

MINISTRY OF FINANCE

SOCIALIST REPUBLIC OF VIETNAM

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No. 119/2014/TT-BTC

Hanoi, August 25, 2014

CIRCULAR

AMENDMENTS TO SOME ARTICLES OF CIRCULAR NO. 156/2013/TT-BTC DATED NOVEMBER 06, 2013, CIRCULAR NO. 111/2013/TT-BTC DATED AUGUST 15, 2013, CIRCULAR NO. 219/2013/TT-BTC DATED DECEMBER 31, 2013, CIRCULAR NO. 08/2013/TT-BTC DATED JANUARY 10, 2013, CIRCULAR NO. 85/2011/TT-BTC DATED JUNE 17, 2011, CIRCULAR NO. 39/2014/TT-BTC DATED MARCH 31, 2014, AND CIRCULAR NO. 78/2014/TT-BTC DATED JUNE 18, 2014 OF THE MINISTRY OF FINANCE IN ORDER TO SIMPLIFY TAX FORMALITIES

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

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

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

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

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

Pursuant to the Government's Decree No. 218/2013/NĐ-CP dated December 26, 2013 on guidelines for the Law on Corporate income tax;

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

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

For the purpose of simplification of tax formalities, the Minister of Finance hereby introduces the amendments below:

Article 1. Circular No. 156/2013/TT-BTC dated November 06, 2013 on guidelines for the Law on Tax administration and the Law on amendments to the Law on Tax administration and the Decree No. 83/2013/NĐ-CP is amended as follows:

1. The forms below are enclosed with this Circular:

a) VAT declaration form for taxpayers that declare VAT using credit-invoice method (form 01/GTGT), which replaces form 01/GTGT enclosed with Circular No. 156/2013/TT-BTC dated November 06, 2013 of the Ministry of Finance.

b) List of invoices for sold goods/services (form 01-1/GTGT), which replaces form 01-1/GTGT enclosed with Circular No. 156/2013/TT-BTC dated November 06, 2013 of the Ministry of Finance.

c) List of invoices for purchased goods/services (form 01-2/GTGT), which replaces form 01-2/GTGT enclosed with Circular No. 156/2013/TT-BTC dated November 06, 2013 of the Ministry of Finance.

d) VAT declaration form for taxpayers who trade in or craft gold, silver, and gemstones (form 03/GTGT), which replaces form No. 03/GTGT enclosed with Circular No. 156/2013/TT-BTC dated November 06, 2013 of the Ministry of Finance.

dd) List of invoices for sold goods/services (form 04-1/GTGT), which replaces form 04-1/GTGT enclosed with Circular No. 156/2013/TT-BTC dated November 06, 2013 of the Ministry of Finance.

e) The notice of registration fee for real estate (form 01-1/LPTB), which replaces form 01-1/LPTB enclosed with Circular No. 156/2013/TT-BTC dated November 06, 2013 of the Ministry of Finance.

g) Personal income tax declaration form for individuals earning incomes from real estate transfer; inheritance or offer of real estate (form 11/KK-TNCN), which replaces form No. 11/KK-TNCN enclosed with Circular No. 156/2013/TT-BTC dated November 06, 2013 of the Ministry of Finance.

2. Point b Clause 3 Article 11 of Circular 156/2013/TT-BTC is amended as follows:

“b) Monthly and quarterly VAT declaration applying credit-invoice method:

- The VAT declaration form shall be made in accordance with form 01/GTGT is enclosed herewith;

- The list of purchased goods and services shall be compiled in accordance with form 01-1/GTGT enclosed herewith;

- A list of invoices proof of purchased goods/services using form 01-2/GTGT enclosed herewith;

- The statement of paid VAT on revenue from external business shall be made using form 01-5/GTGT enclosed herewith.

- The table of VAT distribution between the head office and the affiliates that do not keep accounting records (if any) shall be made in accordance with form 01-6/GTGT enclosed herewith.

3. Points a, d, dd, and e Clause 8 Article 11 of Circular 156/2013/TT-BTC is amended as follows:

a) Point a Clause 8 Article 11 is amended as follows:

“a) Declaring VAT on agent business

- Any taxpayer that is a agent selling goods/services or purchasing goods at fixed prices to earn commissions is not required to declare VAT on such goods and services, but shall be required to declare VAT on the commission earned.

