

No. 28/2011/TT-BTC

Hanoi, February 28, 2011

CIRCULAR

GUIDING A NUMBER OF ARTICLES OF THE LAW ON TAX ADMINISTRATION AND THE GOVERNMENT'S DECREE NO. 85/2007/ND-CP OF MAY 25, 2007, AND DECREE NO. 106/2010/ND-CP OF OCTOBER 28, 2010

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

Pursuant to December 16, 2002 Law No. 01/2002/QH11 on the State Budget;

Pursuant to laws, ordinances and decrees on taxes, charges, fees and other state budget revenues;

Pursuant to the Government's Decree No. 85/2007/ND-CP of May 25, 2007, detailing a number of articles of the Law on Tax Administration;

Pursuant to the Government's Decree No. 106/2010/ND-CP of October 28, 2010, amending and supplementing a number of articles of the Government's Decree No. 85/2007/ND-CP of May 25, 2007, detailing a number of articles of the Law on Tax Administration and the Government's Decree No. 100/2008/ND-CP of September 8, 2008, detailing a number of articles of the Law on Personal Income Tax;

Pursuant to the Government's Decree No. 118/2008/ND-CP of November 27, 2008, defining the functions, tasks, powers and organizational structure of the Ministry of Finance, The Ministry of Finance guides the implementation as follows:

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Circular applies to the administration of various taxes according to the tax law; charges and fees belonging to the state budget according to the law on charges and fees; and other state budget revenues, the collection of which is managed by domestic tax agencies (below collectively referred to as taxes).

Article 2. Subjects of application

1. Taxpayers, including:

a/ Organizations, households and individuals paying taxes, charges, fees or other state budget revenues according to law;

b/ Organizations tasked to collect charges and fees belonging to the state budget;

c/ Organizations providing tax procedure services;

d/ Organizations and individuals withholding tax, including:

d.1/ Organizations and individuals being Vietnamese parties to contracts with foreign organizations and individuals doing business or earn incomes in Vietnam that pay value-added tax by the direct method and pay enterprise income tax at a percentage of turnover;

d.2/ Organizations and individuals withholding tax when paying incomes to persons who have incomes liable to personal income tax;

2. Tax agencies, including the General Department of Taxation, provincial-level Tax Departments and district-level Tax Departments;

3. Tax officers;

4. Other state agencies, organizations and individuals related to the implementation of tax laws.

Article 3. Contents of tax administration guided in this Circular

1. Tax declaration, tax calculation;
2. Tax assessment;
3. Tax payment;
4. Authorized tax collection;
5. Responsibility to fulfill tax obligations;
6. Procedures for tax exemption or reduction; remission of tax and fine arrears;
7. Procedures for tax refund or clearing;
8. Tax examination and inspection;
9. Settlement of complaints, denunciations and legal actions related to the implementation of tax laws.

Article 4. Scope and contents of tax administration not covered by this Circular

1. Provisions on the administration of duties on exports and imports; administration of tax on exploitation and export of crude oil.
2. Tax administration contents regarding tax registration, enforcement of tax-related administrative decisions and handling of violations of tax laws.
3. E-transactions in the tax domain.

Article 5. Documents for transaction with tax agencies

1. Documents for transaction with tax agencies include documents provided in tax dossiers, official letters, applications, requests and other documents sent to tax agencies by taxpayers, organizations authorized to collect taxes and other organizations and individuals. Taxpayers shall submit 1 copy for each of documents and dossiers which must be submitted to tax agencies under regulations.
2. Documents for transaction with tax agencies must be compiled, signed and issued by competent persons; the format of, signatures and seals appended on, documents must comply with the law on paperwork.
3. Documents for transaction with tax agencies that are transmitted electronically must comply with the law on e-transactions.
4. The language used in tax dossiers is Vietnamese. Foreign-language documents must be translated into Vietnamese. Taxpayers shall sign and append their seals on translations and take responsibility before law for contents of translations. In case there are more than 20 A4-size pages of a foreign-language document, taxpayers shall make written explanation and request for permission to translate only contents and clauses concerning the determination of tax obligations.

For a dossier of notification of eligibility for tax exemption or reduction under a double taxation avoidance agreement, depending on the nature of each kind of contract and requirements of tax agencies (if any), taxpayers shall translate the following contents: the title of the contract and its clauses and terms, contract implementation duration or duration of actual presence in Vietnam of foreign contractors' experts (if any), responsibilities and commitments of each party; provisions on confidentiality and product ownership rights (if any), persons competent to sign the contract, contents related to the determination of tax obligations and similar contents (if any).

Taxpayers shall also enclose a copy of the contract, certified by themselves.

The consular legalization of papers and documents issued by competent foreign authorities is only required in specific cases guided in Articles 14, 18, 37 and 47 of this Circular.

5. When detecting that documents for transaction with tax agencies fail to satisfy aforesaid requirements, tax agencies shall request persons who have those documents to correct errors and send replacements.

6. The time a tax agency receives a replacement or a translation containing all contents related to the determination of tax obligations is considered the time of receipt of a document for transaction.

Article 6. Transaction with tax agencies

1. At-law representatives of taxpayers may directly sign documents and dossiers for transaction with tax agencies or authorize their deputies to sign documents and dossiers in their assigned sectors. The authorization must be made in writing and the authorization documents must be kept at enterprises.

2. Authorization in transaction with tax agencies

- At-law representatives of taxpayers may authorize their directly inferior officers to sign, on their behalf, documents or dossiers for transaction with tax agencies.

- Individual taxpayers may authorize other organizations or individuals (except for tax agents who shall comply with Clause 3 of this Article) to carry out transactions with tax agencies on their behalf. In this case, taxpayers are required to make an authorization document under the Civil Code.

- An authorization document must specify the duration and scope of authorization and shall be sent to tax agencies together with documents and dossiers for the first transaction in the authorization duration.

3. In case a taxpayer signs a tax procedure service contract with a tax service-providing organization (below referred to as the tax agent), the tax agent's at-law representative shall sign and append his/her seal on the space for the taxpayer's at-law representative in documents and dossiers for transaction with tax agencies. Tax returns must be inscribed with the full name and serial number of the practice certificate of the tax agent's employee. Tax agents shall only sign transaction documents and dossiers within the scope of tax-related procedures assigned to them under the signed tax service contract.

Within 5 days prior to the first performance of tax procedures stated in the contract, the taxpayer shall notify in writing tax agencies of the use of tax procedure services and enclose a copy of the contract on the provision of tax procedure services, certified by itself.

Rights and responsibilities of tax agents comply with the Ministry of Finance's guidance on the registration for and management of tax procedure service practice, and the organization of examination to obtain, grant and revocation of tax procedure service practice certificates.

In case tax agencies need to notify taxpayers of matters related to documents or dossiers compiled by tax agents under taxpayers' authorization, they shall notify such to tax agents for subsequent notification to taxpayers.

Article 7. Receipt of tax dossiers sent to tax agencies

1. If dossiers are submitted directly at tax agencies, tax officers shall receive and affix receipt marks and record the time of dossier receipt and the number of documents in dossiers and record them in incoming-mail books of tax agencies.

2. If dossiers are sent by post, tax officers shall affix marks showing the date of dossier receipt and record them in incoming-mail books of tax agencies.

3. If tax declaration dossiers are submitted electronically, tax agencies shall receive, check and accept tax declaration dossiers through the electronic data processing system.

4. When supplementation of dossiers is required, tax agencies shall notify such to taxpayers or tax agents (if any) right on the date of dossier receipt, in case dossiers are directly submitted to

tax agencies, or within 3 working days after receiving dossiers, in case dossiers are sent by post or electronically.

Article 8. Method of counting time limits for completing tax-related administrative procedures

1. If a time limit is counted in days, those days are counted consecutively according to the calendar year, including weekends and holidays.
2. If a time limit is counted in working days, those days are working days of state administrative agencies, excluding weekends and holidays prescribed by law.
3. If a time limit is counted to a given day, the first day of expiration is the day following the given day.
4. If the last day of a time limit for completing administrative procedures falls on a weekend or holiday, it is the day following that holiday.
5. The date on which a tax dossier is regarded as having been submitted for counting a time limit for performing tax-related administrative jobs is the date a tax agency receives a valid dossier with all papers and documents as required.

Chapter II

TAX DECLARATION AND CALCULATION

Article 9. General provisions on tax declaration and calculation

1. Principles for tax calculation and declaration

a/ Taxpayers shall calculate tax amounts payable into the state budget by themselves, except the case in which tax agencies assess or calculate tax under Articles 37 and 38 of the Law on Tax Administration.

b/ Taxpayers shall accurately, honestly and fully fill in tax returns to be submitted to tax agencies according to forms set by the Ministry of Finance and submit all documents required for tax declaration dossiers.

c/ For taxes to be declared on a monthly, quarterly or yearly basis, if no tax obligation arises in a tax period or taxpayers are currently eligible for tax incentives, exemption or reduction, taxpayers shall still submit tax declaration dossiers to tax agencies within the set time limit, except for cases in which activities that give rise to the tax obligation have terminated and cases in which business operations are suspended under Point e, Clause 1 of this Article.

d/ For taxes to be declared on a monthly or quarterly basis, the first tax period is counted from the date of commencement of activities that give rise to the tax obligation to the last day of the month or quarter, and the last tax period is counted from the first day of a month or quarter to the date of termination of activities that give rise to the tax obligation. The annual tax period for enterprise income tax or royalty is counted according to the calendar year or the fiscal year applied by taxpayers. The annual tax period for other taxes is the calendar year.

e/ Taxpayers are not required to submit tax declaration dossiers for the period in which business operations are suspended and no tax obligation arises.

Within 5 days before suspending their business operations, taxpayers shall send a written notice to their managing tax agencies. Such a notice must contain the following details:

- The taxpayer's name, office address and tax identification number;
- The duration of business suspension, the first day and last day of the suspension period;
- Reasons for business suspension;
- The full name and signature of the enterprise's at-law representative, representative of the group of business individuals or head of the business household.

Upon expiration of the business suspension period, the taxpayer shall declare tax according to regulations. In case a taxpayer resumes its business operations before the expiration of the notified business suspension period, it shall send a written notice thereon to its managing tax agency and, at the same time, submit a tax declaration dossier under regulations.

2. Tax declaration dossiers:

A tax declaration dossier comprises a tax return and relevant documents serving as grounds for the taxpayer to declare and calculate tax with a tax agency.

Taxpayers shall use the proper form of tax return and attached annexes set by the Ministry of Finance and may not change the format or add, put out or change the position of, any item in the tax return. Those kinds of paper in the tax dossier, of which forms are not set by the Ministry of Finance, must comply with relevant laws.

3. Deadlines for submission of tax declaration dossiers

a/ The deadline for submission of a monthly tax declaration dossier is the 20th of the month following the month in which the tax obligation arises.

b/ The deadline for submission of a quarterly tax declaration dossier is the 30th of the quarter following the quarter in which the tax obligation arises.

c/ The deadline for submission of an annual tax declaration dossier is the 30th of the first month of the calendar year or fiscal year.

d/ The time limit for submission of a tax declaration dossier for each time of arising of a tax obligation is 10 days from the date the tax obligation arises.

e/ The time limit for submission of an annual tax finalization dossier is 90 days from the end of the calendar year or fiscal year.

f/ The time limit for submission of a tax finalization dossier in case of termination of operation, expiration of contract, enterprise ownership transformation or reorganization is 45 days from the date of termination, expiration, transformation or reorganization.

g/ The time limit for submission of dossiers for declaration of taxes or other levies on land use under the one-stop-shop mechanism is the time limit set in inter-disciplinary documents guiding this one-stop-shop mechanism.

4. Extension of time limits for submission of tax declaration dossiers:

a/ Taxpayers who are unable to submit their tax declaration dossiers on time due to natural disasters, fires or accidents may enjoy an extension of the time limit for submission of tax declaration dossiers given by heads of tax agencies directly managing them.

b/ An extension must not exceed 30 days from the original deadline for submission of tax declaration dossiers, for the submission of dossiers for monthly or annual tax declaration, quarterly declaration of temporarily calculated tax or tax declaration for each time of arising of a tax obligation; or 60 days from the original deadline for submission of tax finalization declaration dossiers.

c/ Before the expiration of a time limit for submission of tax declaration dossiers, taxpayers shall send written requests for extension of the time limit to tax agencies that have received tax declaration dossiers, clearly stating the reason for extension, which are certified by People's Committees or police offices of communes, wards or townships in which the events that necessitate the extension occur.

d/ Within 5 working days after receiving written requests for extension of the time limit for submission of tax declaration dossiers, tax agencies shall reply in writing taxpayers whether they approve the extension. If tax agencies make no written reply, taxpayers' requests are considered approved.

5. Making additional declarations to tax declaration dossiers:

a/ Past the time limit for submission of tax declaration dossiers, if taxpayers detect errors in tax declaration dossiers already submitted to tax agencies which affect the payable tax amount, they may make additional declarations to these tax declaration dossiers. Additional tax declaration dossiers may be submitted to tax agencies on any working day, not depending on the time limit for submission of subsequent tax declaration dossiers, but must be submitted before tax agencies or competent agencies announce decisions on tax examination or inspection at taxpayers' offices.

b/ Forms of additional declaration dossiers:

- A written explanation of additional declarations or modifications, made according to form No. 01/KHBS provided in this Circular;

- A supplemented or modified tax return for the tax period for which supplementations or modifications must be made (this tax return shall serve as a basis for making the written explanation of additional declarations or modifications according to form No. 01/KHBS);

- Enclosed documents explaining figures in the written explanation of additional declarations or modifications, corresponding to documents in a tax dossier guided in specific sections of this Circular.

c/ If additional declarations to tax declaration dossiers lead to an increase in the payable tax amount or a decrease in the refunded tax amount, taxpayers shall, based on the dossiers of additional declarations or modifications, pay the increased tax amount or repay the refunded tax amount and, at the same time, determine by themselves the fine amount for late tax payment based on the lately paid tax amount or the refunded tax amount, the number of days of late payment and fine level specified in Article 106 of the Law on Tax Administration and Article 12 of Decree No. 98/2007/ND-CP.

If taxpayers cannot determine by themselves or incorrectly determine fine amounts for late tax payment, tax agencies shall determine and notify these fine amounts to taxpayers for payment.

Example 1:

In August 2011, Company A makes additional declarations or modifications to the VAT declaration dossier of January 2011, leading to an increase of VND 100 million in the payable VAT amount, it shall pay the tax amount of VND 100 million and, at the same time, determine by itself the amount of fines for late tax payment into the state budget.

The dossier to be submitted by Company A to the tax agency comprises:

- A written explanation of additional declarations or modifications, made according to form No. 01/KHBS provided in this Circular, leading to an increase of VND 100 million in the payable VAT amount of January 2011;

- The VAT return of January 2011, in which the payable VAT amount has been increased by VND 100 million;

- Enclosed documents explaining figures in the additional declarations or modifications (if any).

Example 2:

In August 2011, Company B makes additional declarations or modifications to its EIT finalization declaration dossier of 2010, leading to an increase of VND 100 million in the payable EIT amount. In this case, Company B shall pay the tax amount of VND 100 million and, at the same time, determine by itself the fine amount for late payment based on the lately paid tax amount, the number of days of late payment and the prescribed fine level and pay this fine amount into the state budget.

The dossier to be submitted by Company B to the tax agency comprises:

- A written explanation of additional declarations or modifications, made according to form No. 01/KHBS provided in this Circular, leading to an increase of VND 100 million in the payable EIT amount of 2010;

- The EIT finalization return of 2010, in which the payable EIT amount has been increased by VND 100 million;
- Enclosed documents explaining figures in the written explanation of additional declarations or modifications (if any).

d/ If taxpayers' additional declarations or modifications to tax declaration dossiers lead to a decrease in their payable tax amount in the tax period for which additional declarations or modifications are made, taxpayers may clear the decreased tax amount against the payable tax amount of the subsequent tax period or carry out procedures for tax refund.

Example 1:

In August 2011, Company C makes additional declarations or modifications to the VAT declaration dossier of January 2011, leading to a decrease of VND 100 million to the payable VAT amount. In this case, Company C shall declare the decreased VAT amount of VND 100 million of January 2011 in the item -Decrease in payable VAT amounts of previous periods - of the VAT return of August 2011 (the month in which additional declarations or modifications are made) or compile a dossier for refund of the overpaid VAT amount.

The dossier to be submitted by Company C to the tax agency comprises:

- A written explanation of additional declarations or modifications, made according to form No. 01/KHBS provided in this Circular, leading to a decrease of VND 100 million in the payable VAT amount of January 2011;
- The VAT return of January 2011, in which the payable VAT amount has been decreased by VND 100 million;
- Enclosed documents explaining figures in the written explanation of additional declarations or modifications (if any).

Example 2:

In August 2011, Company D makes additional declarations or modifications to the excise tax declaration dossier of January 2011, leading to a decrease of VND 100 million in the payable excise tax amount. In this case, the taxpayer shall consider it an overpaid tax amount of January 2011 and may clear it against the payable excise tax amounts of subsequent tax periods or carry out procedures for tax refund.

The dossier to be submitted by Company D to the tax agency comprises:

- A written explanation of additional declarations or modifications, made according to form No. 01/KHBS provided in this Circular, leading to a decrease of VND 100 million in the payable excise tax amount of January 2011;
- The excise tax return of January 2011, in which the payable excise tax amount has been decreased by VND 100 million;
- Enclosed documents explaining figures in the written explanation of additional declarations or modifications (if any).

e/ The additional VAT declaration or modification in some specific cases are made as follows:

Case 1: In case taxpayers' additional declarations or modifications only lead to a decrease in the creditable value-added tax amount (without giving rise to any payable VAT amount), after making additional declarations or modifications, taxpayers are not required to additionally pay tax and fines for late tax payment. The uncreditable VAT amount of the period for which additional declarations or modifications are made shall be declared in the item - Increase in payable VAT amounts of previous periods - of the VAT return of the tax period during which additional declarations or modifications are made.

Example 1:

In August 2011, Company E makes additional declarations or modifications to its VAT declaration dossier of January 2011, leading to a decrease in the creditable VAT amount from VND 200 million to VND 100 million (a decrease of VND 100 million in the credited tax amount). In this case, the taxpayer is not required to pay the VAT amount of VND 100 million and calculate fines for late tax payment but it shall declare the uncreditable VAT amount of January 2011 in the VAT return of August 2011, the month when additional declarations or modifications are made (making additional declarations or modifications in item - Increase in the VAT amounts of previous periods).

The dossier to be submitted by Company E to the tax agency comprises:

- A written explanation of additional declarations or modifications, made according to form No. 01/KHBS provided in this Circular, leading to a decrease of VND 100 million in the creditable VAT amount of January 2011;
- The VAT return of January 2011, in which the creditable VAT amount has been decreased by VND 100 million;
- Enclosed documents explaining figures in the explanation of additional declarations or modifications (if any).

Case 2: In case taxpayers' additional declarations or modifications only lead to a decrease in the creditable VAT amount for which the taxpayers have compiled a dossier of application for tax refund and the tax agency has issued a tax refund decision. In this case, taxpayers shall base on dossiers of additional declarations or modifications to repay the refunded tax amount and, at same time, determine the fine amount for late tax payment on the basis of the lately paid tax amount, the number of days of late payment (the duration for calculation of fines for late payment shall be counted from the date the tax agency issues the tax refund decision till the date the enterprise repays the. refunded tax amount) as prescribed in Article 106 of the Law on Tax Administration.

Example 2:

On the VAT return of March 2011, Company F requests to halt the credit of the negative accumulative VAT amount of VND 500 million of 3 consecutive months (from January to March 2011) to make a VAT refund dossier and the tax agency has made a decision to refund the VAT amount of 500 million. In August 2011, Company F makes a dossier of additional declarations or modifications to the VAT declaration dossier of January 2011, leading to a decrease of VND 200 million in the creditable VAT amount to be cleared against the payable tax amount of the subsequent period. In this case, Company F shall repay the refunded tax amount of VND 200 million and calculate and pay fines for late tax payment according to Article 106 of the Law on Tax Administration.

The dossier to be submitted by Company F to the tax agency comprises:

- A written explanation of additional declarations and modifications, made according to form No. 01/KHBS provided in this Circular, leading to a decrease of VND 200 million in the creditable VAT amount of the January 2011 tax period which is to be cleared against the payable tax amount of the subsequent period;
- The VAT return of January 2011, in which the creditable VAT amount to be cleared against the payable tax amount of the subsequent period has been decreased to VND 2(X) million;
- Enclosed documents explaining figures in the explanation of additional declarations or modifications (if any).

Case 3: If taxpayers' additional declarations or modifications lead to a decrease in the creditable VAT amount and an increase in the payable VAT amount, taxpayers shall pay the increased tax amount and, at the same time, determine the fine amount for late tax payment on the basis of the lately paid tax amount, the number of days of late payment and the fine level as prescribed. After making additional declarations or modifications, taxpayers are not required to additionally pay the creditable VAT amount which is decreased and calculate and pay fine for late tax payment. The

uncreditable VAT amount shall be declared in item - Increase in VAT amounts of previous periods - in the VAT return of the period during which additional declarations or modifications are made.

Example 3:

In August 2011, Company G makes additional declarations or modifications to its VAT declaration dossier of January 2011, leading to a decrease of VND 200 million in the creditable VAT amount to be cleared against the payable tax amount of the subsequent period and an increase of VND 100 million in the payable VAT amount (under the VAT return of January 2011, the VAT amount not yet credited and cleared against the subsequent period is VND 200 million, now the uncreditable VAT amount decreases to VND 300 million, giving rise to a payable VAT amount of VND 100 million under the VAT return of January 2011). In this case, the taxpayer shall pay the increased VAT amount of VND 100 million and calculate and pay fines for late tax payment. The uncreditable VAT amount of VND 200 million shall be declared in the VAT return of August 2011, the month of making additional declarations or modifications (in item - Increase in VAT amounts of previous periods).

The dossier to be submitted by Company G to the tax agency comprises:

- For modifications which lead to an increase of VND 100 million in the payable VAT amount of January 2011: When detecting errors, Company G shall make additional declarations or modifications to pay the increased tax amount of VND 100 million and a fine for late payment. The dossier of additional declarations or modifications to be submitted to the tax agency comprises:

+ A written explanation of additional declarations or modifications to the VAT return of January 2011, made according to form No. 01/KHBS;

+ The VAT return of January 2011, in which the payable VAT amount is increased by VND 100 million;

+ Enclosed documents explaining figures in the written explanation of additional declarations or modifications (if any).

- For modifications which lead to a decrease of VND 200 million in the creditable VAT amount of January 2011: Company G shall make modifications in the VAT return of August 2011 and enclose to the VAT declaration dossier of August 2011 submitted to the tax agency copies of the written explanation of additional declarations or modifications to the VAT return of 2011, made according to form No. 01/KHBS, and the modified VAT return of January 2011 already submitted.

Example 4: After submitting VAT dossiers to tax agencies, if taxpayers detect errors which should be additionally declared or modified but additional declarations or modifications do not lead to any increase or decrease of the payable VAT amount (errors in turnover of goods and services sold or purchased, etc.), they shall make a written explanation and a new VAT return for submission as replacement but are not required to make a dossier of additional declarations or modifications according to form No. 01/KDBS.

Tax agencies shall base themselves on taxpayers' written explanations to modify the figures according to taxpayers' additional declarations or modifications.

6. Places of submission of tax declaration dossiers:

Taxpayers shall submit tax declaration dossiers; dossiers of declaration of charges, fees and other state budget revenues at their managing tax agencies. The places of submission of tax declaration dossiers in some cases are specified as follows:

a/ Dossiers of declaration of house and land tax, agricultural land use tax, land use levy and land rent; dossiers of declaration of registration fee; dossiers of declaration of VAT on extra-provincial business operations and dossiers of presumptive tax declaration shall be submitted at district-level Tax Departments of localities in which such taxes arise.

b/ For royalty declaration dossiers, enterprises exploiting natural resources in provinces or cities in which they are headquartered shall submit dossiers at their managing tax agencies (provincial-

or district-level Tax Departments). Taxpayers based in provinces or cities different from the localities in which they exploit natural resources shall submit dossiers at the provincial-level Tax Departments of the localities in which natural resources exploitation activities are carried out or district-level Tax Departments designated by directors of such provincial-level Tax Departments.

c/ For dossiers of enterprise income tax on real estate transfer, enterprises headquartered in the provinces or cities in which they carry out real estate transfer activities shall submit dossiers at their managing tax agencies (provincial- or district-level Tax Departments). Taxpayers that carry out real estate transfer activities in provinces and cities other than the localities in which they are headquartered shall submit dossiers at the provincial-level Tax Departments of the localities in which real estate transfer activities are carried out or district-level Tax Departments designated by the directors of such provincial-level Tax Departments.

d/ For excise tax declaration dossiers, taxpayers whose establishments producing goods liable to excise tax are located in provinces or cities other than the localities in which they are headquartered shall submit dossiers in the localities in which their production establishments are located.

e/ In case state management agencies in a locality have stipulated the coordination in the settlement of administrative procedures, providing for the application of the one-stop-shop mechanism to tax procedures and declaration dossiers, the places of submission of tax declaration dossiers comply with the prescribed order and procedures.

Article 10. Declaration of VAT

1. Responsibility to submit VAT declaration dossiers to tax agencies:

a/ Taxpayers shall submit VAT declaration dossiers to their managing tax agencies.

b/ A taxpayer that has a subsidiary conducting business in a province or city in which its head office is located shall also declare VAT for its subsidiary.

In case a subsidiary which has its own seal and bank deposit account, directly sells goods or services and declares fully input and output VAT wishes to make separate tax declaration and payment, it shall register for separate tax payment and use separate invoices.

Based on practical situation in the localities under their management, directors of provincial-level Tax Departments are assigned to decide on places of tax declaration for taxpayers dealing in food catering services, restaurants, hotels, massage and karaoke services.

c/ In case a taxpayer has subsidiaries conducting business in provinces or cities other than the locality in which its head office is located, these subsidiaries shall submit VAT declaration dossiers to their managing tax agencies. Tax declaration for subsidiaries which do not directly sell goods and have no turnover shall be made concentratedly at taxpayers' head offices.

d/ In case a taxpayer that declares and pays tax by the credit method has subsidiary production establishments (including processing and assembly establishments) located in provinces or cities other than the locality in which its head office is located and these subsidiaries do not directly sell goods and have no turnover:

Cost-accounting subsidiary production establishments shall register for tax payment by the credit method in the localities in which production activities are carried out. When ex-warehousing semi-finished products or finished products for sale, including cases of transferring them to the head office, they shall use value-added invoices as a basis for making tax declaration and payment in localities in which production activities are carried out.

In case subsidiary production establishments do not conduct cost accounting, taxpayers shall declare taxes at their head offices and pay taxes to localities in which these subsidiary production establishments are located. The VAT amounts to be paid to localities in which subsidiary production establishments are located shall be determined at the rate of 2% (for goods liable to the VAT rate of 10%) or 1% (for goods liable to the VAT rate of 5%) of the turnover calculated

based on VAT-exclusive prices of manufactured products or similar products available in the localities in which production establishments are located.

In case the total VAT amount to be paid to localities in which a taxpayer's subsidiary production establishments are located which is determined on the aforesaid principle is larger than the VAT tax amount to be paid by the taxpayer at its head office, the taxpayer shall allocate the tax amount to be paid to localities in which their subsidiary production establishments are located as follows: the VAT amount to be paid to a locality in which a subsidiary production establishment is located is determined as being equal to (=) the VAT amount to be paid by the taxpayer at its head office multiplied (x) by the proportion (%) of turnover calculated based on VAT-exclusive prices of products manufactured by the subsidiary production establishment or similar products in the local market to the total turnover calculated based on VAT-exclusive prices of products manufactured by the enterprise. In case the taxpayer has no tax amount to be paid at its head office, it is required to pay tax to localities in which its production establishments are located.

The taxpayer shall make and send to the tax agency directly managing it a "Table of VAT amounts allocated to the locality in which the taxpayer is headquartered and localities in which its subsidiary production establishments which do not conduct the cost accounting are located", made according to form No. 01-6/GTGT provided in this Circular, together with the tax declaration dossier and, at the same time, send a copy of the aforesaid tax allocation table to each of tax agencies managing its subsidiary production establishments.

Based on VAT amounts allocated to the locality in which the taxpayer is headquartered and localities in which its subsidiary production establishments are located indicated in the aforesaid tax allocation table, the taxpayer shall make documents on the payment of VAT to each of these localities. The tax payment documents must clearly state that taxes are paid into the state budget revenue account at the State Treasury of the same level with the tax agency of the locality in which the taxpayer is headquartered and localities in which its subsidiary production establishments are located.

Example 1: Company A, headquartered in Hanoi, has 2 subsidiary production establishments located in Hai Phong and Hung Yen which do not conduct the cost accounting. Manufactured products are subject to the VAT rate of 10% and sold by the head office.

In the tax declaration period of August 2011, the turnover of products manufactured in the Hai Phong-based plant which is calculated based on the VAT-exclusive price is VND 500 million; the turnover of products manufactured in the Hung Yen-based plant which is calculated based on the VAT-exclusive price is VND 600 million. The VAT amount to be paid at the head office of Company A (according to declaration form No. 01/GTGT) in the period is VND 25 million.

The VAT amount to be paid by Company A to Hai Phong is: VND 500 million x 2% = VND 10 million.

The VAT amount to be paid by Company A to Hung Yen is: VND 600 million x 2% = VND 12 million.

The VAT amount to be paid by Company A to Hanoi is: VND 25 million - 10 million - 12 million = VND 3 million.

Example 2: Company A, headquartered in Hanoi, has 3 subsidiary production establishments located in Hanoi, Hai Phong and Hung Yen which do not conduct the cost accounting. Manufactured products are sold by the head office.

In the tax declaration period of September 2011, the turnover of products manufactured in the Hai Phong-based plant which is calculated based on the VAT-exclusive price is VND 500 million; the turnover of products manufactured in the Hung Yen-based plant which is calculated based on the VAT-exclusive price is VND 600 million; the turnover of products manufactured in the Hanoi-based plant which is calculated based on the VAT-exclusive price is VND 200 million. .

The VAT amount to be paid at the head office of Company A (according to declaration form No. 01/GTGT) in the period is VND 20 million.

Based on the aforesaid principle under which tax shall be temporarily paid to localities at the rate of 2% of turnover for goods liable to the VAT rate of 10%, Company A shall determine the VAT amounts to be paid to Hai Phong and Hung Yen as: VND 500 million x 2% + VND 600 million x 2% = VND 22 million. In this case, the tax amount to be paid to localities which is determined under this principle is higher than the VAT amount to be paid by Company A at its head office. Therefore, Company A shall distribute the VAT amount to be paid to localities as follows:

The VAT amount to be paid by Company A to Hai Phong is:

$\text{VND } 20 \text{ million} \times 500 \text{ million} / (500 \text{ million} + 600 \text{ million} + 200 \text{ million}) = \text{VND } 7.69 \text{ million}.$

The VAT amount to be paid by Company A to Hung Yen is:

$\text{VND } 20 \text{ million} \times 600 \text{ million} / (500 \text{ million} + 600 \text{ million} + 200 \text{ million}) = \text{VND } 9.23 \text{ million}.$

The VAT amount to be paid by Company A to Hanoi is:

$\text{VND } 20 \text{ million} - 7.69 \text{ million} - 9.23 \text{ million} = \text{VND } 3.08 \text{ million}.$

Example 3:

Company A, headquartered in Hanoi, has 2 subsidiary production establishments located in Hai Phong and Hung Yen which do not conduct the cost accounting. Manufactured products are sold by the head office.

In the tax declaration period of October 2011, the turnover of products manufactured in the Hai Phong-based plant which is calculated based on the VAT-exclusive price is VND 400 million; the turnover of products manufactured in the Hung Yen-based plant which is calculated based on the VAT-exclusive price is VND 500 million. In October 2011, Company A has no payable tax amount at its head office. Company A, therefore, is not required to pay VAT to Hai Phong and Hung Yen.

e/ In case a taxpayer conducts business operations of construction, installation or goods sale without establishing subsidiaries in provinces or cities other than the locality in which it is headquartered (below referred to as extra-provincial mobile construction, installation or goods sale operations), the Taxpayer shall submit tax declaration dossiers to district-level Tax Departments of the localities in which construction, installation or goods sale operations are carried out.

f/ For extra-provincial construction and installation works, which are carried out in many localities, such as roads, power transmission lines, water, oil or gas pipelines, etc., thus making it impossible to determine the turnover in each district-level locality, taxpayers shall declare VAT on extra-provincial construction and installation turnover in VAT declaration dossiers at their head offices.

