amount between sale and purchase of materials, goods, services serving production and business. If business establishments fail to account the purchase of materials, goods, services and the corresponding sale, the added value is determined as follows:

The cost price of goods sold is equal to (=) the inventory amount at the beginning of the period plus (+) the purchase amount in the period minus (-) the inventory amount at the end of the period.

Example 41: Establishments A producing furniture sells 150 products in the month. The total sale amount is 25 million VND.

The value of supplies and materials purchased to produce 150 products is 19 million VND, including:

+ Primary material (wood): 14 million VND.

+ Other purchased materials and services: 5 million VND.

The VAT rate is 10%, the VAT amount payable by establishment A is calculated as follows:

+ The added value of products being sold: 25 million VND – 19 million VND = 6 million VND.

+ The VAT amount payable: 6 million VND x 10% = 0.6 million VND.

- For construction and installation, the added value is the difference amount between the revenue from construction and installation of works, construction items minus (-) expenses on purchased material, powers, transport, services and other expenses serving the construction and installation of of works, construction items.

- For transportation, the added value is the difference amount between the charges of transport, loading/unloading minus (-) expenses on fuel, spare parts and other expenses serving the transportation.

- For eating and drinking business, the added value is the difference amount between the revenue from eating and drinking sale, service charges and other revenue minus (-) the prime costs of purchased goods, services serving the eating and drinking business.

- For gold, silver and gem business, the added value is the difference amount between the revenue from gold, silver and gem sale minus (-) the cost price of gold, silver and gems being sold.

- For business establishments subject to VAT calculation under the tax deduction method trading gold, silver, gems applying the method of direct calculation on added value, such establishments must separately account the input VAT to declare the VAT amount payable of goods, services under each operation of business and tax calculation method.

If the establishments may not separately account the input VAT, such establishments shall be apportioned the deductible input VAT to the corresponding ratio of revenue from VAT taxable goods, services calculated under tax deduction method on the total sale revenue earned in the period in which the revenue from VAT taxable goods, services is the total revenue of VAT taxable goods, services being paid under the tax deduction method; the total revenue from the sale of goods, services in the period includes: revenue from VAT taxable goods, services; revenue from VAT non-taxable goods, services and the difference amount between the sale prices and the purchase prices of the gold, silver, gem business (excluding negative (-) differences).

- For other business, the added value is the difference amount between the amount collected from the business minus (-) the cost prices of goods, services purchased to serve such business.

- Business establishments subject to VAT payment under the method of direct calculation on added value shall not count the value of purchased assets for investing in fixed assets in the amount of purchased goods, services to calculate the added value.

If in a tax period, there is negative (-) added value of gold, silver or gems, such negative value shall be offset against the positive (+) added value of gold, silver or gems. If there is no positive (+) added value or the positive (+) added value is not enough to cover the negative (-) added value, the deficit shall be forwarded to be included in the added value of the subsequent tax period of the year. At the end of the calendar year, the negative (-) added value shall not be forwarded to the subsequent year. Business establishments shall declare the added value in accordance with the Declaration 03/GTGT promulgated together with this Circular.

b) For business establishments (except for enterprises applying tax deduction method, business households, business individuals) selling, providing goods, services with adequate invoices of the goods, services being sold under the regulations or being able to determine correctly the revenue from sale of goods, services written on contracts or receipts but not having adequate invoices of purchased input goods, services, the added value is determined equal to the revenue multiplied by (x) the ratio (%) of added value calculated on the revenue.

The ratio (%) of the added value calculated on the revenue as the basis for determining the added value is prescribed as follows:

- Trading (goods distribution and supply): 10%

- Services, construction (except for construction covering materials): 50%

- Production, transport, services attached with goods, construction covering materials: 30%

c) Business activities; business households, business individuals failing to implement or inadequately implementing the regulations on accounting, invoices, documents as prescribed by law must pay tax at the value added rate (%) prescribed by the Ministry of Finance.

Chapter III

TAX DEDUCTION, TAX REFUND

Section 1. TAX DEDUCTION

Article 14. Principles of input VAT deduction

1. Input VAT of goods, services serving production, business of VAT taxable goods, services are completely deducted, including the uncompensated input VAT of the damaged VAT taxable goods.

Goods suffering natural loss due to its physical and chemical properties during the transportation and pumping process such as gasoline, oil... the input VAT of the actual goods suffering the natural loss not exceeding the prescribed loss extent shall be deducted. The input VAT of the goods suffering loss exceeding the limitation shall not be deducted or refunded.

2. Input VAT of goods, services serving both the production, business of VAT taxable and non-taxable goods and services, only the input VAT of goods, services serving the production, business of VAT taxable goods, services shall be deducted. Business establishments must separately account the deductible input VAT and non-deductible input VAT; if the business establishments may not separately account them, the input VAT shall be deducted under the ratio of the VAT taxable revenue on the total revenue from sold goods, services. Establishments conducting business of both VAT taxable and non-taxable goods and services shall monthly apportion the deductible VAT of purchased goods, services in the month. At the end of the year, business establishments shall calculate and apportion the deductible input VAT of the year to declare and adjust the apportioned deductible input VAT of the months.

3. The input VAT of fixed assets serving both the production, business of VAT taxable and non-taxable goods, services are completely deducted.

Input VAT of the following kinds of fixed assets shall not be deducted and shall be counted in the whole prices of fixed assets: fixed assets serving the production of weapons, military equipment serving National defense and security; fixed assets, machinery, equipment of credit institutions, enterprises conducting business of reinsurance, life insurance, securities, hospitals, schools; civil airplanes, yacht not serving passengers, goods transportation business, tourism, hotels.

Input VAT of goods, services composing enterprises' fixed assets such as canteen, recreation site, free accommodations, locker rooms, parking lot, bathrooms, pools serving workers within the production, business areas, accommodations, medical stations for workers in industrial zones are completely deducted.