- In other forms of agent business, the taxpayer must declare VAT on the goods/services sold, purchased by the agent, and the commission earned by the agent.

b) Point d, dd, e Clause 8 Article 11 is amended as follows:

“d) Payers of tax on finance lease are not required to submit the declaration of VAT on finance lease. The taxpayer must declare tax on the assets leased by other units under a lease purchase contract.

dd) Declaration tax incurred by authorized exporters and importers:

Any taxpayer entrusted to export, import goods is not required to declare VAT on the entrusted exports and imports (if the entrustment contract does not delegate tax obligation to the entrusted party), and shall declare VAT on the payment for entrustment.

e) In some cases, the list of purchased and sold goods/services enclosed with the tax declaration shall be compiled as follows:

- The revenue from direct retail of goods and services such as: electricity, water, gasoline, oil, postal and telecommunications services, hotel services, food and drink services, passenger transport, gold, silver, gemstones, goods that are not subject to VAT, other goods and services shall be declared as a total revenue instead of declaring revenue on each invoice separately.

- Goods and services purchased separately shall be listed by group of goods/services that incur the same rate of tax instead of listing separately by invoice.

- Affiliates of a bank in the same locality shall make and send the lists of purchased and sold goods/services to the head office. When making the list of purchased and sold goods/services, the headquarter shall only aggregate the lists sent by the affiliates”.

c) Clause 12 Article 11 of Circular No. 156/2013/TT-BTC is annulled.

4. Article 16 of Circular 156/2013/TT-BTC is amended as follows:

a) Point b.2.1 Clause 2 Article 16 is amended as follows:

“b.2) Terminal declaration dossier

b.2.1) The individuals earning income from wages, insurance agents, lottery agents, or multi-level marketing that directly submit the terminal declarations shall use the forms below:

- Terminal declaration form 09/KK-TNCN enclosed herewith.

- Appendix form 09-1/PL-TNCN enclosed herewith.

- Appendix form 09-3/PL-TNCN enclosed herewith if deductions for dependants is claimed.

- Appendix form 09-4/PL-TNCN enclosed herewith.

- Photocopies of documents proving the amount of tax deducted, paid in the year, or paid overseas (if any). The individual is responsible for the accuracy of such documents. If the income-paying organization does not provide proof of tax deduction because it has shut down, the tax authority shall process terminal tax declarations of individuals without proof of tax deduction based on the tax database.

If the foreign tax authority does not verify tax payment according to their jurisdiction, the taxpayer may submit a photocopy of the Certificate of tax deduction (specifying the tax

declaration number) issued by the income payer, or a photocopy of a banking notice of tax payment overseas, which is certified by the taxpayer.

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

- If an individual receives income from an international organization, embassy, consulate, and receives income from abroad, it is required to have documents proving or certifying the amount of money paid by the foreign income payer, enclosed with a Certification of annual income (form 20/TXN-TNCN enclosed herewith).

b) The first "+" of the second "-" of Point c.2.1 Clause 2 Article 16 are amended as follows:

"- The individuals earning income from two wage payers and declare tax themselves shall submit the terminal tax declaration as follows:

+ The terminal declaration shall be submitted to the supervisory tax authority of the income payer with whom personal deductions for the individual taxpayer are registered. If the individual changes the workplace in the year and claims personal deductions, the terminal tax declaration shall be submitted to the supervisory tax authority of the last income payer. If the individual changes the workplace in the year without claiming personal deductions, the terminal declaration shall be submitted to the Sub-department of taxation where the individual resides (whether temporarily or permanently)."

c) Point b.1 Clause 6 Article 16 is amended as follows:

"b) Tax declaration dossier and application for tax exemption

b.1) If the inheritance or gift is real estate, instructions in Point b.1 Clause 3 of this Article shall be followed. The real estate transfer contract shall be replaced with a photocopy of a paper proving the right to the inheritance or gift, which bears the individual's commitment to take responsibility.

If the inheritance or gift of real estate is received by a group of individuals and put under a co-ownership, the representative of the group shall declare tax and the other individuals shall append their signatures on the declaration (instead of each individual among which having to file separate a tax declaration). The tax authority shall determine the tax liability of each recipient of the inheritance or gift according to the declaration."

d) Point c Clause 6 Article 16 is amended as follows:

c) Places to submit tax declarations

- The recipient of inheritance or gift that is real estate (including future constructions) shall submit a tax declaration in accordance with Point c Clause 3 of this Article.

- The recipient of inheritance or gift that is securities or capital contribution shall submit tax declarations to the supervisory tax authority of the securities issuer or the company to which capital is contributed. If an individual receives an inheritance or gift that consists of multiple types of securities or capital contributions, the tax declaration shall be submitted to the Sub-department of taxation where the individual resides (whether temporarily or permanently).