2. VAT declaration is made on a monthly basis. VAT declaration in some specific cases is provided as follows:

- Declaration of temporarily calculated VAT for each time of arising of a tax obligation, applicable to extra-provincial mobile construction, installation or goods sale business operations;
- Declaration of VAT for each time of arising of a tax obligation, applicable to VAT calculated directly on sale turnover of persons engaged in irregular business operations.

3. Declaration of VAT by the credit method:

a/ Taxpayers that calculate VAT by the tax

credit method include: business establishments and their subsidiaries conducting accounting and using invoices and documents according to the law on accounting, invoices and documents, except those applying the method of calculating tax directly on the added value defined in Clause 4 of this Article.

b/ A dossier of monthly declaration of VAT calculated by the tax credit method comprises:

- A VAT return, made according to form No. 01/GTGT provided in this Circular;

- A list of invoices of sold goods and services, made according to form No. 01-1/GTGT provided in this Circular;
- A list of invoices of purchased goods and services, made according to form No. 01-2/GTGT provided in this Circular;
- A list of sold cars and motorbikes, made according to form No. 01-3/GTGT provided in this Circular (applicable to establishments dealing in automobiles or motorbikes).
- A table of allocation of the creditable VAT amount of goods and services purchased in the month, made according to form No. 01-4/GTGT provided in this Circular (applicable to taxpayers that allocate the creditable VAT amount of the month according to the proportion (%) of turnover of sold VAT-liable goods and services to the total turnover of goods and services sold in the month);
- A declaration of modifications to the creditable input VAT amount of the year, made according to form No. 01-4/GTGT provided in this Circular (applicable to taxpayers that recalculate the creditable VAT amount of the year based on the proportion (%) of turnover of sold VAT-liable goods and services to the total turnover of goods and services sold in the year). Modifications (increase or decrease) to the creditable allocated VAT amount shall be summarized in the VAT return of December.
- A list of VAT amounts already paid for turnover from extra-provincial mobile construction, installation or goods sale, made according to form No. 01-5/GTGT provided in this Circular.

c/ In case a taxpayer paying VAT by the credit method has investment projects under construction in the province or city in which it is headquartered, it shall make separate tax declaration dossiers for these investment projects and clear the VAT amount of goods and services purchased for these investment projects against the VAT amount of ongoing production and business operations. After being cleared, if the remaining VAT amount of goods and services purchased for investment projects is VND 200 million or more, such VAT amount shall be refunded to investment projects.

In case a taxpayer has investment projects in provinces or cities other than the locality in which it is headquartered and these projects are under construction, have not yet been put into operation and have no business registration and tax registration, the taxpayer shall make separate tax declaration dossiers for these projects and submit these dossiers to the tax agency directly managing the head office. If the VAT amount of goods and services purchased for those investment projects is VND 200 million or more, it shall be refunded to investment projects. In case the taxpayer has issued decisions to establish project management units in provinces or cities other than the locality in which it is headquartered to manage, on its behalf, one or several investment projects in different localities, these project management units may make and send separate tax declaration dossiers to tax agencies of the localities in which they have made tax registration on the condition that they have their own seals according to law, keep accounting books and documents according to the accounting law, have bank deposit accounts and have made tax registration and been granted subsidiary tax identification numbers.

Particularly, business establishments conducting the cost accounting for all subsidiaries and having investment projects, including those in provinces or cities in which they are headquartered and those in other provinces or cities, shall make separate tax declaration dossiers for investment projects and clear the VAT amount of goods and services purchased for investment projects against the VAT amount of ongoing production and business operations. After being cleared, if the remaining VAT amount of goods and services purchased for investment projects is VND 200 million or more, such VAT amount shall be refunded to investment projects. Cases which are agreed by the Prime Minister or assigned to the Ministry of Finance for guidance shall comply with separate guidance of competent agencies.

A dossier of monthly declaration of VAT for investment projects comprises:

- A VAT return for the investment project, made according to form No. 02/GTGT provided in this Circular.

- A list of invoices and vouchers of purchased goods and services, made according to form No. 01-2/GTGT provided in this Circular.

4. Declaration of VAT calculated directly on the added value:

a/ Business households and individuals and taxpayers trading in gold, silver, gems or foreign currencies and keeping adequate purchase and sale invoices for determination of the added value may declare VAT tax calculated directly on the added value.

b/ Dossiers of monthly declaration of VAT calculated directly on the added value are the VAT returns made according to form No. 03/GTGT provided in this Circular.

Taxpayers may not carry forward the negative added value to the tax period of the subsequent month.

5. Declaration of VAT calculated directly on turnover:

a/ Business households, individuals and organizations that keep adequate invoices and vouchers of goods sold or services provided but do not have adequate purchase invoices and vouchers of input goods or services and, therefore, cannot determine the added value in the period may declare VAT calculated directly on turnover.

b/ Dossiers of monthly declaration of VAT calculated directly on turnover are VAT returns made according to form No. 04/GTGT provided in this Circular.

c/ Dossiers of VAT declaration for each time of arising a tax obligation calculated directly on turnover are VAT returns made according to form No. 04/GTGT provided in this Circular.

6. Declaration of VAT for extra-provincial mobile construction, installation or goods sale business operations.

a/ Taxpayers engaged in extra-provincial mobile construction, installation or goods sale business operations shall declare VAT temporarily calculated at the rate of 2% (for goods and services subject to the VAT rate of 10%) or 1% (for goods and services subject to the VAT rate of 5%) of VAT-exclusive goods and service turnover. Tax declaration shall be made with district-level Tax Departments of localities in which business operations are conducted or goods are sold.

b/ Dossiers of VAT declaration for extra-provincial mobile construction, installation or goods sale business operations are value-added tax returns, made according to form No. 06/GTGT provided in this Circular.

c/ Dossiers of VAT declaration for extra-provincial mobile construction, installation or goods sale business operations shall be submitted for each time of earning turnover. If tax declaration dossiers need to be submitted many times in a month, taxpayers may register for monthly submission of dossiers with district-level Tax Departments to which tax declaration dossiers are submitted.

d/ When declaring tax with their managing tax agencies, taxpayers shall summarize the whole amount of turnover earned from extra-provincial mobile construction, installation or goods sale business operations and VAT amounts paid for such turnover in tax declaration dossiers submitted at their head offices. The tax amount (according to tax receipts) paid for turnover from extra-provincial mobile construction, installation or goods sale shall be cleared against the payable VAT amount according to taxpayers' VAT return to be submitted at their head offices.

7. Change of applied VAT calculation methods.

a/ Cases of change of applied VAT calculation methods

Taxpayers currently applying the method of calculating VAT directly on the added value and satisfying all the conditions for application of the credit method specified at Point a, Clause 3 of this Article may send written requests, made according to form No. 06/GTGT provided in this Circular, to their managing tax agencies for permission to apply the credit method.

Taxpayers currently applying the method of calculating VAT directly on turnover and satisfying all the conditions for application of the method of calculating VAT directly on the added value specified at Point a, Clause 4 of this Article may send written requests, made according to form No. 06/GTGT provided in this Circular, to their managing tax agencies for permission to apply the method of calculating VAT directly on the added value.

b/ Within 10 working days after receiving taxpayers' written requests for change of VAT calculation methods, tax agencies shall check and reply in writing to taxpayers on approval or disapproval of taxpayers' requests. Taxpayers may change their tax calculation methods only after obtaining tax agencies' approval.

c/ If taxpayers that have changed, with tax agencies' approval, from the direct tax calculation method to the credit method or from the method of calculating tax directly on turnover to the method of calculating tax directly on the added value fail to maintain the required conditions in the course of application, their managing tax agencies shall apply the method of tax assessment and issue notices requiring them to apply an appropriate tax calculation method,

8. Guidance on declaration of VAT and making of lists of sale invoices and purchase invoices in some specific cases:

a/ Declaration of VAT for agency operations:

- Taxpayers being sale agents or purchase agents for goods or services that sell or purchase goods or services at prices set by their principals for commissions are not required to declare VAT on goods and service they sell or purchase but shall declare VAT on agency commission. Input and output invoices of sold and purchased goods and services shall be declared in a list according to form No. 01-1/GTGT or No. 01-2/GTGT; summarized figures on sold and purchased goods and services declared in these 2 forms may not used as a basis for making VAT returns.

- Taxpayers acting as agents in various forms shall declare VAT on goods or services sold or goods purchased and VAT on agency commissions.

- Taxpayers acting as ticket sale agents for post and telecommunications services, lottery tickets, airfares, car, train or ship fares that sell these services or fares at prices set by their principals for commissions; international transportation agents; agents of air and marine services subject to the VAT rate of 0%; and insurance agents are not required to declare VAT on turnover from goods or services sold and agency commissions.

- Taxpayers acting as sale agents for goods or services not liable to VAT are not required to declare VAT on turnover from those goods or services and agency commissions.

b/ Transport enterprises shall submit dossiers of declaration of VAT on transport business operations to their managing tax agencies.

c/ Taxpayers that calculate tax by the tax credit method and trade in gold, silver, gems and foreign currencies shall make VAT declaration as follows:

- For operations of dealing in goods or services on which tax is calculated by the credit method, taxpayers shall make tax declaration dossiers under Clause 3 of this Article.

- For operations of trading in gold, silver, gems and foreign currencies, taxpayers shall make tax declaration dossiers under Clause 4 or 5 of this Article.

d/ Taxpayers that provide financial leasing services are not required to submit VAT returns for these services but shall submit only lists of invoices of sold goods and services and lists of invoices of purchased goods and services, made according to forms No. 01 - 1/GTGT and No. 01-2/GTGT provided in this Circular, with the item of VAT on purchased goods or services filled in with the VAT amount of leased assets in conformity with the added value invoices made for turnover of financial leasing services in the period. Taxpayers shall submit tax declaration dossiers for their assets financially hired and purchased by other units.

e/ Tax declaration by taxpayers undertaking entrusted import or export of goods:

Establishments that undertake entrusted import or export of goods are not required to declare VAT on goods they have imported or exported under entrustment but shall declare VAT on entrustment remuneration. Input and output invoices of goods imported or exported under entrustment shall be declared in lists according to forms No. 01-1/GTGT and No. 01-2/GTGT; summarized figures on goods imported or exported under entrustment which are declared in these 2 forms must not be used as a basis for making VAT returns.

f/ Lists of purchased or sold goods or services provided in monthly tax returns submitted to tax agencies in some specific cases shall be made as follows:

- For goods and services retailed directly to consumers, such as electricity, water, petrol, oil, post and telecommunications services, hotel and food catering services, passenger transportation services, trading of gold, silver, gems and foreign currencies and other retailed goods and services, retail sale turnover may be declared in a total amount instead of amounts stated in separate invoices.

- For goods and services purchased in small quantities, general lists of different groups of goods or services subject to the same tax rate may be made instead of detailed listing according to separate invoices.

- For banking service establishments with subsidiaries located in the same locality, these subsidiaries shall make lists of purchased or sold goods and services for keeping at the head offices. When making general lists of purchased or sold goods and services, head offices shall sum up only aggregate figures on lists made by subsidiaries.

9. In case a business establishment authorizes a third party to make invoices for the sale of goods or services, the authorized party is not required to declare VAT on turnover from goods and service sale for which it is authorized to make invoices. Business establishments that authorize the making of invoices shall declare VAT on turnover from goods and service sale for which the making of invoices has been authorized to a third party.

10. Declaration of VAT for determination of payable VAT amounts by the presumption method complies with Article 19 of this Circular.

11. Declaration of VAT for ODA-funded projects, humanitarian aid entities and entities eligible for diplomatic immunities:

a/ Owners of projects funded with nonrefundable ODA, offices of ODA-funded projects and Vietnam-based organizations using humanitarian aid that are eligible for VAT refund and entities eligible for diplomatic immunities are not required to make monthly VAT declaration.

b/ Owners of ODA-funded projects ineligible for VAT shall make monthly VAT returns according to form No. 01/GTGT provided in this Circular and send them to the tax agencies directly managing their projects.

c/ Foreign contractors implementing ODA-funded projects eligible for VAT refund shall make monthly VAT returns according to form No. 01/GTGT provided in this Circular and send them to the tax agencies of the localities in which the projects are implemented.

Article 11. Declaration of enterprise income tax (EIT)

1 Responsibility to submit EIT declaration dossiers to tax agencies:

a/ Taxpayers shall submit EIT declaration dossiers to tax agencies directly managing them;

b/ If taxpayers have independent cost-accounting subsidiaries, these subsidiaries shall submit dossiers of declaration of IT arising at these subsidiaries to tax agencies directly managing them;

c/ If taxpayers have dependent cost-accounting subsidiaries, these subsidiaries are not required to submit EIT declaration dossiers. When submitting EIT declaration dossiers, taxpayers shall make common declarations, covering also tax amounts arising at their subsidiaries, at their head offices;

d/ If taxpayers have dependent cost-accounting production establishments (including processing and assembly establishments) which are located in provinces or cities other than the localities in which taxpayers are headquartered, when submitting EIT declaration dossiers, taxpayers shall make common declarations for tax amounts arising at their head offices and their dependent cost-accounting production establishments;

e/ For economic groups and corporations that have dependent cost-accounting member units, if these member units can account their turnovers, expenditures and taxable incomes, they shall declare and pay EIT to their managing tax agencies.

f/ If member units conduct business operations different from common business lines of groups or corporations and can separately account incomes from these business operations, they shall declare EIT to their managing tax agencies.

When it is necessary to make tax declaration at variance with the guidance of this Point, economic groups and corporations shall report it to the Ministry of Finance for separate guidance.

2. EIT declaration means declaration of tax temporarily calculated on a quarterly basis, declaration for annual finalization or declaration for finalization up to the time of termination of business operations or contracts, transformation of enterprise ownership or enterprise reorganization. Tax declaration in some specific cases shall be made as follows:

- Declaration of EIT for each time of generation of income, applicable to real estate transfer activities;

- Declaration of EIT for each time of generation of income, applicable to foreign organizations conducting business in Vietnam or earning income in Vietnam (referred to as foreign contractors) that do not operate under the Investment Law or the Enterprise Law and earn income from capital transfer activities.

- Declaration of EIT calculated according to the proportion of income to goods and service sale turnovers, applicable to non-business units trading in goods or providing services which are liable to EIT and able to account turnovers but are unable to account and determine expenses and incomes from business operations (excluding cases of declaration of EIT temporarily calculated on a quarterly basis for taxpayers that declare tax according to the proportion of taxable income to turnover).

3. Declaration of EIT temporarily calculated on a quarterly basis:

Dossiers of declaration of EIT temporarily calculated on a quarterly basis are quarterly EIT returns, made according to form No. 01A/TNDN provided in this Circular.

If taxpayers are unable to declare expenses actually arising in the tax period, they shall use the quarterly EIT return form No. 01B/TNDN provided in this Circular. The basis for calculation of enterprise incomes in a quarter is the preceding year's proportion of taxable income to turnover.

If taxpayers have been examined or inspected by tax agencies and the proportion of taxable income to turnover according to the examination or inspection results is different from that declared by taxpayers, the tax agencies' examination or inspection results shall apply.

Enterprises may choose either of the 2 forms of declaration of EIT temporarily calculated on a quarterly basis for application throughout a tax year according to form No. 01A/TNDN or 01B/TNDN. Newly established enterprises or loss-making enterprises in the preceding year shall declare EIT temporarily calculated on a quarterly basis according to form No. 01A/ TNDN.

4. EIT finalization declaration:

a/ EIT finalization declaration includes declaration for annual finalization of EIT or declaration for finalization of EIT up to the time of termination of business operations, or contracts, transformation of enterprise ownership or reorganization.

b/ A dossier of EIT finalization declaration comprises:

- An EIT finalization return, made according to form 03/TNDN provided in this Circular;

- An annual financial statement or a financial statement up to the time of termination of business operations or contracts, transformation of enterprise ownership or reorganization;

- One or several annexes to the return (depending on the taxpayer's actually arising tax obligation):

+ Annex of production and business operation results, made according to forms No. 03-1A/TNDN, No. 03-1B/TNDN and No. 03-1C/TNDN provided in this Circular.

+ Annex of losses carried forward, made according to form No. 03-2/TNDN provided in this Circular.

+ Annexes of EIT income tax incentives:

* Form No. 03-3A/TNDN: EIT incentives for business establishments newly set up under investment projects and relocated business establishments.

* Form No. 03-3B/TNDN: EIT incentives for business establishments investing in new production chains, expanding production scope, renewing technologies to improve the ecological environment or increase production capacity.

* Form No. 03-3C/TNDN: EIT incentives for enterprises employing ethnic minority laborers and production, construction and transport enterprises employing a larger number of female laborers.

+ Annex of EIT amounts already paid abroad and creditable in the tax period, made according to form No. 03-4/TNDN provided in this Circular.

+ Annex of EIT on real estate transfer activities, made according to form No. 03-5/TNDN provided in this Circular.

+ Annex of EIT calculation and payment of enterprises having dependent cost-accounting production units in provinces or cities other than the localities in which the head offices are located (if any), made according to form No. 05/TNDN provided in this Circular.

+ Annex of associated transactions (if any), made according to form No. GCN-01/QLT provided in Appendix 1-GCN/CC to the Ministry of Finance's Circular No. 66/2010/TT-BTC of April 22, 2010, guiding the determination of market prices in business transactions among associated partners.

+ Annex of reporting on appropriation and use of the science and technology fund (if any), made according to the form promulgated together with the Ministry of Finance's Circular No. 15/2011/TT-BTC of February 9, 2011, guiding the setting up, organization, operation, management and use of enterprises' science and technology development funds.

5. Declaration of EIT on real estate transfer:

a/ Enterprises that transfer real estate in the provinces or cities in which they are headquartered shall declare tax at their managing tax agencies (provincial- or district-level Tax Departments). Enterprises that transfer real estate in provinces or cities other than the localities in which they are headquartered shall submit tax declaration dossiers to the provincial-level Tax Departments of the localities in which real estate is transferred or district-level Tax Departments designated by the directors of these provincial-level Tax Departments;

b/ Enterprises that transfer real estate on an irregular basis shall declare EIT temporarily calculated according to each transfer. Enterprises that transfer real estate on an irregular basis are those not engaged in real estate business.

In case real estate businesses transfer a whole investment project, they shall declare EIT temporarily calculated for each transfer.

A dossier of declaration of EIT for each transfer of real estate is the return of EIT on income from real estate transfer, made according to form No. 02/TNDN provided in this Circular.

When making EIT finalization declaration at the end of a tax year, taxpayers are required to make separate accounting for income tax for real estate transfer. In case the tax amount already paid

under notices received when carrying out procedures for grant of land use right certificates is lower than the payable tax amount according to the EIT finalization return, enterprises shall pay the deficit tax amount into the state budget. In case the paid tax amount is higher than the payable tax amount according to the EIT finalization declaration, the overpaid tax amount shall be cleared against the EIT payable for other business operations or the payable EIT amount of the subsequent period. Enterprises that suffer from losses from real estate transfer activities shall separately monitor these losses and may account these losses as taxable incomes from real estate transfer activities of subsequent years according to regulations;

c/ Enterprises that transfer real estate on a regular basis shall declare EIT temporarily calculated on a quarterly basis. Enterprises that transfer real estate on a regular basis are those engaged in real estate business.

A dossier of quarterly declaration of temporarily calculated EIT is the return of EIT on income from real estate transfer, made according to form No. 02/TNDN. In case enterprises have signed many real estate transfer contracts in a month, they may enclose a list thereof.

If enterprises engaged in real estate transfer on a regular basis request for permission to declare tax on each transfer, they shall declare tax like enterprises engaged in real estate transfer on an irregular basis and are not required to make quarterly declaration of temporarily calculated tax.

At the end of the tax year, enterprises shall carry out procedures for finalization of EIT for all real estate transfer activities which have been declared in the returns of EIT temporarily paid on a quarterly basis or upon each transfer of real estate. In case the paid tax amount in the year is lower than the payable tax amount according to the EIT finalization return, enterprises shall pay the deficit amount into the state budget. In case the temporarily paid tax amount is higher than the payable tax amount according to EIT finalization return, the overpaid tax amount may be cleared against the payable EIT of the subsequent period. In case losses are incurred in real estate transfer activities, enterprises shall separately monitor such losses and may account these losses into taxable income from real estate transfer activities of subsequent years according to regulations;

d/ Enterprises which are allocated or leased land by the State for the implementation of investment projects on building infrastructure or houses for transfer or lease with the collection of advances from customers based on the construction progress in any form:

- In case enterprises have collected advances from customers and can determine expenses corresponding to turnover, they shall, after subtracting expenses, temporarily declare and pay EIT according to turnover.

- In case enterprises have collected advances from customers but cannot determine expenses corresponding to turnover, they shall temporarily declare and pay EIT at the rate of 2% of turnover but are not required to calculate this turnover as taxable turnover in the year.

EIT temporarily calculated for money amounts collected in advance from customers based on the construction progress shall be declared in Part II of the return made according to form No. 02/TNDN provided in this Circular. When handing over real estate, enterprises shall make official finalization of EIT on income from real estate transfer activities in Part I of the return, made according to form No. 02/TNDN. In case enterprises sign in a quarter several real estate transfer contracts (including those under which money are collected in advance from customers based on the construction schedule), they may make and enclose a list of these contracts.

Real estate businesses shall declare EIT on income from money collected in advance from customers based on the construction progress in any forms while making declaration of EIT temporarily calculated on a quarterly basis for income from real estate transfer.

6. Declaration of EIT calculated based the proportion (%) of income to goods and service sale turnover (excluding case of making declaration of EIT temporarily calculated on a quarterly basis, applicable to taxpayers that declare tax based on the proportion of taxable income to turnover) applies to non-business units that trade in goods or services subject to EIT, provided that these

units can account turnover but cannot account and determine expenses for and incomes from these business operations.

Non-business units shall declare EIT calculated based on the proportion (%) of income to taxable turnover in the EIT return form No. 04/TNDN provided in this Circular.

Non-business units that regularly trade in goods or services subject to EIT may make monthly tax declaration and are not required to make annual tax finalization.

Non-business units that irregularly trade in goods or services subject to EIT shall declare EIT for each time of generation of taxable income.

7. In case an enterprise has dependent cost-accounting production establishments (including processing and assembly establishments) in provinces or cities other than the locality in which it is headquartered, when submitting EIT declaration dossiers, the enterprise shall make tax declaration for both incomes generated in the locality in which it is headquartered and incomes earned in localities in which its dependent cost-accounting production establishments are located at its head office.

The EIT amounts to be calculated and paid to provinces and cities in which dependent cost-accounting production establishments are located shall be determined as being equal to the payable EIT amount in the period multiplied (x) by the proportion of expenses of dependent cost-accounting production establishments to the total expenses of the enterprise.

Enterprises' head offices shall declare and pay EIT on incomes generated at head offices and dependent cost-accounting production establishments. They shall make tax returns according to form No. 05/TNDN provided in this Circular (including quarterly declaration of temporarily calculated EIT and annual EIT finalization declaration) and submit them to tax agencies directly managing them and, at the same time, send a copy of each tax return to tax agencies managing dependent cost-accounting production establishments.

a/ Procedures for transfer of documents between state treasuries and tax agencies

An enterprise shall base itself on EIT amounts calculated and paid at its head office and dependent cost-accounting production establishments declared in form No. 05/TNDN to make documents on payment of EIT to the locality in which it is headquartered and localities in which dependent cost-accounting production establishments are located. The tax payment documents must clearly state that tax is paid into the state budget revenue account at the State Treasury of the same level with the tax agency with which the head office has made tax declaration and payment registration and tax agencies of localities in which dependent cost-accounting production establishments are located. The State Treasury of the locality in which it is headquartered shall transfer money and documents on collection of state budget revenues to relevant state treasuries for the latter to account tax amounts paid for dependent cost-accounting production establishments as state budget revenues.

b/ Tax finalization

An enterprise shall declare EIT finalization at its head office. The payable EIT amount shall be determined as being equal to the payable EIT amount under the finalization minus (-) the EIT amount temporarily paid at the head office and subsidiary production establishments. The payable or refundable EIT amount upon tax finalization shall also be allocated according to the set proportion between the locality in which the enterprise is headquartered and localities in which their subsidiary production establishments are located.

8. Declaration of EIT for each generation of taxable income shall apply to foreign organizations doing business or earning incomes in Vietnam (collectively referred to as foreign contractors) but not operating under the Investment Law or the Enterprise Law and conducting capital transfer activities.

Capital transferees shall determine, declare, withhold and pay EIT on behalf of foreign organizations. In case capital transferees are also foreign organizations not operating under the Investment Law or the Enterprise Law, enterprises set up under Vietnamese law in which foreign

organizations invest capital shall declare and pay the payable EIT for foreign organizations' capital transfer activities.

Tax declaration dossiers shall be submitted within 10 days after competent agencies approve the capital transfer or after involved parties agree on the capital transfer in the capital transfer contracts, for cases in which the capital transfer is not subject to approval.

A dossier of declaration of EIT on income from capital transfer comprises:

- A return of EIT on income from capital transfer (made according to form No. 06/TNDN provided in this Circular);
- A copy of the transfer contract. In case the contract is made in a foreign language, the following principal contents must be translated into Vietnamese: the transferor; the transferee; transfer time; transfer contents; rights and obligations of each party; contractual value; time, mode and currency used for payment.
- A copy of the decision approving the capital transfer, issued by a competent agency (if any);
- A copy of the capital contribution certificate;
- Original invoices of expenses.

When necessary to supplement a dossier, the tax agency shall immediately notify the transferee right on the date of receiving the dossier, for cases in which the dossier is directly submitted; or within 3 working days after receiving the dossier, for cases in which the dossier is sent by post or electronically.

Places of submission of tax finalization dossiers: tax agencies with which foreign capital transferors have made tax payment registration.

Article 12. Declaration of excise tax

1. Responsibility to submit excise tax declaration dossiers to tax agencies:

a/ Taxpayers that produce or process goods or provide services liable to excise tax; are engaged in export business and purchase goods for which excise tax has not been paid, and then do not export but sell these goods at home shall submit excise tax declaration dossiers to their managing tax agencies.

b/ If taxpayers producing goods liable to excise tax sell goods through their branches, stores, subsidiaries or sale agents that sell goods at set prices for commissions, or consign goods for sale, they shall declare excise tax on the whole quantity of these goods with their managing tax agencies. Branches, stores, subsidiaries, agents or units selling consigned goods are not required to declare excise tax but shall send lists of goods sold to both taxpayers and tax agencies directly managing branches, stores, subsidiaries, agents or units selling consigned goods for monitoring.

c/ If taxpayers have subsidiaries producing goods liable to excise tax which are located in provinces or cities other than the localities in which the taxpayers are headquartered, they shall declare excise tax with tax agencies directly managing production establishments.

2. Declaration of excise tax is made on a monthly basis. For goods purchased for export but sold at home, declaration must be made for each time of arising a tax obligation.

3. An excise tax declaration dossier comprises:

- An excise tax return, made according to form No. 01/TTDB provided in this Circular;
- A list of invoices of goods and services liable to excise tax, made according to form No. 01-1/TTDB provided in this Circular;
- A list of creditable excise tax amounts (if any), made according to form No. 01-2/TTDB provided in this Circular;

4. Declaration of excise tax for determining payable excise tax amounts by the presumption method complies with Article 19 of this Circular.

Article 13. Declaration of royalty

1. Responsibility to submit royalty declaration dossiers to tax agencies:

Taxpayers shall submit their royalty declaration dossiers to tax agencies directly managing them.

a/ Establishments exploiting natural resources (excluding those exploiting water for hydropower generation):

Units that exploit crude oil, natural gas, coal gas; or exploit natural resources in mines located in different districts within a province shall submit royalty declaration dossiers to provincial-level Tax Departments of the localities in which they exploit natural resources.

b/ In case establishments that purchase natural resources register to pay royalty on behalf of organizations or individuals exploiting natural resources on a small scale, they shall submit royalty declaration dossiers to their managing tax agencies.

2. Declaration of royalty (excluding royalty for crude oil) includes monthly declaration and declaration for annual finalization or declaration for finalization up to the time of termination of natural resources exploitation or business operations or contracts, transformation of enterprise or enterprise reorganization.

3. Royalty declaration dossiers (except for crude oil and natural gas):

a/ A dossier of monthly royalty declaration comprises:

A royalty return, made according to form No. 01/TAIN provided in this Circular.

b/ A dossier of royalty finalization declaration comprises:

- A royalty finalization return, made according to form No. 03/TAIN provided in this Circular.

- Enclosed documents related to royalty exemption or reduction (if any).

4. Declaration of royalty on crude oil and natural gas;

a/ Declaration of temporarily calculated royalty:

a.1/ For crude oil:

- A royalty declaration dossier is the temporarily calculated royalty return, made according to form No. 01/TAIN-DK provided in this Circular.

- The dossier of declaration of temporarily calculated royalty shall be submitted within 35 days after the date of selling crude oil (for crude oil sold on the domestic market) or the date the customs offices certify the export of crude oil.

a.2/ For natural gas:

- A royalty declaration dossier is the temporarily calculated royalty return, made according to form No. 01/TAIN-DK provided in this Circular.

- The deadline for submission of the dossier of declaration of temporarily calculated royalty is the 20th every month.

b/ Dossiers of royalty finalization for crude oil and natural gas:

- A royalty finalization return, made according to form No. 02/TAIN-DK provided in this Circular.

- A list of output and turnover from sale of crude oil or natural gas exploited in the royalty period, made according to form No. 02-1/TAIN-DK provided in this Circular.

- A list of temporarily calculated royalty amounts in the royalty period, made according to form No. 02-2/TAIN-DK provided in this Circular.

c/ The time limit for submission of dossiers of royalty finalization declaration for crude oil or natural gas:

- Within 90 days after the last day of a calendar year.
- Within 45 days after the termination of a petroleum contract.

5. Declaration of royalty for determining payable royalty amounts by the presumption method complies with Article 19 of this Circular.

Article 14. Declaration of personal income tax (PIT)

1. Organizations and individuals that pay incomes liable to PIT and individuals that have income liable to PIT shall make tax declaration and finalization under regulations.

2. Organizations and individuals that pay incomes subject to tax withholding, regardless of whether tax have been withheld or not, shall make PIT finalization declaration and effect PIT finalization for individuals that authorize them to do so.

3. Resident individuals earning incomes from salary, wage and business operations shall make tax finalization declaration in the following cases:

a/ The payable tax amount is larger than the withheld or temporarily paid tax amount or tax obligation has arisen in the year but not yet withheld or temporarily paid.

b/ They request tax refund or clearing of the overpaid tax amount against the payable tax amount of the subsequent period.

4. Tax declaration by tax-withholding income payers

a/ Monthly and quarterly tax declaration

Organizations and individuals paying incomes liable to PIT and withholding tax shall declare and submit monthly or quarterly tax returns to tax agencies. Specifically:

a.1/ For cases of withholding PIT on incomes from salary or wage: To submit a return, made according to form No. 02/KK-TNCN provided in this Circular.

a.2/ For cases of withholding PIT on incomes from capital investment, securities transfer, copyright royalty, commercial franchise or prize winning to individuals and paying incomes from business operations to non-resident individuals: To submit a return, made according to form No. 03/KK-TNCN provided in this Circular.

a.3/ For cases in which insurance principals withhold PIT on incomes of insurance agents: To submit a return, made according to form No. 01/KK-BH provided in this Circular.

a.4/ For cases in which lottery business organizations withhold PIT on incomes of lottery agents: To submit a return, made according to form No. 01/KK-XS provided in this Circular.

b/ The method of determining monthly or quarterly declaration shall be applied throughout a tax year. Specifically as follows:

b.1/ A taxpayer who has the total to-be-withheld tax amount according to all kinds of tax returns arising in the first month of the year is VND 5 million or more may submit tax returns on a monthly basis. If the to-be-withheld tax amount is under VND 5 million, the taxpayer may submit tax returns on a quarterly basis for the whole year.

b.2/ An income payer who has no tax amount to be withheld in a month or quarter is not required to submit tax returns to tax agencies.

Example:

- In case an income payer has no tax amount to be withheld in January and February. In March, it has a to-be-withheld tax amount of VND 5 million or higher, it shall submit tax returns as follows:

In January and February, it is not required to declare tax.