Fixed assets being 9-seat cars or under (except for cars in transportation business, tourism, hotels) are worth over 1.6 billion VND (excluding VAT), the input VAT corresponding to the value more than 1.6 billion VND shall not be deducted.

4. Establishments producing agricultural, forest, aquatic/maritime products with closed production, accounting the results of concentrated business using products from the agricultural, forestial production or maritime/aquatic rearing and catching stages to proceed producing products subject to VAT (including unprocessed agricultural, forestial, aquatic products for export or processed products subject to VAT) are eligible for the declaration and deduction of input VAT on expenses serving the production and business

at all stages of fundamental construction, production, processing. Establishments having projects to continue invest in production, processing or having written commitment to continue producing products subject to VAT are eligible for VAT deduction right in the stage of the investment in fundamental construction. For input VAT at the stage of investment in Fundamental Construction that is declared, deducted, refunded but then turns out to be not eligible for deduction or refund, enterprises must declare, adjust and repay the deducted or refunded VAT. If such enterprises fail to adjust and then detected by inspection, tax agencies shall collect/refund the tax arrears and sanction as prescribed. Enterprises shall be totally responsible before law for the reported contents, commitment with tax agencies relating to tax deduction and tax refund.

For establishments selling goods as unprocessed or preliminarily processed agricultural, forestal, aquatic products not subject to VAT, the VAT on purchased goods, services shall be deducted at the ratio of the revenue of VAT taxable goods, services on the revenue from sold goods, services.

Example 42: Enterprise A investing in rubber plantation with input VAT on goods, services generated at the stage of investment in fundamental construction. The enterprise has no material to proceed the production of products subject to VAT (including unprocessed products for export or processed products subject to VAT) but has the project of investment in building a rubber latex processing factory (subject to VAT) and commits to process the products from cultivation into VAT taxable products, the enterprise's input VAT shall be completely deducted.

Enterprises selling rubber latex not subject to VAT are not eligible for tax deduction.

For enterprises using part of the exploited rubber latex for production of products subject to VAT and the rest for sale, the input VAT shall be deducted as follow:

- Input VAT of fixed assets (rubber plantations, processing factories...): enterprises are eligible for complete tax deduction (including VAT generated in the stage of investment in fundamental construction).

- Input VAT of goods, services: deducted at the ratio (%) of the revenue from VAT taxable goods, services on the total revenue from sold goods, services.

5. Input VAT of goods (including purchased goods or produced by the enterprises themselves) used as gifts, presents, promotions, advertisements under any form serving the production and business of VAT taxable goods, services are deducted.

6. Input VAT of goods, services serving the production, business of goods, services not subject to VAT prescribed in Article 4 of this circular are counted in the original prices of fixed assets, materials or business expenses, except for the following cases:

a) VAT of goods, services purchased by business establishments serving the production, business of goods, services provided for foreign organizations, individuals, international organizations for humanitarian aids and non-refundable aids prescribed in clause 19 Article 4 of this Circular shall be completely deducted;

b) Input VAT of goods, services serving the petroleum exploration, exploitation and development is completely deducted until the first day of exploitation or production.

7. Input VAT generated in a certain month shall be declared and deducted while determining the tax amount payable of that month, regardless of those being used or stored.

a) Invoices not being declared and deducted when making declaration and deduction of the input VAT shall be declared and deducted in addition; time limits for additional declaration and deduction is not more

than 06 (six) months as from the month of detecting the omitted invoices, except for the case guided in point b of this clause.

Example 43: Business establishment A has 01 VAT invoice dated March 10, 2012. In the tax declaration period in March 2012, the accountant of this business establishment omitted to declare this invoice. Business establishment A is allowed to make additional declaration and deduction no later than the declaration period in August 2012.

b) For business establishments inadequately declare the VAT amount paid at the importation stage (including the VAT amount paid at the importation stage with receipts of tax payment before March 01, 2012), the input VAT at the investment stage and not yet operated shall be declared and deducted in addition as prescribed by law provisions on tax administration.

Example 44: Business establishment B has paid VAT at the importation stage according to the tax payment receipt dated March 01, 2012. By mistakes, the accountant omitted to declare this document in the VAT declaration of the following months. Business establishment B is allowed to make additional declaration and deduction of the VAT amount paid at the importation stage (under the tax payment receipt) as prescribed by law provisions on tax administration.

Example 45: Business establishment Y has paid VAT at the importation stage according to the tax payment receipt before March 01, 2012. By mistakes, the accountant omitted to declare this receipt. On March 01, 2012, this mistake is discovered by the establishment's accountant. Business establishment B is allowed make additional declaration and deduction of the VAT amount paid at the importation stage (under the tax payment receipt) as prescribed by law provision on tax administration.

c) For business establishments discovering inaccuracies of VAT after VAT invoices of goods, services were issued, the establishments must issue adjustment, supplement invoices, the time limits for declaring, deducting and supplementing VAT of business establishments purchasing goods, services is counted from the time of issuing the adjustment, supplement invoices.

8. For non-deductible input VAT amounts, business establishments are allowed to account into expenses for calculating enterprise income tax or into original prices of fixed assets as prescribed by law.

9. Head offices of corporations, groups not directly conducting business and other affiliated non-business, administrative units such as hospitals, infirmaries, sanitariums, institutions, schools... not being VAT payers are not eligible for deductions and refunds of the input VAT for purchased goods, services serving the operation of these units.

If these units conduct business of VAT taxable goods, services, such units must register, declare and pay VAT separately for these activities.

Example 46: The head office of corporation A not directly conducting production, business and operating by budget contributed by affiliated establishments. However, the head office leases out the unused part of the building, so that this leasing activity must be declared, paid separately. The input VAT of goods, services serving the operation of the head office shall not be deducted or refunded.

