

THE MINISTRY OF FINANCE

**Circular No. 111/2013/TT-BTC of August 15, 2013,  
guiding the Law on Personal Income Tax, the Law  
Amending and Supplementing a Number of Articles of  
the Law on Personal Income Tax and the Government's  
Decree No. 65/2013/ND-CP detailing a number of articles  
of the Law on Personal Income Tax and the Law  
Amending and Supplementing a Number of Articles of  
the Law on Personal Income Tax**

*Pursuant to November 21, 2007 Law No. 04/2007/QH12 on Personal Income Tax;*

*Pursuant to November 22, 2012 Law No. 26/2012/QH13 Amending and Supplementing a Number of Articles of the Law on Personal Income Tax;*

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

*Pursuant to November 20, 2012 Law No. 21/2012/QH13 Amending and Supplementing a Number of Articles of the Law on Tax Administration;*

*Pursuant to the Government's Decree No. 65/2013/ND-CP of June 27, 2013, detailing a number of articles of the Law on Personal Income Tax and the Law Amending and Supplementing a Number of Articles of the Law on Personal Income Tax;*

*Pursuant to the Government's Decree No. 83/2013/ND-CP of July 22, 2013, detailing a number of articles of the Law on Tax Administration and the Law Amending and Supplementing a Number of Articles of the Law on Tax Administration;*

*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;*

*At the proposal of the General Director of Taxation;*

*The Minister of Finance guides a number of articles of the Law on Personal Income Tax, the Law Amending and Supplementing a Number of Articles of the Law on Personal Income Tax and the Government's Decree No. 65/2013/ND-CP of June 27, 2013, detailing a number of articles of the Law on Personal Income Tax and the Law Amending and Supplementing a Number of Articles of the Law on Personal Income Tax, as follows:*

## GENERAL PROVISIONS

### **Article 1. Taxpayers**

Taxpayers include resident and non-resident individuals specified in Article 2 of the Law on Personal Income Tax and Article 2 of the Government's Decree No. 65/2013/ND-CP of June 27, 2013, detailing a number of articles of the Law on Personal Income Tax and the Law Amending and Supplementing a Number of Articles of the Law on Personal Income Tax (below referred to as Decree No. 65/2013/ND-CP), who earn taxable incomes specified in Article 3 of the Law on Personal Income Tax and Article 3 of Decree No. 65/2013/ND-CP.

Taxpayers' taxable incomes are determined as follows:

Resident individuals' taxable incomes are incomes earned inside and outside the Vietnamese territory, regardless of where the incomes are paid and received.

Non-resident individuals' taxable incomes are incomes earned in Vietnam, regardless of where the incomes are paid and received.

1. A resident individual means a person who satisfies any of the following conditions:

a/ Being present in Vietnam for 183 days or more in a calendar year or 12 consecutive months counting from the first date of his/her presence in Vietnam, of which the date of arrival is counted as one (1) day and the date of departure is also counted as one (1) day. The date of arrival and date of departure are determined based on the immigration management agency's certifications on his/her passport (or laissez-passer) upon his/her arrival at and departure from Vietnam. In case his/her entry and exit are on the same day, this day is counted as one day of residence.

An individual present in Vietnam under this Point means a person who is present in the Vietnamese territory.

b/ Having a place of habitual residence in Vietnam in either of the following cases:

b.1/ Having a place of habitual residence as prescribed by the law on residence:

b.1.1/ For Vietnamese citizens: The place of habitual residence means a fixed place where a person habitually and permanently resides for an indefinite time and for which he/she has made residence registration in accordance with the law on residence.

b/ For foreigners: The place of habitual residence of a foreigner means his/her place of permanent residence stated in his/her card of permanent residence or his/her place of temporary residence at the time of making registration for

grant of a temporary residence card with a competent agency of the Ministry of Public Security.

b.2/ Having rented a house for residence in Vietnam in accordance with the housing law under a rent contract with a term of 183 days or more in a tax year, specifically:

b.2.1/ An individual who has not yet found any or has no place of habitual residence as guided at Point b.1, Clause 1 of this Article, but has rented houses under rent contracts for 183 days or more in a tax year is also considered a resident individual, even in case he/she rents houses in several places.

b.2.2/ Houses rented for residence include hotels, guest houses, inns and working offices, regardless of whether such houses are rented by taxpayers themselves or by employers for their employees.

For an individual who has a place of habitual residence in Vietnam as prescribed in this Clause but is actually present in Vietnam for less than 183 days in a tax year, if he/she cannot prove the country of which he/she is a resident, he/she is a Vietnamese resident.

An individual will be proved to be a resident of another country based on his/her certificate of residence. Individuals who are residents of countries or territories which have signed tax agreements with Vietnam shall provide copies of their passports to prove the period of their residence, if such countries or territories do not provide for the issuance of certificates of residence.

2. A non-resident individual means a person who does not satisfy the conditions specified in Clause 1 of this Article.

3. Taxpayers in some specific cases are identified as follows:

a/ For individuals earning incomes from business activities

a.1/ In case only one person is named in the business registration certificate, he/she is a taxpayer.

a.2/ In case more than one person are named in the business registration certificate (a group of business individuals) and jointly conduct business activities, every member who is named in the business registration certificate is a taxpayer.

a.3/ In case many members of a household jointly conduct business activities but only one of them is named in the business registration certificate, the person who is named in the business registration certificate is a taxpayer.

a.4/ In case an individual or a household actually conducts business activities but does not have a business registration certificate (or practice certificate or license), the individual currently conducting business activities is a taxpayer.

a.5/ For lease of houses or rights to use land, water surface or other assets without business registration, house owners or holders of the right to use land, water surface or other assets are taxpayers. In case many individuals jointly own a house or jointly hold the rights to use land, water surface or other assets, every individual owning the house or holding the use rights is a taxpayer.

b/ For individuals earning other taxable incomes

b.1/ In case of transfer of jointly owned real estate, every co-owner of the real estate is a taxpayer.

b.2/ In case of authorization of the management of real estate under which the authorized person may transfer such real estate or has the rights like the owner of the real estate as prescribed by law, the authorizing person is the taxpayer.

b.3/ In case of assignment or licensing of the right to own or use a protected object which is jointly owned or co-authored by many individuals in accordance with the Law on Intellectual Property or the Law on Technology Transfer, every individual holding the ownership or copyright and earning an income from the assignment or licensing is a taxpayer.

b.4/ In case of franchising under the Commercial Law in which the franchisors are many individuals, every individual earning an income from the franchising is a taxpayer.