- Recipients of inheritance and gifts that are other assets shall submit tax declarations to the tax authorities where declarations of registration fees are submitted.

5. Point b Clause 1 Article 19 of Circular No. 156/2013/TT-BTC is amended as follows:

b) For real estate, a declaration dossier consists of:

- The declaration form 01/LPTB enclosed herewith.
- Papers proving legitimate origins of real estate;
- Documents about property transfer between the transferor and the transferee.
- Papers proving the eligibility of the property or property owner for exemption from registration fee (if any).

If the inheritance or gift is real estate, the declaration form No. 01/LPTB mentioned above may be omitted from the dossier. The tax authority shall calculate the registration fee payable by the property owner according to the declaration of personal income tax (form No. 11/KK-TNCN) and issue a notification using form No. 01-1/LPTB enclosed herewith".

6. The second, third, and forth paragraphs of Clause 11 Article 21 of Circular No. 156/2013/TT-BTC is amended as follows:

“When a household paying flat tax is granted tax exemption or tax reduction because of a business suspension, tax payable shall be determined as follows:

If the taxpayer suspends the business for a full month (from the 1st to the last day of the month) or longer shall have the amount tax payable in the quarter reduced by 1/3. Similarly, tax payable in the quarter shall be reduced by 2/3 if the business is suspended for 02 consecutive full months, and tax payable in the quarter shall be exempt in full if the business is suspended for the whole quarter. If taxpayer does not suspend the business for the full month, no tax reduction shall be given.

If the taxpayer keeps running the business during the suspension period, tax shall be paid as requested by the tax authority.”

7. Article 22 of Circular No. 156/2013/TT-BTC is amended as follows:

a) Clause 1 Article 22 is amended as follows:

“1. Tax declaration rules.

Any household or individual who leases out their property (hereinafter referred to as the lessor) must declare and pay VAT, personal income tax, and license tax as requested by the tax authority.

If the income a household or individual earns from the property lease in a year is VND 100 million or less, or the monthly rent in the year is VND 8.4 million or less, it is not required to declare and pay VAT or personal income tax, and the tax authority shall not issue separate invoices in this case”

b) Point b Clause 5 Article 22 of Circular No. 156/2013/TT-BTC is amended as follows:

“5. Deadlines for paying tax

...

b) If tax is declared whenever a contract is signed, the deadline for submitting the tax declaration is also the deadline for paying tax”.

8. 6th, 7th, 8th, and 9th paragraphs of Clause 3 Article 28 22 of Circular No. 156/2013/TT-BTC are amended as follows:

Each State Treasury shall cooperate with the tax authority at the same level in deducting VAT on local fundamental works funded by government budget, and record the deducted VAT as government revenues as follows:

Deducted VAT shall be recorded in the budget of the province where the fundamental work is located.

For extraprovincial works, the investor shall determine the revenue from each province and send a report to the State Treasury.

If a work extends over more than one district, deducted VAT shall be included to the budget of each of the district in proportion with the revenue each province earns from the work, provided such revenue can be determined. If the revenue each province earns from the work cannot be determined, the investor shall determine the proportion of revenue earned in each district and submit a report to the State Treasury in order to deduct VAT. If the investor fails to determine proportion of revenue in each district, the Director of the Provincial Department of Taxation shall consider making a decision."

9. Clause 2 Article 29 of Circular No. 156/2013/TT-BTC is annulled.

Article 2. Amendments to paragraphs 1, 2, 3, 4 Article 1 of Circular 111/2013/TT-BTC dated August 15, 2013 of the Ministry of Finance providing guidelines for implementation of the Law on Personal income tax, the Law on amendments to the Law on Personal income tax, and the Government's Decree No. 65/2013/NĐ-CP:

“Article 1. Taxpayers

Taxpayers being residents and non-residents mentioned in Article 2 of the Law on Personal income tax, Article 2 of the Government's Decree No. 65/2013/NĐ-CP dated June 27, 2013 on guidelines for the Law on Personal income tax and the Law on amendments to the Law on Personal income tax (hereinafter referred to as Decree No. 65/2013/NĐ-CP) who earn taxable income as prescribed in Article 3 of the Law on Personal income tax and Article 3 of Decree No. 65/2013/NĐ-CP.

Taxable income is determined as follows:

Taxable income earned by a resident is the income earned within and beyond Vietnam’s territory regardless of the place where income is paid;

Any individual who is a citizen of a country or territory that has entered into an agreement on double taxation and prevention of tax avoidance with Vietnam, and also a resident in Vietnam shall calculate personal income tax from the month that individual arrives at Vietnam (if the individual goes to Vietnam for the first time) to the month in which the labor contract expires and the individual leaves Vietnam without following procedures for consular certification to avoid double taxation according to the double taxation agreement between the two countries.