From March on, it shall declare tax on a monthly basis.

- In case a tax payer has no tax amount to be withheld from January till April. In May, it has a to-be-withheld tax amount of under VND 5 million, it shall submit tax returns as follows:

From January till April, it is not required to declare tax.

From May on, it shall declare tax on a monthly basis, starting from the second quarter.

c/ Tax finalization declaration:

c.1/ A tax finalization declaration dossier to be submitted by organizations or individuals paying incomes from salary or wage comprises:

- A PIT finalization return (made according to form No. 05/KK-TNCN provided in this Circular);
- A list of PIT-liable incomes and PIT on incomes from salary and wage of resident individuals having signed labor contracts (made according to form No. 05A/BK.-TNCN provided in this Circular);
- A list of PIT-liable incomes and PIT on incomes from salary and wage of individuals who have not yet signed labor contracts or have signed labor contracts of a term of less than 3 months or non-resident individuals (made according to form No. 05B/BK-TNCN provided in this Circular).

c.2/ When making tax finalization, if there is any request for PIT refund, income payers shall submit tax refund dossiers as prescribed in Article 46 of this Circular.

c.3/ A tax finalization declaration dossier to be submitted by organizations or individuals that pay incomes from capital investment, securities transfer, copyright royalty, commercial franchise and prize winning and incomes from business operations to non-resident individuals comprises:

- A PIT finalization return (made according to form No. 06/KK-TNCN provided in this Circular);
- A list of transfer value and PIT amounts already withheld for incomes from securities transfer (made according to form No. 06/BK-TNCN provided in this Circular).

c.4/ Insurance principals shall declare and finalize the PIT amounts already withheld for insurance agents according to form No. 02/KK-BK and make a list thereof according to form No. 02/BK-BH provided in this Circular.

c.5/ Lottery business organizations shall declare and finalize the PIT amounts already withheld for lottery agents according to form No. 02/KK-XS and make a list thereof according to form No. 02/BK-XS provided in this Circular.

d/ Places of submission of tax declaration dossiers are specified as follows:

d. 1/ Income payers being production or business organizations and individuals shall submit tax declaration dossiers at their managing tax agencies.

d.2/ For other cases:

d.2.1/ Central agencies, agencies attached to or under ministries, branches, provincial-level People's Committees and provincial-level agencies shall submit tax declaration dossiers at provincial-level Tax Departments of the localities in which they are headquartered.

d.2.2/Agencies attached to or under district-level People's Committees and district-level agencies shall submit tax declaration dossiers to district-level Tax Departments of the localities in which they are headquartered.

d.2.3/ Diplomatic agencies, international organizations and representative offices of foreign organizations shall submit tax declaration dossiers to provincial-level Tax Departments of the localities in which they are headquartered.

5. Declaration of PIT by resident individuals or groups of resident individuals earning incomes from business operations.

a/ Declaration of PIT by business individuals and groups of business individuals paying tax according to registration

a.1/ Quarterly declaration of temporarily paid PIT:

a.1.1/ Tax declaration dossiers:

+ Business individuals shall declare tax according to form No. 08/KK-TNCN provided in this Circular.

+ Groups of business individuals shall declare tax according to form No. 08A/KK-TNCN provided in this Circular.

a.1.2/ Bases for determining the temporarily paid PIT amounts:

+ Temporarily calculated taxable income in a quarter is determined as being equal to turnover earned in the quarter minus temporarily calculated expenses in the quarter:

Turnover earned in a quarter is determined as being equal to goods and service sale turnover declared in the quarter

Temporarily calculated expenses in a quarter are arising expenses related to turnover earned in the quarter.

+ Temporarily calculated taxable income is determined as being equal to taxable income minus family circumstance-based reductions for the whole quarter.

+ The PIT amount to be temporarily paid on the quarterly basis shall be determined according to the following formula:

$$\text{Tax amount to be temporarily paid on a quarterly basis} = \left(\frac{\text{Temporarily determined taxable income in the quarter}}{3} \right) \times \left(\text{Tax rate according to the partially progressive tariff applicable to monthly income} \right) \times 3$$

Individuals and groups of individuals having houses or grounds for lease that have been granted tax identification numbers shall declare and temporarily pay PIT on a quarterly basis according to form No. 08/KK-TNCN provided in this Circular. In case individuals or groups of individuals lease their houses or grounds in the form under which lessees pay in advance the rent for a definite period, they shall declare PIT on the rent amount received in advance.

For a group of business individuals, the temporarily paid PIT amount shall be calculated for each individual on the basis of his/her temporarily distributed income, family circumstances and tax rates. On the basis of the PIT amount temporarily calculated for each individual, the representative of the group shall pay tax into the state budget according to the document on remittance of money into the state budget made for each member.

a.2/ Tax finalization declaration: Tax finalization declaration dossiers. + For business individuals, tax finalization returns shall be made according to form No. 09/KK-TNCN. Annexes shall be made according to forms No. 09B/PL-TNCN and No. 09C/PL-TNCN provided in this Circular. Dossiers must comprise copies of papers evidencing tax amounts temporarily paid in the year. Individuals shall sign these copies to commit that they shall take responsibility therefor.

Individuals joining a business group shall also submit the tax finalization return of the business group, made according to form No. 08B/KK-TNCN provided in this Circular.

Business individuals shall submit tax finalization dossiers to the district-level Tax Departments directly managing them.

An individual doing business in different localities and having 13-digit tax identification numbers (doing business in different provinces or different districts of a province) shall submit tax finalization dossiers to the tax agency managing his/her head office which has a 10-digit tax identification number.

+ For groups of business individuals, the representative of a business group shall make a tax finalization declaration dossier according to form No. 08B/KK-TNCN provided in this Circular to determine the total taxable income of the group and taxable income of each of its members.

Each member of the business group may receive an original of the group's tax finalization return for him/her to conduct tax finalization.

Groups of business individuals shall submit tax finalization declaration dossiers to district-level Tax Departments of the localities in which they conduct business operations.

b/ Business individuals and groups of business individuals that can account business turnover but cannot account expenses shall make tax declaration under Point a, Clause 5 of this Article. Particularly taxable incomes shall be determined at the level assessed by tax agencies.

c/ Tax declaration by business individuals and groups of business individuals paying tax by the presumption method.

c.1/ Tax declaration dossiers:

c.1.1/ Business individuals shall make tax returns according to form No. 10/KK-TNCN provided in this Circular.

c.1.2/ Groups of business individuals shall make tax returns according form No. 10A/KK-TNCN provided in this Circular.

c.2/ Tax declaration dossiers shall be submitted to district-level Tax Departments of the localities in which business individuals or groups of business individuals conduct business operations.

c.3/ Tax agencies shall make notices of annual payable tax amounts and tax amounts temporarily paid on a quarterly basis of business individuals or groups of business individuals according to form No. 10- 1/TB-TNCN provided in this Circular no later than the last day of February.

c.4/ Individuals earning incomes only from business operations and paying PIT by the presumption method are not required to make tax finalization.

6. Tax declaration by individuals earning income from salary and wage and non-resident individuals earning incomes from business operations

a/ Monthly tax declaration:

a.1/ Cases subject to monthly tax declaration:

a.1.1/ Individuals earning incomes from salary and wage paid by overseas organizations and individuals.

a.1.2/ Individuals earning incomes from salary and wage paid by international organizations, foreign embassies and consulates in Vietnam for which tax has not yet been withheld.

a.1.3/ Non-resident individuals earning incomes from business operations.

In case income payers have withheld and paid tax on behalf of individuals, such individuals are not required to declare and pay tax on a monthly basis.

a.2/ Monthly tax declaration dossiers are PIT returns made according to form No. 07/KK-TNCN provided in this Circular.

a.3/ Places of submission of monthly tax declaration dossiers

a.3.1/ For incomes from salary and wage, dossiers shall be submitted to provincial-level Tax Departments of the localities in which individuals are working.

a.3.2/ For incomes from business operations, dossiers shall be submitted to provincial-level Tax Departments of the localities in which individuals conduct business operations.

b/ Tax finalization declaration:

b.1/ Resident individuals earning incomes from salary and wage shall make tax finalization declaration.

Resident foreigners who no longer work in Vietnam shall complete tax finalization with tax agencies before their exit.

In case an individual earning incomes from salary and wage paid by a single income payer throughout a calendar year, he/she may authorize the income payer to make tax finalization for him/her. Authorization papers shall be made according to form No. 04-2/TNCN provided in this Circular.

Individuals who have received tax withholding documents from income payers may not authorize income payers to make tax finalization (except cases in which income payers have revoked and destroyed tax withholding documents already issued to individuals).

b/ A tax finalization declaration dossier comprises:

- A tax finalization return, made according to form No. 09/KK-TNCN, and annexes, made according to forms No. 09A/PL-TNCN and No. 09C/PL-TNCN (in case of registering for family circumstance-based reduction), provided in this Circular.

- Copies of documents evidencing tax amounts already withheld or temporarily paid in the year. Individuals shall sign these documents to commit that they shall take responsibility therefor.

- For individuals who receive incomes from international organizations, embassies or consulates or receive incomes from foreign countries, documents evidencing or certifying of the paid tax amounts issued by overseas income payers, provided in a written certification of annual income made according to form No. 20/TXN-TNCN provided in this Circular, are required.

b.3/ Places of submission of tax finalization dossiers

b.3.1/ Individuals earning incomes from salary and wage from a single source shall submit tax finalization dossiers to the tax agency managing the income payer.

b.3.2/ For individuals earning incomes from salary and wage from two or more sources:

- + In case an individual has made reduction for him/herself at an income payer, he/she shall submit the tax finalization dossier to the tax agency managing such income payer.

- + In case an individual has not yet made reduction for him/herself at any income payer, he/she shall submit the tax finalization dossier to the tax agency of the locality in which he/she resides.

b.3.3/ Individuals earning incomes from salary and wage and directly declaring tax on a monthly basis shall submit tax finalization dossiers to provincial-level Tax Departments to which they submit monthly tax declaration dossiers.

Example: Mr. A is the head of a foreign company's representative office in Vietnam and receives incomes from overseas. From January 1, 2010, to September 15, 2010, he worked in Hanoi and made monthly tax declaration with the Tax Department of Hanoi city. From October 1, 2010, he moved to work in Binh Duong province and made monthly tax declaration to the Tax Department of Binh Duong province. In this case, Mr. A shall submit his 2010 tax finalization dossier to the Tax Department of Binh Duong province.

7. Tax declaration by resident individuals earning incomes from both business operations and salary and wage

a/ Declaration of temporarily paid tax: Individuals earning incomes from both business operations and salary and wage shall declare and temporarily pay PIT for income from business operations under the guidance in Clause 5 of this Article.

b/ Tax finalization declaration

b.1/ A tax finalization dossier comprises:

b.1.1/ A tax finalization return, made according to form No. 09/KK-TNCN, and annexes, made according to forms No. 09A/PL-TNCN; No. 09B/PL-TNCN and No. 09C/PL-TNCN provided in this Circular.

b.1.2/ Copies of documents evidencing tax amounts already withheld or temporarily paid in the year. The taxpayer shall sign these copies to commit that they shall take responsibility therefor.

b.2/ Tax finalization dossiers shall be submitted to district-level Tax Departments of the localities in which individuals conduct business operations. Individuals who conduct business operations in many localities shall submit tax finalization dossiers to the district-level Tax Department managing their head offices which have 10-digit tax identification numbers.

8. Tax declaration for incomes from real estate transfer

Individuals earning incomes from real estate transfer, regardless of whether they are liable to tax or not, shall make PIT declaration dossiers for submission together with dossiers of transfer of real estate ownership or use rights.

a/ A tax declaration dossier comprises:

- A PIT declaration return applicable to individuals transferring real estate, made according to form No. 11/KK-TNCN provided in this Circular.

- Copies of certificates of the right to use land or to own houses or other assets attached to land. Individuals shall sign these copies to commit that they shall take responsibility therefor.

- The real estate transfer contract.

- Individuals who request application of the tax rate of 25% of incomes from real estate transfer shall submit copies of valid documents to serve as proof of relevant expenses according to regulations.

- For cases of real estate transfer which are eligible for PIT exemption, there must be papers evidencing the eligibility for tax exemption according to regulations.

b/ Places of submission of tax declaration dossiers: Individuals shall submit tax declaration dossiers together with real estate transfer dossiers at the one-stop-shop section. In localities which have not yet applied the one-stop-shop mechanism, dossiers shall be submitted directly to the land use right registration offices of the locality where exists the transferred real estate.

c/ Tax payment time limit: Within 30 days after taxpayers receive a tax notice, made according to form No. 11 - 1/TB-TNCN provided in this Circular.

9. Tax declaration for incomes from capital transfer

Individuals earning incomes from capital transfer (except incomes from securities transfer) shall declare tax and submit tax returns to tax agencies as follows:

a/ A tax declaration dossier comprises:

- A PIT return, applicable to individuals earning incomes from capital transfer, made according to form No. 12/KK-TNCN provided in this Circular.

- Copies of capital transfer contracts.

- Copies of documents evidencing expenses related to the determination of incomes from capital transfer. Individuals shall sign these copies to commit that they shall take responsibility therefor.

b/ Places of submission of tax declaration dossiers: Tax agencies managing business establishments involved in the capital transfer.

c/ Tax payment time limit: Within 30 days after receiving a tax notice, made according to form No. 12-1/TB-TNCN provided in this Circular.

10. Tax declaration by individuals earning incomes from securities transfer

a/ An individual engaged in securities transfer who has made registration for payment of PIT according to the whole income tariff at the tax rate of 20% on earned incomes according to form No. 15/DK-TNCN provided in this Circular shall make tax finalization in the following cases:

- The payable tax amount calculated at the tax rate of 20% is higher than the temporarily withheld tax amount calculated at the tax rate of 0.1% in the year.
- The taxpayer requests tax refund or clearing of the overpaid tax amount against the payable tax amount of the subsequent year.

b/ A tax finalization dossier comprises:

- A tax finalization return, made according to form No. 13/KK-TNCN provided in this Circular.
- A detailed list of securities transferred in the year, made according to form No. 13/BK-TNCN provided in this Circular.
- Copies of invoices and documents evidencing other expenses related to securities transfer. Individuals shall sign these copies to commit that they shall take responsibility therefor.
- Copies of documents evidencing tax amounts withheld in the year. Individuals shall sign these copies to commit that they shall take responsibility therefor.

c/ Tax finalization dossiers shall be submitted to tax agencies managing securities companies with which taxpayers registered their transactions by the time of finalization.

11. Tax declaration for incomes from inheritance or gifts

Individuals earning incomes from inheritance or gifts shall declare tax upon each time of earning incomes from inheritance or gifts. Particularly for inheritance or gift being real estate, tax declaration shall be made under Clause 5 of this Article.

a/ A tax declaration dossier comprises:

- A PIT return on incomes from inheritance or gifts, made according to form No. 14/KK-TNCN provided in this Circular.
- Copies of legal papers evidencing the right to receive inheritance or gifts. Taxpayers shall sign these copies to commit that they shall take responsibility therefor.

b/ Places of submission of tax declaration dossiers: District-level Tax Departments of the localities in which inheritance or gift recipients reside.

c/ Tax payment time limit: Within 30 days after receiving a tax notice, made according to form No. 14-1/TB-TNCN provided in this Circular.

12. Tax declaration by resident individuals earning incomes overseas

a/ A tax declaration dossier comprises:

- + A tax return, made according to form No. 19/KK-TNCN provided in this Circular for taxable incomes earned overseas from capital transfer, copyright royalty, commercial franchise or prize winning;
- + A tax return, made according to relevant forms applicable to incomes earned in Vietnam from real estate or securities transfer and receipt of inheritance or gifts.

In addition to the above the return, the taxpayer shall enclose documents on payment of incomes and documents evidencing overseas tax payment to serve as a basis for the determination of incomes and PIT amounts already paid overseas.

b/ The time limit for tax declaration is 10 days after the date of generating or receiving incomes. If the income earner is staying overseas by the time of generating or receiving incomes, the time limit for tax declaration is 10 days after he/she returns to Vietnam.

c/ The place of submission of tax declaration dossiers is provincial-level Tax Departments of the localities in which individuals reside.

13. Tax declaration in case of receiving dividends in stocks, bonus stocks or an increase in contributed capital:

Upon receiving dividends in stocks, bonus stocks or an increase in contributed capital, individuals are not yet required to pay PIT. When transferring such stocks or contributed capital, they shall pay PIT for incomes from securities transfer or capital investment.

- A tax declaration dossier comprises:

A tax return, made according to form No. 24/KK-TNCN provided in this Circular.

b/ Places of submission of dossiers: Tax agencies directly managing business establishments involved in the capital transfer.

c/ Tax payment time limit: The time when individuals transfer shares, bonus shares or increased capital portions.

14. In case foreigners earning taxable incomes are eligible for tax exemption or reduction under double taxation avoidance agreements between Vietnam and other countries or territories, the following procedures apply:

a/ For individuals being residents of foreign countries:

Fifteen days before performing contracts with Vietnamese organizations or individuals, foreigners shall send dossiers of notification of eligibility for tax exemption or reduction under agreements to Vietnamese contracting or income-paying parties. A dossier comprises:

- A notice of eligibility for tax exemption or reduction under an agreement, made according to form No. 01/HTQT provided in this Circular;

A foreigner who, in force majeure circumstances, is unable to provide sufficient information or documents as required for such notice should give detailed explanation therefor.

- The original certificate of residence granted by a tax agency of the country of residence in the year preceding the year of notification of eligibility for tax exemption or reduction under the agreement, which has been consularly legalized;

- A copy of the labor contract with the overseas employer (if any). Individuals shall sign this copy to commit that they shall take responsibility therefor;

- A copy of the labor contract with the Vietnam-based employer. Individuals shall sign this copy to commit that they shall take responsibility therefor;

- A copy of the passport used for entry into or exit from Vietnam. Individuals shall sign this copy to commit that they shall take responsibility therefor.

If taxpayers have notified their eligibility for tax exemption or reduction under agreement in the previous year, in subsequent year, they are required to submit only copies of labor contracts newly signed with organizations or individuals in Vietnam or foreign countries (if any).

Fifteen days before the expiration of the contract for working in Vietnam or the end of the tax year, whichever is earlier, an individual shall send a certificate of residence of that tax year and a copy of his/her passport to the Vietnamese contracting or income-paying party.

A foreigner who cannot obtain a certificate of residence by that time is obliged to commit to send this certificate in the first quarter of the following year.

A person who is a resident of a Country or territory which has signed a double taxation avoidance agreement with Vietnam but does not grant certificates of residence shall provide a copy of his/her passport in replacement of the certificate of residence.

In case of impossibility to determine the country or territory of which a person is a resident by the time of submission of a copy of his/her passport, such person shall commit to sending a copy of his/her passport within the first quarter of the subsequent year.

b/ For foreigners being residents of Vietnam:

For foreigners being residents of Vietnam who are entitled to tax exemption or reduction for incomes provided in regulations on incomes from governmental services, incomes of students job trainees, teachers, professors and researchers, the following procedures apply:

Fifteen days before performing contracts with Vietnamese organizations or individuals, foreigners shall send dossiers of notification of eligibility for tax exemption or reduction to Vietnamese contracting or income-paying parties. A dossier comprises:

- A notice of eligibility for tax exemption or reduction under an agreement, made according to form No. 01/HTQT provided in this Circular;

A foreigner who, in force majeure circumstances, is unable to provide sufficient information or documents as required for such notice shall give detailed explanation therefor.

- The original certificate of residence granted by a tax agency of the country of residence in the year preceding the year of notification of eligibility for tax exemption or reduction under the agreement, which has been consularly legalized;

- A certificate granted by the agency representing Vietnam in income-generating operations stated in the notice on tax exemption under the agreement.

A person who is a resident of a country and territory which has signed a double taxation avoidance agreement with Vietnam but does not grant certificates of residence shall supply a copy of his/her passport in replacement of the certificate of residence and commit to take responsibility for the non-grant of certificates of residence as stated in the notice of eligibility for tax exemption or reduction under agreement.

In case of impossibility to identify the country or territory of which a person is a resident by the time of submission of a copy of his/her passport, such person shall commit to sending a copy of his/her passport within the first quarter of the subsequent year.

c/ For athletes and artists being residents of foreign countries and earning incomes from cultural performance, sports or physical training activities in Vietnam:

Fifteen days before performing contracts (or cultural or sport or physical training exchange programs) with Vietnamese organizations or individuals, foreigners shall send to Vietnamese contracting or income-paying parties dossiers of notification of eligibility for tax exemption or reduction under agreements. A dossier comprises:

- A notice of eligibility for tax exemption or reduction under an agreement, made according to form No. 01/HTQT provided in this Circular;

A foreigner who, in force majeure circumstances, is unable to provide sufficient information or documents as required for such notice shall give detailed explanation therefor.

- The original certificate of residence granted by a tax agency of the country of residence in the year preceding the year of notification of eligibility for tax exemption or reduction under the agreement, which has been consularly legalized;

- A certificate granted by the agency representing Vietnam in the cultural or sport or physical training exchange program of activities and incomes stated in the notice of tax exemption under the agreement.

Fifteen days before the expiration of the contract for working in Vietnam (or the cultural or sport or physical training exchange program) or the end of the tax year, whichever is earlier, a foreigner shall send a certificate of residence of that tax year to the Vietnamese contracting or income-paying party.

A foreigner who cannot obtain a certificate of residence by that time shall commit to sending this certificate in the first quarter of the following year.

A taxpayer who has not yet signed labor contracts with overseas or Vietnam-based employers may submit to tax agencies an appointment letter or papers which are equivalent to or as valid as labor contracts.

A foreigner who is a resident of a country or territory which has signed a tax agreement with Vietnam but does not grant certificates of residence shall provide a copy of his/her passport in replacement of the certificate of residence and commit to take responsibility for the non-grant of certificates of residence as stated in the notice of eligibility for tax exemption or reduction under an agreement.

In case of impossibility to identify the country or territory of which an individual is a resident by the time of submission of a copy of his/her passport, such individual shall commit to sending a copy of his/her passport within the first quarter of the subsequent year.

15. In case individuals who register their dependents for family circumstance-based reductions; income payers who request for the issuance of PIT withholding documents; individuals who declare persons they directly nurture, disabled people without working capacity and individuals without labor contracts of a term of 3 months or more commit that their taxable incomes are lower than the tax threshold, they shall comply with regulations and make declaration according to forms No. 16/DK-TNCN, No. 17/TNCN, 21a/XN-TNCN, 21b/XN-TNCN, 22/XN-TNCN and 23/CK-TNCN, provided in this Circular.

Article 15. Declaration of license tax

1. License tax payers shall submit license tax returns to tax agencies directly managing them.

A taxpayer that has subsidiaries (branches, stores, etc.) conducting business in the same province or city shall submit license tax returns of these subsidiaries to the tax agency directly managing it.

In case a taxpayer has subsidiaries located in provinces or cities other than the locality in which it is headquartered, these subsidiaries shall submit their license tax returns to their managing tax agencies.

A taxpayer that conducts business operations without a fixed place of business, such as shipment goods trading or mobile business and a household engaged in construction, transportation or other self-employed operations submit its license tax declaration dossier to the district-level Tax Department managing the locality in which it conducts business operations or resides.

2. License tax is declared and paid on a yearly basis as follows:

- When a taxpayer commences its production or business operations, it shall make one-time license tax declaration no later than the last day of the month of commencement of production or business operations.

In case a taxpayer has established a new business establishment but not yet commenced production or business operations, it shall make license tax declaration within 30 days after being granted a business registration certificate and tax registration certificate or an enterprise registration certificate.

A taxpayer currently conducting business operations that has declared and paid license tax is not required to submit license tax registration dossiers for subsequent years if there is no change in elements which affect the payable license tax amount in these years.

- If there is any change in elements related to tax bases which leads to a change in the payable license tax amount of the subsequent year, the taxpayer is required to submit a license tax declaration dossier for the subsequent year no later than December 31 of the year when such change occurs.

3. A license tax declaration dossier is a license tax return made according to form No. 01/MBAI provided in this Circular.

Article 16. Declaration of taxes and state budget revenues related to land use

1. Declaration of house and land tax and determination of payable tax amounts:

a/ Taxpayers shall make a house and land tax declaration dossier for each land plot and submit it to the district-level Tax Department of the locality where exists the land plot liable to house and land tax.

b/ Deadlines for submission of house and land tax declaration dossiers:

- For organizations, the deadline for submission of housing and land tax declaration dossiers is January 30 every year.

- Land-using households and individuals that have made house and land tax declaration are not required to submit house and land tax declaration dossiers for the subsequent year.

- A taxpayer whose land area liable to house and land tax increases or decreases in a year shall submit a tax declaration dossier within 10 days after the land area increases or decreases.

- A taxpayer eligible for house and land tax exemption or reduction shall still submit a house and land tax declaration dossier together with documents related to the determination of tax exemption or reduction for the first year and the year following the year of expiration of the tax exemption or reduction duration.

c/ A house and land tax declaration dossier is:

- The house and land tax return made according to form No. 01/NDAT provided in this Circular, for organizations; or

- The house and land tax return made according to form No. 02/NDAT provided in this Circular, for households and individuals.

d/ Determination of payable house and land tax amounts:

- Organizations shall determine by themselves their payable tax amounts in their house and land tax returns.

- For house and land tax of a household or individual: the district-level Tax Department shall, based on the tax register of the previous year or the house and land tax return of the year, calculate the tax amount and issue a notice of house and land tax payment according to form No. 03/NDAT provided in this Circular to the taxpayer.

- The payable house and land tax amount of a year shall be paid twice, with each payment equal to 50% of the payable tax amount.

A taxpayer who wishes to pay house and land tax in lump-sum shall pay it by the deadline for the first tax payment of the year.

e/ Deadlines for tax agencies to issue notices of house and land tax payment to households and individuals as follows:

- April 30 for notices of the first payment of house and land tax in the year; the deadline for tax payment is May 31.

- September 30 for notices of the second payment of house and land tax in the year; the deadline for tax payment is October 31.

- After issuing tax notices, if tax agencies receive additional tax declaration dossiers, they shall issue tax payment notices according to additional declaration dossiers within 10 days from the date of receiving these dossiers.

- In case the payable house and land tax amount in a year is under VND 100,000, tax agencies shall notify the payable tax amount for the whole year by the deadline for sending notices of the first payment in the year.

2. Declaration of agricultural land use tax

a/ Agricultural land use taxpayers shall submit agricultural land use tax declaration dossiers to district-level Tax Departments of the localities which exists land liable to agricultural land use tax (or commune-level People's Committees which compile tax registers).

b/ Deadlines for submission of agricultural land use tax declaration dossiers:

- For organizations, the deadline for submission of agricultural land use tax declaration dossiers is January 30.

- Households and individuals using land which has been liable to tax and recorded in tax agencies' tax registers are not required to submit agricultural land use tax declaration dossiers for the subsequent year.

- The time limit for submission of dossiers of declaration of agricultural land use tax for land areas under perennial crops to be harvested only once is 10 days from the date of harvest.

- A taxpayer whose land area liable to agricultural land use tax increases or decreases shall submit tax declaration dossiers within 10 days after the occurrence of such increase or decrease.

- A taxpayer who is eligible for agricultural land use tax exemption or reduction shall submit a tax declaration dossier together with documents related to the determination of tax exemption or reduction for the first year and the year following the year of expiration of the tax exemption or reduction duration.

c/ An agricultural land use tax declaration dossier is:

- The agricultural land use tax return made according to form No. 01/SDNN provided in this Circular, for organizations;

- The agricultural land use tax return made according to form No. 02/SDNN provided in this Circular, for households and individuals; or

- The agricultural land use tax return made according to form No. 03/SDNN provided in this Circular, for tax declaration for land areas under perennial crops to be harvested only once.

d/ Determination of payable agricultural land use tax amounts:

- Organizations shall determine by themselves their payable agricultural land use tax amounts in their agricultural land use tax returns.

- For agricultural land use tax of a household or individual: the district-level Tax Department shall, based on the tax register of the previous year or agricultural land use tax return of the year, calculate the tax amount and issue to the taxpayer a notice of agricultural land use tax payment according to form No. 04/SDNN provided in this Circular provided in this Circular.

- For agricultural land use tax on land areas under perennial crops to be harvested only once, taxpayers shall determine by themselves their payable agricultural land use tax amounts, if taxpayers cannot determine their payable tax amounts, tax agencies shall assess payable tax amounts and notify them to taxpayers.

e/ Deadlines for tax agencies to issue notices of agricultural land use tax payment to households and individuals:

- April 30 for notices of the first payment of agricultural land use tax payment in the year; the deadline for tax payment is May 31.

- September 30 for notices of the second payment of agricultural land use tax payment in the year; the deadline for tax payment is October 30.

- After issuing tax notices, if tax agencies receive additional tax declaration dossiers, they shall issue tax payment notices according to additional declaration dossiers within 10 days from the date of receiving these dossiers.

For localities in which the agricultural crop harvest time does not coincide with the tax payment deadlines specified at this Point, district-level Tax Departments may set other deadlines for tax payment notification and tax payment which must not be over 30 days later than the deadlines specified at this Point. A taxpayer who wishes to pay the agricultural land use tax amount in lump-sum for the whole year shall pay it by the deadline for the first tax payment in the year.

3. Declaration of land and water surface rents and notices of land and water surface rent payment:

a/ Land and water surface lessees shall make land and water surface rent declarations according to form No. 01/TMDN provided in this Circular and submit them together with land and water surface rent dossiers to land use right registration offices or natural resources and environment agencies. In localities which have not yet applied the one-stop-shop mechanism, taxpayers shall submit land and water surface rent declaration dossiers to tax agencies of the localities in which exists the rented land or water surface.

The time limit for submission of land and water surface rent declaration dossiers is 30 days after the issuance of land or water surface rent decisions.

Land and water surface lessees who have submitted land and water surface rent declaration dossiers or paid rents according to tax agencies' notices are not required to submit land and water surface rent declaration dossiers.

Upon occurrence of a change in the area stated in a land and water surface lease contract, in land location or in entities eligible for land rent exemption or reduction, leading to a change in the payable rent amount, the land and water surface lessee shall make and submit a new land and water surface rent payment dossier and submit it to a tax agency within 30 days after a competent authority issues a document to acknowledge this change.

b/ Notification of land or water surface rent payment

b. 1/ For a new land and water surface lessee: The land use right registration office or natural resources and environment agency shall transfer the land and water surface rent declaration dossier to the tax agency directly managing the taxpayer. Within 5 working days after receiving a valid land and water surface rent declaration dossier, the tax agency shall determine the payable land and water surface rent and send a notice of land rent payment, made according to form No. 02/TMDN provided in this Circular, through the land use right registration office or natural resources and environment agency to the land and water surface lessee for information and payment of land and water surface rent into the state budget.

b.2/ For taxpayers who pay land or water surface rent on an annual basis from the second year on, tax agencies shall send notices of land rent payment to them by the following deadlines:

- April 30 for notices of the first payment of land and water surface rent in the year; the rent payment deadline is May 31.

- September 30 for notices of the second payment of land and water surface rent in the year; the rent payment deadline is October 30.

In case land and water surface rent rates are adjusted by a competent agency, tax agencies shall re-determine payable land and water surface rents and notify them to concerned taxpayers.

A land and water surface lessee who wishes to pay land and water surface rent in lump-sum for the whole year shall pay it by the deadline for the first payment in the year.

In case land and water surface rent is paid in lump-sum for the whole lease period, taxpayers shall fully pay rent into the state budget within 30 days after the receipt of rent payment notices.

4. Declaration of land use levy:

a/ Land users shall make land use levy declarations according to form No. 01/TSDĐ provided in this Circular and submit them Together with documents related to the determination of financial obligations according to law to land use right registration offices or natural resources and environment agencies. In localities which have not yet applied the one-stop-shop mechanism, taxpayers shall submit land use levy declaration dossiers to tax agencies of the localities in which exists the land in use.

b/ Land use rights registration offices or natural resources and environment agencies shall transfer land use levy declaration dossiers of land users to district-level Tax Departments of localities in which exist land areas with land use rights certificates.

c/ Within 3 working days after receiving complete land use levy declaration dossiers, tax agencies shall determine payable land use levy amounts and send notices of land use levy payment, made according to form No. 02/TSDĐ provided in this Circular, to land use rights registration offices or natural resources and environment agencies for delivery to land users.

d/ In case of land use right auctions, taxpayers shall pay land use levy according to the law on auction.

e/ The time limit for payment of land use levy is 30 days after taxpayers receive tax payment notices.