4. Taxpayers guided in Clauses 1 and 2 of this Article include:

a/ Vietnamese nationals, including those who are sent on working missions, study tours or as guest workers abroad and earn taxable incomes.

b/ Non-Vietnamese nationals who earn taxable incomes, including foreigners working in Vietnam and foreigners not present in Vietnam but earning taxable incomes in Vietnam.

## **Article 2. Taxable incomes**

Under Article 3 of the Law on Personal Income Tax and Article 3 of Decree No. 65/2013/ND-CP, incomes liable to personal income tax include:

1. Incomes from business activities

Incomes from business activities are those earned from production or business activities in the following domains:

a/ Goods production or trading or service provision in all domains and business sectors as prescribed by law such as goods production or trading;

construction; transport; food and drink business; provision of services, including the service of leasing houses or rights to use land, water surface and other assets.

b/ Independent professional practice of individuals in domains and sectors for which they have obtained practice licenses or certificates as prescribed by law.

c/ Agricultural production, forestry, salt making, aquaculture or fishing activities which do not fully satisfy the conditions for tax exemption specified at Point e, Clause 1, Article 3 of this Circular.

## 2. Incomes from salaries or wages

Incomes from salaries or wages are incomes received by employees from their employers, including:

a/ Salaries, wages and amounts of salary or wage nature in monetary or non-monetary form.

b/ Allowances and subsidies, except the following:

b.1/ Monthly preferential subsidies and allowances and lump-sum subsidies prescribed by the law on preferential treatment of persons with meritorious services.

b.2/ Monthly and lump-sum subsidies for persons participating in resistance wars or fatherland protection or performing international duties, or volunteer youth having fulfilled their tasks.

b.3/ Defense or security allowances; subsidies for armed forces.

b.4/ Hazard or danger allowances for persons working in sectors, occupations or jobs at places where exist hazardous or dangerous elements.

b.5/ Staff attraction allowances and region-based allowances.

b.6/ Subsidies for sudden difficulties, labor accidents or occupational diseases, lump-sum maternity or child adoption subsidies, maternity and postpartum rehabilitation benefits, subsidies for working capacity reduction, lump-sum pension subsidies, monthly survivor allowances, severance, job loss or unemployment subsidies and other subsidies as prescribed by the Labor Code and the Social Insurance Law.

b.7/ Subsidies for social protection beneficiaries as prescribed by law.

b.8/ Service allowances for senior leaders.

b.9/ Lump-sum subsidies for persons moving to work in areas with extremely difficult socio-economic conditions, lump-sum supports for cadres and civil servants engaged in sea and island sovereignty work as prescribed by law.

Lump-sum expatriation subsidies for foreigners residing in Vietnam and Vietnamese working abroad.

b.10/ Allowances for village health workers.

b.11/ Allowances for particular occupations.

Allowances and subsidies mentioned above which are not accounted as taxable incomes specified at Point b, Clause 2 of this Article must be prescribed by competent state agencies.

In case such allowances and subsidies are applied to the state sector, other economic sectors and business establishments may base themselves on the list of allowances and subsidies and allowance and subsidy levels guided for the state sector to calculate reduction.

If allowances and subsidies received by employees are higher than the allowance and subsidy levels guided above, the excessively received amounts shall be accounted as taxable incomes.

Particularly for lump-sum expatriation subsidies for foreigners residing in Vietnam and Vietnamese working abroad, reductions shall be made in accordance with the levels stated in labor contracts or collective labor accords.

c/ Remuneration receivable as commission for goods sale agency, brokerage commission, payments for participation in scientific and technical researches; payments for participation in projects or schemes; royalties as prescribed by the law on royalties regime; payments for teaching activities, art and cultural performances, physical training and sports activities; payments for advertising and other services and other payments.

d/ Sums of money earned from participation in business associations, boards of directors or control boards of enterprises, project management units, management boards, professional associations and societies and other organizations.

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

dd.1/ House rents, charges for electricity, water and associated services (if any).

For an individual who lives in his/her working office, his/her taxable income is determined based on house rents or depreciation costs, charges for electricity, water and other services which are calculated according to the ratio of the area used by such individual to the total area of his/her working office.

House rents paid by employers and calculated as taxable income shall be determined according to the actually paid amounts but must not exceed 15%



of the total taxable income (exclusive of house rents) received from such employers.

dd.2/ Accumulated premiums of life insurance and other non-compulsory insurance and monetary contributions to voluntary pension funds purchased or paid by employers for their employees.

dd.3/ Membership fees and charges for other services such as healthcare, recreation, sports, entertainment and beauty care, which are provided to individuals at their request, including:

dd.3.1/ Membership fees (such as fees for golf course or tennis court membership cards, membership cards for cultural, art, physical training or sports clubs, etc.), if such membership cards indicate the name(s) of the user(s). In case such cards are commonly used and do not indicate the names of users, membership fees will not be calculated as taxable incomes.

dd.3.2/ Charges for other services provided to individuals such as healthcare, entertainment, sports, recreation and beauty care, if the payment receipts clearly state the name of the person using the services. In case the service charge payment receipts do not state the name of the person using the service but indicate the employees' collective as the service user, service charges will not be calculated as taxable income.

dd.4/ Package payments for stationery, working-trip expenses, telephone, clothes, etc., which are higher than the levels prescribed by current regulations of the State. These package payments are not calculated as taxable income in the following cases:

dd.4.1/ For cadres, civil servants and employees working in administrative and non-business agencies, Party agencies, mass organizations, societies and associations: The package payment levels comply with written guidance of the Ministry of Finance.

dd.4.2/ For employees of business organizations and representative offices: The package payment levels comply with the levels for determination of enterprise income tax-liable income specified in documents guiding the Law on Enterprise Income Tax.

dd.4.3/ For employees of international organizations and representative offices of foreign organizations: The package payment levels comply with regulations of such international organizations and representative offices.

dd.5/ Expenses for shuttle buses to take employees to/from workplaces will not be calculated as employees' taxable incomes. In case each vehicle serves only one person, transportation expenses will be accounted as such person's taxable income.

dd.6/ Expenses for training to improve employees' professional qualifications and skills relevant to their jobs paid by employers on behalf of employees or expenses for training under employers' plans are not calculated as employees' incomes.

dd.7/ Other benefits.