Taxable income of a non-resident is income earned in Vietnam, regardless of the place where income is paid and received"

Article 3. Amendments to Circular 219/2013/TT-BTC dated December 31, 2013 of the Ministry of Finance providing guidelines for implementation of the Law on Value-added

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

1. Point g Clause 7 Article 5 of Circular No. 219/2013/TT-BTC is amended as follows:

“g) The business establishment is not required to pay VAT on re-import of exported goods returned by the foreign buyer. VAT on returned domestic goods shall still be declared and paid as prescribed”.

2. Clause 4 Article 7 of Circular No. 219/2013/TT-BTC is amended as follows:

“4. Taxable prices for goods/services meant for internal use.

Goods internally circulated as supplies or semi-finished products serving the operation of a manufacturing or business establishment are exempt from VAT.

When a business establishment creates its own fixed assets (self-created) to serve the manufacture or sale of goods subject to VAT, the business establishment is not required to issue invoices when such fixed assets are completed and approved. Input VAT on self-created fixed assets shall be declared and deducted as prescribed.

When machinery, equipment, supplies, or goods are delivered as a loan, borrowing, or repayment, the business establishment is not required to issue invoices and pay VAT, provided contracts and relevant proof of payment are available.

Example 24: Unit A is a manufacturer of electric fans. Unit A installs 50 of these fans in its workshops to server its business operation. Unit A is not required to pay VAT on these 50 electric fans.

Example 25: Facility B has a weaving workshop and a tailoring workshop. Facility B delivers finished thread from the weaving workshop to the tailoring workshop to proceed the manufacture. Facility B is not required to calculate and pay VAT on the thread delivered to the tailoring workshop.

Example 26: Joint-stock company P builds a rest house for its workers. Company P does not have any specialized unit to execute the construction. When the house is finished, company P is not required to issue an invoice. Input VAT on self-created fixed assets shall be declared and deducted as prescribed.

Example 27: Company Y is a company that produces bottled water. The VAT-exclusive price for a bottle on the market is VND 4,000. When company Y uses 300 bottles during its meeting, VAT shall not be paid.

Example 28: Company Y is a company that produces bottled water. The VAT-exclusive price for a bottle on the market is VND 4,000. Company Y delivers 300 bottles for purposes other than business purposes, company Y must declare and calculate VAT on these 300 bottles. The taxable price is $\text{VND } 4,000 \times 300 = \text{VND } 1,200,000$.

When a business establishment using internal goods/services for business such as transport, aviation, rail transport, postal services and telecommunications, it is not required to calculated output VAT. The business establishment must issue written regulations on the types and quantity of goods/services used internally.”

3. Clause 3 and Clause 4 Article 12 of Circular No. 219/2013/TT-BTC are amended as follows:

“3. Business establishments that voluntarily apply credit-invoice method include:

a) Any company or cooperative that earns an annual revenue of below VND 1 billion from selling goods or providing services subject to VAT and adhere to regulations on bookkeeping and invoicing.

b) Any new company derived from a project of a business establishment that pays VAT using credit-invoice method.

Any new company that is making investment in a project approved by a competent authority and voluntarily applies credit-invoice method.

Any new company or cooperative that has a project, which is not approved by a competent authority, an investment plan approved by a competent person of the company, and voluntarily applies credit-invoice method.

c) Any new company or cooperative that make investment, purchases, or receive capital contribution in the form of fixed assets, machinery, equipment, tools, or has a contract to lease business premises.

d) Any foreign entity doing business in Vietnam under a main contract or subcontract.

dd) Any business organization that can separate input VAT from output VAT, excluding companies and cooperatives.

Every company and cooperative mentioned in Point a of this Clause must send a notification of the applied VAT accounting method to the supervisory tax authority by December 20 of the year preceding the year in which the tax accounting method is changed.

Every business establishment mentioned in Point b and Point c of this Clause must send a notification of the applied VAT accounting method to its supervisory tax authority. When sending the notification of applied VAT accounting method to the supervisory tax authority, the taxpayer is not required to send proving documents such as the project of investment approved by a competent authority, the investment plan approved by a competent person of the company, invoices, receipts for capital contribution, or the premises lease contract. The taxpayer shall keep and present those documents at the request of the tax authority. If a new business establishment that just operated from January 01, 2014, who is not eligible to apply credit-invoice method as prescribed in Point b and Point c Clause 3 Article 12 of Circular No. 219/2013/TT-BTC, satisfies the requirements mentioned in Point b and Point c of this Clause, they may apply credit-invoice method as prescribed in Point b and Point c Clause 3 Article 12 of this Circular.