Article 17. Declaration of charges and fees 1. Declaration of registration fee:

a/ Responsibility to submit registration fee declaration dossiers and places of submission of registration fee declaration dossiers:

Organizations and individuals, that have assets liable to registration fee shall declare registration fee and submit registration fee declaration dossiers to tax agencies within the time limit prescribed by the law on registration fee.

- Dossiers of declaration of registration fee for houses and land shall be submitted to land use right registration offices or natural resource and environment agencies of the localities in which exist houses or land. In localities which have not yet applied the one-stop-shop mechanism, house and land registration fee declaration dossiers shall be submitted to district-level Tax Departments of the localities in which exist houses or land.

- Dossiers of declaration of registration fee for other assets, such as means of transport, guns, etc., shall be submitted to district-level Tax Departments in which the ownership or use right of these assets is registered.

b/ A house and land registration fee declaration dossier comprises:

- A registration fee return, made according to form No. 01/LPTB provided in this Circular;

- Papers evidencing the lawful origin of the house and land;

- Papers proving that the property (or property owner) is not liable to or is exempt from registration fee (if any).

c/ A dossier of declaration of registration fee for other assets (except for fishing or inland waterway ships and seagoing vessels without original dossiers or built in Vietnam defined at Point e, Clause 1 of this Article) comprises:

- A registration fee return, made according to form No. 02/LPTB provided in this Circular;

- A lawful asset purchase invoice (in case of purchase and sale, transfer or exchange of assets in which the asset deliverer is a production or business organization or individual); or sale invoice of confiscated goods (in case of purchase of confiscated goods); or decision on assignment, transfer or liquidation of assets (in case a state administrative and non-business agency, state judicial agency, administrative and non-business agency of a political organization, socio-political organization, social organization or socio-professional organization not engaged in production or business operations assigns assets to another organization or individual); or paper on asset assignment signed between the asset assignor and the asset assignee certified by a state notary

public or a competent state agency (in case of asset assignment between individuals or natural persons not engaged in production or business operations).

- Papers proving that the asset (or the asset owner) is not liable to or is exempt from registration fee (if any).

d/ Papers proving that the asset or the asset owner is not liable to or is exempt from registration fee in some cases are specified as follows:

The papers defined at this Point are originals or notarized or certified copies (except cases subject to specific regulations).

d.1/ For religious institutions and worship institutions which are recognized by the State or licensed to use land for public purposes:

- Papers proving that religious institutions' operation is licensed by the State;

- A decision on the grant of a land use right certificate or a land assignment decision.

d.2/ For assets exclusively used for national defense or security: Copies (appended with agencies' seal for certification) of a competent authority's decision approving the assignment or procurement of assets exclusively used for national defense or security; or a written certification of a public security or national defense agency's competent authority that these houses, land or assets are exclusively used for national defense or security purposes.

d.3/ For houses and land received as compensations:

- A decision on the recovery of the old house and land and a decision on the allocation of a new house and land, issued by a competent state agency.

- A certificate of land use rights or house ownership rights of the land user or house owner whose land is recovered, granted by a competent agency without any note on owed financial obligations;

In case a house owner or land user has fully paid the registration fee but not yet been granted or have lost his/her house ownership or land use right certificate, he/she shall produce the receipt of payment of registration fee for house or land which is recovered by the State (or the written certification of house and land dossier management agency); or a decision on registration fee exemption, issued by a competent state agency.

- Lawful house or land sale/purchase or transfer invoices or contracts as prescribed by law, enclosed with original receipts of compensation or support from house and land recovering agencies (for case in which compensation and support are paid in cash).

Tax officers, after allowing the non-collection of registration fee for houses and land received as compensations or purchased with compensation money shall write: "Registration fee is not collected for declaration No...." and sign and affix a seal on the upper left corner of the compensation money receipt.

d.4/ For cases of renewal of asset ownership or use right certificates, granted documents proving the asset ownership or use rights are required.

d.5/ Joint-stock companies making registration fee declaration for assets of which the ownership or use rights used to belong to equitized enterprises shall provide to tax agencies the following dossiers:

- A copy (affixed with the company' seal as certification) of a competent state agency's decision on the transformation of an enterprise into a joint-stock company.

- A list of assets transferred from the enterprise into the joint-stock company (for enterprises subject to partial equitization, a decision on the transfer of the enterprise's assets is required), inscribing with the names of assets for which procedures for registration fee declaration are carried out.

d.6/ For assets for which the registration fee has been paid and which are transferred or divided to capital contributors:

- Papers proving that the person having the asset is a member of that organization (the organization establishment decision or operation charter, inscribing with the names of members who contribute assets as capital or papers proving the contribution of assets as capital or the business registration certificate, inscribing with the names of members who contribute assets as capital and papers proving the contribution of assets as capital);
- A decision on dissolution, division, splitting, consolidation or merger of the organization or the division of assets to capital contributors.
- A registration fee receipt (for cases liable to registration fee) or registration fee return, in which the part reserved for certification by tax agencies states: not liable to registration fee (for cases which are not liable to registration fee under law), handed over by the transferor to the transferee; or an asset ownership or use right certificate under the name of the person who contributes assets as capital (in case registration fee is declared by organizations receiving capital contribution) or the name of the dissolved organization (in case registration fee is declared by a member who is divided assets).
- A business cooperation contract (for case of capital contribution) or a decision on division or transfer of assets in the form of recording increase or decrease in contributed capital, issued by a competent authority (for cases of transferring assets among member units 01 within a budget-estimating unit).

d.7/ For gratitude houses or houses built with charitable or humanitarian money: Papers on transfer of land use rights and house ownership rights between the donor and the donee.

d.8/ For financial leasing assets:

- A financial leasing contract signed between the asset lessor and the lessee under the law on financial leasing.
- A minutes on liquidation of the financial leasing contract between the asset lessor and lessee.
- The asset ownership right certificate of the financial leasing company.

d.9/ Spare hulls, frames and complete engine fittings subject to re-registration for which the warranty period has not yet expired:

- The warranty certificate.
- The ex-warehousing slip of the spare asset, enclosed with the paper on the recovery of the old asset issued by the seller to the buyer.

d.10/ When necessary to prove a family bond, any of the following papers may be used: household registration book, marriage certificate, birth certificate or child adoption recognition decision issued by a competent state agency according to law.

e/ A dossier of declaration of registration fee for fishing ships and boats, inland waterway ships and seagoing vessels without original dossiers or newly built in Vietnam comprises:

- A registration fee return, made according to form No. 02/LPTB provided in this Circular;
- A competent agency's notice or certification of the ship or boat's eligibility for ownership registration (for securing the interests of those that have paid registration fees but are not granted an ownership or use right registration certificate by a competent state agency).

f/ District-level Tax Departments shall issue notices of registration fee payment within 3 working days (for houses and land) or 1 working day (for ships, boats, cars, motorcycles, hunting rifles and sports guns) after receiving complete and valid dossiers. They shall return invalid dossiers to land use rights registration offices or natural resources and environment agencies (for house and land registration fee dossiers), or to asset owners (for dossiers of registration fee for other assets) within the time limit specified at this Point.

Notices of payment of registration fee for houses and land shall be made according to form No. 01-1/LPTB provided in this Circular. Notification of payment of registration fee for other assets shall be written on registration fee returns for those assets.

g/ The time limit for registration fee payment is 30 days after taxpayers receive payment notices.

2. Declaration of petrol and oil charge:

a/ Petrol and oil charge payers shall submit petrol and oil charge declaration dossiers to tax agencies directly managing them.

b/ Petrol and oil charge declaration is made on a monthly basis.

c/ Petrol and oil charge declaration dossiers are petrol and oil charge returns made according to form No. 01/PHXD provided in this Circular.

3. Declaration of environmental protection mineral for mineral exploitation:

a/ Organizations and individuals engaged in mineral exploitation shall submit environmental protection charge declaration dossiers to their managing tax agencies. If organizations collecting and purchasing minerals have registered for payment of environmental protection charge on behalf of exploiters, they shall submit environmental protection charge declaration dossiers to tax agencies directly managing them.

b/ Environmental protection charge is declared on a monthly basis and finalized on an annual basis.

Declaration for finalization of environmental protection charge for mineral exploitation include annual finalization declaration and declaration for finalization up to the time of termination of mineral exploitation, mineral purchase or business operations, expiration of contracts, transformation of enterprise ownership or enterprise reorganization.

c/ A dossier of monthly environmental protection charge declaration is the environmental protection charge return, made according to form No. 01/BVMT provided in this Circular.

d/ A dossier of environmental protection charge finalization is the environmental protection charge finalization return, made according to form No. 02/BVMT provided in this Circular.

4. Declaration of other charges and fees belonging to the state budget:

a/ Agencies and organizations tasked to collect charges and fees belonging to the state budget shall submit charge and fee declaration dossiers to tax agencies directly managing them.

b/ Charges and fees belonging to the state budget is declared on a monthly basis and finalized on an annual basis.

c/ A dossier of monthly declaration of charges and fees belonging to the state budget is the charge and fee return made according to form No. 01/PHLP provided in this Circular.

d/ A dossier of declaration for annual finalization of charges and fees belonging to the state budget is the charge and fee return made according to form No. 02/PHLP provided in this Circular.

Article 18. Declaration of value-added tax and enterprise income tax of foreign contractors and foreign sub-contractors

- Foreign contractors and foreign sub-contractors being business organizations shall declare value-added tax (VAT) and enterprise income tax (EIT) under this Article..

Foreign contractors and foreign subcontractors being business individuals shall declare VAT under this Article and declare PIT under Article 14 of this Circular.

1. Tax declaration in case of VAT payment by the tax withholding method and EIT payment on the basis of declaring turnover and expenses for determination of EIT-liable incomes

- Within 20 working days after signing a contract, the Vietnamese party signing the contract with a foreign contractor or a foreign contractor signing the contract with a foreign sub-contractor shall notify in writing tax agencies of the foreign contractor's or sub-contractor's payment of VAT by the withholding method and payment of EIT on the basis of declaring turnover and expenses for determination of EIT-liable incomes.

- When being granted a tax registration certificate by tax agencies, a foreign contractor or foreign sub-contractor shall send a copy of this certificate, bearing its certification, to the Vietnamese party or foreign contractor. In case of arising a payment to the foreign contractor while the Vietnamese party has not yet received a copy of the foreign contractor's tax registration certificate, the Vietnamese party shall temporarily withhold and pay the payable VAT and EIT amounts for the foreign contractor under the Clause 2 of this Article.

a/ VAT declaration

Foreign contractors shall declare VAT under Article 10 of this Circular.

b/ EIT declaration

Foreign contractors shall declare EIT under Article 11 of this Circular.

c/ Dossiers of notification of tax exemption or reduction under agreements

A foreign contractor eligible for tax exemption or reduction under a double taxation avoidance agreement between Vietnam and another country or territory shall additionally carry out the following procedures:

When temporarily calculating EIT, the taxpayer shall send a dossier of notification of eligibility for tax exemption or reduction under an agreement to the tax agency together with a quarterly EIT return made according to form No. 01A/TNDN or No. 01B/TNDN provided in this Circular. A dossier comprises:

- A notice of eligibility for tax exemption or reduction under an agreement, made according to form No. 01/HTQT provided in this Circular;

A taxpayer who, in force majeure circumstances, is unable to provide sufficient information or documents as required for this notice shall make detailed explanation therefor.

- The original certificate of residence granted by a tax agency of the country of residence in the year preceding the year of notification of eligibility for tax exemption or reduction under the agreement, which has been consularly legalized;

- Copies of contracts signed with domestic or overseas organizations and individuals, bearing the taxpayer's certification.

In case a taxpayer has already notified its eligibility for tax exemption or reduction under an agreement for a year, it is required to send only copies of contracts newly signed with domestic and overseas organizations and individuals (if any) for subsequent years.

When making EIT finalization declaration, the taxpayer shall send a certificate of residence for that tax year, which has been consularly legalized, and a written certification of performance of contracts, made by contracting parties, together with a EIT finalization return, made according to form No. 03/TNDN provided in this Circular.

d/ In case a foreign contractor or foreign subcontractor performing tax obligations under Clause 1 of this Article signs a new contract for contractor/sub-contractor operation in Vietnam while its current contract has not yet expired, it shall continue declaring and paying tax under Clause 1 of this Article.

In case the foreign contractor or foreign subcontractor signs a new contract for contractor/ sub-contractor operation in Vietnam while its current contract has expired, it shall perform tax obligations for the new contract under Clause 1 of this Circular on the condition that it is still allowed to declare VAT by the withholding method and declare EIT on the basis of declaring turnover and expenses for determination of EIT-liable incomes.

In case a foreign contractor for foreign subcontractor performs many contracts simultaneously, if it is qualified for making tax declaration under Clause 1 of this Article for any of these contracts, it shall declare tax under Clause 1 of this Article for all remaining contracts (including unqualified ones).

2. Tax declaration in case of payment of VAT calculated directly on the added value and payment of EIT on a percentage of turnover

- In case of payment of VAT calculated directly on the added value and payment of EIT on a percentage of turnover, tax shall be declared for each time of payment to foreign contractors and finalized upon expiration of contracts for contractor operations.

If a Vietnamese party makes many payments to a foreign contractor in a month, it may register for monthly tax declaration instead of declaration for each time of payment to the foreign contractor.

- Vietnamese parties signing contracts with foreign contractors shall withhold and pay tax for foreign contractors and submit tax declaration dossiers and tax finalization declaration dossiers to tax agencies directly managing them.

For construction and installation contracts, tax declaration dossiers and tax finalization declaration dossiers shall be submitted to tax agencies of localities in which construction and installation activities are carried out.

- Vietnamese parties shall make tax registration with tax agencies directly managing them in order to pay tax on behalf of foreign contractors or sub-contractors within 20 working days after signing contracts.

a/ Tax declaration for business operations and incomes of other kinds

a.1/ A tax declaration dossier comprises:

- A tax return, made according to form No. 01/NTNN provided in this Circular;
- A copy of the contract for contractor or sub-contractor operation, bearing the taxpayer's certification (for the first-time tax declaration for the contract);
- A copy of the business license or the practice license, bearing the taxpayer's certification.

a.2/ Dossiers of notification of tax exemption or reduction under agreements:

For a foreign contractor eligible for tax exemption or reduction under a double taxation avoidance agreement between Vietnam and another country or territory, the following procedures shall be additionally carried out:

Fifteen days before the tax declaration deadline, the Vietnamese party that signs a contract with or pays income to the foreign contractor shall send to the tax agency a dossier of notification of eligibility for tax exemption or reduction under agreement, comprising:

- A notice of eligibility for tax exemption or reduction under an agreement, made according to form No. 01/HTQT provided in this Circular;

A taxpayer who, in force majeure circumstances, is unable to supply sufficient information or documents as required for this notice shall make detailed explanation therefor.

- The original certificate of residence granted by a tax agency of the country of residence in the year preceding the year of notification of eligibility for tax exemption or reduction under the agreement, which has been consularly legalized;

- Copies of contracts signed with domestic or overseas organizations and bearing the taxpayer's certification.

+ For incomes from securities sale and purchase without securities sale and purchase contracts, the taxpayer shall submit certificates of stock or bond depository accounts, made according to

form No. 01/TNKDCK provided in this Circular and certified by the depository bank or securities company.

+ For incomes from capital transfer: Taxpayers shall additionally submit copies of capital transfer contracts, certified by the taxpayers, copies of investment certificates issued by Vietnamese companies to which foreign investors contribute capital and certified by the taxpayers.

In case a taxpayer has already notified its eligibility for tax exemption or reduction under an agreement for a year, it is required to send only copies of contracts newly signed with domestic and overseas organizations and individuals (if any) for subsequent years.

Fifteen days before the expiration of its contract for working in Vietnam or the end of the tax year, whichever is earlier, the foreign contractor shall send the certificate of residence of that tax year, which has been consularly legalized, and a copy of its passport to the Vietnamese contracting or income-paying party.

If no certificate of residence is available at that time, the taxpayer shall commit to sending this certificates, which have been consularly legalized, within the first quarter of the following year.

b/ Tax declaration for foreign airlines

Vietnam-based booking offices and agents of foreign airlines shall declare and pay EIT for their foreign airlines.

Tax declaration dossiers shall be submitted to tax agencies directly managing Vietnam-based booking offices and agents of foreign airlines.

EIT for foreign airlines shall be declared on a monthly basis.

b.1/ Tax declaration dossiers:

- A (ax return applicable to foreign airlines, made according to form No. 01/HKNN provided in this Circular.
- Copies of the contract for contractor or subcontractor operations, bearing the taxpayer's certification (for the first-time tax declaration for the contract);
- A copy of the business license or the practice license, bearing the taxpayer's certification.

b.2/ Dossiers of notification of tax exemption or reduction under agreements:

For a foreign airline eligible for tax exemption or reduction under a double taxation avoidance agreement between Vietnam and another country or territory, the following additional procedures shall be carried out:

Fifteen days prior to the first flight or the first tax period of the year, whichever is earlier, the Vietnam-based office of a foreign airline shall send to tax agencies a dossier of notification of eligibility for tax exemption or reduction under agreement, comprising:

+ A notice of eligibility for tax exemption or reduction under an agreement, made according to form No. 01/HTQT provided in this Circular;

A taxpayer who, in force majeure circumstances, is unable to supply sufficient information or documents as required for this notice shall make detailed explanation therefor.

+ The original certificate of residence granted by a tax agency of the country of residence in the year preceding the year of notification of eligibility for tax exemption or reduction under the agreement, which has been consularly legalized;

+ A copy of the permit for exploitation of the Vietnamese market (flight license) granted by the Civil Aviation Administration of Vietnam under the Law on Civil Aviation and certified by the taxpayer.

In case a taxpayer has already notified its eligibility for tax exemption or reduction under an agreement for a year, it is required to only send a copy of the permit for exploitation of the

Vietnamese market (flight license) granted by the Civil Aviation Administration of Vietnam for subsequent years.

Fifteen days before the expiration of a contract for working in Vietnam or the end of the tax year, whichever is earlier, the Vietnam-based office of a foreign airline shall send a certificate of residence of the tax year, which has been consularly legalized, and a list of international transportation incomes, made according to form No. 01-1/HKNN, applicable to cases of selling tickets in the Vietnamese market, or form No. 01-2/HKNN provided in this Circular, applicable to cases of booking swap or division, of the relevant tax year for use as a basis for tax agencies to apply EIT exemption or reduction for international transportation incomes of foreign airlines.

c/ Tax declaration applicable to foreign carriers

Organizations acting as shipping or forwarding agents for foreign carriers shall withhold and pay tax for foreign carriers.

Tax declaration dossiers of foreign carriers shall be submitted to tax agencies directly managing shipping or forwarding agents.

Foreign carriers' tax is declared on a monthly basis.

c.1/ A tax declaration dossier comprises:

- A tax return applicable to foreign carriers, made according to form No. 01/VTNN provided in this Circular;

- A list of international transportation incomes, made according to form No. 01-1/VTNN applicable to enterprises that directly operate means of transport, or form No. 01-2/VTNN, applicable to cases of booking swap or division, or a list of turnovers from container keeping, made according to form.No.01-3/VTNN provided in this Circular.

c.2/ Dossiers of notification of tax exemption or reduction under agreements:

In case a foreign carrier is eligible for tax exemption or reduction under a double taxation avoidance agreement between Vietnam and another country or territory, the following procedures shall be additionally carried out:

When submitting the tax return for the first tax period of the year to tax agencies, the foreign carrier or its agent shall enclose a dossier of notification of eligibility for tax exemption or reduction under an agreement, comprising:

- A notice of eligibility for tax exemption or reduction under an agreement, made according to form No. 01/HTQT provided in this Circular;

A taxpayer who, in force majeure circumstances, is unable to supply sufficient information or documents as required for this notice shall make detailed explanation therefor.

- The original certificate of residence granted by a tax agency of the foreign carrier's host country for the tax year preceding the year of notification of eligibility for tax exemption or reduction under the agreement, which has been consularly legalized;

- A document evidencing the carrier's direct operation of ships, which is any of the following documents:

- + A copy of the ship ownership registration, certified by the taxpayer;

- + A copy of the ship charter contract (if the carrier charters or is given the right to use the ship), certified by the taxpayer;

- + The original license for ship operation along a fixed route, or its copy certified by the port authority;

- + The original port entry permit, or its copy certified by the port authority;

- + The port authority's original certificate of the carrier's ships entering a Vietnamese port;

+ Other documents.

A foreign carrier that is involved in partnership, space swap or lease or bareboat charter, etc., shall additionally supply relevant documents (such as partnership contract for joint operation of means of transport, contracts on space swap or contracts on bareboat charter, etc.).

At the year end, the foreign carrier or its agents shall send to tax agencies a certificate of residence for the year, which has been consularly legalized.

In case a foreign carrier or its agent has already notified its eligibility for tax exemption or reduction under an agreement for a year, it is only required to notify changes in its business situation, if any, such as changes in business registration or change in ownership or operation of means of transport for subsequent years and supply documents evidencing these changes.

In case a foreign carrier has a primary agent, secondary agents and branches in different localities of Vietnam, the foreign carrier or its agent shall submit the original certificate of residence, which has been consularly legalized, and tax registration certificate (or business registration certificate) to the provincial-level Tax Department of the locality in which its primary agent's head office is located and send copies of these papers, certified by the primary agent, to provincial-level Tax Departments of the localities in which secondary agents or branches are located. In its notice of eligibility for tax exemption or reduction under an agreement, the taxpayer shall clearly state the name of the Tax Department to which it has submitted the original certificate of residence.

d/ Tax declaration for foreign reinsurance Vietnamese parties shall withhold, declare and pay tax for foreign reinsurance organizations.

Tax declaration dossiers shall be submitted to tax agencies directly managing Vietnamese parties.

Tax for foreign reinsurance shall be declared on a quarterly basis.

d.1/ Tax declaration dossiers:

- A tax return applicable to foreign reinsurance organizations, made according to form No. 01/TBH provided in this Circular;
- A copy of the reinsurance policy, certified by the taxpayer (for first-time tax declaration for the reinsurance policy);
- A copy of the business license or practice certificate, certified by the taxpayer.

d.2/ Dossiers of notification of tax exemption or reduction under agreements

A foreign reinsurance organization shall submit a dossier of notification of eligibility for application of a double taxation avoidance agreement for each year for all reinsurance policies it has signed or projects to sign in the year. Foreign reinsurance organizations may authorize tax agents, their Vietnam-based representative offices or Vietnamese reinsurance companies to submit dossiers. In these cases, a foreign reinsurance organization shall submit to tax agencies 2 notification dossiers, one dossier of notification for projected policies and one dossier for notification for official policies. Specifically:

d.2.1/ For dossiers of notification for projected policies:

- The time limit of submission of a dossier of notification of eligibility for tax exemption or reduction under an agreement for projected policies: 5 days before signing policies, 5 days after performing contracts or 5 days before making payment, whichever is earlier.
- Places of submission of dossiers of notification of eligibility for tax exemption or reduction under an agreement:

+ For foreign reinsurance organizations which have representative offices in Vietnam: Provincial-level Tax Departments of localities in which their representative offices are located.

+ For foreign reinsurance organizations without representative offices in Vietnam:

In case a foreign insurance organization directly submits dossiers: The provincial-level Tax Department of the locality in which the Vietnam reinsurance company with which it projects to sign the first contract is located;

In case a foreign reinsurance organization authorizes its lawful representative in Vietnam to submit dossiers, dossiers shall be submitted to the provincial-level Tax Department of the locality in which the at-law representative has registered for tax payment. For example: the tax agent, audit company or the Vietnamese reinsurance company with which it projects to sign the first contract.

- A dossier of notification of eligibility for tax exemption or reduction under an agreement comprises:

+ A notice, made according to form No. 01/TBH-TB provided in this Circular.

A taxpayer who, in force majeure circumstances, is unable to provide sufficient information or documents as required for this notice, shall make detailed explanation therefor.

+ The original certificate of residence, which is granted by the tax agency of the host country and has been consularly legalized (for the year preceding the year of submitting dossier).

+ A list of reinsurance policies which have been or are expected to be signed, made according to form No. 01-1/TBH-TB provided in this Circular.

d.2.2/ For official notification dossiers

- Time for dossier submission: In the first quarter of the subsequent year, foreign reinsurance organizations shall send dossiers of a official notification, enclosed with relevant dossiers.

- Places of submission: Similar to the places of submission of unofficial notification dossiers.

- A dossier to be submitted to tax agencies comprises:

+ A notice, made according to form No. 02/TBH-TB provided in this Circular.

A taxpayer who, in force majeure circumstances, is unable to provide sufficient information or documents as required for this notice shall make detailed explanation therefor.

+ The original certificate of residence, which is granted by the tax agency of the host country and has been consularly legalized.

+ Copies of reinsurance policies already performed in the year but not yet submitted to tax agencies (including policies inside or outside the plan already sent to tax agencies), certified by the taxpayer.

+ A list of policies classified according to their types, made according to form No. 02-1/ TBH-TB provided in this Circular. At the time of submission of official notification dossiers, taxpayers shall classify policies and send lists of policies classified according to their types (classified according to certain criteria); they are only required to send one copy, certified by the taxpayer, for each type of contracts for use as samples. Taxpayers shall take responsibility for their statistics.

d.2.3/ Procedures for application of agreements:

- Within 15 working days after receiving a complete unofficial dossier of notification of EIT exemption or reduction under an agreement from a foreign reinsurance organization, the tax agency shall issue a certificate of submission of a complete notification dossier and make certification right in the notice. When signing reinsurance policies, the foreign reinsurance company may supply to each of Vietnamese contracting parties a duly certified copy of this certificate for temporary tax exemption or reduction under an agreement. An unofficial notice shall be made in 2 copies, one to be kept by the applicant and the other to be preserved at the provincial-level Tax Department.

- Tax agencies shall examine notification dossiers submitted by foreign reinsurance organizations. If detecting that a dossier is incorrect or incomplete or the taxpayer is ineligible for application of an agreement, they shall notify thereof to the applicant or the taxpayer.

e/ Finalization declaration dossiers:

- A contractor tax finalization return, made according to form No. 02/NTNN provided in this Circular;

- A list of foreign contractors and Vietnamese sub-contractors involved in the performance of the contract, made according to forms No. 02-1/NTNN and No. 02-2/NTNN provided in this Circular;

- A list of tax payment documents;

- A contract liquidation document.

3. Tax declaration for cases of payment of VAT by the withholding method and payment of EIT on a percentage of turnover

- Foreign contractors and sub-contractors that directly declare VAT by the withholding method and declare EIT on a percentage of turnover shall submit tax declaration dossiers and tax finalization declaration dossiers to tax agencies directly managing Vietnamese parties.

For construction and installation contracts, tax declaration dossiers and tax finalization declaration dossiers shall be submitted to tax agencies of the localities in which construction and installation activities are carried out.

- Within 20 working days after signing a contract with a foreign contractor or subcontractor, the Vietnamese party or foreign contractor signing the contract shall notify the tax agency with which such foreign contractor or sub-contractor has registered for tax payment of the foreign contractor's or sub-contractor's direct registration and payment of VAT by the withholding method and payment of EIT on a percentage of turnover.

- When being granted a tax registration certificate by tax agencies, a foreign contractor or sub-contractor shall send a copy of the tax registration certificate, bearing its certification, to the Vietnamese party or foreign contractor. In case of arising a payment to a foreign contractor while the Vietnamese party has not yet received a copy of the foreign contractor's tax registration certificate, the Vietnamese party shall temporarily withhold and pay the payable VAT and EIT amounts for the foreign contractor under Clause 2 of this Article.

a/ Declaration of VAT calculated by the withholding method complies with Article 10 of this Circular.

b/ In case of payment of EIT on a percentage of turnover, tax shall be declared for each time of payment to foreign contractors and finalized upon expiration of contracts.

A foreign contractor who receives many payments in a month may register for monthly tax declaration instead of declaration for each time of payment.

b.1/ Tax declaration dossiers:

- A tax return, made according to form No. 03/NTNN provided in this Circular;

- Copies of the contract for contractor or subcontractor operations, certified by the taxpayer (for the first-time tax declaration for the contract);

- A copy of the business license or the practice license, certified by the taxpayer.

a. 2/ Dossiers of notification of tax exemption or reduction under agreements

For a foreign contractor eligible for tax exemption or reduction under a double taxation avoidance agreement between Vietnam and another country or territory, the following procedures shall be additionally carried out:

Fifteen days before the tax declaration deadline, the foreign contractor shall send to tax agencies a dossier of notification of eligibility for tax exemption or reduction under an agreement, comprising:

- A notice of eligibility for tax exemption or reduction under an agreement, made according to form No. 01/TNDN provided in this Circular;

A taxpayer who, in force majeure circumstances, is unable to supply sufficient information or documents as required for this notice shall make detailed explanation therefor.

- + The original certificate of residence granted by a tax agency of the country of residence in the year preceding the year of notification of eligibility for tax exemption or reduction under the agreement, which has been consularly legalized;

- + Copies of the contracts signed with organizations and individuals in Vietnam, certified by the taxpayer.

In case a foreign contractor has already notified its eligibility for tax exemption or reduction under an agreement for a year, it is only required to send copies of economic contracts newly signed with domestic and foreign organizations and individuals (if any), certified by the taxpayer, for subsequent years.

Fifteen days before the expiration of its contract for working in Vietnam or the end of the tax year, whichever is earlier, a foreign contractor shall send a certificate of residence of the tax year, which has been consularly legalized, to the Vietnamese contracting or income-paying party.

If no certificate of residence is available by that time, the foreign contractor shall commit to sending this certificate, which has been consularly legalized, within the first quarter of the following year.

b.3/ Tax finalization declaration dossiers:

- A contractor tax finalization return, made according to form No. 04/NTNN provided in this Circular;

- A list of Vietnamese sub-contractors engaged in the performance of the contract, made according to form No. 02-2/NTNN provided in this Circular;

- A list of tax payment documents;

- A contract liquidation documents.

4. Tax declaration in case foreign contractors entering partnerships with Vietnamese economic organizations to conduct business operations in Vietnam on the basis of contractor operation contracts

a/ In case parties to a partnership form a cost-accounting executive board which has a bank account and takes responsibility for the issuance of invoices, or the Vietnamese economic organization to the partnership conducts accounting for, and distributes profits to parties, the executive board of the partnership or the Vietnamese economic organization shall declare, pay and finalize VAT and EIT according to regulations for the whole amount of turnover from the performance of the contractor operation contract under Articles 10 and 11 of this Circular.

b/ In case parties enter into a partnership by the mode of sharing turnover, sharing products or jointly undertake a contractual job but each party performs a separate part and determine its turnover by itself, the foreign contractor may declare and pay tax under Clauses 1,2 and 3 of this Article.

Article 19. Tax declaration and determination of payable tax amounts by the presumption method, and tax declaration for real estate leasing activities

1. Households and individuals engaged in business operations or natural resource exploitation and paying tax by the presumption method (below collectively referred to as households paying presumptive tax) include:

a/ Business households and individuals without business registration or not required to make business registration that fail to make tax registration or still fail, though having been urged by tax agencies, to make tax registration within the time limit stated in tax agencies' notices.

b/ Business households and individuals that fail to practice the invoice- and voucher-based accounting.

c/ Business households and individuals that do not submit tax returns according to regulations.

d/ Business households and individuals that keep accounting books but are detected through inspection by tax agencies to have improperly observed the accounting regulations or improperly and inadequately kept invoices and vouchers of purchased or sold goods and services, or made inaccurate and untruthful tax declarations; and therefore, tax agencies cannot base on those accounting books, invoices and vouchers to determine payable tax amounts suitable to their actual business operations.

Households and individuals engaged in manual, scattered, mobile or irregular exploitation of natural resources.

2. Taxes and charges which can be collected by the presumption method include:

a/ Excise tax;

b/ Royalty;

c/ Value-added tax;

d/ Environmental protection charge for natural resource exploitation.

3. Presumptive tax declaration dossiers shall be submitted to district-level Tax Departments of the localities in which business operations or mineral resource exploitation activities are carried out.

a/ Business households and individuals shall pay presumptive tax amounts according to form No. 01/THKH provided in this Circular.

b/ Households and individuals that mine natural resources or minerals shall pay presumptive tax amounts according to form No. 02/THKH provided in this Circular.