Other benefits provided by employers to their employees such as payments during weekends or holidays; charges for consultancy or tax declaration services for an individual or a group of individuals; payment of wages for chauffeurs, cooks and other household servants under contracts, etc.

e/ Monetary and non-monetary rewards in any form, including bonus securities, except:

e.1/ Rewards accompanying titles conferred by the State, including also those accompanying emulation titles and commendation forms prescribed by the law on emulation and commendation, specifically:

e.1.1/ Rewards accompanying emulation titles, including National Emulator, Emulator of ministries, sectors, central organizations, provinces or centrally run cities; Grassroots Emulator, Outstanding Laborer, Outstanding Soldier;

e.1.2/ Rewards accompanying various forms of commendation.

e.1.3/ Rewards accompanying titles conferred by the State.

e.1.4/ Rewards accompanying prizes awarded by associations or organizations of central and local political organizations, socio-political organizations, social organizations and socio-professional organizations in conformity with such organizations' charters and the Law on Emulation and Commendation.

e.1.5/ Rewards accompanying Ho Chi Minh Prize or State Prize.

e.1.6/ Rewards accompanying commemorative or other badges.

e.1.7/ Rewards accompanying certificates of merits.

Decisions on commendation and levels of rewards accompanying emulation titles and commendation forms above must be made by competent authorities in accordance with the Law on Emulation and Commendation.

e.2/ Rewards accompanying national prizes or international prizes recognized by the Vietnamese State.

e.3/ Rewards for technical renovations, innovations or inventions recognized by competent state agencies.

e.4/ Rewards for detection of and reporting on illegal acts to competent state agencies.

g/ The following amounts are not included in taxable incomes:



g.1/ Employers' supports for the examination and treatment of dangerous diseases for employees and their relatives.

g.1.1/ In this case, employees' relatives include natural children and lawfully adopted children, out-of-wedlock children and stepchildren; spouses; natural parents; parents-in-law; stepparents; and lawfully adoptive parents.

g.1.2/ Support amounts not included in taxable income are amounts actually paid according to hospital charge payment receipts but must not exceed the hospital charge amounts paid by the employees or their relatives after subtracting amounts paid by insurance organizations.

g.1.3/ Employers providing supports shall preserve copies of hospital charge payment receipts bearing their certification (in case the employees or their relatives pay the remaining hospital charge amounts after insurance organizations make payment to medical examination and treatment establishments) or copies of hospital charge payment receipts; copies of health insurance payment receipts bearing the employers' certification (in case the employees or their relatives wholly pay hospital charges and receive insurance money from insurance organizations later) together with documents on payment of supports to the employees or their relatives suffering dangerous diseases.

g.2/ Amounts received under regulations on the use of vehicles in state agencies, public non-business units, party organizations and mass organizations;

g.3/ Amounts received under the public-duty house regime as prescribed by law.

g.4/ Amounts received in addition to salaries and wages for commenting, verifying or appraising legal documents, resolutions or political reports; for participating in examination and supervision teams; for receiving voters or citizens; amounts for clothes and other activities directly serving operations of the National Assembly Office, the National Assembly's Ethnic Council and Committees and delegations; the Party Central Committee Office and Party's Commissions; provincial-level Party Committees' Offices and commissions.

g.5/ Amounts for mid-shift meals or lunches in case employers provide mid-shift meals or lunches to employees through providing self-cooked meals, purchasing ration packs or issuing ration cards.

In case employers do not provide mid-shift meals or lunches to employees but pay them money, such money amounts will not be included in taxable income if they comply with the guidance of the Ministry of Labor, War Invalids and Social Affairs. In case such amounts exceed the level guided by the Ministry of Labor, War Invalids and Social Affairs, the excessive amounts will be included in taxable incomes of individuals.

The specific level applicable to state enterprises and organizations and units under non-business and administrative agencies, party agencies, mass organizations and associations must not exceed the level guided by the Ministry of Labor, War Invalids and Social Affairs. For non-state enterprises and other organizations, the level will be decided by their heads after reaching agreement with trade union presidents but must not exceed the level applicable to state enterprises.

g.6/ Return air tickets paid by employers on behalf of or for foreign employees working in Vietnam or Vietnamese working abroad who return home on leave once a year.

Bases for determining the money amount for purchase of air tickets are labor contracts and the money amounts paid for air tickets from Vietnam to the countries of which foreign employees are nationals or countries where their families are residing and vice versa; or money amounts paid for air tickets from the countries where Vietnamese employees are working to Vietnam and vice versa.

g.7/ School fees for children of foreign employees studying in Vietnam or overseas-working Vietnamese employees' children studying abroad from preschool to upper secondary education paid by employers on behalf of employees.

g.8/ Incomes receivable by individuals from donor associations or organizations are not included in their taxable income if they are members of such associations or organizations; and donated funds come from state funds or are managed according to state regulations; and the creation of literary or art works or scientific research works serves the performance of political tasks of the State or is carried out under such associations' or organizations' operation programs in accordance with their charters.

g.9/ Amounts paid by employers to serve the movement or transfer of foreign employees working in Vietnam according to their labor contracts and standard work schedules in conformity with international practices in some sectors such as oil and gas and mining industries.

Bases for determining such amounts are labor contracts and air tickets from Vietnam to the countries where foreign employees are residing or vice versa.

Example 1: X is a foreign employee who is transferred by petroleum contractor Y to work in the drilling platform in the continental shelf of Vietnam. As prescribed in X's labor contract, his work schedule at the drilling platform consists of 28 consecutive days followed by 28 days off. Upon each shift change, contractor Y pays X a sum of money including expenses for a return air ticket from Vietnam to the relevant foreign country, expenses for the helicopter to take him from the mainland to the drilling platform and vice

versa and accommodation expenses during the time of waiting for the helicopter flight to the drilling platform. In this case, this sum of money is not calculated into X's taxable income.

### 3. Incomes from capital investment

Incomes from capital investment are those earned in the following forms:

a/ Loan interests received from providing loans to organizations, enterprises, households, business individuals or groups of business individuals under loan contracts or agreements, except deposit interests received from credit institutions or foreign bank branches under Item g.1, Point g, Clause 1, Article 3 of this Circular.

b/ Dividends received for equity contribution and share purchase.

c/ Profits received for contribution of capital to limited liability companies (including also one-member limited liability companies), partnerships, cooperatives, joint ventures, business cooperation contracts and other business forms under the Enterprise Law and the Cooperative Law; profits received for contribution of capital to establish credit institutions under the Law on Credit Institutions or contribution of capital to securities investment funds and other investment funds set up and operating under law.

d/ Increased value of capital contributions received upon dissolution of enterprises, transformation of operation models, split, merger or consolidation of enterprises or capital withdrawal.

dd/ Income from interests of bonds, bills and other valuable papers issued by domestic organizations, except incomes guided at Items g.1 and g.3, Point g, Clause 1, Article 3 of this Circular.

e/ Incomes from capital investment in other forms, including contribution of capital in kind, reputation, land use rights, creations or inventions.

g/ Income from dividends paid in the form of stock and income from dividends paid in the form of capital increase.