Every business establishment in Point d of this Clause must send a notification of the applied VAT accounting method to its supervisory tax authority.

The companies and cooperatives mentioned in Point a of this Clause must send a notification of the VAT accounting method to the supervisory tax authority by December 20 of the year preceding the year in which the tax accounting method is changed.

Within 05 working days from the receipt of the notification credit-invoice method application, the tax authority shall notify the taxpayer (in writing) that whether the application of credit-invoice method is approved or not.

4. Other cases:

- a) If a business establishment trades in jewelry, it must separate revenue from this operation and apply direct method to pay VAT thereon in accordance with Article 13 of this Circular.
- b) When a company applying credit-invoice method establishes branches (including those derived from its projects), the tax accounting method applied by the branches is the same as that applied by the company if such branches declare VAT independently. Any branch that does not sell goods, does not earn revenue, or any branch in the same province as the headquarter which does not declare tax independently shall have tax declared at the headquarter of the company.
- c) Any new company or cooperative that is not mentioned in Clause 3 of this Article shall apply the direct method prescribed in Article 13 of this Circular.
- d) At the end of the first calendar year from its inauguration date, if the company or cooperative earns a revenue of VND 1 billion or above and adheres to regulations on bookkeeping and accounting, credit-invoice method shall be applied; If the company or cooperative fails to earn a revenue of VND 1 billion but still adheres to regulations on bookkeeping and accounting, it may request permission to apply credit-invoice method as instructed in Point a Clause 3 of this Article. After the first calendar year from the inauguration date, the company or cooperative shall apply the same tax accounting method within 02 consecutive years.

Example 53: Company X is established and inaugurates in April 2014. It applies direct method to calculate VAT in the tax periods of 2014. At the end of the tax period of November 2014, company X determines its revenue as follows:

The total revenue on the VAT declarations from April to November 2014 is divided by (:) 8 months, then multiplied by (x) 12 months.

If the revenue determined is VND 1 billion or above, company X may apply credit-invoice method from January 01, 2015 until the end of 2016. If the revenue determined is below VND 1 billion but company X adheres to regulations on bookkeeping and invoicing, company X may request permission to apply credit-invoice method as instructed in Clause 3 of this Article. If company X wishes to keep applying credit-invoice method, it shall apply credit-invoice method in 2015 and 2016.”

4. Clause 1 Article 13 of Circular No. 219/2013/TT-BTC is amended as follows:

“1. VAT payable equals (=) value added multiplied by (x) VAT rate on jewelry trading.

Value added of jewelry equals (=) its selling price minus its buying price.

The selling price of jewelry is the price written on the invoice, inclusive of crafting cost, VAT, and surcharges to which the seller is entitled.

Buying price of jewelry is the VAT-inclusive value of jewelry purchased or imported for crafting or trading the jewelry sold.

In the tax period, any negative value added of jewelry shall be offset against its positive value added. If the positive value added is not available or not sufficient to completely offset against the negative value added, the negative value added shall transferred to the next period in the same year. At the end of the calendar year, any residual negative value added shall not be transferred to the next year”.

5. Example 58a is added to Clause 4 Article 14 of Circular No. 219/2013/TT-BTC:

“Example 58a: Company A invests in a raising zone and a factory to create a closed manufacture process from raising (including the lease of a raising zone in which the breeds, ponds, fences, irrigation system, ships, animal feeds, veterinary medicines, veterinary services, etc. are invested in by Company A) to processing pangasius fish fillets serving both the export and domestic markets. During the manufacture process, company A has bought pangasius fish from other companies and farmer households. Pangasius fish bought externally are gathered at company A’s ponds where company A’s pangasius fish are raised before being brought into the factory. Pangasius fish raised by the company and pangasius fish bought externally are processed into fish fillets in the factory. Company A shall declare VAT as follows:

- Company A may deduct the whole input VAT on fixed assets and purchased goods/services that are not fixed assets serving the preparation of pangasius processing.
- Exported fillets of pangasius fish raised by company A shall apply 0% tax. Company may deduct input VAT on export of pangasius fillets in full. Trường hợp doanh nghiệp nuôi cá tra sau đó chế biến thành cá tra phi-lê vừa để xuất khẩu vừa để bán trong nước thì thuế GTGT đầu vào được phân bổ theo tỷ lệ % doanh thu xuất khẩu/Tổng Doanh thu (doanh thu xuất khẩu và doanh thu bán trong nước).”