4. Time limit for submission of presumptive tax declaration dossiers:

Business households and individuals that pay tax according to the presumption method shall declare tax on an annual basis and are not required to pay tax if their turnover is equal to or smaller than the tax-exempt turnover specified in Clause 5 of this Article.

From November 20 to December 5 of a year, tax agencies shall deliver presumptive tax returns of the subsequent year, form No. 01/THKH, to all business households and individuals that pay tax according to the presumption method.

Tax agencies shall urge business households to fill in and submit tax declaration dossiers to the former by December 31 of a year at the latest.

Those that just start doing business or mining natural resources or minerals shall submit presumptive tax declaration dossiers within 10 days after they start business or mining.

5. Tax-exempt turnover:

The tax-exempt turnover according to the presumption method specified at this Point is determined as follows:

- For households and individuals that have conducted business operations:

$$\text{Monthly tax - exempt turnover according to the presumption method} = \frac{\text{Common minimum wage level}}{\text{Rate of income subject to personal income tax}}$$

Of which:

- The common minimum wage level is the monthly minimum wage level applicable in the tax year under the Government's Decree (effective in that year) on region-based minimum wage levels applicable to employees of Vietnamese companies, enterprises, cooperatives, cooperative groups, farms, households and other organizations employing laborers.

- The rate of income subject to PIT income tax is the rate of assessed taxable income issued by the director of a provincial-level Tax Department for application in a locality under the Finance Ministry's guidance.

6. Posting up of lists of business households and individuals not required to pay presumptive tax amounts:

District-level Tax Departments shall publicly post up the tax-exempt turnover according to the presumption method in appropriate places (head offices of commune-level People's Committees and offices of tax teams), and publicly notify such places to business households and individuals from the 1st to the 10th of January every year.

Based on tax agencies' databases, district-level Tax Departments shall coordinate with commune-level Tax Advisory Councils in determining the tax-exempt turnover of business households and individuals, make and publicize lists of these households and individuals at head offices of commune-level People's Committees and offices of tax teams, then notify these lists to business households and individuals before January 20 every year.

7. Determination of payable presumptive tax amounts for business households and individuals with turnover higher than the tax-exempt turnover:

Based on taxpayers' declarations of turnover, incomes, output and sale prices of exploited natural resources as well as tax agencies' databases, district-level Tax Departments shall coordinate with commune-level Tax Advisory Councils in verifying the correctness and truthfulness of tax declaration dossiers; conduct investigation to re-determine turnover and incomes in case of suspicion of incorrect tax declaration for re-assessing sales, output and sale prices of exploited natural resources. To ensure fair tax determination, before notifying the payable tax amount of each household or individual, the district-level Tax Department shall publicize estimated turnover and payable tax amount of each household or individual paying tax according to the presumption method for comment by business or mining households and individuals; then consult commune-level Tax Advisory Councils in determining and notifying payable tax amounts to households and individuals for compliance.

Presumptive tax amounts shall be determined on a monthly basis and kept stable for a year, unless households change their business lines or scale or mining scale.

A household or individual that ceases business activities for a whole month is not required to pay the tax amount payable in that month. If ceasing business activities for 15 days or more in a month, it/he/she may be considered for 50% reduction of the tax amount payable in that month.

Households or individuals ceasing business activities and eligible for tax exemption or reduction shall make dossiers of request for tax exemption or reduction under Articles 38 and 39 of this Circular.

Based on tax reduction request dossiers, tax agencies shall directly examine them and issue decisions on tax reduction.

8. Time limits for tax notification and payment:

Tax agencies shall send presumptive tax payment notices, made according to form No. 03/THKH provided in this Circular, to households by January 20 at the latest. This notice shall be made once for months of stable tax payment in a year.

Based on these notices, households shall pay monthly tax by the last day of a month at the latest. If they choose to pay tax on a quarterly basis, the deadline for tax payment is the last day of the first month of a quarter.

For royalties, tax agencies may issue notices on seasonal tax payment. They must indicate the tax payment time limit in tax notices and send these notices to households at least 10 days before the tax payment deadline.

9. Determination of tax amounts of business households and individuals paying tax according to the presumption method in case of change in turnover:

- Business households and individuals paying tax according to the presumption method that use invoices with turnover indicated in the invoices smaller than the presumptive turnover shall pay presumptive tax amounts.

- Business households and individuals paying tax according to the presumption method that use invoices with turnover indicated in the invoices higher than the presumptive turnover and can prove that the increased turnover does not result from the change in business scale or lines but is due to unexpected objective causes shall additionally declare the increased turnover and additionally pay VAT. In this case, tax agencies will not adjust the presumptive turnover and tax amounts.

- Households that change business lines or scale or mining scale and output shall make additional declaration to tax agencies from the month such changes occur for the latter to determine presumptive tax amounts suitable to actual tax obligations of taxpayers. Re-declaration dossiers shall be made according to form No. 01/THKH or form No. 02/THKH provided in this Circular.

Tax agencies shall re-determine payable presumptive tax amounts for the months that see changes in business lines or scale or mining scale and output and notify such amounts to taxpayers.

When business households fail to declare changes in business lines or scale to tax agencies or make untruthful declaration, or when tax agencies have documents evidencing that changes in business scale result in increased turnover, tax agencies may request the business households to additionally pay tax on the increased turnover and assess payable tax amounts for tax periods to suit business conditions.

10. Tax declaration by real estate-leasing households and individuals:

Real estate-leasing households and individuals shall declare and pay VAT, unless the revenue from real estate lease is smaller than the tax-exempt turnover specified in Clause 5 of this Article.

For first-time lease of real estate, households or individuals shall declare tax to tax agencies of localities in which exists the real estate for issuance of individual invoices and tax payment. Requests for issuance of individual invoices shall be made under legal documents guiding goods sale and service provision invoices. Based on such requests and enclosed documents on real estate lease, tax agencies shall guide real estate-leasing households and individuals to determine payable VAT amounts under the VAT law. Real estate-leasing households and individuals shall pay tax before receiving individual invoices.

Tax agencies managing localities in which exists the real estate for lease shall coordinate with commune-level People's Committees in making lists of households and individuals with real estate for lease and guiding them to make business and tax registration in order to obtain tax identification numbers if they do not have tax identification numbers.

Households and individuals that lease real estate to lessees that prepay rents for a lease duration shall declare and pay VAT on prepaid rents as in case they declare and pay tax when it arises.

Article 20. Declaration and payment of tax on hydropower generation

1. Declaration and payment of VAT on hydropower generation

Hydropower generation establishments shall declare VAT in localities in which they are headquartered and remit VAT amounts into state treasuries in localities in which hydropower generation plants (turbines, hydropower dams and major physical foundations of power plants) are located. In case a hydropower plant is located in more than one province or centrally run city,

the VAT amount to be remitted by the hydropower plant into budgets of provinces or cities will correspond to the value of investment in the plant (including the plant's turbines, hydropower dams and major physical foundations located in the provinces or cities). Hydropower generation establishments shall declare VAT in localities in which they are headquartered and concurrently send VAT returns to tax agencies of the localities which enjoy VAT revenues.

Example: Hydropower plant X is located in provinces A and B. The rate of VAT distribution for provinces A and B is determined as follows:

Hydropower plant	Item	Value (VND billion)			Distribution rate (%)	
		Province A	Province B	Total	Province A	Province B
		(1)	(2)	(3) = (1) + (2)	(4) = (1)/(3)	(5) = (2)/(3)
Plant X	Total	560	900	1,460	38.36	61.64
	Turbines	0	UK)	100		
	Hydropower dams	350	280	630		
	Major physical foundations	210	520	730		

Based on the above figures, the VAT amount to be remitted by hydropower plant X into the budget of province A accounts for 38% and, into the budget of province B, 62%.

Hydropower generation establishments shall make VAT declaration according to form No. 01/GTGT provided in this Circular.

Dependent cost-accounting hydropower generation establishments of Electricity of Vietnam (EVN) shall make VAT declaration according to form No. 01/TD-GTGT provided in this Circular.

In case a hydropower generation establishment remits VAT into budgets of provinces corresponding to the value of investment, it shall make a table distributing the VAT amounts to be paid for the provinces according to form No. 01- 1/TD-GTGT provided in this Circular and enclose this table with VAT returns to tax agencies of the localities which enjoy VAT revenues.

2. Declaration and payment of EIT on hydropower generation activities:

a/ Independent cost-accounting hydropower companies shall pay EIT in localities in which they are headquartered. Independent cost-

accounting hydropower companies with dependent cost-accounting hydropower generation establishments operating in provinces or centrally run cities other than those in which the hydropower companies are headquartered; and EVN's dependent cost-accounting hydropower generation establishments (including dependent cost-accounting hydropower companies and dependent hydropower plants) located in provinces or centrally run cities other than those in which EVN offices are headquartered shall pay EIT in localities in which they are headquartered and localities in which dependent cost-accounting hydropower generation establishments are headquartered. The EIT amount to be paid in a province or centrally run city in which a dependent cost-accounting hydropower generation establishment is headquartered equals the EIT amount payable in a period multiplied by (x) the rate of expenses of the dependent cost-accounting hydropower generation establishment to the total expenses of an enterprise.

Independent cost-accounting hydropower companies and EVN shall declare EIT amounts arising in their head offices and dependent cost-accounting units based on lists of EIT to be paid by

enterprises with dependent cost-accounting hydropower units according to form No. 02/TD-TNDN provided in this Circular.

b/ In case a hydropower generation plant (with turbines, hydropower dams and major physical foundations) is located in more than one province or centrally run city, it shall make a table distributing EIT amounts to be paid by the plant to these provinces or cities based on the rate of investment in the plant (including turbines, hydropower dams and major physical foundations) according to form No. 02-1/TD-TNDN provided in this Circular. Hydropower generation establishments shall declare EIT in localities in which they are headquartered and send to tax agencies of localities which enjoy EIT revenues the copies of EIT returns and tables of EIT amounts to be paid by enterprises with dependent cost-accounting hydropower units, made according to form No. 02/TD-TNDN provided in this Circular (for enterprises with dependent cost-accounting hydropower units), and tables distributing EIT amounts to be paid by hydropower generation establishments to localities, made according to form No. 02-1/TD-TNDN provided in this Circular.

3. Declaration and payment of royalties on hydropower generation:

Hydropower generation establishments shall declare and pay royalties in localities in which they register royalty declaration and payment according to form No. 03/TD-TAIN provided in this Circular. In case the bed of the reservoir of a hydropower generation establishment is located in more than one province or centrally run city, the establishment's royalty amount shall be distributed to such provinces or cities. The hydropower generation establishment shall submit royalty declaration dossiers to tax agencies of localities in which they register tax declaration (or they are headquartered) and send, copies of royalty returns to tax agencies of localities which enjoy royalty revenues, and remit royalties into budgets of such provinces or cities based on the area of the reservoir bed; funds for compensation for ground clearance and people relocation and resettlement; number of to-be-relocated households and the value of compensation.

Example: The reservoir bed of hydropower plant X is located in provinces A and B. It shall distribute royalty amounts for these two provinces as follows:

Plant	Item	Province A			Province B		
		Figure	Rate	General rate of items (%)	Figure	Rate (%)	General rate of items (%)
Plant X	Reservoir bed area (ha)	1,500	79	63.6	400	21	36.4
	Total households to be relocated (household)	71	42.77		95	57.23	
	Value of material damage to the reservoir bed (VND billion)	351	86.03		57	13.97	
	Compensation for resettlement support (VND billion)	28	46.67		32	53.33	

Based on the above figures, the royalty amount to be remitted by hydropower plant X into the budget of province A accounts for 64% and, into the budget of province B, 36%.

In case the royalty amounts to be remitted by a hydropower generation establishment into budgets of provinces correspond to the establishment's value of investment, it shall make a table distributing royalty amounts to be remitted into local budgets according to form No. 03- 1/TD-TAIN provided in this Circular and send copies of royalty returns to tax agencies of the localities which enjoy royalty revenues.

4. In case a hydropower generation establishment located in more than one province or centrally run city adjusts the VAT amount and payable BIT and royalty amounts, the increased or reduced VAT, EIT and royalty amounts shall be distributed to the beneficiary localities on the principles specified in Clause 1, 2 or 3 of this Article.

5. Tax payment procedures:

Enterprises shall remit VAT, EIT and royalties into the budgets of localities in which they are headquartered (or make tax registration and declaration) and pay these taxes on behalf of their dependent units based in the localities which enjoy tax revenues.

Based on VAT, EIT and royalty amounts calculated and distributed to localities in which enterprises are headquartered (or make tax registration and declaration) and in localities which enjoy VAT, EIT and royalty revenues, shown in VAT, EIT and royalty returns and appendices No. 01-1/TD-GTGT, No. 02/TD-TNDN and No. 03-1/TD-TAIN, enterprises shall make documents for VAT, EIT and royalty payment to localities in which they are headquartered and each locality which enjoys VAT, EIT and royalty revenues. Such documents must indicate that taxes are remitted into state budget revenue accounts at state treasuries of the same level with tax agencies of localities in which enterprises are headquartered (or make tax registration and declaration) and localities which enjoy VAT, EIT and royalty revenues.

6. In case VAT, EIT and royalty amounts distributed by the hydropower generation establishment to localities are different, the provincial-level Tax Department of the locality in which the hydropower generation plant is located shall assume the prime responsibility for, and coordinate with the plant's investor and provincial-level Tax Departments of the localities in which the plant is located in, determining the plant's value of investment (turbines, hydropower dams and other major physical foundations), the area of the reservoir bed, funds for compensation for ground clearance and people relocation and resettlement, number of to-be-relocated households, and the value of compensation for material damage to the reservoir bed area in each province, and report thereon to the Ministry of Finance (the General Department of Taxation) before June 30 of a year preceding the year the plant is commissioned, in order to guide the rate of distribution of EIT, VAT and royalty amounts.

7. The determination of VAT, EIT and royalty revenues specified in Clauses 1, 2 and 3 of this Article applies to hydropower plants commissioned from January 1, 2011.

Article 21. Tax assessment in case taxpayers paying tax according to the declaration method violate tax laws

1. Tax agencies may assess payable tax amounts if taxpayers fall into the following cases:

a/ Failing to make tax registration under Article 22 of the Tax Administration Law;

b/ Failing to submit tax declaration dossiers within 10 (ten) days after the dossier submission deadline or the expiration of the extended time limit for dossier submission;

c/ Failing to supplement tax declaration dossiers at the request of tax administrations or inadequately, untruthfully or inaccurately providing tax bases for determination of payable tax amounts when supplementing the dossiers;

d/ Failing to produce accounting documents, invoices and documents related to determination of elements for use as tax bases upon expiration of the time limit for tax examination or inspection at taxpayers' offices;

e/ Tax examination or inspection shows that taxpayers improperly make cost accounting, or that figures in accounting books are inadequate, inaccurate or untruthful, resulting in failure to correctly determine elements for use as bases for calculation of payable tax amounts;

f/ Absconding or dispersing their assets for tax evasion;

g/ Having submitted tax declaration dossiers to tax administrations while unable to calculate by themselves payable tax amounts.

2. Assessment of each element related to the determination of payable tax amounts:

Taxpayers paying tax according to the declaration method will have each element related to the determination of payable tax amounts assessed in the following cases:

a/ Tax examination or inspection shows that taxpayers improperly make cost accounting, or that figures in accounting books are inadequate, inaccurate or untruthful, resulting in failure to correctly determine elements for use as bases for the calculation of payable tax amounts, unless they are subject to assessment of payable tax amounts.

b/ Examination of goods bought and sold shows that taxpayers make cost-accounting of the value of such goods not at normal market trading prices.

Normal market trading prices are trading prices objectively agreed between parties without associate relation.

Tax agencies may refer to goods and service prices publicized by state management agencies at the same time, or purchase and sale prices set by enterprises dealing in the same business lines or commodities, or sale prices set by enterprises dealing in the same commodities with large business scale and number of customers in localities, for determining normal trading prices as a basis for the assessment of sale and purchase prices and payable tax amounts.

3. For a number of business lines, when tax agencies detect, through examination, that accounting books, invoices and documents are inadequate, or detect violations of tax laws or irrationalities in tax declaration and payment, they shall assess the rate of added value or taxable income to turnover or assess taxable turnover or income. The assessment of turnover or income for determination of payable tax amounts is based on one criterion or some criteria such as house rent, wage, depreciation expense, material expense, etc. The Ministry of Finance shall specify such assessment for application to each business line and activity in each period.

4. Bases for tax assessment:

Tax agencies shall assess tax for taxpayers paying tax according to the declaration method that violate tax laws, based on one or all of the following grounds:

a/ Tax agencies' databases collected from:

- Taxpayers' declaration of turnover, expenses, incomes and payable tax amounts in previous tax declaration periods.
- Organizations and individuals related to taxpayers.
- Other state management agencies.

b/ Information on:

b.1/ Taxpayers that deal in the same commodities, business lines on the same scale in localities. In case of non-availability of information on taxpayers' commodities, business lines and scale in localities, relevant information on persons dealing in the same commodities, business lines and on the same scale in other localities will be used;

b.2/ The average payable tax amount of a number of business establishments dealing in the same business lines and commodities in the same localities. In case of non-availability of information on such business establishments, the average payable tax amount of business establishments dealing in the same business lines and commodities in other localities will be used.

c/ Documents and examination or inspection results which remain valid.

5. When making tax assessment, tax agencies shall send tax assessment decisions to taxpayers, made according to form No. 01/ADTH provided in this Circular.

6. The tax payment time limit is 10 days after tax agencies sign tax assessment decisions. In case a tax agency assesses a tax amount of VND 500 million or more, the tax payment time limit is 30 days after the tax agency signs a tax assessment decision.

After a tax agency signs a tax assessment decision, a taxpayer that submits tax declaration dossiers of a tax declaration period or time for which tax has been assessed shall still pay tax under such decision.

Tax amounts declared in dossiers of delayed tax payment declaration shall be recorded by tax agencies as amounts arising in such tax declaration period or time to serve as a basis for the determination of taxpayers' fulfillment of tax obligations. If not accepting the declared tax amounts, tax agencies shall issue written notices to taxpayers.

Taxpayers that disagree with tax amounts assessed by tax agencies shall still pay such tax amounts and may request tax agencies to give explanations or may lodge complaints about tax assessment.

Chapter III

TAX PAYMENT

Article 22. Tax payment time limit

1. Taxpayers are obliged to fully and timely remit tax into the state budget.
2. In case taxpayers calculate tax, the tax payment deadline is the last day of the time limit for submission of tax declaration dossiers.
3. In case tax agencies calculate or assess tax, the tax payment time limit is the time limit indicated in tax agencies' notices or decisions.

Article 23. Currency for tax payment

1. Tax shall be paid in Vietnam dong.
2. When tax is paid in foreign currencies:
 - a/ Taxpayers may pay tax only in freely convertible foreign currencies under the State Bank's regulations.
 - b/ Foreign-currency tax amounts shall be converted into Vietnam dong at the exchange rate announced by the State Bank and effective at the time tax amounts are remitted into the state budget.
 - c/ Foreign-currency tax amounts shall be managed under the Finance Ministry's regulations.

Article 24. Places and procedures for tax payment

1. Taxpayers shall remit tax amounts into the state budget:
 - a/ At state treasuries;
 - b/ At tax agencies which receive tax declaration dossiers;
 - c/ Through organizations or individuals authorized by tax agencies to collect tax;
 - d/ At commercial banks or other credit institutions and service institutions as provided by law.State treasuries, commercial banks, credit institutions, tax agencies, and organizations authorized to collect tax shall arrange places, facilities and personnel for tax collection so that taxpayers can conveniently and promptly remit tax amounts into the state budget.

2. Tax payment procedures:

Taxpayers can remit tax amounts into the state budget in cash or by account transfer.

Tax agencies, state treasuries, commercial banks and credit institutions collecting tax shall guide taxpayers in making documents for remittance of money into the state budget for cash payment

or account transfer. Taxpayers shall give full and detailed information in tax receipts under the Finance Ministry's regulations.

a/ In case taxpayers remit tax in cash: - If taxpayers pay tax directly at state treasuries which has not implemented the project on modernization of state budget collection and remittance systems, such state treasuries shall give certification of collected tax amounts in tax receipts.

- If taxpayers pay tax in cash at state treasuries which has implemented the project on modernization of state budget collection and remittance systems, tax agencies, organizations or individuals authorized by tax agencies to collect tax, commercial banks and credit institutions licensed to collect cash shall, when receiving tax amounts, issue tax receipts to taxpayers under the Finance Ministry's regulations.

b/ In case taxpayers remit tax by account transfer: State treasuries, commercial banks or credit institutions shall transfer money from taxpayers' accounts into state budget revenue accounts. They shall give certification in tax payment documents of taxpayers or issue tax receipts to taxpayers (in case they have implemented the project on modernization of state budget collection and remittance systems).

Commercial banks and credit institutions shall give adequate information in state budget revenue documents such as tax identification numbers of taxpayers, state budget index, tax period, etc., for transfer to state treasuries and taxpayers.

3. Local state treasuries shall credit the VAT amount for remittance into the state budget which equals 2% of the amount paid for the volume of VAT-liable state-funded capital construction works or work items in localities and VAT-liable ODA projects.

Payments made without economic contracts, such as payment for project management jobs directly performed by investors, expenses for project management units, expenses for ground clearance, and expenses for people-implemented projects, etc., are not subject to VAT credit under this Circular.

Investors shall make documents requesting state budget spending and send them to state treasuries for control and payment under current regulations and provide the names, addresses and tax identification numbers of contracting units for state treasuries to credit VAT.

After controlling and approving payment documents for VAT-liable state-funded capital construction works and VAT-liable ODA projects, state treasuries shall make state budget remittance documents according to the form provided in the Finance Ministry's Circular No. 128/2008/TT-BTC of December 24, 2008.

Based on approved payment documents and state budget remittance documents, state treasuries shall make payment to contractors (which equals the total payment minus the payable VAT amount), and account the credited VAT amount as state budget revenue. State treasuries shall return a copy of the state budget remittance document to investors for return to contractors. The VAT amount credited by a state treasury based on this document shall be deducted in the payable VAT amount of the taxpayer being contracting unit. Investors shall monitor the handover and receipt of payment documents with goods and service providers. When necessary, investors shall keep a copy of payment documents for comparison with those of contractors.

Local state treasuries shall closely coordinate with local tax agencies in collecting VAT on state-funded capital construction works in localities, ensuring convenient, prompt and lawful tax collection.

4. Application of tax coercion measures:

a/ Coercion by account transfer: Based on decisions coercing the implementation of tax-related administrative decisions enclosed with state budget collection orders made according to form No. 01/LT provided in this Circular, state treasuries, banks, and credit institutions at which organizations and individuals open their accounts shall deduct and transfer money from coerced taxpayers' accounts to the state budget.

b/ Distraint or sale of assets of coerced taxpayers for collection of sufficient tax amounts and fines: Coercing agencies shall carry out procedures for distraint and sale of assets under regulations to fully collect tax amounts and fines.

5. Agencies or organizations shall remit all tax amounts and fines they collect in a day into the state budget in the same day.

When tax amounts and fines are collected in cash in mountainous, deep-lying, remote, island and travel-inconvenient areas, the whole tax amounts and fines shall be remitted into the state budget within 5 working days after being collected.

6. Organizations which pay PIT-liable incomes and withhold PIT under law may themselves print withholding documents for issuance to individuals subject to tax withholding. Such documents shall be printed under the Finance Ministry's guidance on issuance, use and management of PIT withholding documents printed out from computers.

Article 25. Payment of taxes and fines

1. A taxpayer that has concurrently a tax arrear, tax amount to be retrospectively collected, arising tax amount and fine shall indicate them in the tax or fine payment document in the following order: tax arrear, tax amount to be retrospectively collected, arising tax amount and fine.

For each type of tax amount and fine, the order of payment follows chronologic order in which such amount and fine arise.

2. Tax agencies shall guide and request taxpayers to make payment in the above order. When collecting taxes and fines, state treasuries shall base on tax receipts to account state budget revenues and notify such to tax agencies. If taxpayers make payment not in the above order of payment, tax agencies shall make written requests for adjustment of state budget revenues and send them to state treasuries for adjustment. After receiving state treasuries' requests for adjustment of state budget revenues, tax agencies shall make notices of the accounting of tax amounts and fines remitted into the state budget according to form No. 01/NOPT provided in this Circular, send them to taxpayers for information on adjusted tax amounts and fines.

When taxpayers fail to indicate in payment documents the sum of money paid for each amount, tax agencies shall account collected tax amounts and fines in the above order of payment, and send notices thereof to taxpayers, made according to form No. 01/NOPT provided in this Circular.

3. All tax amounts and fines for violations of tax laws shall be remitted into state budget revenue accounts.

4. In case taxpayers remit tax amounts into the state budget through commercial banks, credit institutions or service institutions under law, tax agencies shall authorize state treasuries at all levels to open specialized state budget revenue accounts at commercial banks or credit institutions for collecting taxes, charges, fees and other state budget revenues.

At the end of a working day, state treasuries shall promptly and fully transfer state budget revenues on specialized state budget revenue accounts to their state budget revenue accounts opened at the State Bank under the Law on the State Bank of Vietnam.

Commercial banks shall provide adequate and accurate information and data in state budget remittance documents, ensuring accurate accounting of state budget revenues and facilitating comparison of data between state treasuries, tax agencies and taxpayers.

State treasuries shall account state budget revenues and transfer documents detailing state budget remittances to tax agencies.

Article 26. Determination of dates of tax payment

1. The date of tax payment is the date when:

a/ A state treasury, bank or credit institution gives certification in a state budget remittance document, in case tax is paid by account transfer, or in an electronic tax receipt, in case tax is paid electronically.

b/ A state treasury, tax agency, or authorized tax-collecting organization or individual certifies tax collection in the document on in-cash tax collection.

c/ A tax agency makes clearing in case a taxpayer has an overpaid tax amount or fine cleared against the owed tax amount or fine indicated in the decision on tax refund-cum-state budget revenue clearing.

2. Tax shall be accounted as a state budget revenue of the year in which the date of tax payment falls.

Article 27. Tax payment extension

1. Cases eligible for tax payment extension:

Taxpayers may have payment of tax amounts or fines they still owe extended if they are unable to pay tax within the specified time limit in the following cases:

a/ They suffer material damage caused by natural disasters, fires or accidents;

b/ They relocate their business places at the request of competent state agencies, resulting in halt of operation or reduction of production and business activities and increase of investment costs in the new business places;

c/ Amendment of state policies directly affects their production and business results;

d/ They operate in capital construction domains, build works with state budget funds already included in state budget expenditure estimates but for which state budget capital has not been paid, so they do not have money for tax payment;

e/ They implement projects on infrastructure investment or housing and land trading for which the State allocates or leases land or auctions land use rights but the ground has not been cleared and land has not been allocated, so they do not have money for remitting into the state budget the land use levy or land rent for the allocated land area (if any).

f/ They meet with other special difficulties, as decided by the Prime Minister at the proposal of the Minister of Finance.

2. Tax amounts and fines eligible for extension; extension duration:

a/ Taxpayers defined at Point a, Clause 1 of this Article may have payment of part or whole of the owed tax amounts or fines extended, counted to the time of occurrence of natural disasters, fires or accidents, which must not exceed the damaged material value. The extension duration must not exceed 2 years after the expiration of the tax payment time limit. Specifically:

- If taxpayers' assets suffer damage of 50% or less, extension will be granted for tax amounts and fines based on the rate of damage, which must not exceed the damaged material value, within one year.

- If taxpayers' assets suffer damage of over 50%, extension will be granted for the whole tax amounts and fines, which must not exceed the damaged material value, within 2 years.

b/ Taxpayers defined at Points b, c and f. Clause 1 of this Article may have payment of part or whole of tax amounts or fines arising for the reasons specified at these Points extended. The extension must not exceed one year after the expiration of the tax payment time limit.

c/ Taxpayers defined at Point d, Clause 1 of this Article may enjoy extension of tax amounts and fines corresponding to the unpaid state budget amounts. The extension must not exceed one year after the expiration of the tax payment time limit.

d/ Taxpayers defined at Point e, Clause 1 of this Article may have land use levy or land rent extended for the land area which is allocated or leased by the State or for which land use rights are auctioned but the ground has not yet been cleared. The land use levy or land rent eligible for extension corresponds to the tax amount still owed to the state budget for the land area not yet

cleared or allocated. The extension must not exceed one year after the expiration of the tax payment time limit.

3. Procedures for tax payment extension:

a/ To enjoy tax payment extension under this Article, taxpayers shall submit dossiers of request for tax or fine payment extension to their managing tax agencies. A dossier comprises:

- A written request for extension of tax or fine payment, made according to form No. 02/NOPT provided in this Circular, indicating reasons for extension, tax amount or fine requested for extension, extension duration, plan and commitment for payment of the tax amount or fine;
- A document proving the reasons for extension or a competent agency's certification of the reasons for such extension.

+ In the case specified at Point a, Clause 1 of this Article, in addition to a written request for extension of tax or fine payment, a dossier must comprise:

A statement of value of damaged assets, made by the damage sufferer's at-law representative who shall take responsibility for the accuracy of data;

Certification of the occurrence of a natural disaster, fire or accident, given by the commune-level police or the chairperson of the commune-level People's Committee of the locality in which the natural disaster, fire or accident occurs;

+ In the case specified at Point b. Clause 1 of this Article, in addition to a written request for extension of tax or fine payment, a competent state agency's decision on relocation of the enterprise's business place is required.

+ In the case specified at Point d, Clause 1 of this Article, in addition to a written request for extension of tax or fine payment, the following are required:

The taxpayer-certified copies of the economic contract signed with the investor and takeover test and handover record (if any);

The investor's written certification, indicating total investment capital, the investor's debt, work invested with capital already included in the state budget expenditure estimate.

+ In the case specified at Point e, Clause 1 of this Article, in addition to a written request for extension of tax or fine payment, the district-level People's Committee's written certification that the project is not yet implemented because ground has not been cleared for part of the allocated land area or land has not been allocated.

b/ Within 10 working days after receiving a taxpayer's complete dossier of request for tax payment extension, the managing tax agency shall examine the dossiers and the taxpayer's difficulties in order to issue a written approval or disapproval of such extension.

A written approval of tax payment extension shall be made according to form No. 03/NOPT provided in this Circular.

A written disapproval of tax payment extension shall be made according to form No. 04/NOPT provided in this Circular.

In case a dossier of request for tax payment extension is incomplete, within 3 working days after receiving the dossier, the tax agency shall issue a notice to the taxpayer for completing the dossier within 5 working days. If failing to complete the dossier at the request of the tax agency, the taxpayer will not be entitled to tax payment extension.

c/ In the case specified at Point f, Clause 1 of this Article, the managing tax agency shall, when receiving a taxpayer's dossier of request for tax or fine payment extension, examine the dossier, make recommendations and transfer the dossier to the superior tax agency which shall submit it to the Ministry of Finance for further submission to the Prime Minister.

4. Within the time limit eligible for tax payment extension, a taxpayer will not be administratively sanctioned for its/his/her act of late tax payment for the tax amount eligible for extension. Past this time limit, the taxpayer shall remit tax into the state budget under regulations; if failing to do so, the taxpayer shall be administratively sanctioned for its/his/her violations of tax laws or examined for penal liability under law.

Article 28. Handling of overpaid tax amounts and Tines

1. A tax amount or fine shall be regarded as having been overpaid when:

a/ The taxpayer's paid tax amount or fine is larger than the payable tax amount or fine, for each type of tax.

b/ The taxpayer's paid tax amount is larger than the payable tax amount according to tax finalization.

c/ The taxpayer's tax amount is eligible for refund under the laws on VAT, excise tax, PIT and petrol and oil charges.

2. Taxpayers may handle overpaid tax amounts or fines by:

a/ Clearing overpaid tax amounts or fines against tax amounts or fines still owed, even clearing among different taxes.

- In case a taxpayer entitled to tax refund is also obliged to pay other amounts, if he/she requests clearing of refundable amounts against payable amounts, he/she shall make a written request for refund of state budget revenue according to form No. 01/DNHT provided in this Circular, indicating his/her request for refund of the payable amount, and send it to the tax agency which will refund the tax amount or fine for settlement. The tax agency shall issue a decision on tax refund-cum-state budget revenue clearing according to form No. 02/ QDHT provided in this Circular for tax refund and collection of the owed tax amount or fine, and send this decision to the taxpayer.

In case a taxpayer registers tax in a locality but pays tax in different localities, if requesting refund of tax amounts (except VAT and PIT), he/she may declare tax finalization and carry out tax refund procedures at the tax agency with which he/she registers tax declaration.