### 4. Incomes from capital transfer

Incomes from capital transfer are incomes received by individuals, including:

a/ Incomes from the transfer of capital contributions in limited liability companies (including also one-member limited liability companies), partnerships, joint-stock companies, business cooperation contracts, cooperatives, people's credit funds, economic organizations or other organizations.

b/ Incomes from the transfer of securities, including incomes from the transfer of stocks, rights to purchase stocks, bonds, bills, fund certificates and other securities as provided in the Securities Law; incomes from the transfer of

shares of individuals in joint-stock companies as provided by the Enterprise Law.

c/ Income from capital transfer in other forms.

#### 5. Incomes from the transfer of real estate

Incomes from the transfer of real estate are incomes received from the transfer of real estate, including:

a/ Income from the transfer of land use rights.

b/ Income from the transfer of rights to use land and assets attached to land. Assets attached to land include:

b.1/ Houses, including houses to be formed in the future.

b.2/ Infrastructure and construction works attached to land, including construction works to be formed in the future.

b.3/ Other assets attached to land, including farm produce, forest or fishery products (plants or animals).

c/ Income from the transfer of the right to own or use houses, including houses to be formed in the future.

d/ Income from the transfer of the right to lease land or water surface.

dd/ Income earned upon contribution of real estate as capital to establish enterprises or increase of production and business capital of enterprises as prescribed by law.

e/ Income from authorization of the management of real estate under which the authorized persons may transfer such real estate or have the rights like real estate owners as prescribed by law.

g/ Other incomes received from the transfer of real estate in all forms.

Houses and construction works to be formed in the future stated in Clause 5 of this Article comply with the law on real estate business.

#### 6. Incomes from prize winning

Incomes from prize winning are prizes won in cash or in kind by individuals in the following forms:

a/ Lottery prizes paid by lottery issuing companies.

b/ Sales promotion prizes in all forms for goods or service purchase in accordance with the Commercial Law.

c/ Lawful betting prizes.

d/ Prizes won in lawfully operating casinos.

dd/ Prizes won in prized games and contests and other forms of lucky draw organized by economic organizations, administrative or non-business agencies, mass organizations and other organizations or individuals.

## 7. Incomes from copyright

Incomes from copyright are those earned from assignment or licensing of rights to own or use objects of intellectual property rights in accordance with the Law on Intellectual Property; incomes from technology transfer in accordance with the Law on Technology Transfer, specifically:

a/ Objects of intellectual property rights specified in Article 3 of the Intellectual Property Law and relevant guiding documents, including:

a.1/ Objects of copyright, including literary, cultural or scientific works; objects of related rights, including video or audio recordings of broadcasts, satellite signals bearing encrypted programs.

a.2/ Objects of industrial property rights, including inventions, industrial designs, layout designs of semi-conductor integrated circuits, business secrets, marks, trade names and geographical indications.

a.3/ Objects of rights to plant varieties, which are propagation materials and harvested materials.

b/ Objects of technology transfer specified in Article 7 of the Law on Technology Transfer, including:

b.1/ Technical know-how.

b.2/ Technical knowledge about technologies in the form of technological plans or processes, technical solutions, formulas, technical parameters, drawings, technical diagrams, computer programs or data.

b.3/ Production rationalization and technology renewal solutions.

Incomes from assignment or licensing of objects of intellectual property rights or from technology transfer as specified above include incomes from re-assignment or re-licensing.

## 8. Incomes from franchising

Franchising is a commercial activity whereby the franchisor permits and requests the franchisee to conduct by him/her/itself the goods sale and purchase or service provision under the conditions set out by the franchisor.

Incomes from franchising are those earned by individuals from above franchising contracts, including sub-franchising in accordance with the law on franchising.

## 9. Incomes from inheritances

Incomes from inheritance are those received by individuals under testaments or in accordance with the law on inheritance, specifically:

a/ Inheritances being securities, including stocks, stock purchase rights, bonds, bills, fund certificates and other kinds of securities as prescribed in the Securities Law; shares of individuals in joint-stock companies as prescribed in the Enterprise Law.

b/ Inheritances being capital holdings in economic organizations or business establishments, including capital contributions to limited liability companies, cooperatives, partnerships, business cooperation contracts; capital in private enterprises, proprietorships, associations or funds licensed to be established under law or whole business establishments being private enterprises or proprietorships.

c/ Inheritances being real estate, including land use rights, right to use land with assets attached to land, right to own houses, including houses to be formed in the future; infrastructure and construction works attached to land, including construction works to be formed in the future; right to lease land or water surface, except real estate guided at Point d, Clause 1, Article 3 of this Circular.

d/ Inheritances being other assets which are subject to registration of ownership or use rights with state management agencies, including cars, motorbikes; mopeds; boats, including barges, canoes, tug boats and push boats; ships, including cruises; aircraft; hunting rifles and sporting rifles.

#### 10. Incomes from gifts

Incomes from gifts are those received by individuals from domestic or foreign organizations and individuals, specifically:

a/ Gifts being securities, including stocks, stock purchase rights, bonds, bills, fund certificates and other kinds of securities as provided in the Securities Law; shares of individuals in joint-stock companies as provided in the Enterprise Law.

b/ Gifts being capital holdings in economic organizations or business establishments, including capital contributions to limited liability companies, cooperatives, partnerships, business cooperation contracts; capital in private enterprises, proprietorships, associations or funds licensed to be established under law or whole business establishments being private enterprises or proprietorships.

c/ Gifts being real estate, including land use rights, right to use land with assets attached to land, right to own houses, including houses to be formed in the future; infrastructure and construction works attached to land, including construction works to be formed in the future; right to lease land or water



surface, except real estate guided at Point d, Clause 1, Article 3 of this Circular.

d/ Gifts being other assets which are subject to registration of ownership or use rights with state management agencies, including cars, motorbikes; mopeds; boats, including barges, canoes, tug boats and push boats; ships, including cruises; aircraft; hunting riffles and sporting riffles.

### **Article 3. Tax-exempt incomes**

1. Under Article 4 of the Law on Personal Income Tax and Article 4 of Decree No. 65/2013/ND-CP, tax-exempt incomes include:

a/ Incomes from the transfer of real estate (including houses and construction works to be formed in the future as provided by the law on real estate business) between spouses; parents and their children; adoptive parents and their adopted children; fathers-in-law or mothers-in-law and daughters-in-law or sons-in-law; grandparents and their grandchildren; or blood siblings.