10. Input VAT of goods, services serving the provision of goods, services not required to be declared and paid VAT prescribed in Article 5 of this Circular shall be completely deducted.

Example 47: Joint-stock construction company X is contracted to construct in Laos. Apart from the materials exported to Laos for building, company X has to incur a number of expenses arisen in Vietnam to serve the construction in Laos such as management expense. These expenses have VAT invoices

(regarding VAT invoices worth 20 million VND or above and paid through banks). Company X is eligible for deductions of all the input VAT of the expenses stated above.

11. Business establishments are eligible for the declaration and deduction of the VAT on goods, services purchased by authorized organizations, individuals that the names thereof are written on the invoices including the following cases:

a) Insurers authorizing the insured to repair properties; the expenses on property repairs together with materials, spare parts with VAT invoices subscribed by the insured. When the insurers pay to the insured the insurance amounts under the contracts, the insurers are eligible for the declaration and deduction of the corresponding VAT on the paid insurance amounts under the VAT invoices subscribed by the insured; insurance indemnities payable to insured worth 20 million VND or above by the insurers must be paid through banks.

b) Before establishing an enterprise, if the founders have authorized in writing organizations, individuals to pay a number of expenses relating to the enterprises establishment, purchasing of goods, materials, the enterprise is eligible for the declaration and deduction of the input VAT under the VAT invoices subscribed by the authorized organizations, individuals and must pay to the authorized organizations, individuals through banks regarding invoices worth twenty million VND or above.

12. For non-business organizations, individuals contributing by assets as capital to limited liability companies, joint-stock companies, the documents of contributed assets are written contribution certificates and written records on delivery and receipt of assets. If the contributed assets are brand-new and unused, accompanied by legitimate invoices accepted by the council of contribution delivery and receipt, the value of contributions are determined under the value written on the invoices included VAT. The contributed party are eligible for the declaration and deduction of the VAT written on the invoices of assets purchase from the contributing party.

13. For business households paying VAT under the method of direct calculation on added value being converted to pay under the tax deduction method are eligible for the deduction of the VAT on goods, services purchased in the month of applying the tax deduction method; goods, services purchased before the month of applying the tax deduction method shall not be deducted input VAT.

14. Business establishments are not eligible for the deduction of VAT in the following cases:

- Use of VAT invoices not in compliance with law provisions such as: VAT invoice not specified VAT (except for special cases that use VAT invoices with VAT-inclusive prices);

- Invoices not being specified or incorrectly being specified one of the indicators such as name, address, tax code of the seller so that it is unable to identify the seller;

- Invoices not being specified or incorrectly being specified one of the indicators such as name, address, tax code of the buyer so that it is unable to identify the buyer (except for the case guided in clause 11 of this Article);

-Fake invoices, VAT receipts, erased invoices, fraudulent invoices (not accompanied by goods, services);

- Invoices being specified the incorrect actual value of goods, services being purchased, sold or exchanged.

Article 15. Conditions for input VAT deduction

1. Having legitimate VAT invoices of goods, services being purchased or VAT receipts at the importation stage or VAT receipts on foreign parties' behalf under the Ministry of Finance's guidance applicable to foreign organizations without legal entities in Vietnam and foreign individuals conducting business or earning in Vietnam.

2. Having receipts of payment through banks for purchased goods, services (including imported goods) worth twenty million VND or above, except for the total value of the goods, services purchased each time under the invoice lower than twenty million VND including VAT.

a) Receipts of payment through banks are considered as documents proving the transfer from the buyer's account to the seller's account opened at organizations providing legitimate payment services in accordance with current law provisions such as cheque, bank orders, banking cards, sim card (electronic wallet) and other methods of payment as prescribed (including cases when the buyer transfers from their account to the seller's account bearing the name of the owner of a private enterprise, or when the buyer transfers from their account bearing the name of the owner of a private enterprise to the seller's account if these accounts have registered the transaction at tax agencies).

Receipts of payment in cash to the seller's account or receipts of payment under the forms contrary to current law provisions are not eligible for VAT deduction, refund regarding purchased goods, services worth twenty million VND or above.

b) Goods, services purchased each time under the invoices worth twenty million VND included VAT having no receipts of payment through banks shall not be deducted. Business establishments shall declare these invoices in the list of non-deductible invoices and documents of goods, services.

c) For goods, services purchased in instalments or deferred payment worth twenty million VND or above, business establishments shall base on the service, goods sale contracts, VAT invoices and receipts of payment through banks of goods, services purchased by instalments or deferred payment to make the declaration and deduction of input VAT, clearly specifying the term of payment in the "note" section on the list of invoices and documents of purchased goods, services. If the receipts of payment through banks are not available because the contractual payment is not due, business establishments are still eligible for the declaration and deduction of input VAT.

When the contractual payment is due, the input VAT shall not be deducted without receipts of payment through banks. Business establishments must declare and reduce the deducted input VAT on the goods without receipts of payment through banks. If business establishments have documents proving the payment through banks after reducing the deducted input VAT on the corresponding value of goods, services without receipts of payment through banks, they shall be eligible for the additional declaration.

In case the contractual payment is overdue and business establishments fail to reduce as prescribed but they are able to present adequate documents proving the payment through banks before the tax agencies publicize the inspection's decisions at site, and if the undone reduction does not lead to the lack of tax amounts payable or the increase of tax amounts deductible, such business establishments shall be administratively sanctioned for violations of tax procedures; if the undone reduction leads to the lack of tax amounts payable or the increase of tax amounts deductible, tax agencies shall perform tax arrears collection or refund and sanction over the business establishments as prescribed by the Law on Tax administration.

Example 48: In March 2012, company A purchases a shipment from company B to serve the production, business with the total value of the contract being 330 million VND (the tax-exclusive price is 300 million VND, the VAT amount at 10% VAT rate is 30 million VND), company A shall pay company B in July 2012 as agreed in the contract.