For amounts to be refunded in localities which are distributed based on the rate of tax amounts to be paid in the locality in which a taxpayer is headquartered and other localities, when clearing state budget revenues under a decision on tax refund-cum-state budget revenue clearing, clearing may only be made correspondingly to the refundable amounts to be distributed at the above rate in the locality in which a taxpayer is headquartered and other localities.

- After clearing, if there remain refundable tax amounts, the tax agency shall issue an order of refund of state budget revenues according to form No. 01/LHT provided in this Circular (the amount in this order must equal the amount mentioned in Article 3 of the decision on tax refund-cum- state budget revenue clearing), and send this order to the state treasury of the same level for refund of tax amounts to the taxpayer.

In case a taxpayer registers tax in a locality but pays tax in different localities, if requesting refund of tax amounts (except VAT and PIT), he/she may declare tax finalization and carry out tax refund procedures at the tax agency with which he/she registers tax declaration, the tax agency shall make an order of refund of state budget revenues, separating the tax amount to be refunded by each locality (on a separate line), and send this order to the state treasury of the same level in the locality for refund of tax amounts to the taxpayer.

- When the tax agency detects that a taxpayer entitled to tax refund is still obliged to pay other taxes but he/she does not request clearing of the payable tax amount in the written request for refund of state budget revenues, the tax agency shall make clearing in the decision on tax refund-cum- state budget revenue clearing, and send it to the taxpayer.

b/ Clearing overpaid tax amounts or fines against subsequent payable tax amounts or fines

Clearing overpaid tax amounts or fines against subsequent payable tax amounts or fines for the same tax shall be automatically made in tax agencies' managerial systems.

c/ Refunding overpaid tax amounts or fines then taxpayers no longer owe tax amounts or fines

The head of the tax agency shall issue a tax refund decision according to form No. 01/QDHT provided in this Circular and send it to the taxpayer and, based on this decision, make in order of refund of state budget revenues according to form No. 01/LHT provided in this Circular and send it to the state treasury of the same level for refund of tax amounts or fines to the taxpayer.

3. Refund of overpaid tax amounts to taxpayers who are declared as deceased, missing or having lost civil act capacity

a/ Refund of overpaid tax amounts to persons declared by law as deceased:

In case the bequeathed asset has been divided, the deceased's overpaid tax amount shall be refunded to his/her heirs within the value of such asset, which must not exceed part of the asset they are entitled to receive, unless otherwise agreed.

In case the bequeathed asset has not yet been divided, the deceased's overpaid tax amount shall be refunded to the asset manager.

In case the State, an agency or organization inherits the bequeathed asset according to testament, it will also be entitled to refund of the deceased's overpaid tax amount like individual heirs.

In case there is no heir according to testament or law or there is an heir who refuses to receive the bequeathed asset, the refund of the deceased's overpaid tax amount complies with the civil law.

b/ Overpaid tax amounts of persons declared as missing or having lost civil act capacity shall be refunded to persons assigned by the court to manage assets of persons declared as missing or having lost civil act capacity within the value of the assets.

c/ Methods of refunding overpaid tax amounts of persons who are declared as deceased, missing or having lost civil act capacity comply with Clause 2 of this Article.

4. Payers of incomes from salaries and wages that are authorized by individuals to finalize PIT shall, when making tax finalization, clear overpaid or deficit tax amounts, withhold payable tax amounts and refund tax amounts to persons with overpaid tax amounts. Income payers shall advance money for refunding tax amounts to persons with overpaid tax amounts and make tax finalization with tax agencies as follows:

a/ In case a tax finalization declaration (form No. 05/KK-TNCN provided in this Circular) indicates the income payer's obligation to make tax finalization on behalf of the person with overpaid tax amount, the income payer shall:

- Clear, or request refund of, the overpaid tax amount under Clause 5 of this Article, in case there are only persons with overpaid tax amounts in the tax finalization declaration (form No. 05A/BK-TNCN).

- Withhold tax amounts of persons with deficit tax amounts for refunding tax amounts to persons with overpaid tax amounts, in case the tax finalization declaration (form No. 05A/BK-TNCN) indicates that the total tax amount of persons with overpaid tax amounts is larger than the total tax amount of persons with deficit tax amounts. After clearing, the income payer shall clear, or request refund of, tax amounts under Clause 5 of this Article.

b/ In case a tax finalization declaration indicates the income payer's obligation to make finalization for persons with deficit tax amounts, the income payer shall withhold tax amounts of persons with deficit tax amounts to refund persons with overpaid tax amounts. After clearing, it shall clear or request refund of tax amounts under Article 5 of this Article.

5. Income payers' obligation to finalize tax on behalf of individuals shall be cleared against their obligation to withhold incomes

- In case there are overpaid tax amounts for both the obligation to make on-behalf tax finalization and the obligation to withhold incomes, the income payer shall make a written request for refund of state budget revenues according to form No. 01/DNHT provided in this Circular for both obligations and send the request to the managing tax agency for refund of overpaid tax amounts.

- In case there are overpaid tax amounts for the obligation to make on-behalf tax finalization and there are no payable or overpaid tax amounts (the tax amount is 0) for the obligation to withhold incomes, the income payer shall make a written request for refund of state budget revenues according to form No. 01/DNHT provided in this Circular and send the request to the managing tax agency for refund of tax amounts under regulations.

- In case there are overpaid tax amounts for the obligation to withhold incomes and there are no payable or overpaid tax amounts (the tax amount is 0) for the obligation to make on-behalf tax finalization, the income payer shall make a written request for refund of state budget revenues according to form No. 01/DNHT provided in this Circular and send the request to the managing tax agency for refund of tax amounts under regulations.

- In case there are overpaid tax amounts for the obligation to make on-behalf tax finalization and there are payable tax amounts for the obligation to withhold incomes, or there are payable tax amounts for the obligation to make on-behalf tax finalization and there are overpaid tax amounts for the obligation to withhold incomes, the income payer shall make a written request for refund of state budget revenues for clearing according to form No. 01/DNHT provided in this Circular, clearly the requesting clearing against the payable amounts, and send the request to the managing tax agency for refund of tax amounts under regulations.

6. In the cases of handling of overpaid tax amounts under Points a and c. Clause 2 of this Article, taxpayers shall carry out tax refund and clearing procedures under Chapter VII of this Circular.

Chapter IV

TAX COLLECTION AUTHORIZATION

Article 29. Competence to authorize tax collection and scope of authorization

1. Tax agencies may authorize organizations and individuals to collect some taxes under the former's management as listed below:

- Agricultural land use tax;
- Housing and land tax;
- Tax on business households that pay tax according to the presumption method;
- PIT.

For other taxes to be collected by other organizations and individuals as under by tax agencies' authorization, such authorization must be approved by the Minister of Finance.

2. Tax collection must be authorized under contracts between the head of a tax administration and the at-law representative of an agency or organization or an individual authorized to collect tax except tax collection authorization for irregular incomes of foreign contractors.

3. A tax collection authorization contract shall be made according to form No. 01/UNTH provided in this Circular and must specify:

- Tax to be collected under authorization;
- Locality in which tax will be collected under authorization;
- Scope of authorization, such as guiding taxpayers to declare tax; urging taxpayers to submit tax returns and pay tax; collecting tax returns and tax from taxpayers and submitting tax returns to tax agencies; remitting tax amounts into the state budget; checking and reporting on those subject to tax declaration and payment but failing to do so; providing new information or changed information on taxpayers in localities in which organizations or individuals are authorized to

collect tax; and collecting tax amounts from taxpayers and remitting these amounts into state budget revenue accounts.

- Powers and responsibilities of authorizing and authorized parties;
- Regulations on reporting on contract performance; regulations on payment for tax receipts and forms and funds for tax collection authorization;
- Tax collection authorization duration. Past this duration, both parties shall liquidate the contract and make a liquidation record according to form No. 02/UNTH provided in this Circular.

Article 30. Responsibilities of authorized parties

Authorized tax collectors shall perform tax collection authorization contracts already signed with tax agencies and may not further authorize any third party to perform such contracts. Some specific details of a tax collection authorization contract comply with the following guidance:

1. Collecting tax returns from taxpayers:

Authorized tax collectors shall explain and guide taxpayers in tax regulations and tax registration, declaration and payment responsibilities; provide tax returns and guide taxpayers in tax declaration; urge taxpayers to make tax declaration and collect tax returns from taxpayers for submission to tax agencies within the prescribed time limit.

2. Sending tax payment notices and urging taxpayers to pay tax:

When receiving tax payment notices, authorized tax collectors shall compare these notices with tax registers. If such notices are improper or incomplete, they shall promptly report such to tax agencies for issuing other notices to conform with tax registers.

Authorized tax collectors shall send, tax payment notices to taxpayers at least 5 days before the last day of the tax payment time limit indicated in tax payment notices and, upon sending these notices, request recipients to sign for certification, and urge taxpayers to pay tax within the specified time limit.

In case of authorized collection of PIT, tax payment notices are not required; tax collection-authorizing parties shall urge taxpayers to pay tax according to their tax returns.

3. Organizing tax collection and payment and issuing documents to taxpayers:

Upon tax collection, tax collection-authorizing parties shall write a tax receipt once for three copies, indicating the tax amount, type of tax, tax period and other details. Tax receipts shall be numbered in the ascending order without skipping numbers and fully and clearly filled in, and signed with the collector's full name. After checking and fully receiving a tax amount, the collector shall hand the tax receipt to the taxpayer.

4. Remitting collected tax amounts into the state budget:

Authorized tax collectors shall fully and promptly remit collected tax amounts and other amounts into the state budget at state treasuries. Tax amounts to be remitted into the state budget are the total sum of money recorded as revenues in tax receipts.

When remitting tax amounts into state treasuries, authorized tax collectors shall make a list of receipts and make a document of tax remittance in cash into the state budget. State treasuries shall transfer documents on the remitted amounts collected under authorization to tax agencies for monitoring and management.

Tax agencies shall sign tax collection authorization contracts indicating the time of tax collection and collected tax amounts to be remitted into state treasuries by authorized tax collectors at the rates and in localities as guided by the General Department of Taxation. Authorized tax collectors shall remit tax amounts into state treasuries within 5 days after collecting them, for deep-lying, remote and travel-inconvenient areas, and 3 days, for other areas. A tax amount exceeding VND 10 million must be immediately remitted into the state budget, except cases of objective reasons in extreme difficulty- or difficulty-hit areas in which directors of provincial-level Tax Departments

may, consider and decide to remit the collected tax amount exceeding VND 10 million into the state budget on the subsequent working day.

5. Finalization of collected tax amounts and tax receipts with tax agencies:

a/ Finalization of collected tax amounts:

On the 5th of a month at the latest, authorized tax collectors shall make reports on tax amounts already collected and remitted in the previous month according to form No. 03/UNTH provided in this Circular and send them to tax agencies. Such reports must indicate amounts to be collected, amounts already collected, amounts not yet collected and reasons therefore, and measures to urge payment of remaining tax amounts. When receiving these reports, district-level Tax Departments shall carefully examine each receipt, tax amounts already collected, tax amounts already remitted into the state budget, and compare them with actually remitted tax amounts as certified by state treasuries. If there is a difference, they shall make records stating causes for identifying responsibilities of involved parties.

b/ Settlement of tax receipts:

Once a month on the 5th at the latest, authorized tax collectors shall make tables of settlement of tax, charge and fee receipts already used and number of receipts not yet used according to each type of receipt with tax agencies under regulations.

Ten days after the end of a calendar year, authorized tax collectors shall make reports on settlement of the use of tax receipts with tax agencies with regard to the number of tax, charge and fee receipts already used and transfer receipts not yet used to the subsequent year according to form No. 04/UNTH provided in this Circular.

All acts of late settlement of receipts or late remittance of collected tax amounts into the state budget are regarded as appropriating tax amounts. Authorized tax collectors shall be handled under current law if they collect tax without issuing receipts or with irrelevant receipts.

6. Authorized tax collectors shall monitor and report to tax agencies on new taxpayers or changes in taxpayers' business scale or commodity lines in localities they are authorized to collect tax.

Article 31. Responsibilities of tax collection-authorizing tax agencies

Tax agencies are responsible for implementing policies and managing taxes of different kinds in localities.

1. To publicize cases subject to tax collection authorization to taxpayers for compliance.
2. To issue tax payment notices and hand them together with approved tax registers to authorized tax collectors at least 10 days before the deadline for sending tax payment notices specified in Chapter III of this Circular.
3. To fully and promptly issue tax receipts to authorized tax collectors and guide them in managing and using tax receipts under regulations. When applying for issuance of tax receipts, authorized tax collectors shall make written requests and letters of introduction for the persons authorized to take the receipts.
4. To pay tax collection authorization funds under signed contracts.
5. To examine tax collection and remittance by authorized tax collectors:

Based on the receipts of tax amounts already collected and settled with tax agencies by authorized tax collectors and on the issued documents of money remittance into the state budget as well as state treasuries' certification of such remittance, tax agencies shall make tax accounting and determine tax arrears for taking appropriate managerial measures.

Tax agencies shall issue decisions imposing fines on late tax payment for cases of late tax payment and transfer the decisions to authorized tax collectors for further transfer to taxpayers. Authorized tax collectors shall urge taxpayers to fully remit tax amounts and fines for late tax payment into the state budget.

Article 32. Funds for authorized tax collection

Authorized tax collectors may enjoy funds for their tax collection which come from operating funds of tax agencies.

The Ministry of Finance shall issue a separate guidance on funds for authorized tax collection as appropriate in each locality and for each kind of tax.

Chapter V

RESPONSIBILITY TO FULFILL THE TAX PAYMENT OBLIGATION

Article 33. Fulfillment of the tax payment obligation in case of exit

1. Vietnamese on exit to reside abroad, overseas Vietnamese and foreigners shall, before leaving Vietnam, fulfill the tax payment obligation.

2. Taxpayers defined in Clause 1 of this Article must, before their exit, obtain tax administrations' certification of their fulfillment of the tax payment obligation. Tax administrations shall give written certification of the fulfillment of the tax obligation at the request of taxpayers.

3. Immigration management agencies shall suspend exit of persons upon receiving tax administrations' written or electronic notices of these persons' failure to fulfill the tax obligation under law before their exit.

Article 34. Fulfillment of the tax payment obligation in case of dissolution, bankruptcy or operation termination

1. Fulfillment of the tax payment obligation in case of dissolution or bankruptcy complies with Article 54 of the Tax Administration Law and laws on enterprises, cooperatives and bankruptcy.

Owners of private enterprises, members' councils or owners of limited liability companies, boards of directors of joint-stock companies or enterprise liquidation organizations shall take responsibility for the fulfillment of the tax payment obligation by enterprises in case of dissolution.

Cooperative dissolution councils shall take responsibility for the fulfillment of the tax payment obligation by cooperatives in case of dissolution.

Asset management and liquidation teams shall take responsibility for the fulfillment of the tax payment obligation by enterprises in case of bankruptcy.

Owners of private enterprises and partners of partnerships shall fulfill the tax payment obligation both before and after obtaining court decisions declaring their bankruptcy.

2. Responsibility to fulfill the tax obligation in case taxpayers terminate operation without carrying out dissolution or bankruptcy procedures under law:

a/ For enterprises which terminate operation without carrying out dissolution or bankruptcy procedures and enterprises which have not fulfilled the tax payment obligation, owners of private enterprises, chairpersons of members' councils or owners of limited liability companies, chairpersons of boards of directors of joint-stock companies and heads of management boards of cooperatives shall pay the tax arrears.

b/ For households and individuals that terminate business activities without fulfilling the tax payment obligation, heads of these households and the individuals themselves shall pay the tax arrears.

c/ For cooperative groups which terminate operation without fulfilling the tax payment obligation, heads of these cooperative groups shall pay the tax arrears.

d/ Taxpayers that have fulfilled the tax payment obligation under Point a, b or c of this Clause may request other persons with joint responsibility to perform their joint responsibility toward the former under the civil law.

Article 35. Fulfillment of the tax payment obligation in case of reorganization of enterprises

1. To-be-divided enterprises shall fulfill their tax payment obligation before division. In case divided enterprises have not fulfilled their tax payment obligation, enterprises newly established from the divided enterprises shall fulfill such obligation.

2. To-be-separated, -consolidated or -merged enterprises shall fulfill their tax payment obligation before separation, consolidation or merger. If having not fulfilled their tax payment obligation, separated enterprises and enterprises newly established from separated enterprises, consolidating enterprises and merging enterprises shall fulfill such obligation.

3. Enterprises to undergo ownership transformation shall fulfill their tax payment obligation before transformation. If transformed enterprises have not fulfilled their tax payment obligation, enterprises newly established from transformed enterprises shall fulfill such obligation.

4. Reorganization of enterprises will not result in change in the tax payment time limit for reorganized enterprises. Reorganized enterprises or newly established enterprises which fail to fully pay tax within the specified tax payment time limit shall be sanctioned under law.

5. Tax agencies may request one of enterprises with joint responsibility to fulfill the whole tax payment obligation. An enterprise which has fulfilled the whole tax payment obligation may request enterprises with joint responsibility to perform their joint responsibility toward it under the civil law.

Article 36. Inheritance of the tax payment obligation of persons who are declared as deceased, having lost civil act capacity or missing under the civil law

1. Heirs shall fulfill the tax payment obligation of persons who are declared by law as deceased within the value of the deceased's bequeathed assets.

In case a bequeathed asset has not been divided, the asset manager shall fulfill the deceased's tax payment obligation.

In case a bequeathed asset has been divided, heirs of the bequeathed asset shall fulfill the deceased's tax payment obligation corresponding to but not exceeding the asset's value they inherited, unless otherwise agreed.

In case the State, an agency or organization inherits the bequeathed asset according to testament, it shall also fulfill the deceased's tax payment obligation like an individual heir.

In case there is no heir according to testament or law or there is an heir who refuses to receive the bequeathed asset, the fulfillment of the deceased's tax payment obligation complies with the civil law.

2. The tax payment obligation of persons declared as missing or having lost civil act capacity shall be fulfilled by persons assigned by the court to manage the former's assets within the value of such assets.

3. In case a competent state agency annuls a decision declaring a person as deceased, missing or having lost civil act capacity, the tax arrears already remitted under Article 65 of the Tax Administration Law shall be recovered without fines on late payment for the period he/she is declared as deceased, missing or having lost civil act capacity.

Article 37. Certification of fulfillment of the tax obligation

1. Taxpayers may request their managing tax agencies to certify their fulfillment of the tax obligation for each kind or all kinds of tax (except taxes on imports); or to certify tax amounts and fines remaining to be paid by the time of request.

Foreign individuals or contractors who pay tax through organizations or individuals responsible for withholding tax may request tax agencies managing these organizations or individuals to certify their fulfillment of the tax payment obligation.

2. A written request for certification of fulfillment of the tax payment obligation must indicate:

- Name of the taxpayer and his/her tax identification number;
- Amount of tax of each kind, including, the amount declared by the taxpayer in the tax dossier submitted to the tax agency and the presumptive amount and assessed amount under the tax agency's decision;
- Fine for administrative violations of tax laws;
- Tax amount and fine already paid;
- Tax amount and fine not yet paid (if any).

3. Within 5 working days after receiving a taxpayer's written request for certification of fulfillment of the tax obligation, the tax agency shall issue such certification. When necessary to check and compare information on the taxpayer's fulfillment of the tax obligation, the tax agency shall send a notice to the taxpayer, indicating the reason for non-certification.

4. Procedures for deduction of overseas paid tax into tax payable in Vietnam

To be entitled to deduction of the tax amount already paid (or regarded as having been paid) in a country being a contracting party to a tax agreement with Vietnam, an organization or individual being Vietnam's resident shall complete the following procedures:

a/ The taxpayer shall send a dossier of request for deduction of the tax amount already paid (or regarded as having been paid) in a foreign country into the tax amount payable in Vietnam to the provincial-level Tax Department with which he/she registers tax payment. A dossier comprises:

a.1/ A written request for tax deduction under agreement, made according to form No. 02/HTQT provided in this Circular, providing information on transactions related to the overseas tax amount requested for deduction into the tax amount payable in Vietnam within the agreement's scope of regulation.

In *force majeure* circumstances, if the taxpayer fails to provide sufficient information or documents required under Point a, Clause 4 of this Article, he/she shall give the reasons in the above request.

a. 2/ Other documents, depending on the form of deduction. Specifically:

- In case of direct deduction:

- + A copy of the overseas income tax return, certified by the taxpayer;
- + A copy of the overseas tax receipt certified, by the taxpayer;
- + An original of the overseas tax agency's certification of the paid tax amount.

- In case of deduction of the presumptive tax amount:

- + A copy of the overseas income tax return, certified by the taxpayer;
- + Copies of the business registration certificate or legal documents on overseas business operations certified by the taxpayer;
- + A foreign competent official's letter of certification of the exempted or reduced tax amount and certification that the request for deduction of the presumptive tax amount is compliant with the agreement and law of the country being contracting party to the relevant agreement.

- In case of indirect deduction:

- + Legal documents evidencing the requester's relationship and holding rate;
- + A copy of the overseas income tax return of the dividend-sharing company to which the requester contributes capital, certified by the taxpayer;
- + A copy of the return of withholding tax on the shared dividends, certified by the taxpayer;

+ A foreign tax agency's certification of the tax amount already paid for the shared stocks and the income tax amount already paid by the company before dividend sharing.

b/ Based on the dossier, the tax agency shall consider and deduct tax under the agreement and this Circular within 10 working days after receiving a complete dossier specified at Point a above. This 10-day period excludes the time for supplementing and explaining the dossier.

5. Procedures for certification of tax amounts already paid in Vietnam by foreign residents:

For a resident of a country being contracting party to an agreement with Vietnam who must pay income tax in Vietnam under the agreement and Vietnamese tax laws, if wishing to have his/ her tax amount already paid in Vietnam certified for deduction into the tax amount payable in his/ her country of residence, he/she shall carry out the following procedures:

a/ If the taxpayer sends a dossier of request for certification of the tax amount actually paid in Vietnam to the provincial-level Tax Department with which he/she registers tax payment, the dossier comprises:

a.1/ A written request for certification of the tax amount actually paid in Vietnam, made according to form No. 03/HTQT provided in this Circular, providing information on transactions related to taxable income and tax amount arising from such transactions within the agreement's scope of regulation.

In *force majeure* circumstances in which the taxpayer cannot provide sufficient information or documents required under Point a, Clause 5 of this Article, he/she shall give the reasons in the above request.

a.2/ The country of residence's consularly legalized certificate of residence, granted by the tax agency (indicating in which tax period the taxpayer resides).

Within 7 working days after receiving a complete dossier, the provincial-level Tax Department with which the taxpayer makes tax registration shall issue a written certification of the paid tax amount according to form No. 04/HTQT, for PIT and EIT, or form No. 05/HTQT provided in this Circular, for income tax on dividends, loan interests, royalty or technical service charges. This 7-day time limit excludes the time for supplementing and explaining the dossier.

b/ If the taxpayer requests certification of the tax amount arising in Vietnam but is exempt from tax because he/she is entitled to tax incentives and such exemption is regarded as the paid tax amount for deduction of the presumptive tax amount in his/her country of residence, he/she shall send a dossier to the provincial-level Tax Department for carrying out certification procedures. A dossier comprises:

b.1/ A written request for certification of the tax amount paid in Vietnam, made according to form No. 03/HTQT provided in this Circular, providing information on transactions related to taxable income, arising tax amount and tax incentives for such transactions within the agreement's scope of regulation.

In *force majeure* circumstances in which the taxpayer cannot provide sufficient information or documents required under Point b, Clause 5 of this Article, he/she shall give the reasons in the above request.

b.2/ The country of residence's consularly legalized certificate of residence, granted by the tax agency (indicating in which tax period the taxpayer resides);

Within 7 working days after receiving a complete dossier, the provincial-level Tax Department shall certify the tax amount arising in Vietnam which is exempt because the taxpayer is entitled to tax incentives. This 7-day time limit excludes the time for supplementing and explaining the dossier.

6. Procedures for certification of Vietnam's residents:

a/ Organizations and individuals that request to be certified as Vietnam's residents under the agreement shall carry out the following procedures:

a.1/ Organizations and individuals being taxpayers shall submit a written request for certification of Vietnam's residents, made according to form No. 06/HTQT provided in this Circular, to the provincial-level Tax Department with which they register tax payment.

a.2/ For organizations and individuals other than taxpayers:

- A written request (specified at Point a.1, Clause 6 of this Article);
- The managing agency's or local administration's certification of place of residence or place of household membership registration, for individuals, or establishment registration certificate, for organizations (e.g., cooperatives or agricultural cooperative groups);
- The income payer's certification (if any). If this certification is unavailable, requesters shall themselves declare in the request and take responsibility before law for such declaration.

b/ Within 7 working days after receiving a request, the provincial-level Tax Department shall, pursuant to Article 4 of the Agreement related to definition of residents, consider and grant certificates of residence to requesters, made according to form No. 07/HTQT provided in this Circular. This 7-day time limit excludes the time for supplementing and explaining the dossier.

Chapter VI

TAX EXEMPTION AND REDUCTION PROCEDURES; REMISSION OF TAX AND FINE ARREARS

Article 38. Cases in which taxpayers themselves determine tax amounts eligible for exemption or reduction

1. Taxpayers shall themselves determine tax amounts eligible for exemption or reduction in tax declaration dossiers or tax exemption or reduction dossiers and send these dossiers to their managing tax agencies, except the cases specified in Article 39 of this Circular.
2. Documents related to tax exemption or reduction determination constitute a part of the tax declaration dossier.

Article 39. Cases in which tax agencies decide on tax exemption or reduction

Tax agencies shall directly examine dossiers and issue decisions on tax exemption or reduction in the following cases:

1. Tax exemption or reduction for business households or individuals that pay tax according to the presumption method and suspend business operations. A dossier of request for tax exemption or reduction comprises the household or individual's written request for tax exemption or reduction, made according to form No. 01/MGTH provided in this Circular, indicating the payable tax amount; tax amount requested for exemption or reduction; paid tax amount (if any); tax amount remaining to be paid; reasons for exemption or reduction, and enclosed documents.

PIT exemption or reduction procedures comply with Clause 2 of this Article.

2. PIT exemption or reduction:

PIT reduction shall be considered in a calendar year. Taxpayers facing difficulties caused by natural disasters, fires, accidents or dangerous diseases, business individuals or groups of business individuals paying PIT according to the presumption method that suspend business operations, and foreign experts implementing ODA programs and projects in a year shall be considered for exemption or reduction of the payable PIT amounts in that year.

a/ PIT exemption or reduction dossier

a.1/ For taxpayers facing difficulties caused by natural disasters or fires

- A written request for PIT reduction, made according to form No. 18/MGT-TNCN provided in this Circular;

- A competent agency's evaluation of the extent of property damage or the certification of damage given by the commune-level People's Committee of the locality in which the natural disaster or fire occurs;
- The insurer's compensation document (if any) or the fire causer's compensation agreement (if any);
- Payment documents directly related to remedy of the natural disaster or fire;
- The PIT finalization return (for those subject to PIT finalization).

a.2/ For taxpayers facing difficulties caused by accidents

- A written request for PIT reduction, made according to form No. 18/MGT-TNCN provided in this Circular;
- The police office's document or record certifying the accident, or the health agency's document or record certifying the degree of injury;
- Papers on the insurer's compensation or the accident causer's compensation agreement (if any);
- Payment documents directly related to remedy of the accident;
- The PIT finalization return (for those subject to PIT finalization).

a.3/ For taxpayers suffering dangerous diseases

- A written request for PIT reduction, made according to form No. 18/MGT-TNCN provided in this Circular;
- Copies of the medical records or medical books;
- The health agency's documents evidencing medical expenses; or receipts for medicines enclosed with the doctor's prescriptions;
- The PIT finalization return (for those subject to PIT finalization).

a.4/ For business individuals or groups of business individuals paying PIT according to the presumption method that suspend business operations

In a year subject to presumptive tax payment, business individuals or groups of business individuals that cease business operations for a full month (from the first through the last day of a month) or more will be entitled to reduction of one-third of the payable quarterly tax amounts. Those ceasing business operations for full 2 months or more will be entitled to reduction of two-thirds of the quarterly payable tax amounts. Those ceasing business operations for the whole quarter will be entitled to reduction of the whole quarterly payable tax amounts.

Example: Mr. A is a business individual who has a presumptive tax amount payable in 2011 of VND 12 million. In the year, he ceases business operations consecutively from February 20 through June 20. So he will be considered for tax reduction as follows:

- Mr. A's full months of business cessation to be considered for tax reduction include March, April and May;
- His quarterly presumptive tax amount is VND 12 million/4 quarters = VND 3 million

So his tax amount eligible for reduction is:

- In the first quarter, he ceases business operations for 1 full month, so he is entitled to reduction of one-third of this quarter's tax amount, which is VND 1 million.
- In the second quarter, he ceases business operations for 2 consecutive months, so he is entitled to reduction of two-thirds of this quarter's tax amount, which is full VND 2 million.

A dossier of request for tax exemption or redaction comprises an individual's written request for tax exemption or reduction, made according to form No. 01/MGTH provided in this Circular,

indicating the payable tax amount; tax amount requested for exemption or reduction; paid tax amount (if any); tax amount to be paid; reasons for exemption or reduction, and enclosed documents.

a.5/ For foreign experts implementing ODA programs and projects

- The project owner's or contractor (company)'s written request for PIT exemption for the expert.
- The managing agency's certification of the expert's satisfaction of all conditions for privileges and immunities, made according to form No. 01/XNCG provided in this Circular.
- Documents related to the expert's tax- exempt income (contract, income payment document, etc.).

Within 15 working days after receiving a complete and valid dossier, the tax agency shall give a written certification of PIT exemption for the expert, made according to form No. 02/XNMT provided in this Circular.

b/ Places for dossier submission

Taxpayers facing difficulties caused by natural disasters, fires, accidents or dangerous diseases, business individuals or groups of business individuals paying PIT according to the presumption method that cease business operations shall submit dossiers of request for PIT reduction to their managing tax agencies.

For experts signing contracts with project owners or contractors (companies), these owners or contractors (companies) shall submit dossiers of request for PIT exemption for the experts to tax agencies in localities in which they are headquartered.

3. Exemption from or reduction of excise tax, land rent, water surface rent, housing and land tax or agricultural land use tax for taxpayers facing difficulties caused by natural disasters, fires or accidents, thus suffering losses and unable to pay tax

A dossier of request for tax exemption or reduction comprises:

- A written request for tax exemption or reduction, made according to form No. 01/MGTH provided in this Circular, indicating the time of and reason for damage, value of damaged property, losses caused by natural disasters, enemy sabotage or accidents, payable tax amount, tax amount requested for exemption or reduction, and list of enclosed documents;
- A competent agency's evaluation of the level and value of property damage, certified by the commune-level administration of the locality in which the natural disaster, fire or accident occurs, made according to form No. 02/MGTH provided in this Circular;
- The financial settlement statement (for enterprises), enclosed with explanations analyzing and determining damage and losses caused by damage.

4. Royalty exemption or reduction for mining organizations and individuals under Article 9 of the Law on Royalties:

a/ A dossier of request for royalty exemption or reduction comprises:

- A written request for royalty exemption or reduction, made according to form No. 01/MGTH provided in this Circular.
- A monthly royalty return, made according to form No. 01/TAIN provided in this Circular.
- A royalty finalization return, made according to form No. 02/TAIN provided in this Circular.
- Enclosed documents related to royalty exemption or reduction.

b/ Royalty-exempt cases in which monthly royalty returns and annual royalty finalization are not required: Organizations and individuals exploiting natural aquatic products; natural water used for agriculture, forestry, fishery production and salt making; natural water exploited by households and individuals for daily-life activities.

c/ Royalty exemption procedures in some specific cases:

- For natural water used for hydropower generation by households and individuals for their daily-life activities: These households and individuals shall make written requests for royalty exemption, enclosed with explanations about equipment for hydropower generation for daily-life activities, certified by commune-level People's Committees. When commencing operation, these households shall make first-time declaration to their managing tax agencies to enjoy royalty exemption.

- For soil exploited and used on the allocated or leased land area:

Soil-exploiting organizations and individuals (including contract-undertaking units) shall make written requests for royalty exemption, enclosed with certified copies of land allocation or lease decisions and approved relevant dossiers on construction of works in localities by investors, and send dossiers to their managing tax agencies in localities in which they exploit soil for information on and monitoring of royalty exemption.