For real estate (including houses and construction works to be formed in the future as provided by the law on real estate business) which is created by the wife or the husband during their marriage and regarded as their common property, upon divorce, if such real estate is divided according to agreements or court rulings, the income from such property division is exempt from tax.

b/ Incomes from the transfer of houses or rights to use residential land and assets attached to residential land received by individuals who have a single house or land use rights in Vietnam.

b.1/ Individual transferring houses or rights to use residential land entitled to tax exemption under Point b, Clause 1 of this Article must concurrently meet the following conditions:

b.1.1/ At the time of transfer, they have the right to own a single house or to use a single land lot (including land attached to houses or construction works), specifically as follows:

b.1.1.1/ The right to own houses or use residential land shall be determined based on house ownership certificates or certificates of the right to own houses and other assets attached to land.

b.1.1.2/ In case of transfer of a jointly owned house or a residential land lot which more than one individual has the right to use, only individuals who own no other houses or has no right to use other residential land lots are entitled to tax exemption. Other individuals sharing the ownership of the house or the right to use the land lot who own another house or have the right to use another land lot are not entitled to tax exemption.

b.1.1.3/ In case a husband and a wife jointly own a house or jointly hold the right to use a residential land lot, which is their only common property, but

the husband or the wife also has another house or residential land lot as his/her personal property, when the house or residential land lot being their common property is transferred, only the person who owns no other houses or residential land lots is entitled to tax exemption; the other who already has his/her own house or residential land lot is not entitled to tax exemption.

b.1.2/ They have the right to own or use the house or residential land lot for at least 183 days counted to the time of transfer.

The time of acquiring the right to own or use a house or residential land lot is the date of grant of the land use right certificate or the certificate of the right to use houses and other assets attached to land.

b.1.3/ The entire house or residential land lot is transferred.

In case an individual has or share with others the right to own a single house or use a single residential land lot but only part of such house or residential land lot is transferred, he/she will not be entitled to tax exemption for the transferred part.

b.2/ Individuals having houses or residential land on transfer shall declare on the right to own or use a single house or residential land lot and take responsibility for the truthfulness of their declaration. Those detected to make untruthful declarations are subject to retrospective tax collection and a fine for violations of tax law in accordance with the law on tax administration.

b.3/ The transfer of houses or construction works to be formed in the future is ineligible for personal income tax exemption under Point b, Clause 1 of this Article.

c/ Incomes from the value of land use right of individuals who are allocated land by the State without having to pay land use levy or with reduced land use levy under law.

When transferring land areas eligible for land use levy exemption or reduction, individuals entitled to land use levy exemption or reduction upon land allocation shall declare and pay tax on incomes from the transfer of real estate under Article 12 of this Circular.

d/ Incomes from the receipt of inheritances or gifts that are real estate (including houses and construction works to be formed in the future as provided by the law on real estate business) between spouses, parents and their children; adoptive parents and their adopted children; fathers-in-law or mothers-in-law and daughters-in-law or sons-in-law; grandparents and their grandchildren; or between blood siblings.

dd/ Incomes from conversion of agricultural land for agricultural production rationalization without changing land use purposes received by households or

individuals that are directly engaged in agricultural production and allocated land by the State for production.

e/ Incomes of households and individuals directly engaged in agricultural or forest production, salt making, aquaculture or fishing of aquatic resources which are unprocessed or preliminarily processed.

Households and individuals directly engaged in production activities guided at this Point must concurrently satisfy the following conditions:

e.1/ Having lawful land or water surface use rights for production and being directly engaged in agricultural or forest production, salt making or aquaculture.

For cases of sublease of land or water surface from other organizations or individuals, written land or water surface lease agreements under law are required (except cases in which households or individuals undertake forest planting or forest management and production for forest companies). For fishing activities, certificates of lawful ownership or charter contracts of ships or boats for fishing purposes are required and households and individuals must be directly engaged in fishing activities (except case of bottom fishing in rivers other than fishing activities banned by law).

e.2/ Actually residing in localities where agricultural or forest production, salt making or fishing or aquaculture activities are carried out.

Localities where agricultural or forest production, salt making or fishing or aquaculture activities are carried out under this guidance are urban districts, rural districts, towns or provincial cities (collectively referred to as district-level administrative units) or districts adjacent to localities where production activities are carried out.

Particularly for fishing activities, the condition on places of residence is not required.

e.3/ Products of agricultural or forest production, salt making, aquaculture or fishing activities which are not yet processed into other products or are preliminarily processed are those being only cleaned, sun-dried, heat-dried, peeled, pitted, sliced, salted, frozen or otherwise ordinarily preserved.

g/ Incomes from interests on deposits at credit institutions and foreign bank branches, interests from life insurance policies; incomes from interests on government bonds.

g.1/ Tax-exempt deposit interests under this Point are interests received by individuals from their deposits in Vietnam dong, gold and foreign currencies at credit institutions and foreign bank branches established and operating under the Law on Credit Institutions in the forms of demand deposit, termed deposit, savings deposit, deposit certificate, promissory note, credit note and

other forms of deposits under the principle of fully refunding principal and interest to depositors as agreed.

Bases for determination of tax-exempt incomes from deposit interests are savings books (or savings cards), deposit certificates, promissory notes, credit notes and other papers issued in the principle of fully refunding principal and interest to depositors as agreed.

g.2/ Interests from life insurance policies are interests received by individuals under life insurance policies purchased from insurance businesses.

Bases for determining tax-exempt incomes from interests from life insurance policies are documents on payment of interests from life insurance policies.

g.3/ Interests from government bonds are interests received by individuals from the purchase of government bonds issued by the Ministry of Finance.

Bases for determining tax-exempt incomes from government bond interests are bond par value, interest rates and terms stated in such bonds.

h/ Tax-exempt incomes from foreign exchange remittances are sums of money received by individuals from their relatives who are overseas Vietnamese, Vietnamese guest workers and persons on working missions or study courses abroad.

Bases for determining tax-exempt incomes from foreign exchange remittances are papers evidencing sums of money received from abroad and payment vouchers by organizations which pay these sums on behalf of remitters (if any).

i/ Incomes from salary or wage amounts paid for night shift or overtime work, which are higher than those paid for day shifts or working hours as prescribed by the Labor Code, specifically:

i.1/ Salary or wage amounts paid for night shift or overtime work eligible for tax exemption are determined based on actually paid salary or wage amounts for night shift or overtime work minus those paid for ordinary workdays.

Example 2: A earns a wage of VND 40,000/hour for each ordinary workday under the Labor Code.

- If A performs overtime work on an ordinary workday, he will get an overtime pay of VND 60,000/hour. In this case, his tax-exempt income is:

VND 60,000/hour - VND 40,000/hour = VND 20,000/hour

- If A performs overtime work on a weekend or holiday, he will get an overtime pay of VND 80,000/hour. In this case his tax-exempt income is:

VND 80,000/hour - VND 40,000/hour = VND 40,000/hour.

i.2/ Income payers shall make a list showing working time in the night shift or overtime work and wage amounts for the night shift or overtime work additionally paid to employees. Income payers shall keep this list and present it to tax offices at the latter's request.

k/ Pensions paid by the Social Insurance Fund in accordance with the Law on Social Insurance; monthly pensions received from voluntary pension funds.