In this case, company A is allowed to declare the input VAT being 30 million VND in the declaration period of March 2012. When the payment is due in July 2012, company A must provide receipts of payment through banks that is worth 330 million VND, if company A fails to provide such receipts, it must declare and reduce the deducted VAT amount (30 million VND).

If company A is able to provide the receipts of payment through banks when the payment is due in July 2012, but the amount written on these receipts is 275 million VND (in correspondence with the tax-exclusive price being 250 million VND, the VAT amount at 10% VAT rate being 25 million VND), company A is only eligible for the deduction of 25 million VND of VAT (in correspondence with the amount paid through banks being 275 million VND) and company A must reduce the declared deductible VAT amount (5 million VND = 30 million VND – 25 million VND) in the declaration period in March 2012.

In November 2012, company A provides the receipts of bank payment for the amount payable being 55 million VND (in correspondence with the VAT-exclusive price being 50 million VND, the VAT amount being 5 million VND). Company A is allowed to declare in addition the deductible VAT amount being 5 million VND in correspondence with the paid amount through banks being 50 million VND.

Example 49: In November 2012, the tax agency issues the decisions on VAT inspection at LLC Z, the inspected period is the year 2011 and 5 months in 2012. During the inspection, company Z fails to present the receipts of payment through banks for a number of deferred payment contracts due in 2011 and in the 5 months in 2012. Consequently, the tax agency disapproves company Z's the declaration and deduction of the VAT on invoices without receipts of payment through bank. However, in November and December 2012, company Z presents the receipts of payment through banks of invoices disapproved by the tax agency, Company Z is allowed to make additional declaration and deduction of the VAT amounts of these invoices on the VAT declaration of November and December 2012.

d) The following cases considered as payment through banks as the basis for input VAT deduction include:

d.1) For goods, services purchased by means of offsetting the value of purchased goods, services against the value of sold goods, services or goods loans that prescribed in the contract, it is necessary to have written figure comparison and agreement between the parties on offsetting the value of purchased goods, services against the value of sold goods, services or goods loans. In cases of debt offsetting payment through a third party, it is necessary to have written records on debt offsetting of three (3) parties as the basis for tax deduction.

d.2) For goods, services purchased by means of debt offsetting such as loans, debt offsetting through the third party prescribed in the contract, it is necessary to have the written loan contract made priviously and receipts of account transfer from the lending party's account to the borrowing party's account regarding monetary loans, including offsetting of the value of purchased goods, services against the amounts supported for the buyer by the seller, or paid on the seller's behalf.

d.3) For purchased goods, services paid through banks by the authorized third party (including the case when the seller requests the buyer to pay through banks to the third party appointed by the seller), the authorized payment or the payment through the third party appointed by the seller must be prescribed in the written contract, and the third party must be a legal entity or a natural person operating under the law.

In case after the above-mentioned methods of payment are carried out and the remaining monetary payment is worth 20 million VND or above, the VAT shall only be deducted when the receipts of payment through banks are presented. When declaring input VAT, business establishments must specify the contractual method of payment in the "note" section in the list of invoices, receipts of purchased goods, services.

đ) In case purchasing goods, services worth below twenty million VND many times in the same day with the total value being twenty million VND or above, the input VAT shall only be deducted if the receipts of payment through banks are presented. The suppliers being tax payers with tax codes shall directly declare and pay VAT.

Article 16. Conditions for input VAT deduction and refund of exported goods, services

Goods, services being exported (except for the case guided in Article 17 of this Circular) must meet the conditions and complete the procedures prescribed in clause 2 Article 9 and clause 1 Article 15 of this Circular to be eligible for input VAT deduction or refund.

1. Contracts of goods sale, processing (for goods processing), services provisions for foreign organizations, individuals. For entrustment of export being the export entrusting contract and written records on liquidation of the export entrusting contract (when the contract expires) or periodic debt comparison records between the the export entrusting party and the export entrustment taking party in which specify: product quantity, category, value of the exported entrusted goods; number, date of the export contract signed by the export entrustment taking party and the foreign party; number, date, the amounts on receipts of payment through banks with the foreign party of the the export entrustment taking party; number, date, the amount on receipts of payment by the the export entrustment taking party paid to the export entrusting party; number, date of the customs declaration of goods being exported of the export entrustment taking party.

2. Customs declarations of exported goods that were completed the customs procedures as prescribed by the Ministry of Finance's guidance on customs procedures; customs inspection and supervision; export tax, import tax and tax administration of exported, imported goods.

Business establishments exporting software products in forms of boxed documents, dossiers, database must implement procedures of customs declaration similarly to that of ordinary goods.

The following cases are not required customs declaration:

- Business establishments exporting services, software through electronic media. Such business establishments must implement in full the provisions on procedures for verifying that the buyer has received the services, software through electronic media as prescribed by law on electronic commerce.
- Construction and installation of works for processing and exporting enterprises.
- Business establishments supplying electricity, fresh water, stationery and goods serving daily life of processing and exporting enterprises including: food, consumer goods (including work protection: pants, shirts, hats, shoes, boots, gloves).

3. Exported goods, services required to be paid through banks

a) Payment through banks means money transfer from the importer's account to the exporter's account opened in banks under the methods of payment compatible with the contractual agreement and the banks' provisions. The money remittance receipts are the Credit notices issued by the bank of the exporter on the amount of money received from the account of the importer. For deferred payment, there must be written contractual agreement. When the payment is due, business establishments must present the receipts of payment through bank. For export entrustment, there must be receipts of payment through banks by the foreign party to the entrustment taking party and the entrustment taking party must pay to the entrusting party.

b) The following cases are also considered as payment through banks:

b.1) For exported goods, services paid by offsetting against the foreign debts, business establishments must meet the full conditions and complete the procedures and dossiers as follows:

- Loan contracts (for financial loan terms under 01 year); or loan registration certificates issued by the State bank of Vietnam (for loan terms over 01 year).