6. Article 15 of Circular No. 219/2013/TT-BTC is amended as follows:

a) The first paragraph of Point c Clause 3 Article 15 is amended as follows:

“c) With regard to purchase of goods/services under an instalment plan or deferred payment plan that is valued at VND 20 million or above, the business establishment shall declare input VAT according to the sale contract, VAT invoice, and bank transfer receipt. If the bank transfer receipt is not available because the payment is not due (or before December 31 if payment is due before December 31), the business establishment may declare and deduct input VAT”.

b) Clause 3 Article 15 is amended as follows:

“3. Bank transfer receipts are the documents proving the transfer of money from the buyer’s account to the seller’s account (theses accounts must be registered or notified to tax authorities; the buyer is not required to register or notify the tax authority of loan accounts opened at credit institutions which are used to pay suppliers) opened at providers of payment services in legitimate forms such as checks, payment order, collection order, banking card, credit card, SIM card (digital wallet), and other methods of payment (even when the buyer transfer money from the buyer’s account to the seller’s account held by an owner of a private company, or when the buyer transfer money from the buyer’s account held by an owner of a private company to the seller’s account if such account has been registered with the tax authority)

c) Point c Clause 4 Article 15 is amended as follows:

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

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

7. Clause 4 Article 16 of Circular No. 219/2013/TT-BTC is amended as follows:

“Commercial invoice. The day to determine revenue from export to calculate tax is the day on which customs procedure completion is confirmed on the customs declaration”.

Article 4. Replacement of deposit form C1-02/NS and C1-03/NS in appendices of Decision No. 759/QĐ-BTC dated April 16, 2013 of the Ministry of Finance and tax declaration form No. 01/BKNT enclosed with Circular No. 85/2011/TT-BTC dated June 17, 2011 of the Ministry of Finance:

The forms below are enclosed with this Circular:

1. Deposit form C1-02/NS and C1-03/NS replace the forms in Decision No. 759/QĐ-BTC dated April 16, 2013 of the Ministry of Finance.
2. Tax declaration form No. 01/BKNT replaces form No. 01/BKNT enclosed with Circular No. 85/2011/TT-BTC dated June 17, 2011 of the Ministry of Finance.

Article 5. Amendments to Circular No. 39/2014/TT-BTC dated March 31, 2014 of Ministry of Finance providing guidance on Decree No. 51/2010/NĐ-CP and Decree No. 04/2014/NĐ-CP dated January 17, 2014 of Government providing goods sale and service provision invoices:

1. The Clause 2 Article 3 of the Circular No. 39/2014/TT-BTC shall be amended as follows:

“2. Types of invoices:

a) Organizations shall declare and calculate the VAT by the credit-invoice method using the VAT invoices (form No. 3.1 in Appendix 3 and form No. 5.1 in Appendix 5 enclosed herewith) when:

- Selling goods and providing services in Vietnam;
- Providing international transportation services;
- Exporting goods to the free trade zones and other cases considered export;

b) Sales invoices are used by:

- Entities that declare and calculate VAT using direct method when selling goods and providing services in Vietnam or exporting them to free trade zones, and other cases considered export (form No. 3.2 in Appendix 3 and form No. 5.2 in Appendix 5 enclosed herewith).
- Entities in free trade zones when selling goods and providing services in Vietnam and selling goods and providing services for other entities in the free trade zone. In this case, the invoices must specify “Dành cho tổ chức, cá nhân trong khu phi thuế quan” (For entities in free trade zones) (form No. 5.3 in Appendix 5 enclosed herewith).

Example:

- Company A, who declares VAT using credit-invoice method, sells goods in Vietnam and concurrently exports goods. Company A shall use VAT invoices for goods sold in Vietnam and shall not be required to issue VAT invoices for exported goods.
- Company B, who declares VAT using credit-invoice method, sells goods to both domestic entities and entities in free trade zone. Company B shall use VAT invoices for goods sold in Vietnam and goods sold to the free trade zone.

- Company C is an export processing company that sells goods in Vietnam and export goods, thus company C shall use sales invoices specifying “Dành cho tổ chức, cá nhân trong khu phi thuế quan” (For entities in free trade zones) for goods sold in Vietnam; Company C is not required to issue invoices for exporting goods.

- Company D, who declares VAT using direct method, shall use sales invoices when selling goods and providing services in Vietnam and for the free trade zone. Company D shall not be required to make sales invoices for exporting goods.

c) Other invoices include stamps, tickets, cards, receipts for insurance premium, etc.

d) Air freight receipts, receipt for international transport charges, receipts for banking service charges shall be issued in conformity with international practice and relevant laws.