Individuals living and working in Vietnam are exempt from personal income tax on pensions paid from overseas.

m/ Incomes from scholarships, including:

m.1/ State-funded scholarships, including scholarships granted by the Ministry of Education and Training, provincial-level Education and Training Departments or public schools or other kinds of scholarship of state budget origin.

m.2/ Scholarships granted by domestic and overseas organizations (including also cost-of-living allowances) under their study promotion programs.

Agencies granting scholarships to individuals specified at this Point shall keep scholarship granting decisions and scholarship payment vouchers. Individuals who receive scholarships directly from foreign organizations shall keep documents and vouchers proving that their received incomes are scholarships granted by these foreign organizations.

n/ Incomes from indemnities paid under life insurance policies, non-life insurance policies or health insurance policies; compensations for labor accidents; compensations and supports under the law on compensation, support and resettlement; state compensations and other compensations as prescribed by the law on state compensation, specifically:

n.1/ Incomes from indemnities paid under life insurance policies, non-life insurance policies or health insurance policies are sums of money paid to individuals by life, non-life or health insurance organizations for the insured under signed insurance policies. Bases for determining indemnity amounts are indemnification documents or decisions issued by insurance organizations or courts and indemnity payment vouchers.

n.2/ Incomes from compensations for labor accidents are sums of money received by employees from their employers or social insurance funds for accidents occurring in their working process. Bases for determining these compensation amounts are compensation documents or decisions issued by the employers or courts and documents on payment of compensations for labor accidents.

n.3/ Incomes from compensations and supports under the law on compensation, support and resettlement are compensation and support money



paid by the State upon land recovery, including incomes from compensation and support paid by economic organizations upon land recovery according to regulations.

Bases for determining incomes from compensation and support under the law on compensation, support and resettlement are decisions on land recovery and resettlement support issued by competent state agencies and documents on payment of compensation money.

n.4/ Incomes from compensations paid by the State and other compensations under the law on state compensations are sums of money received by individuals as compensations for damage to their interests caused by wrongful administrative sanctioning decisions of competent persons or state agencies; incomes from compensations for persons victimized under unjust decisions of competent authorities in criminal procedures. Bases for determining these compensation amounts are competent states agencies' decisions compelling agencies or individuals that made wrongful decisions to pay compensations and compensation payment documents.

p/ Incomes received from charity funds licensed or recognized by competent state agencies and operating for charity, humanitarian or non-profit study promotion purposes.

Charity funds specified at this Point are those established and operating under the Government's Decree No. 30/2012/ND-CP of April 12, 2012, on organization and operation of social funds and charity funds.

Bases for determining tax-exempt incomes received from charity funds are these funds' decisions on payment of these incomes and cash payment vouchers or documents on handover of objects from charity funds.

q/ Incomes received from foreign governmental or non-governmental aid for charity or humanitarian purposes approved by competent state agencies.

Bases for determining tax-exempt incomes specified at this Point are competent state agencies' documents approving the receipt of aid.

2. Procedures and dossiers for tax exemption in the cases specified at Point a, b, c, d and dd, Clause 1 of this Article comply with documents guiding tax administration.

#### **Article 4. Tax reduction**

Under Article 5 of the Law on Personal Income Tax and Article 5 of Decree No. 65/2013/ND-CP, taxpayers facing difficulties caused by natural disasters, fires, accidents or dangerous diseases which affect their tax payment ability may be considered for tax reduction corresponding to the extent of their damage but not exceeding payable tax amounts, specifically as follows.

1. Determination of tax amounts to be reduced



- a/ Tax reduction shall be considered based on tax year. Taxpayers that face difficulties caused by natural disasters, fires, accidents or dangerous diseases in a year will be considered for reduction of their tax amounts payable in that year.
- b/ The payable tax amount of a taxpayer serving as a basis for tax reduction consideration is the total personal income tax amount payable by that taxpayer in a tax year, including:
- b.1/ Personal income tax amounts already paid or withheld for incomes from capital investment, capital transfer, real estate transfer, won prizes, copyright, franchising, inheritances or gifts.
- b.2/ Payable personal income tax amounts for incomes from business activities and incomes from salaries or wages.
- c/ Bases for determining the extent of damage eligible for tax reduction is total actual expenses for remedying damage minus (-) compensations received from insurance organizations (if any), or from accident-causing organizations or individuals (if any).
- d/ To-be-reduced tax amounts are determined as follows:
- d.1/ In case the payable tax amount in a tax year is larger than the damage, the to-be-reduced tax amount will equal the damage.
- d.2/ In case the payable tax amount in a tax year is smaller than the damage, the to-be-reduced tax amount will equal the payable tax amount.

2. Procedures and dossiers for tax reduction consideration comply with documents on tax administration.

## **Article 5.** Conversion of taxable incomes into Vietnam dong

1. Incomes liable to personal income tax must be calculated in Vietnam dong. Taxable incomes received in a foreign currency must be converted into Vietnam dong at the average inter-bank foreign exchange rate at the time of income generation.

Any foreign currency without an announced exchange rate against Vietnam dong must be converted into Vietnam dong through another foreign currency with an exchange rate against Vietnam dong.

2. Taxable incomes received in non-cash forms must be converted into Vietnam dong at the market price of that product or service or of products or services of the same or similar type at the time of income generation.

## **Article 6.** Tax period

1. For resident individuals

a/ Annual tax period is applicable to incomes from business activities and incomes from salaries or wages.

If in a calendar year, an individual is present in Vietnam for 183 days or more, the tax year is the calendar year.

For an individual who is present in Vietnam for less than 183 days in a calendar year but his/her period of presence in Vietnam is 183 days or more if counted in 12 consecutive months from the first day of his/her presence in Vietnam, the first tax period is 12 consecutive months from the first day of his/her presence in Vietnam. From the second year on, the tax year will be the calendar year.

Example 3 : B is a foreigner who first arrives in Vietnam on April 20, 2014. He is present in Vietnam for a total 130 days in 2014 by December 31, 2014, and a total of 65 days in 2015 by April 19, 2015. His first tax year will be counted from April 20, 2014, to the end of April 19, 2015. His second tax year will be counted from January 1, 2015, to the end of December 31, 2015.

b/ Tax period upon each time of income generation is applicable to incomes from capital investment; incomes from capital transfer; incomes from real estate transfer; incomes from prize winning; incomes from copyright; incomes from franchising; incomes from inheritances; and incomes from gifts.

c/ Tax period upon each transfer or annual tax period is applicable to securities transfer.