- Receipts of money transfer through banks from abroad to Vietnam.

Payments of exported goods, services by means of offsetting against foreign debts must be prescribed in the export contract.

- Written verification by the foreign party on debt offsetting.

- In case of differences after offsetting the value of exported goods, services against the foreign debts, the differences must be paid through banks. Receipts of payment through banks are made as guided in this point.

b.2) For exporting establishments using money from exported goods, services to contribute as capital to overseas importers, such establishments must meet the full conditions and complete the procedures and dossiers as follows:

- The Contribution contract

- The use of money paid from exported goods, services as capital contribution to overseas importer must be prescribed in the export contract.

In case the contribution is smaller than the revenue from the exported goods, the difference must be paid through banks as guided in this point.

b.3) In case the foreign party authorizes the third party being overseas organizations, individuals to make payment, the authorized payment must be prescribed in the export contract (in contract annex or written contract adjustment – if any).

b.4) In case the foreign party requests the third party being organizations in Vietnam to make offsetting payment against debts with the foreign party by making payment through banks for the amount payable by the foreign party to the exporting establishment, and the request of making offsetting payment against debts as mentioned-above is prescribed in the export contract (in contract annex or written contract adjustment – if any). The exporter must have receipts being the Credit notices of the bank of the exported on the amount received from the third party's account and present the written debt comparison verified by the foreign party and the third party.

b.5) In case the foreign party (the importer) authorizes the third party being overseas organizations, individuals to make payment; and the third party request an organization in Vietnam (the forth party) to make offsetting payment against debts with the third party by making payment through banks for the amount payable by the importer to the Vietnamese exporter, the exporter must meet the full conditions and complete the dossiers as follows:

- The export contract (including the contract annex or written contract adjustment – if any) prescribing the payment authorization and debt offsetting among the parties.

- The receipts of payment being Credit notices of banks on the amount received by the Vietnamese exporter from the forth party's account.

- The written debt comparison verified by the relevant parties (between the exporter and the importer, between overseas third party and the forth party being an organization in Vietnam).

b.6) In case the foreign party authorizes an Representative office in Vietnam to make the payment to the account of the exporter and the authorization is prescribed in the export contract (in contract annex or written contract adjustment – if any).

b.7) In case the foreign party extracts from the their deposit account opened at credit institutions in Vietnam, this payment must be prescribed in the export contract (in contract annex or written contract adjustment – if any). The receipts of payment are Credit notices of banks of the exporter on the amounts received from the foreign party's current account.

In case of exporting to foreign buyers being private enterprises and the payment through current accounts of these enterprises opened at credit institutions in Vietnam and prescribed in the export contract (in contract annex or written contract adjustment – if any), this case is considered as payment through banks.

Tax agencies, upon inspecting the tax deduction and tax refund of exported goods being paid through current accounts, shall coordinate with credit institutions where the foreign buyers opened their accounts to ensure that the payment and the transfer are made under right purposes and in accordance with law.

b.8) In case the foreign party makes payment through banks but the amount on the receipt does not match with the payable amount stated in contract or its annex:

- If the paid amount written on the receipt of payment through banks is lower than the payable amount stated in contract or its annex, business establishment must present explanations, such as: bank transfer fees, reduction of price due to defective or diminished products (this case required the written discount agreement between the seller and the buyer)...;

If the paid amount written on the receipt of payment through banks is higher than the payable amount stated in contract or its annex, business establishment must present explanations, such as: lump-sum payment for many contracts, goods advance...

Business establishments must commit to be responsible before law for the explanations and the written adjustment (if any).

b.9) In case the foreign party make payment through banks but the name of the bank on the receipts of payment through banks does not match the contractual bank, if the receipt contents show clearly the name of the payer, the beneficiary, the number of export contract, the value of payment that match the signed export contract, these receipts are considered legitimate.

b.10) For business establishments exporting goods, services to the foreign party (second party), and concurrently importing goods, services from another foreign party or purchasing goods, services from organizations, individuals in Vietnam (third party); if the business establishment has a deal with the second and third party that the second party shall make payment through banks to the third party for the amount payable by the business establishment to the third party, the payment offsetting among the parties must be prescribed in the export contract, import contract or sale contract (in contract annex or written contract adjustment – if any) and the business establishment must present the written debt comparison verified by the relevant parties (between the business establishment and the second party, between the business establishment and the third party).

b.11) In case the foreign party refuse to receive the shipment due to objective reasons and the business establishment finds another customer in the same country to sell that shipment, the tax refund dossier

shall include all the export dossiers relating to the export contract signed with the first customer (contract, customs declaration for goods being exported, invoices), written explanation by the business establishment for the change of the buyer's name (in which the business establishment committing to be responsible for the information accuracy), all the export dossiers relating to the export contract signed with the new customer (contract, sale invoices, receipts of payment through banks as prescribed and other documents – if any).

c) For other payment of exported goods, services as prescribed by the Government:

c.1) For labor export that such businessline establishments directly collect money from workers, receipts of payment in cash made by the workers are required.

c.2) For business establishments exporting goods to be sold in foreign fairs or exhibitions then collecting money and transferring back to Vietnam in foreign currency, the customs declaration on the foreign currency collected from goods sale being transferred to Vietnam and receipts of the money remittance to banks in Vietnam are required.

c.3) For goods, services being exported to pay debt for the Government, it is necessary to have written verification by foreign trade banks on the exported consignment accepted by the foreign party as debt payment or on the dossier being sent to the foreign party for debt deduction, the receipts of payment shall be made as prescribed by the Ministry of Finance.

c.4) Payment of exported goods, services by goods means the case of exporting goods, services (including goods processing for export) to foreign organizations, individuals (hereinafter referred to as the foreign party) but the payment between Vietnamese enterprises and foreign party is made by offsetting the value of exported goods, services, the remuneration of goods processing against the value of goods, services purchased from the foreign party.