2. Article 4 of the Circular No. 39/2014/TT-BTC is amended as follows:

a) Point g Clause 1 Article 4 of the Circular No. 39/2014/TT-BTC shall be amended as follows:

“g) Names of goods and services; units, quantity, unit prices of goods and services; amount must be written in numbers and words. If a company uses the accounting software in conformity with the software system of the parent company which is a multinational corporation, the units shall be written in English in the same way as the software system of such corporation.”

b) The Point a Clause 3 Article 4 of the Circular No. 39/2014/TT-BTC shall be amended as follows:

“a) Traders may create, publish, and use invoices without buyers' signatures or the seller's seal in case of: electricity bills, water bills, telephone bills, banking service bills that are self-printed as prescribed in this Circular.

It is unnecessary to write the unit on the invoices for service provision”.

3. Article 16 of the Circular No. 39/2014/TT-BTC shall be amended as follows:

a) Point b and point c in Clause 1 Article 16 shall be amended as follows:

“b) Sellers must issue invoices for goods and services, including those used for trade promotion, advertising and as samples; goods and services used for donation, exchange, or paid as salaries for employees and those that are used internally (except for goods circulated internally to proceed production).

Information on invoices must matches the actual transactions; no erasure and change is allowed; the ink used must be consistent in color and indelible; do not use red ink; numbers and text must be written continuously without interruption; do not write or print on printed text; any blank space shall be crossed out. It is not required to cross out blank space on self-printed invoices or ordered invoice made by computers.

c) An invoice consists of multiple copies. Information on copies of the same invoice number must be consistent.

The copy 1 of any electricity bill, water bill, telephone bill, banking service bill, transport bill, stamp, card, ticket and other cases in accordance with instructions of the Ministry of Finance shall be replaced by a list of invoices that are actually made. Information about each customer invoice shall be written in one line of the List (as prescribed in the model invoice) that is sent together with the notice of invoice issuance to the supervisory tax authority.

Each List must be made monthly and printed in paper or stored in electronic devices (such as memory sticks, CDs, DVDs, hard disks). Every list shall be maintained and stored according to current regulations on maintenance and storage of accounting documents. Each written list must include the name and signature of the maker; name and signature of the head of the unit and seal of the unit. Each list that is stored by the electronic devices must bear the electronic signature of the division and can be accessed and printed if necessary. Every division must be responsible for the accuracy and sufficiency of the information on the lists and storage of such lists in order to provide them for the tax authorities and other functional agencies when requested".

b) The 7th paragraph in Point a Clause 2 Article 16 of the Circular No. 39/2014/TT-BTC is removed.

4. The 2nd paragraph in Article 27 of the Circular No. 39/2014/TT-BTC shall be amended as follows:

“ Any enterprise using self-printed invoices or ordered invoices that commits any violation must not use such invoices. Any enterprise facing high risk of tax and buying invoices from the tax authorities as prescribed in Article 11 this Circular shall submit monthly Report on use of invoices”

Article 6. Amendments to Circular No. 78/2014/TT-BTC dated June 18, 2014 of Ministry of Finance providing guidance on Decree No. 218/2013/NĐ-CP dated December 26, 2013 of Government providing guidance on the Law on Enterprise income tax:

1. The Point b Clause 3 Article 5 of the Circular No. 78/2014/TT-BTC shall be amended as follows:

“b) For goods and services used for exchange (excluding the goods and services used for sustaining production and business operation), it shall be determined according to the selling prices of products, goods or services of the same or similar categories on the market at the time of exchange;

Example: Company A produces automotive parts and assembles automobiles. If company A uses the tires it produces for display, product introduction, or assembling automobiles, the value of such tires shall not be included in the assessable income.

Example. Company B produces computers. The value of computers that Company B produces and provides for its employees to work at that company shall not be included in assessable income”.

2. Clause 1 Article 6 of the Circular No. 78/2014/TT-BTC shall be amended as follows:

“1. Except for the expenses prescribed in Clause 2 this Article, every expense incurred by the enterprise shall be deducted if all of these following requirements are satisfied:

- a) The actual expenses incurred are related to the production and business activities of the enterprises;
- b) There are sufficient valid invoices for and proof of the expenses under the regulations of the law.
- c) There is proof of non-cash payment for each invoice for goods and services of at least VND 20 million (including VAT).

The proof of non-cash payment must comply with regulations of law on VAT.