## 2. For non-resident individuals

Tax period upon each time of income generation is applicable to non-resident individuals.

For non-resident business individuals who have fixed places of business such as shops and goods stalls, the applicable tax period is that applicable to resident individuals earning incomes from business activities.

## Chapter II

### TAX BASES FOR RESIDENT INDIVIDUALS

**Article 7.** Tax bases for incomes from business activities and incomes from salaries or wages

Tax bases for incomes from business activities and incomes from salaries or wages are taxed income and tax rate, specifically as follows:

1. Taxed income equals taxable income guided in Article 8 of this Circular minus (-) the following deductible amounts:

a/ Deductions based on family circumstances as guided in Clause 1, Article 9 of this Circular.

b/ Insurance premiums and contributions to voluntary pension funds as guided in Clause 2, Article 9 of this Circular.

c/ Contributions to charity funds, humanitarian funds and study promotion funds as guided in Clause 3, Article 9 of this Circular.

## 2. Tax rates

Personal income tax rates for incomes from business activities and incomes from salaries or wages are applied according to the Partially Progressive Tax Tariff prescribed in Article 22 of the Law on Personal Income Tax, specifically:

<b>Tax grade</b>	<b>Taxed income per year (VND million)</b>	<b>Taxed income per month (VND million)</b>	<b>Tax rate (%)</b>
1	Up to 60	Up to 5	5
2	Between over 60 and 120	Between over 5 and 10	10
3	Between over 120 and 216	Between over 10 and 18	15
4	Between over 216 and 384	Between over 18 and 32	20
5	Between over 384 and 624	Between over 32 and 52	25
6	Between over 624 and 960	Between over 52 and 80	30
7	Over 960	Over 80	35

## 3. Methods of tax calculation

Personal income tax on incomes from business activities and incomes from salaries or wages is the total tax amount calculated according to each grade of income. The tax amount calculated according to each grade of income equals taxed income within that grade of income multiplied by (x) the corresponding tax rate.

To facilitate the calculation, a simplified method of calculation specified in Appendix No. 01/PL-TNCN to this Circular may be applied.

Example 4: C earns in a month an income of VND 40 million from salaries or wages and pays a social insurance premium equal to 7% and a health insurance premium equal to 1.5% of her salary. She raises 2 children who are aged under 18 years. In the month, she makes no charity, humanitarian or study promotion donations. C's personal income tax to be temporarily paid in the month is determined as follows:

- C's taxable income is VND 40 million.

- C enjoys the following deductions:

+ Family circumstance-based deduction for herself: VND 9 million;

- + Family circumstance-based deduction for her two dependants (two children): VND 3.6 million x 2 = VND 7.2 million;
- + Social insurance and health insurance: VND 40 million x (7%+1.5%) = VND 3.4 million.

Total deductions: VND 9 million + VND 7.2 million + VND 3.4 million = VND 19.6 million.

- C's taxed income is:

VND 40 million - VND 19.6 million = VND 20.4 million.

- The payable tax amount:

Method 1: The payable tax amount calculated according to the Partially Progressive Tax Tariff:

+ Grade 1: Taxed income up to VND 5 million, tax rate of 5%:

VND 5 million x 5% = VND 0.25 million

+ Grade 2: Taxed income of between over VND 5 million and 10 million, tax rate of 10%:

(VND 10 million - VND 5 million) x 10% = VND 0.5 million

+ Grade 3: Taxed income of between over VND 10 million and 18 million, tax rate of 15%:

(VND 18 million - VND 10 million) x 15% = VND 1.2 million

+ Grade 4: Taxed income of between over VND 18 million and 32 million, tax rate of 20%:

(VND 20.4 million - VND 18 million) x 20% = VND 0.48 million

- Total tax amount to be temporarily paid by C in the month is:

VND 0.25 million + VND 0.5 million + VND 1.2 million + VND 0.48 million = VND 2.43 million

Method 2: The payable tax amount calculated according to the simplified method is:

The monthly taxed income of VND 20.4 million falls into grade 4. The payable personal income tax amount is:

VND 20.4 million x 20% - VND 1.65 million = VND 2.43 million.

#### 4. Conversion of tax-exclusive incomes into taxed income

In case the incomes from salaries or wages paid by organizations or individuals to their employees under Clause 2, Article 2 of this Circular are exclusive of tax, such tax-exclusive incomes must be converted into taxed

incomes according to Appendix No. 02/PL-TNCN to this Circular for determining taxable income, specifically as follows:

a/ Incomes serving as a basis for conversion into taxed incomes are incomes actually received plus (+) benefits paid by employers on behalf of employees (if any) minus (-) deductions. In case house rents are included in benefits paid by employers on behalf of employees, the amount of house rents included in incomes serving as a basis for conversion equals the actually paid amount but must not exceed 15% of the total taxable income paid by such employers (exclusive of house rents).

Formula for determining incomes serving as a basis for conversion:

Income serving as a basis for conversion = Actually received income + Amounts paid by the employer on behalf of the employee - Deductions

In which:

- Actually received income is tax-exclusive salary or wage received every month by the employee.
- Amounts paid by the employer on behalf of the employee include monetary or non-monetary benefits paid by the employer to the employee under Point dd, Clause 2, Article 2 of this Circular.
- Deductions include family circumstance-based deductions; insurance premiums; contributions to voluntary pension funds; and charity, humanitarian and study promotion under Article 9 of this Circular.

Example 5: According to the labor contract signed between D and Company X, in 2014, D enjoys a monthly salary of VND 31.5 million. In addition to salary, Company X also pays the sports club membership fee of VND 1 million/month for D. D has to pay a compulsory insurance premium of VND 1.5 million/month. Company X takes charge of paying personal income tax according to regulations for D. In the year, D is entitled to family circumstance-based deduction for himself only and neither has dependants nor makes charity, humanitarian and study promotion donations.

D's monthly payable personal income tax is calculated as follows:

- Income serving as a basis for conversion:

VND 31.5 million + VND 1 million - (VND 9 million + VND 1.5 million) = VND 22 million

- Taxed income (determined according to Appendix No. 02/PL-TNCN);

(VND 22 million - VND 1.65 million) / 0.8 = VND 25.4375 million

- Personal income tax payable by D (calculated according to the simplified method specified in Appendix No. 01/PL-TNCN) is:

VND 25.4375 million x 20% - VND 1.65 million = VND 3.4375 million.