Exported goods, services paid in goods must include the following dossiers:

- The method of payment for exported goods in goods must be prescribed in the export contract

- The sale contract of goods, services purchased from the foreign party;

- The customs declaration on the imported goods offset against the exported goods, services.

- The written verification by the foreign party on the amount of the exported goods, services being offset against the goods, services purchased from the foreign party.

- In case of having difference after offsetting the value of exported goods, services against the value of imported goods, services, the difference must be paid through banks. The receipts of payment through banks shall comply with guidance in this clause.

c.5) The goods export to the countries of the same border prescribed by the Prime Minister on the management of border trade with countries of the same border shall comply with guidance by the Ministry of Finance and the State bank.

c.6) A number of other methods of payment of exported goods, services as prescribed by relevant law provisions.

d) Cases of tax deduction, tax refund regarding export without receipts of payment through banks

d.1) If the foreign party is insolvent, the exporter must present written explanation stating clearly the reason and can substitute the receipts of payment through banks with one of the following documents:

- The custom declaration of goods imported from Vietnam registered at the customs agency in the importing country (1 copy); or
- The lawsuit petition to court or competent agency in the country where the buyer resides, together with notice or verifying documents of such agency on the assuming of the case (01 copy); or
- The final judgment in favor of the business establishment by the foreign court (01 copy); or
- Documents by foreign competent organizations verifying (or notifying) the foreign buyer being bankrupt or insolvent (01 copy).

d.2) For exported goods not meeting the standard and compelled to be destructed, the exporter must present written explanation stating clearly the reason and the records on goods destruction (or documents verifying the destruction) overseas made by the agency performing the destruction, together with receipts of payment through banks for the destruction expense on account of the exporter or documents proving the destruction expense on account of the buyer or the third party (01 copy).

In case the importer must implement the procedures for destruction overseas, the record on destruction (or documents verifying the destruction) shall bear the name of the importer.

d.3) In case the exported goods is damaged, the exporter must present written explanations stating clearly the reason and may substitute the receipts of payment through banks with one of the following documents:

- The document verifying the damage occurred outside Vietnam by relevant competent agency (01 copy); or
- The record verifying the damage occurred during the transportation outside Vietnam and specifying the reasons for such damage (1 copy);

If the exporter has received the compensations for the exported goods damaged outside Vietnam, such exporter must enclose the receipts of payment through banks of the received amount (01 copy).

The copies of documents guided in point d.1, d.2, d.3 in this clause must be authenticated as truly copied from the original by the exporter. If the language in the third party's verifying documents used to substitute for the receipts of payment through banks is not English, 01 notarized English translation is required to be enclosed. If the relevant parties issue, use and save documents in form of electronic data, printed copies of those documents are required.

The exporters are totally responsible for the accuracy of documents used to substitute for the receipts of payment through banks in the stated-above cases.

4. VAT invoices of goods, services sale or export invoices or invoices of the processing charges regarding processed goods.

Article 17. Conditions for deducting, refunding input VAT on goods regarded as being exported

1. Transitionally processed goods as prescribed by commercial law on international goods trading and agent services of trading and processing goods with foreign parties.

a) Export processing contracts and annexes thereof (if any) signed with the foreign party in which specify the goods receiving establishment in Vietnam.

b) VAT invoices specifying the processing price and the quantity of goods being processed required to be returned to the foreign party (at the price specified in the contract signed with the foreign party) and the name of goods receiving establishment under the foreign party's appointment.

c) The Slip of transitionally processed goods transfer (hereinafter referred to as Transitional Slip) verified by the delivering party, the receiving party and the Customs agency managing that processing contract.

d) The payment of goods processed for foreign parties must be made through banks as guided in Article 16 of this Circular.

The procedure for delivering and receiving the transitionally processed products and the Transitional Slip shall comply with the guidance of the General Department of Customs.

Example 50: company A is contracted to process 200,000 pairs of soles for export. The processing price is 800 million VND. The contract specifies the soles shall be delivered to company B in Vietnam to produce finished shoes.

In this case, company A shall be subject to processing of transitionally exported goods. When making documents of the transfer of soles to company B, company A must specify the quantity, category, specifications of the delivered products. All the revenue received from sole processing being 800 million VND shall be subject to 0% VAT.

2. Goods of on-spot export as prescribed by law:

a) Goods sale and purchase contract or processing contract specifying the appointment of goods delivery in Vietnam;

b) The customs declaration of on-spot exported - imported products that have completed customs procedures.

c) VAT invoices or export invoices specifying the name of foreign buyer, the receiving enterprise and the delivery location in Vietnam;

d) Goods being sold to foreign traders but received in Vietnam must be paid through banks in freely convertible currency. Receipts of payment through banks are made as guided in clause 3 Article 16 of this Circular. In case the on-spot importer is authorized by the foreign party to pay the on-spot exporter, the currency used in the payment must comply with law provision on foreign exchange.

đ) On-spot exported goods of foreign-owned enterprises must comply with the provisions of the investment certificate.

3. Goods, supplies exported by Vietnamese enterprises to execute constructions overseas, the necessary dossiers for Vietnamese enterprises to execute constructions overseas to be eligible for input VAT deduction or refund must meet the following conditions:

a) The customs declaration as prescribed in clause 2 Article 16 of this Circular.

b) The exported goods, supplies must comply with the List of exported goods to execute constructions overseas approved by the director of the Vietnamese enterprise executing the construction overseas.

c) The export entrusting contract (in case of entrusting export).