5. Land use levy exemption or reduction

A dossier of declaration of land use levy exemption or reduction comprises:

- A land use levy return, made according to form No. 01/TSDD provided in this Circular;

- Papers evidencing land use levy exemption or reduction (notarized or certified copies), specifically: investment incentive certificate, for cases eligible for investment promotion; a competent agency's written approval of the investment project, for projects on public works for commercial purposes, projects to build student dormitories, houses for people with meritorious services to the revolution or condominiums for industrial park workers; a decision on relocation of and approved investment project for factories and workshops to be relocated under planning. For poor households, a competent agency's certification of poor households is required under regulations of the Ministry of Labor, War Invalids and Social Affairs. For ethnic minority households, their household membership books (in localities in which such books are available) or the commune-level People's Committee's certification (in localities in which such books are not yet available) are/is required. For households and individuals with meritorious services to the revolution, relevant papers evidencing their eligibility for land use levy exemption or reduction under law, and land use levy exemption or reduction decisions of provincial-level People's Committees or their authorized agencies, are required.

Land use levy exemption or reduction declaration dossiers shall be sent to land use right registries or natural resources and environment agencies, for dossiers to be submitted to these agencies, or commune-level People's Committees, for dossiers to be submitted in communes, wards or townships, or tax agencies of localities in which exists the land, in case the one-stop shop mechanism has not been applied.

6. Land rent or water surface rent exemption or reduction:

A dossier of request for exemption or reduction of land rent or water surface rent (below collectively referred to as land rent) comprises:

- A written request for land rent exemption or reduction, indicating the to-be-leased land area, lease duration; reasons for and period of exemption or reduction.

- A land rent return under regulations.

- The approved investment project (except cases in which beneficiaries of land exemption or reduction are not investment projects).

- A competent agency's land lease decision; land lease contract (and contract or document on receipt of contracted land between an enterprise or agricultural production cooperative and households being farmers or cooperative members, for cases eligible for land rent exemption or reduction specified at Point 3, Section II and Point 3, Section III, Part C of Circular No. 120/2005/TT-BTC, which was amended under Point 4, Section VII and Point 3, Section VIII of the Finance Ministry's Circular No. 141/2(X)7/TT-BTC of November 30, 2007).

- The investment license or business registration certificate.
- The investment certificate granted by a competent state agency, in case the investment project must be indicated by an investment state management agency in the investment certificate or in case the project is not subject to investment registration but the investor requests certification of investment incentives.

In addition to the above papers, in some cases, a dossier of request for land rent exemption or reduction must comprise the following papers:

a/ In case a project faces difficulties and must be suspended from construction or operation and is eligible for land rent exemption in the period of such suspension:

- For a project subject to construction suspension, within 30 days after suspension, the following papers must be sent to the tax agency:

- + A written request for land rent exemption or reduction, indicating reasons for and period of suspension.

- + An annex to the construction contract or record of construction suspension made between the contract-assigning and -undertaking parties, indicating suspension of performance of the construction contract.

- For a project subject to operation suspension, within 30 days after suspension, a written request for land rent exemption or reduction certified by the investment licensing agency must be sent to the tax agency.

b/ For cases eligible for land rent exemption in the construction period under approved projects, procedures shall be carried out in the two stages below:

b. 1/ In the construction period, the land renter shall produce to the tax agency papers for use as a basis for temporarily determining the period eligible for land rent exemption, including:

- The construction license granted by a competent agency, except projects in new urban centers, industrial parks or industrial complexes.

- The construction contract; in case no construction contract is available, the land renter must indicate such in the written request for land rent exemption.

- A record of land allocation.

b.2/ After a work or work item is completed and handed and put into operation and use. the land renter shall fully produce papers to the tax agency for issuing a land rent exemption decision. These papers include:

- + A record of takeover test and handover of the completed work or work item put into operation and use, made between the work construction investor and contractor.

Or documents evidencing that the land renter him/herself conducts capital construction.

c/ Cases eligible for land rent exemption or reduction according to investment incentives under the investment law or for new production and business establishments of economic institutions to be relocated under planning or due to environmental pollution:

- Papers on investment incentives, indicating land rent or water surface rent incentives, such as investment incentive certificate, investment license and investment certificate granted by a competent state agency (notarized or certified copies).

- A competent state agency's decision to relocate the production and business establishment under planning or due to environmental pollution.

- A land lease decision, land lease contract or record of land allocation at the new production and business establishment.

d/ Cases eligible for land rent exemption or reduction for projects to build working office building, land leased under projects to build offices of diplomatic missions, foreign consular offices and representative offices of international organizations in Vietnam under treaties to which Vietnam is a contracting party or on the reciprocal principle.

In these cases, the land renter shall produce to the tax agency the agreement or commitment between the Vietnamese Government and an international organization on land rent exemption or reduction; or a written certification given by the Vietnamese Ministry of Foreign Affairs or a local foreign affairs agency authorized by the Ministry of Foreign Affairs.

e/ In cases eligible for land rent exemption or reduction as decided by the Prime Minister at the proposal of ministers, heads of ministerial-level agencies or government-attached agencies or chairpersons of provincial-level People's Committees, a dossier of request for land rent exemption or reduction must comprise the Prime Minister's decision (a notarized or certified copy).

7. Time limit for processing dossiers of request for tax exemption or reduction:

- Within 30 days after receiving a complete dossier, the tax agency shall issue a tax exemption or reduction decision, made according to form No. 03/MGTH provided in this Circular, or notify the taxpayer of reasons for his/her ineligibility for tax exemption or reduction according to form No. 04/MGTH provided in this Circular.

- When necessary to conduct physical inspection to have sufficient grounds for processing dossiers, the time limit for issuing a tax exemption or reduction decision is 60 days after receiving a dossier.

8. Competence to approve tax exemption or reduction:

a/ For land use levy, land rent and water surface rent:

- Directors of provincial-level Tax Departments may approve land use levy exemption or reduction and issue decisions on land rent or water surface rent exemption or reduction for economic institutions, foreign organizations and individuals and overseas Vietnamese.

- Heads of district-level Tax Departments may approve land use levy exemption or reduction and issue decisions on land rent or water surface rent exemption or reduction for households and individuals.

b/ Exemption from or reduction of other taxes in case tax agencies decide on tax exemption or reduction: For tax exemption or reduction dossiers submitted to managing tax agencies of a level, heads of these tax agencies shall decide on tax exemption or reduction or notify taxpayers of reasons for their ineligibility for tax exemption or reduction.

Article 40. Remission of tax or fine arrears

1. Cases eligible for remission of tax or fine arrears include:

a/ Enterprises declared bankrupt (excluding private enterprises and partnerships declared bankrupt) which have made payments under the bankruptcy law and have no assets left for paying tax or fine arrears.

b/ Individuals declared by law as deceased, missing or having lost civil act capacity, and having no assets left for paying tax or fine arrears.

2. A dossier of request for remission of tax or fine arrears comprises:

a/ A written request for remission of tax or fine arrears, made by the tax agency managing the taxpayer entitled to such remission according to form No. 01/XNTH provided in this Circular;

b/ Documents related to the request (notarized or certified copies):

b.1/ For the case specified at Point a, Clause 1 of this Article:

- A tax finalization return by the time the court issues a decision to open procedures for responding to the request for bankruptcy declaration;
- A decision to open asset liquidation procedures, enclosed with a plan on asset division;
- A court decision to declare bankruptcy.

b.2/ For the case specified at Point b. Clause 1 of this Article:

- For a person declared by law as deceased:
 - + A certificate or notice of death or a substitute paper as provided by the law on civil status registration and management;
 - + A written certification given by the commune-level People's Committee of the last place of residence of the deceased that he/she has no assets.

The tax agency shall request the deceased's relatives to provide the above papers. If such papers are lost, it shall request them to make an application requesting the chairperson of the commune-level People's Committee of the deceased's last place of residence to certify that he/she has deceased and has no assets.

- For a person declared by law as missing:
 - + A court decision to declare his/her missing;
 - + A written certification given by the commune-level People's Committee of the locality in which he/she resided that he/she has no assets.

The tax agency shall request relatives of the person declared as missing to provide the above papers.

- For a person declared by law as having lost civil act capacity:
 - + A court decision to declare his/her loss of civil act capacity;
 - + A written certification made by his/her guardian, certified by the commune-level People's Committee of the locality in which his/ her resided, that he/she has no assets.

The tax agency shall request guardians of the person declared as having lost civil act capacity to provide the above papers.

3. Order of processing a dossier of request for remission of tax or fine arrears:

a/ Managing tax agencies shall send dossiers of request for remission of tax or fine arrears to superior tax agencies in the following order:

- District-level Tax Departments send to provincial-level Tax Departments dossiers of request for remission of tax or fine arrears of taxpayers managed by district-level Tax Departments.
- Provincial-level Tax Departments send to the General Department of Taxation dossiers of request for remission of tax or fine arrears of taxpayers managed by provincial-level Tax Departments and dossiers submitted by district-level Tax Departments.

b/ If dossiers of request for remission of tax or fine arrears are incomplete, within 10 working days after receiving the dossiers, superior tax agencies shall notify such to dossier-making agencies for completion of the dossiers according to form No. 02/XNTH provided in this Circular;

c/ Within 60 days after receiving a complete dossier of request for remission of tax or fine arrears, a competent person shall issue an arrear remission decision according to form No. 03/XNTH, or notify cases ineligible for remission of tax or fine arrears according to form No. 04/XNTH, provided in this Circular.

4. Competence to remit tax or fine arrears and report to the National Assembly:

a/ The Minister of Finance may authorize the General Director of Taxation to examine dossiers and issue decisions on remission of tax or fine arrears under Clause I of this Article. A decision contains:

- Name of the taxpayer entitled to remission of tax or fine arrears;
- To-be-remitted tax arrear corresponding to the kind of tax and tax period or the time the tax amount arises;
- To-be-remitted fine arrear;
- Tax agency to observe the decision.

b/ On the basis of arrear remission decisions, tax agencies managing tax or fine arrears eligible for remission shall include the arrears in annual state budget revenue settlement and report such to finance agencies of the same level for inclusion in local budget settlement reports.

c/ The General Director of Taxation shall summarize the remitted tax and fine arrears according to settlement of budgets at all levels and submit them to the Minister of Finance for reporting to the National Assembly when the Government submits to the National Assembly for approval the general state budget settlement.

Chapter VII

TAX REFUND AND CLEARING PROCEDURES

Article 41. A dossier of request for VAT refund in case the input VAT amount has not been fully credited in 3 consecutive months, or in case the output VAT amount has not yet arisen during investment period, or for clearing of VAT on purchased goods and services used for an investment project together with declaration of VAT on production and business activities comprises a written request for refund of state budget revenues made according to form No. 01/DNHT provided in this Circular.

Article 42. Dossiers of request for VAT refund in case of export

1. When payment is made in cash, a VAT refund dossier comprises:

- A written request for refund of state budget revenues, made according to form No. 01/DNHT provided in this Circular;
- A statement of goods and service import and export dossiers, made according to form No. 01-3/DNHT provided in this Circular, including the export contract signed with a foreign party or export or processing entrustment contract, in case of export entrustment or export processing entrustment; the customs declaration of exports; and document of payment for export goods and services;
- A record of liquidation of the contract on export entrustment or export processing entrustment (in case the contract is completed) or a record comparing regular debts between the export entrusting party and entrusted party (in case of export entrustment or export processing entrustment);
- The entrusted party's written certification of the quantity of actually exported goods, enclosed with a detailed list of names, quantities, unit prices and turnover of exported goods (in case the entrusted party exports goods of the same type of different goods owners according to each shipment and delivers goods to different customers at different unit prices).

2. When payment is made in kind, a VAT refund dossier comprises:

- A written request for refund of state budget revenues, made according to form No. 01/DNHT provided in this Circular;
- A statement of goods and service import and export dossiers, made according to form No. 01-3/DNHT provided in this Circular, including the export contract signed with a foreign party; the import contract on clearing against exported goods and services signed with a foreign party; the

import and export declaration; the written certification of the cleared amount, given to the foreign party; and via-bank payment documents;

- The entrusted party's written certification of the quantity of actually exported goods, enclosed with a detailed list of names, quantities, unit prices and turnover of exported goods (in case the entrusted party exports goods of the same type of different goods owners according to each shipment and delivers goods to different customers at different unit prices).

3. In case of on-spot export, a VAT refund dossier comprises:

- A written request for refund of state budget revenues, made according to form No. 01/DNHT provided in this Circular;

- A statement of goods and service import and export dossiers, made according to form No. 01-3/DNHT provided in this Circular, including the export contract signed with a foreign party, indicating names, quantities and unit prices of goods, name, address and tax identification number of the goods recipient; the customs declaration of on-spot imported and exported goods; and documents of via-bank payment for on-spot imported and exported goods;

- The entrusted party's written certification of the quantity of actually exported goods, enclosed with a detailed list of names, quantities, unit prices and turnover of exported goods (in case the entrusted party exports goods of the same type of different goods owners according to each shipment and delivers goods to different customers at different unit prices).

4. For processed goods, a VAT refund dossier comprises:

- A written request for refund of state budget revenue, made according to form No. 01/DNHT provided in this Circular;

- A statement of goods and service import and export dossiers, made according to form No. 01-3/DNHT provided in this Circular, including the processing-ordering contract; processing-undertaking contract; the declaration of processed goods; and documents of via-bank payment for on-spot exported goods;

- The entrusted party's written certification of the quantity of actually exported goods, enclosed with a detailed list of names, quantities, unit prices and turnover of exported goods (in case the entrusted party exports goods of the same type of different goods owners according to each shipment and delivers goods to different customers at different unit prices).

5. For goods exported for implementation of offshore investment projects, a VAT refund dossier comprises:

- A written request for refund of state budget revenues, made according to form No. 01/DNHT provided in this Circular;

- A statement of dossiers of goods exported for offshore investment, made according to form No. 01-4/DNHT provided in this Circular, including the offshore investment certificate; the written approval of the investment project or document of equivalent legality under the law of the investment-receiving country; the Industry and Trade Ministry's document on the list of goods exported for implementation of the offshore investment project (indicating kinds, quantities and value of goods);

- The entrusted party's written certification of the quantity of actually exported goods, enclosed with a detailed list of names and quantities of goods (in case the entrusted party exports goods of the same type of different goods owners according to each shipment and delivers goods to different customers).

Article 43. VAT refund for ODA projects

1. For projects owners and principal contractors

a/ Submission of VAT refund dossiers:

Owners of ODA projects eligible for VAT refund shall submit VAT refund dossiers to provincial-level Tax Departments managing project areas any time when arises an input VAT amount eligible for refund during the project implementation period.

Principal contractors implementing ODA projects eligible for VAT refund shall submit VAT refund dossiers to tax agencies of localities in which the projects are implemented.

b/ A VAT refund dossier comprises:

- A written request for refund of state budget revenues, made according to form No. 01/DNHT provided in this Circular;
- A statement of invoices and documents of purchased goods and services, made according to form No. 01-1/DNHT provided in this Circular,
- A competent authority's decision approving the project using non-refundable ODA or preferential ODA loans allocated from the state budget (a copy sealed and signed by the project's competent person). In case of multiple VAT refund, this decision is required only upon the first refund.
- The ODA project-managing agency's certification that the project is funded with non-refundable ODA or preferential ODA loans allocated from the state budget which are eligible for VAT refund (a certified copy) and that the project is not allocated state budget for VAT payment. The taxpayer is required to submit this certification together with a dossier of request for first-time VAT refund.

In case principal contractors make VAT refund dossiers, in addition to the documents specified at this Point, there must be the project owner's certification that the project is not allocated state budget capital for payment to contractors at VAT-inclusive prices. Payment prices are exclusive of VAT and VAT refund is requested for principal contractors.

2. For ODA project offices

a/ Submission of VAT refund dossiers:

ODA project offices eligible for VAT refund shall submit VAT refund dossiers to provincial-level Tax Departments in localities in which the offices are headquartered any time when arises an input VAT amount eligible for refund during the project implementation period.

b/ A VAT refund dossier comprises:

- A written request for refund of state budget revenues, made according to form No. 01/DNHT provided in this Circular;
- A statement of invoices and documents of purchased goods and services, made according to form No. 01-1/DNHT provided in this Circular;
- A written agreement between a competent Vietnamese state agency and the donor on the establishment of the representative office (a copy certified by the office);
- A competent state agency's document on the establishment of the representative office (a copy certified by the office).

Article 44. VAT refund for Vietnamese organizations using foreign humanitarian aid and non-refundable aid to purchase goods in Vietnam for donation

1. Submission of VAT refund dossiers: Vietnamese organizations using foreign humanitarian aid and non-refundable aid to purchase goods in Vietnam for donation and entitled to VAT refund shall submit VAT refund dossiers to provincial-level Tax Departments of localities in which they are headquartered any time when arises an input VAT amount eligible for refund.

2. A VAT refund dossier comprises:

- A written request for refund of state budget revenues, made according to form No. 01/DNHT provided in this Circular;

- A statement of invoices and documents of purchased goods and services, made according to form No. 01-1/DNHT provided in this Circular;
- A competent authority's decision approving aid amounts (a copy certified by the taxpayer);
- The Finance Ministry's written certification of the foreign non-governmental organization's aid amount, indicating name of the organization, value of the aid amount, and aid-receiving and -managing agency.

Article 45. VAT refund for entities entitled to diplomatic privileges and immunities

1. Submission of VAT refund dossiers and procedures for dossier processing:

Representative missions eligible for VAT refund shall, within the first 10 days of the first month of a quarter, make VAT refund dossiers of the previous quarter and send them to the State Protocol Department under the Ministry of Foreign Affairs for certification.

Within 15 working days after receiving complete dossiers, the State Protocol Department under the Ministry of Foreign Affairs shall examine the dossiers and certify entities entitled to VAT refund, list and quantity of goods and services eligible for VAT refund, then transfer the dossiers to provincial-level Tax Departments for processing.

For cases ineligible for VAT refund and when VAT refund dossiers are incomplete, the State Protocol Department under the Ministry of Foreign Affairs shall return VAT refund dossiers to entities entitled to diplomatic privileges and immunities within 5 days after receiving them.

2. A VAT refund dossier comprises:

- A written request for refund of state budget revenues, made according to form No. 01/DNHT provided in this Circular, and certified by the State Protocol Department under the Ministry of Foreign Affairs.
- A statement of VAT on purchased goods and services used for diplomatic missions, made according to form No. 01-5/DNHT, and a statement of VAT on purchased goods and services used for Vietnamese diplomats, made according to form No. 01-6/DNHT, provided in this Circular.
- The original enclosed with 2 copies of the added-value invoice sealed by the representative mission. The tax agency shall return original invoices to the representative mission after refunding VAT.

Article 46. PIT refund dossiers

PIT refund applies only to persons already possessing tax identification numbers.

PIT on persons who have authorized income payers to make on-behalf tax finalization shall be refunded through the income payers.

1. PIT refund for income payers making on-behalf tax finalization for authorizing persons

If there is a surplus after the income payer clears the overpaid or deficit tax amount of a person, the income payer shall submit a PIT refund dossier to the tax agency. A dossier comprises:

- A written request for refund of state budget revenues, made according to form No. 01/DNHT provided in this Circular;
- A PIT finalization return, made according to form No. 05/KK-TNCN provided in this Circular, and the following:
 - + A statement of taxable income and PIT for incomes from salaries and wages of resident individuals with labor contracts, made according to form No. 05A/BK-TNCN provided in this Circular;

+ A statement of taxable income and PIT for incomes from salaries and wages of persons without labor contracts or with labor contracts of under 3 months and of nonresident individuals, made according to form No. 05B/BK-TNCN provided in this Circular.

- Copies of PIT payment documents and receipts with commitment made by the income payer's lawful representative.

2. For earners of incomes from business operations or from salaries and wages who themselves carry out PIT finalization procedures with tax agencies, if having PIT amounts requested for refund, they are not required to submit PIT refund dossiers but shall only indicate the PIT amounts requested for refund in item "Total PIT amount requested for refund" in the tax finalization return made according to form No. 09/KK-TNCN provided in this Circular upon PIT finalization.

3. For securities transferors who register to pay tax at the rate of 20% and are subject to tax finalization declaration, if having PIT amounts requested for refund, they are not required to submit PIT refund dossiers but shall only indicate the PIT amounts requested for refund in item "PIT amount requested for refund" in the tax finalization return made according to form No. 13/KK-TNCN provided in this Circular upon PIT finalization.

Article 47. Tax refund dossiers under double taxation avoidance agreements

- A written request for tax refund under agreement, made according to form No. 02/DNHT, for organizations and individuals being foreign residents, or form No. 03/DNHT provided in this Circular, for organizations and individuals being Vietnam's residents;

In *force majeure* circumstances in which taxpayers cannot provide sufficient information or documents required under this Article, they shall give the reasons in the above request..

- The consularly legalized original certificate of residence, granted by the tax agency of a country Of residence (indicating in which tax year the taxpayer resides);

- Copies of the economic contract, service provision contract, agent contract, entrustment contract, technology transfer contract, document evidencing the enterprise's running of vehicles (for international transportation enterprises) or labor contract signed with Vietnamese organizations or individuals, certificate of deposits in Vietnam, certificate of capital contributed to companies in Vietnam (depending on types of incomes and on a case-by-case basis), certified by the taxpayer;

- Tax receipt, certified by the state treasury or tax agency upon tax collection; or copies of the tax receipt and written certification, given by the state treasury into which the taxpayer remits tax, of the paid tax amount, certified by the taxpayer;

- Certification given by the labor contract- signing Vietnamese organization or individual, of the time and performance of the contract.

Article 48. Petrol and oil charge refund dossier

- A written request for refund of state budget revenues, made according to form No. 01/DNHT provided in this Circular;

- A statement of the petrol and oil charges requested for refund, indicating the quantity of actually purchased petrol and oil already charged, quantity of actually exported petrol and diesel, petrol and oil charge requested for refund, number of the requester's account at the provincial-level bank or state treasury, made according to form No. 01-2/DNHT provided in this Circular;

- Petrol and oil seller's contract and invoice on purchase of petrol and diesel;

- Petrol and diesel export license, granted by the Ministry of Industry and Trade;

- Petrol and diesel export contract signed with a foreign party; in case of export entrustment, a petrol and diesel export entrustment contract is also required;

- Invoice of sale of petrol and diesel to foreign parties, export-processing zones and export-processing enterprises;
- Export customs declaration already cleared from customs procedures;
- The entrusted party's written certification of the quantity of actually exported petrol and diesel, enclosed with a detailed list of names, quantities, unit prices and turnover of exported petrol and diesel (in case the entrusted party exports petrol and diesel of the same type of different goods owners according to each shipment and delivers goods to different customers at different prices).

Article 49. Dossiers for refund of overpaid tax and charge amounts for taxpayers that are merged or separated, dissolve, go bankrupt, undergo ownership transformation or terminate operation

- A written request for refund of state budget revenues, made according to form No. 01/DNHT provided in this Circular;
- A competent authority's decision on merger, consolidation, separation, dissolution, bankruptcy, ownership transformation or operation termination;
- Dossier of tax finalization or tax declaration by the time of merger, consolidation, separation, dissolution, bankruptcy, ownership transformation or operation termination.

Article 50. VAT refund for domestically unavailable equipment, machinery and special-use vehicles included in technological chains and construction supplies to be imported for formation of enterprises' fixed assets

1. A VAT refund dossier comprises:

- A written request for refund of state budget revenues, made according to form No. 01/DNHT provided in this Circular;
- A statement of goods and service import and export dossiers, made according to form No. 01-3/DNHT provided in this Circular, comprising the customs declaration of imports.

2. VAT refund:

- For a taxpayer that submits an incomplete dossier of tax refund, within 2 working days after receiving the dossier, the tax agency shall notify such in writing to the taxpayer for completing the dossier.
- If the dossier is complete, accurate and proper, the tax agency shall examine the dossier according to the VAT refund process.

Within 15 days after receiving a complete dossier, the tax agency shall notify the enterprise that the dossier is eligible for VAT refund (even in case the dossier is subject to examination before tax refund) and request the enterprise to submit documents of VAT payment for imports for the tax agency to issue a tax refund decision.

- Within 3 working days after receiving a document of VAT payment for imports, the tax agency shall examine and compare the document with figures declared in the enterprise's VAT refund dossier and issue a tax refund decision. The tax amount eligible for refund is either the paid VAT amount indicated in the tax payment document or the tax amount requested for refund, whichever is smaller.

Article 51. Dossier for refund of other taxes and charges

A written request for refund of state budget revenues, made according to form No. 01/DNHT provided in this Circular.

Article 52. Processing of tax refund dossiers

1. Receipt of tax refund dossiers:

a/ Tax refund dossiers of organizations and individuals being taxpayers with tax identification numbers shall be submitted to their managing tax agencies.

Tax refund dossiers of organizations and individuals other than taxpayers shall be submitted to provincial-level Tax Departments of localities in which the organizations are headquartered or the individuals reside.

Tax refund dossiers under double taxation avoidance agreements shall be submitted to provincial-level Tax Departments of localities in which the organizations are headquartered or the individuals reside or to provincial-level Tax Departments to which the organizations and individuals have paid tax amounts requested for refund.

Tax refund dossiers of income payers and persons directly submitting PIT finalization dossiers shall be submitted at places of submission of tax finalization dossiers.

b/ For tax refund dossiers directly submitted to tax agencies, tax administration officers shall receive them and append a seal of receipt of dossiers, write the time of receipt and documents included in the dossier.

c/ For tax refund dossiers sent by post, tax administration officers shall append a seal and write the date of receipt and record such in tax agencies' incoming-mail books.

d/ For tax refund dossiers submitted electronically, tax agencies shall receive, examine and accept dossiers through electronic data-processing systems.

e/ For an incomplete dossier for tax refund, within 3 working days after receiving the dossier, the tax agency shall notify such to the taxpayer for completing the dossier.

2. Tax refund dossiers are subject to examination before tax refund in any of the following cases:

- Tax refund under treaties to which the Socialist Republic of Vietnam is a contracting party.
- Taxpayers request tax refund for the first time, except PIT. Taxpayers requesting tax refund for the first time subject to examination before tax refund are those submitting tax refund dossiers to tax agencies for the first time and entitled to tax refund. For taxpayers that submit tax refund dossiers to tax agencies for the first time but are not entitled to tax refund, the request for tax refund for the subsequent time is still subject to examination before tax refund.
- Taxpayers request tax refund within 2 years after they are handled for their tax evasion or frauds.

For a taxpayer requesting tax refund many times during 2 years, if, in the first-time request for tax refund after being handled for its/his/her tax evasion or frauds, the tax agency's examination of the taxpayer's dossier shows that no false declaration is made to cause insufficiency in the payable tax amount or increase in the refundable tax amount under Article 107 of the Tax Administration Law, or shows no tax evasion or frauds under Article 108 of the Tax Administration Law, for subsequent requests for tax refund, the taxpayer's dossiers are not subject to examination before tax refund. Upon subsequent requests for tax refund, if detecting the taxpayer's false declaration of tax refund dossiers or its/his/her tax evasion or frauds under Articles 107 and 108 of the Tax Administration Law, such dossiers are still subject to examination before tax refund within 2 years after the taxpayer is handled for tax evasion or frauds;

- Via-bank payment is not made under regulations for goods and services indicated in the taxpayer's tax refund dossier, including domestically traded and exported goods and services.
- Merger, consolidation, separation, dissolution, bankruptcy, ownership transformation or operation termination of enterprises; assignment, sale, contracting and lease of state enterprises;
- Past the time limit notified in writing by tax administration agencies, taxpayers fail to explain or complete tax refund dossiers or explain and supplement the dossiers for the second time but cannot prove the truthfulness of the declared tax amounts. This provision is not applicable to goods and services satisfying prescribed conditions and procedures for tax refund.

3. Responsibility to process tax refund dossiers:

a/ For dossiers subject to tax refund before examination, within 15 days after receiving taxpayers' complete dossiers, heads of tax agencies of all levels shall issue notices of transfer of the dossiers to be subjected to examination before tax refund, made according to form No. 01/HT-TB, or tax refund decisions, made according to form No. 01/QDHT, or decisions on tax refund-cum-state budget revenue clearing, made according to form No. 02/QDHT. or notices of ineligibility for tax refund, made according to form No. 02/HT-TB provided in this Circular, and send them to taxpayers.

b/ For dossiers subject to examination before tax refund, within 60 days after receiving complete dossiers for tax refund, heads of tax agencies of all levels shall issue tax refund decisions, made according to form No. 01/QDHT, or decision on tax refund-cum-state budget revenue clearing, made according to form No. 02/HT-TB. or notices of ineligibility for tax refund, made according to form No. 02/ HT-TB provided in this Circular, and send them to the taxpayers.

c/ In case the tax agency detects through examination that the tax amount eligible for refund is different from the tax amount requested for refund:

- If the tax amount requested for refund is larger than the tax amount eligible for refund, the taxpayer will be refunded the latter.

- If the tax amount requested for refund is smaller than the tax amount eligible for refund, the taxpayer will be refunded the former.

During examination of a tax refund dossier. if the tax agency can determine the tax amount eligible for refund, they shall temporarily refund this tax amount without having to examine the whole dossier. For the tax amount subject to verification and requiring the taxpayer to explain and supplement the dossier, the tax agency shall refund such tax amount when all prescribed conditions are satisfied.

d/ Tax refund competence:

Based on the taxpayer's refundable tax amount and tax arrear, the heads of tax agencies of a relevant level shall:

- Issue a tax refund decision and make an order of refund of state budget revenues according to form No. 01/LHT provided in this Circular in case the taxpayer has no tax or fine arrears of other taxes; or,

- Issue a decision on tax refund-cum-state budget revenue clearing in case the taxpayer is entitled to tax refund under the tax refund dossier and has tax or fine arrears of other taxes. After clearing, if the taxpayer still has a refundable tax amount, the head of the tax agency shall concurrently make an order of refund of state budget revenues.

The above tax refund decision must indicate the name of the taxpayer entitled to tax refund, refundable tax amount and place of receipt of the refund.

Particularly for VAT refund cases settled by provincial-level Tax Departments: Based on the above tax refund decisions of district-level Tax Departments, provincial-level Tax Departments shall make orders on refund of state budget revenues for refund to taxpayers.

e/ In case of late processing of tax refund dossiers due to the fault of tax agencies, in addition to the refundable tax amount under regulations, the taxpayer will receive an interest on the tax amount which is refunded late for the period of late tax refund. The interest rate used for calculating the interest due to late tax refund is the prime interest rate announced by the State Bank and effective at the time of issuance of a decision on interest payment. The number of days used for calculating the interest is counted from the date following the last day of the time limit for processing a tax refund dossier to the date of issuance of a tax refund decision/ decision on tax refund-cum-state budget revenue clearing, including holidays (Saturdays, Sundays, holidays and lunar new year holidays).

The interest shall be written in the tax refund decision and the taxpayer will receive such interest together with the refunded tax amount.

Funds for interest payment come from the VAT Refund Fund under the Finance Ministry's regulations.

Article 53. Tax refund for taxpayers without tax or fine arrears

1. VAT refund: Provincial-level Tax Departments shall, based on tax refund decisions, make orders on refund of state budget revenues and send them to state treasuries of the same level, which shall refund tax amounts to taxpayers and submit debit notices to superior state treasuries for deduction of money from the VAT Refund Fund.

2. Refund of other taxes (except VAT):

a/ Based on tax refund decisions, tax agencies shall make orders on refund of state budget revenues and send them to state treasuries of the same level in localities for the latter to carry out tax refund procedures and refund tax amounts to entities entitled to tax refund in cash or by account transfer.

b/ In case of refund of taxes (except VAT and PIT) in which the taxpayer registers tax in a locality but pays tax in different localities, the tax agency shall make and send an order of refund of state budget revenues to the state treasury of the same level with the tax-collecting agency with which the taxpayer registers tax declaration and finalization. The tax agency shall determine and distribute the amount to be refunded to each locality in which the tax has been remitted into the state budget. Such amount shall be written for each locality in a separate line in the order of refund of state budget revenues. The local state treasury of the same level shall transfer the whole refundable amount to the eligible person; and carry out procedures for accounting the refund of the amount falling within the local responsibility and concurrently transfer documents for making debit notices to the state treasuries of localities which have collected taxes for accounting the refund of the amount falling within the responsibility of these localities.

c/ Refund accounting shall be made in the following 2 cases:

- Refund of collected amounts in a budgetary year: If the state treasury refunds collected amounts before the deadline for adjusting such year's state budget settlement, it shall account the collected amounts as decrease in revenues in the budgetary year, for each unit funded with the state budget and according to state budget; index;

- Refund of collected amounts after the deadline for adjusting state budget settlement The state treasury shall account the collects: amounts as the subsequent year's state budget expenditure for each unit funded with the state budget, corresponding to the amount in proportion to the rate of distribution of the previously collected amounts for each unit.