In case of any invoice for goods and services that are worth at least VND 20 million but has not been settled and had the proof of non-cash payment at the time the expenses are recorded, the taxpayer may include such purchase in deductible expenses when determining taxable income. If enterprises have proof of non-cash payment for such payment, they shall make a declaration and reduce expenses proportional to the value of goods or services without proof of non-cash payment in the tax period in which the enterprises makes the cash payment (even when tax authorities and other authorities have issued Decision on inspection of the tax period in which such expenses arise).

The invoices for goods and services paid in cash arising before the effective date of this Circular shall not be adjusted under the regulations of this Point.

Article 7: In August 2014, company A bought goods with an invoice for VND 30 million but company A has not paid for it. In the tax period in 2014, company A has included such purchase in the deductible expenses when determining the taxable income proportional to the value of such goods. In 2015, company A pays for such purchase in cash so the company A must make a declaration and reduce expenses proportional to the value of such goods in the tax period in which such cash payment is made (the tax period in 2015).

If any enterprise purchases the goods and services related to the production and business operation of that enterprise and the invoice is printed by the cash register under the regulations of the law on invoices; the enterprise shall include such purchase in the deductible expenses according to such invoice and proof of non-cash payment when determining taxable income, provided that the value of such invoice is at least VND 20 million.

If any enterprise purchases the goods and services related to the production and business operation of that enterprise and the invoice is printed by the cash register under the regulations of the law on invoices; the enterprise shall include such purchase in the deductible expenses according to such invoice and proof cash payment when determining taxable income, provided that the value of such invoice is less than VND 20 million and such invoice is settled in cash.”

3. Point dd Clause 1 Article 19 of the Circular No. 78/2014/TT-BTC shall be amended as follows:

“dd) Incomes of enterprises from carrying out new production projects (except for the projects for producing the goods liable to special excise duty and mineral extraction projects) which satisfy either of the following requirements:

- A project with capital of at least VND 06 trillion, which is disbursed within 03 years from the issuance of the Investment certificate, has a total revenue of at least 10 trillion per year within 03 years from the first year in which revenue is earned (within 04 years from the first year in which the enterprise revenue is earned, its total turnover must reach at least VND 10 trillion per year)
- A project with a capital of at least VND 6 trillion, which is disbursed within 03 years from the issuance of the Investment certificate, employs more than 3,000 employees within 03 years from the first year in which revenue is earned (within 04 years from the first year in which revenue is earned, the average number of regular employees employed each year must be over 3,000).

The employees prescribed in this Point are those signing fulltime labor contracts (excluding the part-time employees and the employees signing short-term contracts (less than one year).

The average number of regular employees shall be determined according to the instructions in the Circular No. 40/2009/TT-BLĐTBXH of the Ministry of Labor, War Invalids and Social Affairs dated December 03, 2009.

In case their investment projects fail to satisfy the requirements prescribed in this Point (except for those with behind-schedule progress due to objective issues that arise during site clearance, following administrative procedures of the competent authorities, natural disasters, enemy sabotage or fire and that are approved by the authorities issuing Investment certificate and reported to the Prime Minister for approval) the enterprises shall not eligible for enterprise income tax incentives and shall declare and pay enterprise income tax amounts declared for enjoyment of incentives in the previous years (if any) and the late tax payment interest as prescribed. However, they will not be penalized for false declaration in accordance with the law on tax administration.

Article 7. Effect

1. This Circular comes into effect from **September 01, 2014**.

When a company needs time to prepare for following the procedures and making the forms provided in the Circulars mentioned in Clause 2 this Article, it may choose the procedures and forms according to current regulations and the regulations on amendment by November 01, 2014 without being required to notify and register with the tax authorities. The General Department of Taxation shall provide instructions on the implementation of this regulation.

2. The instructions and forms provided in the Circular No. 156/2013/TT-BTC dated November 06, 2013, Circular No. 111/2013/TT-BTC dated August 15, 2013, Circular No. 219/2013/TT-BTC dated December 31, 2013, Circular No. 08/2013/TT-BTC dated January 10, 2013, Circular No. 85/2011/TT-BTC dated June 17, 2011, Circular No. 39/2014/TT-BTC dated March 31, 2014 and Circular No. 78/2014/TT-BTC dated June 18, 2014 of the Ministry of Finance that is amended, replaced or annulled by this Circular are invalidated.

3. Other administrative procedures for taxation that are not mentioned in this Circular shall be implemented according to applicable regulations of law.

Any difficulty or obstacle that arises during the implementation of this Circular should be reported to the Ministry of Finance for consideration./.

**PP. THE MINISTER
DEPUTY MINISTER**

Do Hoang Anh Tuan

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