4. Goods, supplies sold by domestic business establishments to Vietnamese enterprises to execute constructions overseas and delivered abroad under the signed contract, the dossiers for the domestic seller to be eligible for the deduction and refund of input VAT on exported goods must meet the following conditions:

a) The custom declaration prescribed in clause 2 Article 16 of this Circular.

b) The exported goods, supplies must comply with the List of exported goods to execute constructions overseas approved by the director of the Vietnamese enterprise executing the construction.

c) The sale contract signed by the domestic business establishment and the Vietnamese enterprise to execute constructions overseas in which specify the conditions of delivery, quantity, category and value of goods.

d) The export entrusting contract (in case of entrusting export);

đ) Receipts of payment through bank;

e) VAT invoices of goods sale.

If the business establishments having exported goods or goods regarded as exported goods as guided in Article 16, Article 17 of this Circular that have been verified by customs agencies (regarding exported goods) but do not have adequate corresponding dossiers for each specific case, such establishments are not required to calculate output VAT but shall not be eligible for input VAT deduction. Particularly, for transitionally processed goods and on-spot exported goods, if one of the necessary procedures, dossiers is not done as prescribed, those goods are subject to VAT similar to domestically consumed goods. Business establishments with exported services that fail to make payment through banks or considered as payment through banks are not eligible for 0% VAT rate. Such establishments are not required to calculate output VAT but not eligible for input VAT deduction.

Section 2. TAX REFUND

Article 18. Subjects and cases of VAT refund

1. Business establishments paying tax under the tax deduction method are eligible for VAT refund if their input VAT are not completely deducted in 3 consecutive months or more.

The refunded amount is the input VAT amount that has not been completely deducted during the request for tax refund.

Example 51: Enterprises A declares VAT with the input and out put VAT as follows:

(unit: million VND)

Month of tax declaration (1)	Deductible input tax transferred from the previous period (2)	Deductible input tax in the month (3)	Output tax arisen in the month (4)	VAT amount payable (or deductible) in the period
March 2012	0	200	100	- 100
April 2012	- 100	300	350	- 50
May 2012	- 50	300	200	- 150

According to the above example, the accumulative amount of enterprise A in 3 consecutive months has the input tax higher than the output tax. Enterprise A is eligible for VAT refund with the maximum tax amount being 150 million VND.

2. Business establishments newly-founded under investment projects applied for business registration and VAT paying registration under the deduction method or projects of petroleum exploration and development at the investment stage and not yet operated with investment term of 01 year or longer are eligible for the refund of VAT on goods, services serving the investment in each year. If the accumulative VAT amount of purchased goods, services serving the investment is 200 million VND or above, such amount is eligible for VAT refund.

3. When the business establishments subject to VAT payment under the deduction method have new investment project under the investment stage, such business establishments must declare and offset the VAT amount of purchased goods, services serving the new project together with the VAT declaration of the production and business being implemented.

After being offset, if the remaining VAT amount of purchased goods, services serving the investment is 200 million VND or above, this amount is eligible for VAT refund to the investment project. If the input VAT amount of the production, business and project is lower than 200 million VND and stay deductible after 3 months, business establishments are eligible for VAT refund as guided in clause 1 of this Article.

When operating business establishments subject to VAT payment under the deduction method have investment in new production establishments in the provinces, centrally-run cities different from places where their head offices are situated under the investment project not yet operated, applied for business and tax registration with the VAT amount of purchased goods, services serving the investment being 200 million VND or above, they are eligible for the refund of VAT to the investment project. Business establishments must declare and compile tax refund dossiers separately for this case. The project management unit (if any) shall register, declare and compile the separate tax refund dossier at local tax agencies (except for the case when the project management unit in the same locality with the head office of the business establishment compiling the VAT refund dossier themselves). When the investment in establishing new enterprise is done and complete all the procedures for business registration, tax registration, the business establishments being the project investors must synthesize the arisen, refunded and not refunded VAT of the project to hand over to the newly-founded enterprise so that the enterprise can declare, pay tax and request for VAT refund as prescribed by the tax agency directly managing them.

4. Business establishments exporting goods, services in the month of which the deductible input VAT arisen in the month being 200 million VND or above are eligible for VAT refund by months.

For business establishments having both goods, services for export and goods, services for domestic sale with the input VAT amount of goods, services for export arisen in the month not yet been wholly deducted being 200 million VND or above, if the input VAT amount of goods, services for export not yet been wholly deducted is lower than 200 million VND after being offset against the output VAT amount of goods, services for domestic sale on the declaration of the arisen month, the business establishments are not eligible for VAT refund; if the input VAT amount of goods, services for export not yet been wholly deducted is 200 million VND or higher after being offset against the output VAT amount of goods, services for domestic sale on the declaration of the month, the business establishments are eligible for VAT refund by the month of the exported goods, services.

If the input VAT amount of goods, services for export is not able to be separately accounted, the input VAT amount of goods, services for export shall be apportioned by the ratio (%) of the revenue from exported goods, services in the period on the total revenue of the establishment in the period.

Subjects eligible for VAT refund in some cases of export as follows: for export entrustment, it is the establishment with the export entrusted goods; for transitional processing, it is the establishment signing the export processing contract with the foreign party; for exported goods to execute overseas constructions, it is the establishment with exported goods, supplies serving the overseas constructions; for on-spot exported goods, it is the establishment with on-spot exported goods.

5. Business establishments settling up tax when dividing, splitting, dissolving, being bankrupt, ownership transferring; contracting, leasing to State enterprises, with input VAT amounts not yet been wholly deducted or overpaid VAT amounts.

For business establishments under the investment and not in operation of production, business dissolving without output VAT arisen during the primary business operation under the investment project are not eligible for VAT refund. In case the business establishments are refunded the tax of the investment project, this amount must be collect and remit to the State budget.