3. Distribution of documents:

Tax agencies shall, based on refund and payment methods (in cash or through taxpayers' state treasury or bank accounts or at state treasuries in other localities, etc.), make orders on refund of state budget revenues with the number of copies enough for related entities. Specifically:

- One copy from the state treasury to the tax agency that has issued the tax refund decision, after refund accounting has been certified;

- One copy to be kept by the state treasury as a ground for refund accounting;

- One copy for the person entitled to refund;

- One copy for the bank as a ground for accounting and file, in case money is remitted into bank accounts.

Article 54. Clearing refundable tax amounts against receivables

1. Based on decisions on tax refund-cum-state budget revenue clearing, tax agencies shall make orders on refund of state budget revenues for the remaining tax amounts eligible for refund after clearing debts (if any) with the details specified in Article 3 of such decisions, and send the decisions to state treasuries of the same level for tax refund to taxpayers. Accounting by state treasuries and distribution of documents comply with Article 53 of this Circular.

2. Based on decisions on tax refund-cum-state budget revenue clearing and orders on refund of state budget revenues certified by state treasuries, tax agencies shall account the refunded amounts and clear state budget revenues under regulations for monitoring taxpayers' fulfillment of the tax obligation.

Chapter VIII

TAX EXAMINATION AND INSPECTION

Article 55. Tax examination

Pursuant to Articles 77 and 78 of the Tax Administration Law, tax agencies shall examine the completeness and accuracy of information and documents included in tax dossiers with a view to evaluating taxpayers' observance of tax laws.

Tax examination shall be conducted at tax agencies or taxpayers' offices.

1. Tax examination at tax agencies

a/ Tax officers shall examine details in tax dossiers and compare them with taxpayers' databases and relevant documents to analyze and evaluate observance or detect cases of incomplete declaration which result in tax deficiency or tax evasion or frauds.

- If detecting that the dossier lacks documents as required or the details in the dossier are not fully filled in, the tax agency shall notify such to the taxpayer for completing the dossier. In case dossiers are submitted directly at tax agencies, the tax officers shall notify and personally provide guidance to the dossier submitter. In case dossiers are submitted by post or electronically, the tax agency shall issue a written notice within 3 working days after receiving a dossier.

b/ Examination of tax dossiers to clarify details to be supplemented:

b. 1/ In case examination, comparison and analysis of a dossier show untruthfulness or inaccuracy of data or require verification of details related to the payable tax amount, tax amount eligible for exemption, reduction or refund, the tax agency shall issue a written notice requesting the taxpayer to explain or supplement information and documents, made according to form No. 01/KTTT provided in this Circular.

The time limit for such explanation or supplementation is 10 working days after the taxpayer receives the tax agency's notice or feedback (if such notice is sent by post). The taxpayer may give explanations and supplement information and documents directly at the tax agency or in writing.

In case the taxpayer gives explanations directly at the tax agency, a working record must be made according to form No. 02/KTTT provided in this Circular.

b.2/ After the taxpayer explains and supplements information and documents at the request of the tax agency:

- If the taxpayer sufficiently explains and supplements information and documents and can prove the accuracy of the declared tax amounts, the supplemented dossier shall be kept together with the tax declaration dossier.

- If the taxpayer explains and supplements information and documents but cannot prove the accuracy of the declared tax amounts, the tax agency shall request the taxpayer to give additional declaration. The time limit for such declaration is 10 working days after the tax agency makes the request for additional declaration.

- Past the time limit notified by the tax agency, if the taxpayer fails to explain and supplement information and documents or fails to supplement the tax dossier; or explains and supplements the tax dossier but cannot prove the accuracy of the declared tax amount, the tax agency shall:

+ Assess the payable tax amount and notify such to the taxpayer, made according to form No. 01/DATH provided in this Circular; or,

+ Issue a decision on examination at the taxpayer's office if there are insufficient grounds to assess the payable tax amount, made according to form No. 03/KTTT provided in this Circular.

2. Tax examination at taxpayers' offices

a/ Cases subject to examination at taxpayers' offices:

a.1/ The taxpayer fails to explain or supplement information and documents as notified by the tax agency; fails to supplement the tax dossier; or explains and supplements the tax dossier but cannot prove the accuracy of the declared tax amount; or the tax agency lacks grounds for assessing the payable tax amount.

a.2/ Cases subject to dossier examination before tax refund under Clause 2, Article 52 of this Circular.

b/ Tax examination at taxpayers' offices:

b.1/ Heads of tax agencies shall issue tax examination decisions for the case specified at Point a, Clause 2 of this Article. Tax examination at taxpayers' offices may be conducted only after issuance of decisions on tax examination at taxpayers' offices. Taxpayers may refuse examination if there is no tax examination decision.

Heads of tax agencies shall issue decisions on tax examination at taxpayers' offices according to form No. 03/KTTT provided in this Circular.

Such a decision must contain the following principal details:

- Legal grounds for examination;
- The examinee (in case examinee is a taxpayer with member units, a decision must clearly state units subject to examination);
- Contents and scope of examination;
- Examination time;
- The head and other members of the examination team;
- Powers and responsibilities of the examination team and examinee.

b.2/ Order and procedures for tax examination at taxpayers' offices:

- A decision on tax examination at a taxpayer's office shall be sent to the taxpayer within 3 working days after the date of its signing.

- Within 5 working days after receiving a tax examination decision or before the time of examination at the taxpayer's office, if the taxpayer can prove to the tax agency that the declared tax amount is accurate or that it/he/ she has fully paid the payable tax amount and fine as calculated by the tax agency, the head of the tax agency shall issue a decision annulling a tax examination decision according to form No. 16/KTTT provided in this Circular.

- Examination under the tax examination decision must be conducted within 10 working days after such decision is issued. When commencing tax examination, the head of the tax examination team shall announce the decision and make a record of announcement according to form No. 05/KTTT provided in this Circular and explain the decision to the examinee for compliance. When receiving the decision, if wishing to postpone examination, the taxpayer shall send a written request indicating the reason for and time of postponement to the tax agency for consideration and decision. Within 5 working days after receiving a written request for postponement, the tax agency shall notify the taxpayer of its acceptance or non-acceptance of such postponement.

- In the course of implementing the examination decision, the examination team shall compare the tax dossier with accounting books and documents, financial statements, relevant documents and actual situation within the decision's contents.

When seeing it necessary to temporarily keep documents or material evidence related to tax evasion or frauds, the head of the examination team shall issue a decision or report such to the head of the examination division for proposing the decision issuer to temporarily keep such documents or material evidence under regulations.

The taxpayer is obliged to promptly, fully and accurately provide information and documents related to examination at the request of the examination team head and take responsibility before law for the accuracy of such information and documents. The taxpayer may refuse to provide information and documents irrelevant to examination or classified as state secrets, unless otherwise provided by law.

- The time limit for tax examination at taxpayers' offices is 5 actual working days after announcing commencement of examination. When the team needs more time to verify and collect proof, at least one day before the examination deadline, the team head shall report such to the head of the examination division for proposing the decision issuer to extend examination. An examination decision, made according to form No. 18/KTTT provided in this Circular, may be extended only once for not more than 5 actual working days.

b.3/ Tax examination record:

A tax examination record shall be made according to form No. 04/KTTT provided in this Circular and shall be signed within 5 working days after examination is completed.

An examination record contains the following details:

- Legal grounds for making the record;
- Conclusion on each content already examined, identification of violations and severity of violation; handling of violations, and recommendation of handling measures in cases of falling beyond the competence of the examination team.

The examination record shall publicly announce to the examination team and examinee with signatures of the examination team head and taxpayer (or its/his/her at-law representative) on each page, and sealed by the taxpayer being an institution with its own seal.

The taxpayer may receive the tax examination record and request explanation of the record and reserve its/his/her opinions in the record.

Upon completing examination, if the taxpayer does not sign the tax examination record, within 5 working days after announcing the examination record, the examination team head shall report such to the head of the examination division for proposing the examination decision issuer to issue request to the taxpayer to sign the record. If the taxpayer still fails to do so, within 10 working days after announcing the record, the head of the tax agency shall issue a decision on tax retrospective collection or sanctioning of tax-related administrative violations or tax examination conclusions according to the record's contents.

b.4/ Handling of tax examination results:

- Within 5 working days after signing the examination record with the taxpayer, the examination team head shall report such to the head of the examination division for submitting examination results to the tax examination decision issuer. If examination requires tax-related handling or administrative sanctioning, within 10 working days after signing the record, the head of the tax agency shall issue a decision on tax-related handling or administrative sanctioning according to form No. 17/KTTT provided in this Circular. The taxpayer is obliged to observe this decision. If examination does not require tax-related handling or administrative sanctioning, the head of the tax agency shall issue an examination conclusion.

- In case fines on the taxpayer's violations fall beyond the sanctioning competence of the tax examination decision issuer, within 10 working days after signing the tax examination record, the tax examination decision issuer shall make a written request for a competent person to sanction tax-related administrative violations (enclosed with the examination record) and notify such to the taxpayer.

Within 10 working days after receiving a request for issuance of a decision on sanctioning of tax-related administrative violations, the requested person shall issue such decision or return the dossier to the requesting tax agency, stating that the violations fall beyond its/his/her sanctioning competence.

If tax evasion or frauds are detected through examination, within 10 working days after finishing examination, the examination team shall report such to the head of the tax agency for issuing a decision on post-examination handling, or transfer the dossier to the inspection division for consideration and handling under law.

For administrative violations involving complicated circumstances, the time limit for issuing a sanctioning decision is 30 days after an examination record is signed. When more time is needed to verify and collect proof, the competent person shall report such in writing such to his/her head requesting extension of this time limit. Such extension shall be made in writing and must not exceed 30 days after the signing of the examination record.

Article 56. Tax inspection

1. Tax inspection shall be conducted under the annual inspection plan or irregularly. Planned inspection shall be conducted under approved plans. Irregular inspection shall be conducted upon detecting tax-related violations; or for settling complaints and denunciations or at the request of heads of tax administrations at all levels or the Minister of Finance.

Inspection shall be planned for the cases specified in Article 81 of the Tax Administration Law and based on analysis of information on taxpayers, thereby identifying and listing taxpayers with abnormal signs in fulfilling the tax obligation, in order to select subjects planned for inspection. An inspection plan covers the subjects to be inspected, inspection period, contents and projected time of inspection.

A subordinate tax agency's inspection plan shall be sent to the superior tax agency. In case of overlap of subjects to be inspected, the superior tax agency shall inspect those subjects.

In case the state inspection agency's or the State Audit's tax-related inspection plan overlaps the tax agency's, the former will be prioritized.

2. Heads of competent tax agencies at all levels shall issue tax inspection decisions according to form No. 03/KTTT provided in this Circular.

A tax inspection decision must contain: - Legal grounds for inspection:

- Subjects to be inspected (in case the to-be-inspected subjects are taxpayers with member units, the decision must state the units to be inspected);
- Inspection contents, scope and tasks;
- Inspection duration;
- The head, inspectors and other members of the inspection team. When necessary, an inspection team may have a deputy head to assist the head in performing some assigned tasks and take responsibility before the head for such performance.

Tax inspection decisions shall be sent to subjects to be inspected under the current inspection law.

3. Tax inspection duration complies with the law on tax-related specialized inspection. When more time is needed to verify and collect proof, within 5 working days before the inspection deadline, the inspection team head shall report such to the head of the inspection division for proposing the inspection decision issuer to extend inspection duration. An inspection may be extended only once for a time not exceeding the time limit for a tax inspection.

4. Conducting inspection

a/ Announcement of inspection decisions

Tax inspection decisions shall be announced to taxpayers subject to inspection within the time limit specified in the current law on tax-related specialized inspection.

Before announcing an inspection decision, the inspection team head shall notify the taxpayer subject to inspection of the inspection time and participants in the inspection. When announcing such decision, the inspection team head shall explain the decision to the taxpayer for compliance; and notify the working program for the inspection team and taxpayer and other jobs related to inspection.

Announcement of an inspection decision shall be made in a record according to form No. 05/KTTT provided in this Circular.

Upon receiving the inspection decision, if wishing to postpone the inspection, the taxpayer shall send a written request to the tax agency before the inspection time, stating the reason for and duration of postponement, for consideration and decision. Within 5 working days after receiving such request, the tax agency shall notify the taxpayer of its acceptance or non-acceptance of such postponement.

b/ Conducting inspection

- When commencing inspection, the inspection team shall request the taxpayer to provide inspection-related information and documents such as business registration dossier, tax registration, registration of invoice use, dossiers and reports on invoices, accounting books and documents, financial statements, tax declaration dossiers, etc. The taxpayer is obliged to promptly, fully and accurately provide information and documents related to inspection at the request of the inspection team. The taxpayer may refuse to provide information and documents irrelevant to inspection or those classified as state secrets, unless otherwise provided by law. When receiving documents provided by the taxpayer, the inspection team shall count, preserve and use them for proper purposes and may not lose them. When having grounds to identify the taxpayer's tax-related violations, the inspection team head shall seal part or whole of the documents related to inspection. Sealing, removal or cancellation of seals of documents comply with law.

- When implementing an inspection decision, the inspection team shall compare information in the tax declaration dossier with accounting books and documents, financial statements and relevant documents. When necessary, it may inventory the taxpayer's assets under the tax inspection decision to identify and clarify issues and facts and make accurate, truthful and objective conclusions on inspection contents.

- The inspection team shall request the taxpayer to explain in writing facts which have not been clarified in documents or there are insufficient grounds for making conclusion. If the taxpayer's explanations are unclear, the inspection team shall hold a dialogue with the taxpayer to clarify the issues and identify responsibilities of involved collectives and individuals. Such dialogue must be written in a record signed by the involved parties and recorded when necessary.

- When it is necessary to examine documents, the inspection team head shall report such to the inspection decision issuer for soliciting examination of issues related to inspection. The inspection team shall make a record on document seizure, indicating the status of the documents (including material evidence, if any), for transfer to the examination agency.

- If detecting through inspection the taxpayer's tax evasion or frauds related to other organizations and individuals or involving complicated circumstances, the tax agency may take the measures specified in Articles 89 thru 91 of the Tax Administration Law and Article 57 of this Circular.

- The inspection team shall make inspection dossiers as documents for making inspection records.

c/ Making of tax inspection records:

Tax inspection records shall be made according to form No. 04/KTTT provided in this Circular and signed under the law on tax-related specialized inspection.

A tax inspection record must contain:

- Legal grounds for making the record;
- Conclusion on each content already inspected, identifying violations and their severity; handling of violations; and proposal of handling measures in cases of falling beyond the inspection team's competence.

An inspection record shall be publicly announced to the inspection team and inspected taxpayer and signed by the inspection team head and taxpayer (or its/his/her at-law representative) on each page, and appended with the taxpayer's seal, if the taxpayer is an institution with its own seal.

The taxpayer may receive the tax inspection record and request explanation of the record and reserve its/his/her opinions in the record.

Upon completing inspection, if the taxpayer does not sign the tax inspection record, within 5 working days after announcing the inspection record, the inspection team head shall report such to the head of the inspection division for proposing the inspection decision issuer to make a request for the taxpayer to sign the record. If the taxpayer still fails to do so, within 10 working days after announcing the record, the tax agency head shall issue a decision on tax retrospective collection or sanctioning of tax-related administrative violations or make tax inspection conclusions according to the record's contents.

5. Reporting on inspection results:

a/ The inspection team head shall send an inspection report to the head of the inspection division for submission to the inspection decision issuer and take responsibility for the accuracy, truthfulness and objectivity of such report.

b/ An inspection report must contain:

- Results of each inspected content;
- Divergent opinions, if any, on the report, of members and the inspection team head;
- Legal grounds for determining the nature and severity of violations, and proposal of handling measures.

6. Inspection conclusions and decisions on tax-related handling or administrative sanctioning

a/ The tax agency head who has issued the tax inspection decision shall make a written conclusion on tax inspection according to form No. 06/KTTT and a decision on tax-related handling or administrative sanctioning according to form No. 17/KTTT provided in this Circular (if any). The time limit for issuing a tax inspection conclusion complies with the law on tax-related specialized inspection.

b/ A tax inspection conclusion must cover:

Evaluation of the observance of tax laws by the inspected subjects according to tax inspection contents;

- Conclusions on inspected contents;
- Nature and severity of violations, reasons for violations, and responsibilities of violators (if any);
- Handling of administrative violations according to competence or proposing competent persons to handle them under law.

c/ In the course of issuing an inspection conclusion and a decision on tax-related handling or administrative sanctioning, the tax agency head who has issued the tax inspection decision shall request the head and members of the inspection team to report on, and request the inspected subjects to make explanations to clarify necessary issues for the issuance of such conclusion and decision.

d/ Inspection conclusions and decisions on tax-related handling or administrative sanctioning shall be sent to inspected taxpayers and their managing tax agencies (in case inspection decisions are issued by superior tax agencies).

7. In case a taxpayer violates tax laws, based on the inspection conclusion, the head of the managing tax agency shall issue a tax assessment decision and a decision on administrative sanctioning of the taxpayer.

In case fines on the taxpayer's violations fall beyond the sanctioning competence of the tax inspection decision issuer, within 3 days after signing the tax inspection conclusion, the decision issuer shall make a written request for a competent person to sanction tax-related administrative violations (enclosed with the inspection record, tax inspection conclusion and decision on tax-related handling or administrative sanctioning) and notify such to the taxpayer. Within 3 working days after receiving a request for issuance of a decision on sanctioning of tax-related administrative violations, if the case falls beyond his/her sanctioning competence, the requested person shall return the dossier and notify the reason in writing to the decision issuer. If the case falls within his/her competence, this person shall consider and issue a decision on tax-related administrative sanctioning within 30 working days after signing the inspection record.

8. Within 10 working days after detecting through tax inspection that tax evasion acts show criminal signs, the examination team shall make a record suspending inspection and report such to the head of the inspection division for submission to the inspection decision issuer for consideration under law.

Article 57. Procedures for application of tax inspection measures to taxpayers that commit tax evasion or frauds or obstruct inspection

1. Collection of information pertaining tax evasion or frauds:

The tax agency head may request organizations and individuals possessing information pertaining tax evasion or frauds to provide such information in writing or directly.

a/ Collection of information in papers:

- A written request for information provision shall be made according to form No. 07/KTTT provided in this Circular and sent directly to the requested organization or individual.

- The time limit for information provision is counted from the time of handover of a written request to the person responsible for information provision or to a third party responsible for transferring the request to such person.

- The information document must enable identification of the name of the person responsible for information provision. In case the information provider is a representative of a taxpaying institution, the document must be signed with full name and title of the information provider and sealed by the institution. For an individual information provider, such document must be signed with full name, number of identity card or other equivalent information of the information provider.

- Individuals and organizations are obliged to provide information within the time limit requested by tax agencies. If unable to provide information, they shall give a written reply clearly stating the reason.

b/ Direct provision of information:

- A written request for direct provision of information shall be made according to form No. 08/KTTT provided in this Circular and must contain the name of the organization or individual responsible for information provision, to-be-provided information, documents to be brought by the provider, and time and place of information provision.

- The tax inspector tasked to collect information shall produce the tax inspector card upon collecting information.

- The officer tasked to collect information shall produce the civil servant card upon collecting information.

- Information shall be collected at the tax agency.
- Upon collecting information, the tax inspector or officer shall make a record according to form No. 09/KTTT provided in this Circular. Such record must contain:
 - + Time of starting and finishing questions and answers and their contents, documents provided, audio and video recording, signatures of the information provider and the tax inspector collecting information.
 - + The information provider may read or hear the record and write his/her opinions in the record.
 - + The information provider may keep one copy of the record.
- The person responsible for information provision shall be paid travel and accommodation expenses by the tax agency under regulations.
- The tax agency shall keep confidential information on the information provider, documents, writings and proof collected from the information provider.

2. Keeping of documents and material evidence pertaining to tax evasion and frauds:

a/ The heads of the tax agency and inspection team may decide to keep documents and material evidence pertaining to tax evasion and frauds,

A decision to keep material evidence and documents shall be made according to form No. 10/KTTT provided in this Circular and must indicate the kept documents and material evidence, person keeping documents and material evidence, method of keeping (sealing or transfer to other places for storage) and duration of keeping. Such decision shall be handed to the owner of those documents and material evidence.

b/ Documents and material evidence pertaining to tax evasion and frauds may be kept when necessary to verify facts to provide grounds for handling or immediately preventing such acts.

c/ In the course of tax inspection, if the inspected subject shows signs of dispersing or destroying documents and material evidence pertaining to tax evasion and frauds, the tax inspector on duty may temporarily keep these documents and material evidence.

Within 24 hours after keeping documents and material evidence, the tax inspector shall report such to the tax agency head or inspection team for issuing a decision to temporarily keep documents and material evidence.

Within 8 working hours after receiving the report, the competent person shall consider and issue a decision to temporarily keep documents and material evidence. In case he/she disagrees with such keeping, the tax inspector shall return documents and material evidence within 8 working hours.

d/ When keeping documents and material evidence pertaining to tax evasion and frauds, the tax inspector shall make a record according to form No. 11/KTTT provided in this Circular. Such record must indicate names, quantities and kinds of documents and material evidence; signatures of the person seizing documents and material evidence and person managing such documents and material evidence. The decision issuer shall preserve those documents and material evidence and take responsibility before law for the loss, sale, exchange or damage of documents and material evidence.

When necessary, documents and material evidence shall be sealed to the presence of the owner of such documents and material evidence. If he/she is absent, such sealing must be conducted to the presence of his/her family's or organization's representative and representative of the commune-level administration and the witness.

e/ Material evidence being Vietnam dong, foreign currencies, gold, silver, gemstones, precious metals and objects subject to special management shall be preserved under law. For material evidence being perishable goods and articles, the issuer of the decision to keep material evidence shall make a record and immediately sell them to avoid loss. The sales must be

deposited into custody accounts opened at state treasuries to ensure collection of sufficient tax amounts and fines.

f/ Within 10 working days after temporarily keeping documents and material evidence, the keeping decision issuer shall issue a decision on handling of kept documents and material evidence according to form No. 12/KTTT provided in this Circular, take the measures stated in the decision or return the documents and material evidence to their owner if they are not to be confiscated. The duration for keeping documents and material evidence may be extended in complicated cases requiring verification, but must not exceed 60 days after the date of keeping. Such extension shall be decided by the competent person defined at Point a. Clause 2 of this Article. The return of documents and material evidence to their owners must be made in a record between the involved parties according to form No. 13/KTTT provided in this Circular.

For documents used by the taxpayer every day, the tax agency may keep them for 3 working days at most. For archived documents, the tax agency may keep them for 10 working days at most. In case of returning documents within these time limits, the tax agency is not required to issue a decision on document processing.

g/ The tax agency shall hand one copy of the decision on temporary keeping of documents and material evidence, seizure record, decision on handling of documents and material evidence, and record of return of documents and material evidence to their owner.

h/ In case documents and material evidence are lost, exchanged or damaged or returned beyond the prescribed time limit, causing damage to their owners, the tax agency shall pay damages to the owners under law.

3. Search of places in which documents and material evidence pertaining to tax evasion and fraud acts are concealed:

a/ Search of places in which documents and material evidence are concealed shall be conducted when there are grounds for the concealment of documents and material evidence pertaining to tax evasion and frauds.

b/ The tax agency head may decide to search places in which documents and material evidence pertaining to tax evasion and frauds are concealed. If such places are places of residence, the search must be approved in writing by the chairperson of the district-level People's Committee managing the to-be-searched places.

A decision on search of places in which documents and material evidence are concealed shall be made according to form No. 14/KTTT provided in this Circular, and contains the place of search, members of the search team, time of search and validity of the decision.

c/ It is disallowed to search places in which documents and material evidence pertaining to tax evasion and frauds are concealed at night, on holidays or lunar new year holidays when owners of the to-be-searched places are on family business, except they are caught red handed as violating law and such violation must be stated in the search record.

d/ When searching places in which documents and material evidence are concealed, the owners of these places and witnesses must be present. When searching offices of agencies or organizations, representatives of these agencies or organizations must be present. When such owners and representatives are absent while the search cannot be postponed, a representative of the local administration and two witnesses must be present.

e/ Those present at places being searched may not leave such places and may neither exchange opinions with nor contact one another until the search is completed.

f/ A written decision is required for all cases of search of places in which documents and material evidence pertaining to tax evasion and frauds are concealed and a record shall be made according to form No. 15/KTTT provided in this Circular. One copy of such decision and record shall be handed to the owner of the searched place.

g/ A record of search of a place in which documents and material evidence pertaining to tax evasion and fraud acts are concealed contains:

- Reason for the search, serial number of the search decision or name of the head of the tax agency approving the search. A written permission of the chairperson of the district-level People's Committee managing the to-be-searched place (if such place is a place of residence);
- Time of starting and finishing the search;
- Searching person;
- Place of the search;
- Owner or manager of the to-be-searched place;
- Documents and material evidence detected through the search;
- Handling of documents and material evidence according to the searching person's competence or proposing a competent person to handle them.

Chapter IX

TAX-RELATED COMPLAINTS, DENUNCIATIONS AND LAWSUITS

Article 58. Administrative decisions and acts subject to complaints or lawsuits

1. Taxpayers, individuals and organizations may lodge complaints about the following administrative decisions of tax agencies:

- a/ Tax assessment decisions; tax payment notices;
- b/ Tax exemption or reduction decisions;
- c/ Tax refund decisions;
- d/ Decisions on administrative sanctioning of violations of tax laws;
- e/ Decisions coercing enforcement of tax-related administrative decisions;
- f/ Tax inspection conclusions;
- g/ Complaint settlement decisions;
- h/ Other administrative decisions provided by law.

Tax agencies' documents issued in the form of official letters or notices but containing details of tax agencies' decisions and applicable once to one or some specific subjects regarding a specific matter in tax administration are also regarded as administrative decisions of tax agencies.

2. Taxpayers, individuals and organizations may lodge complaints about administrative acts of tax agencies, tax administration officers and persons assigned tax administration tasks when they have grounds to believe that such acts are illegal and infringe upon their rights and legitimate interests. Administrative acts may be actions or non-actions.

3. Tax agencies, tax administration officers and persons assigned to tax administration tasks shall examine and review their administrative decisions and acts. If seeing them illegal, they shall promptly amend and remedy them to avoid complaints and denunciations.

Article 59. Competence of tax agencies at all levels to settle complaints and denunciations

1. Competence of tax agencies at all levels to settle complaints and denunciations is defined as follows:

a/ Heads of district-level Tax Departments may settle complaints about administrative decisions and acts of their own and of responsible persons under their management.

b/ Directors of provincial-level Tax Departments may:

b.1 Settle complaints about administrative decisions and acts of their own and of responsible persons under their management;

b.2/ Settle complaints already settled by heads of district-level Tax Departments but dissatisfied by complainants.

c/ The General Director of Taxation may:

c.1/ Settle complaints about administrative decisions and acts of his/her own and of responsible persons under his/her management;

b.2/ Settle complaints already settled for the first time by directors of provincial-level Tax Departments but dissatisfied by complainants.

d/ The Minister of Finance may:

d.1 Settle complaints about administrative decisions and acts of his/her own and of responsible persons under his/her management;

d.2/ Settle complaints already settled for the first time by the General Director of Taxation but dissatisfied by complainants.

2. Competence of tax agencies at all levels to settle denunciations is defined as follows:

a/ Tax agencies managing the denounced persons shall settle denunciations about law violations committed by such persons.

b/ Heads of tax agencies may settle denunciations about their officers' violations of regulations on tasks and duties of such officers.

c/ Heads of immediate superior agencies of tax agencies may settle denunciations about violations of regulations on tasks and duties of the heads of such tax agencies.

Article 60. Time limits and procedures for settling complaints and denunciations

Time limits and procedures for lodging and settling complaints and denunciations comply with the law on complaints and denunciations.

Article 61. Reception of complainants and denouncers

1. Heads of tax agencies shall personally receive, and organize the reception of, complainants, denouncers or petitioners; and assign officers with good moral qualities and good legal knowledge and sense of responsibility to receive complainants and denouncers.

2. Complainants and denouncers shall be received at places of citizen reception. Tax agencies shall arrange convenient places for citizen reception enabling complainants and denouncers to present their complaints, denunciations and petitions.

Citizen reception timetables and rules shall be posted up at places of citizen reception.

3. Heads of tax agencies shall personally receive citizens as follows:

a/ Heads of district-level Tax Departments receive citizens at least one day a week;

b/ Directors of provincial-level Tax Departments receive citizens at least 2 days a month;

c/ The General Director of Taxation receives citizens at least one day a month.

4. Heads of complaint and denunciation settlement divisions shall personally receive citizens as follows:

a/ At least 3 days a week, for district-level Tax Departments;

b/ At least 2 days a week, for provincial-level Tax Departments;

c/ At least 4 days a month, for the General Department of Taxation.

Article 62. Initiation of lawsuits

Initiation of lawsuits against administrative decisions and acts of tax agencies and officers complies with the law on procedures for settlement of administrative cases.

Article 63. Handling of overpaid and deficit tax amounts after obtaining competent agencies' decisions

1. The tax agency shall refund the improperly collected tax amount and fine and pay an interest on the overpaid amount to the taxpayer or third party within 15 days after issuing a complaint settlement decision or after receiving the competent agency's decision. The interest shall be calculated based on the prime interest rate announced by the State Bank.

Handling of decisions of competent agencies include decisions of competent state administrative management agencies and judgment or ruling of competent courts under law.

2. In case the payable tax amount stated in the complaint settlement decision is larger than the payable tax amount stated in the administrative decision about which the complaint is lodged, the taxpayer shall fully offset the deficient amount within 10 days after receiving the complaint settlement decision.

Chapter X

ORGANIZATION OF IMPLEMENTATION

Article 64. Effect

1. This Circular takes effect 45 days from the date of its signing and replaces the Finance Ministry's Circular No. 60/2007/TT-BTC of June 14, 2007.

Single tax declaration dossiers are applicable to each time the tax payment obligation arises from July 1, 2011.

Monthly tax declaration dossiers are applicable to tax declaration from the July 2011 tax period.

Quarterly tax declaration dossiers are applicable to tax declaration from the tax period of the third quarter of 2011.

Annual tax declaration dossiers are applicable to tax declaration from the 2011 tax period.

Annual tax finalization declaration dossiers are applicable to tax finalization declaration from the 2011 tax period. Tax finalization declaration in case of operation termination, contract termination, ownership transformation or reorganization of enterprises are applicable from the date such case arises counting from July 1, 2011.

Provisions on tax payment, refund and clearing procedures are applicable from July 1, 2011.

2. To annul tax administration-guiding provisions issued by the Ministry of Finance before the effective date of this Circular which are contrary to this Circular.

Article 65. Implementation responsibilities

1. Tax agencies at all levels shall disseminate, and guide organizations, individuals and taxpayers in implementing, this Circular.

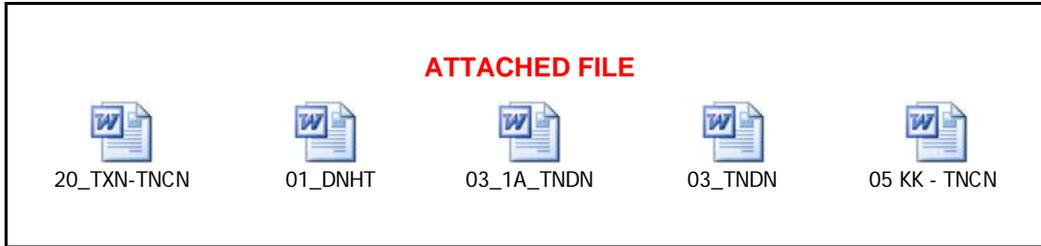
2. Organizations, individuals and taxpayers regulated by this Circular shall fully comply with this Circular.

Any problems arising in the course of implementation should be promptly reported to the Ministry of Finance for study and settlement.

(All the forms provided in this Circular are not printed herein).-

**FOR THE MINISTER OF FINANCE
DEPUTY MINISTER**

Do Hoang Anh Tuan



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