6. VAT refund regarding the programs and projects using the non-refundable official development aids (ODA), non-refundable aids and humanitarian aids:

a) For project using non-refundable ODA: the program/project owner or the primary contractor, program/project managing organizations appointed by the foreign sponsors are eligible for VAT refund regarding the paid VAT amount of goods, services purchased in Vietnam to serve the programs/projects.

b) Organizations in Vietnam using humanitarian aids from foreign organizations, individuals to purchase goods, services serving the programs/projects of non-refundable aids, humanitarian aids in Vietnam are eligible for VAT refund regarding the paid VAT amount of such goods, services.

Example 52: The Red Cross receives 200 million VND of humanitarian aids from international organizations to purchase humanitarian goods for people in provinces suffering natural disasters. The VAT-exclusive price is 200 million VND, the VAT amount is 20 million VND. The Red Cross shall be refunded 20 million VND of VAT as prescribed.

The refund of paid VAT amount regarding programs and projects using the non-refundable Official development aids (ODA) is implemented as guided by the Ministry of Finance.

7. Subjects under diplomatic immunity regulations under the Ordinance on diplomatic immunity purchasing goods, services in Vietnam for personal use shall be refunded the paid VAT amount on the VAT invoices or on the receipts with VAT-inclusive price.

8. Business establishments that receive decisions on handling of tax refund by competent agencies as prescribed by law.

Article 19. Conditions and procedures for VAT refund

1. Business establishments, organizations eligible for VAT refund as guided in point 1, 2, 3, 4, 5, 8 Article 18 of this Circular must be business establishments paying tax under the deduction method, being issued the enterprise registration certificates or investment certificates (practice certificate) or decisions on the establishment of competent agencies with seals as prescribed, making and keeping accounting book, documents in accordance with law provisions on accounting; having deposit account in banks under the tax codes of the business establishments.

2. For business establishments that have declared the tax refund request on the VAT declaration, the input VAT amount requested to be refunded must not be transferred to the deductible tax of the following months

3. Procedures for VAT refund are implemented as prescribed in the Law on tax administration and documents guiding the implementation of the Law on tax administration.

Article 20. Locations of tax payment.

1. Tax payers shall declare and pay VAT in the localities where they operate.

2. Tax payers declaring and paying VAT under the deduction method with dependent cost-accounting establishments situated in the provinces, centrally-run cities different from places where their head offices are situated must pay VAT separately in the localities where the production establishments are situated and localities where the head offices are situated.

3. The VAT declaration and payment are implement as prescribed in the Law on tax administration and documents guiding the implementation of the Law on tax administration.

Chapter IV

THE ORGANIZATION OF IMPLEMENTATION

Article 21. Effect

1. This Circular takes effect from the date the Government's Decree No. 121/2011/ND-CP of December 27, 2011 takes effect (March 01, 2012) and supersedes the Circular No. 129/2008/TT-BTC of December 26, 2008 and the Circular No. 112/2009/TT-BTC of June 02, 2009 of the Ministry of Finance.

2. For real estate transfer contracts signed from January 1, 2009 until March 01, 2012, the first payment is January 1, 2009 and made before March 01, 2012, if the collected amount is not lower than 20% of the total contract value, the deductible land prices are still applied in accordance with the Circular No. 129/2008/TT-BTC of December 26, 2008 and guiding documents of the Ministry of Finance.

For real estate transfer contracts signed before March 01, 2009, but the first payment is after March 1, 2012 or the collected amount before March 01, 2012 is lower than 20% of the total contract value, the deductible land prices are applied in accordance with the Government's Decree No. 121/2011/ND-CP and the guidance in this Circular.

3. Abolishing the contents guiding the temporary refund of 90% of the input VAT on exported goods that have been completed customs procedures from January 1, 2012 and not being paid through banks under the export contract as defined in the Circular No. 94/2010/TT-BTC of June 30, 2010 of the Ministry of Finance guiding the refund of VAT on exported goods.

The refund of the remaining 10% of VAT (regarding dossiers accepted to be temporarily refunded 90% of VAT stated above) and other contents are still implemented in accordance with the Circular No. 94/2010/TT-BTC of the Ministry of Finance.

4. Other effective Circulars of the Ministry of Finance guiding the VAT implementation are still in effect.

Article 22. Organizing the VAT collection

1. Tax agencies are responsible for organizing the management of VAT collection and VAT refund for business establishments.

2. Customs agencies are responsible for organizing the management of VAT collection for imports.

Should there be any difficulty or obstruction during the course of implementation, the business units and establishments give feedbacks to the Ministry of Finance for punctual settlement./.

**FOR THE MINISTER
DEPUTY MINISTER**

Do Hoang Anh Tuan

No.	Factors	Goods, services subject to 0% VAT and not subject to VAT	Goods, services subject to 5% VAT	Goods, services subject to 10% VAT
(1)	(2)	(3)	(4)	(5)
1	Negative added value transferred from previous period	[21]	[22]	[23]
2	Total revenue from goods, services subject to VAT	[24]	[25]	[26]
3	Cost price of purchased goods, services serving production and business of goods, services being sold subject to VAT	[27]	[28]	[29]
4	Taxable added value in period: [30]=[24]-[27]-[21]; [31]=[25]-[28]-[22];; [32]=[26]-[29]-[23];	[30]	[31]	[32]
5	VAT amount payable: [33]=[30]x0%; [34]=[31]x5%; [35]=[32]x10%	[33]	[34]	[35]

Total revenue from goods, services subject to VAT [36]=[24]+[25]+[26]:

Total VAT amount payable in the period: [37]=[33]+[34]+[35]:.....

I hereby guarantee that the figures declared above are accurate and shall be responsible for such figures before law./.

DayMonth Year

Tax agent personnel

TAX PAYER or

Full name:.....

TAX PAYER'S LEGAL REPRESENTATIVE

Practice certificate No. :.....

Signature, full name, positions and seal (if any)