Example 6: Supposing Company X also pays house rents of VND 6 million/month for D stated in example 5. Then D's monthly payable personal income tax is:

Step 1: Determining the rent amount paid by the employer and included in the income serving as a basis for conversion

- Income serving as a basis for conversion (exclusive of house rent):

VND 31.5 million + VND 1 million - (VND 9 million + VND 1.5 million) = VND 22 million

- Taxed income (calculated according to Appendix No. 02/PL-TNCN):

(VND 22 million - VND 1.65 million)/0.8 = VND 25.4375 million

- Taxable income (exclusive of house rents):

VND 25.4375 million + VND 9 million + VND 1.5 million = VND 35.9375 million/month

- 15% of the total taxable income (exclusive of house rent):

VND 35.9375 million x 15% = VND 5.390 million/month

Then the rental amount calculated into the income serving as a basis for conversion is VND 5.390 million/month

Step 2: Determination of taxed income

- Income serving as a basis for conversion into taxed income:

VND 31.5 million + VND 1 million + VND 5.390 million - (VND 9 million + VND 1.5 million) = VND 27.39 million/month

- Taxed income (converted according to Appendix 02/PL-TNCN):

(VND 27.39 million - VND 3.25 million)/0.75 = VND 32.187 million/month

- Payable personal income tax amount:

VND 32.187 million x 25% - VND 3.25 million = VND 4.797 million/month

- D's monthly taxable income:

VND 31.5 million + VND 1 million + VND 5.390 million + VND 4.797 million = VND 42.687 million/month

or:

VND 32.187 million + VND 9 million + VND 1.5 million = VND 42.687 million/month.

b/ For individuals subject to tax finalization according to regulations, annual taxable income is the total taxable incomes of all months determined on the



basis of taxed income already converted. For individuals receiving tax-exclusive incomes from more than one income payer, the annual taxable income is the total taxable incomes of months paid by these income payers in the year.

Example 7: In addition to income earned from Company X, from January 2014 to May 2014, D stated in example 6 above also receives an income of VND 12 million/month from Company Y. Company Y also pays personal income tax for him.

Personal income tax finalization for D in 2014 is as follows:

- His annual taxable income at Company X:

VND 42.687 million x 12 months = VND 512.244 million

- At Company Y:

- + Monthly taxable income (converted according to Appendix No. 02/PL-TNCN):

(VND 12 million - 0.75 million)/0.85 = VND 13.235 million

- + Annual taxed income at company Y:

VND 13.235 million x 5 months = VND 66.175 million

- Total taxable income of D in 2014:

VND 512.244 million + VND 66.175 million = VND 578.419 million

- Monthly taxed income:

(VND 578.419 million : 12 month) - (VND 9 million + VND 1.5 million) = VND 37.702 million

- Payable personal income tax in the year:

(VND 37.702 million x 25% - VND 3.25 million) x 12 months = VND 74.105 million.

5. Bases for determining tax on incomes from lottery agency, insurance agency and multi-level marketing activities are taxed income and personal income tax withholding rate, specifically as follows:

a/ Taxed income is taxable income from lottery agency, insurance agency and multi-level marketing activities, including agency commissions, bonuses in any forms, supports and other amounts received by individuals from lottery companies, insurance businesses or multi-level marketing firms.

b/ Time for determining taxable income is the time the lottery companies, insurance businesses or multi-level marketing firms pay income to individuals.

c/ Personal income tax withholding rates

c.1/ Lottery companies shall withhold personal income tax on individuals' monthly taxed income at the following rate:

Unit of calculation VND 1,000

<b>Taxed income/month</b>	<b>Withholding rate</b>
Up to VND 9,000	0%
Over VND 9,000	5%

c.2/ Insurance businesses and multi-level marketing firms shall withhold personal income tax on individuals' monthly taxed income at the following rate:

Unit of calculation: VND 1,000

<b>Taxed income/month</b>	<b>Withholding rate</b>
Up to 9,000	0%
Between over 9,000 and 20,000	5%
Over 20,000	10%

6. The tax bases for money accumulated from purchase of optional insurance or contribution to the voluntary pension fund are the accumulated amount of premium for life insurance or another optional insurance or accumulated amount of contribution to the voluntary pension fund which is bought or contributed by the employer for the employee and the 10% withholding rate.

Before paying the insurance money or pension to a person, the insurance firm or voluntary pension fund management company shall withhold tax of 10% of the accumulated amount of premium or accumulated amount of contribution to the voluntary pension fund corresponding to the amount bought or contributed by the employer for the employee from July 1, 2013.

Insurance firms or voluntary pension fund management companies shall separately monitor premiums of life insurance and other optional insurance or accumulated amounts of contribution to the voluntary pension funds which are bought or contributed by employers for employees as a basis for calculating personal income tax.

**Article 8.** Determination of taxable incomes from business activities and wages and salaries

1. Determination of taxable income from business activities

Taxable income from business activities equals turnover minus reasonable expenses directly related to the generation of taxable income in a tax period.

Taxable income from business activities for each specific case is determined as follows:

a/ For business individuals who fail to properly comply with the law on accounting, invoices and documents

a.1/ For business individuals who fail to conduct accounting using invoices and documents and cannot determine turnover, expenses and taxed incomes (below referred to as business individuals paying tax by the presumption method)

a.1.1/ For business individuals paying tax by the presumption method, the taxable income is determined as follows:

$$\text{Taxable income in a tax period} = \text{Turnover assessed in a tax period} \times \text{Assessed ratio of taxable incomes}$$

In which:

- The assessed turnover is determined based on declarations of business individuals, the tax agency's database, the tax agency's survey on actual turnover and advices of the commune or ward tax consultancy council.
- The assessed ratio of taxable income is determined under Point a.4, Clause 1 of this Article.

a.1.2/ For business individuals who pay tax by the presumption method and use invoices

a.1.2.1/ Business individuals who pay tax by the presumption method and use invoice books shall, in addition to the assessed turnover-based tax, pay personal income tax for the turnover written in invoices which is higher than the assessed turnover if the turnover written in invoices of a quarter is higher than the assessed turnover.

a.1.2.2/ For business individuals who pay tax by the presumption method and use individual invoices sold by the tax agency by serial number shall declare and pay personal income tax at 10% of the taxable income generated each time.

Taxable income generated each time is determined as follows:

$$\text{Taxable income generated each time} = \text{Turnover for calculation of taxable income generated each time} \times \text{Assessed ratio of taxable income}$$

In which:

- The turnover for calculation of taxable income generated each time is determined based on the sale and purchase contract and documents.
- The assessed ratio of taxable income is determined under Point a.4, Clause 1 of this Article.

a.1.2.3/ For business individuals who pay tax by the presumption method, use invoice books and request personal income tax refund, the turnover for calculation of taxable income of a year is determined as follows:

- If the turnover written in invoices of the year is lower than the assessed turnover, the turnover for calculation of taxable income of the year is the assessed turnover.

- If the turnover written in invoices of the year is higher than the assessed turnover, the turnover for calculation of taxable income of the year is the turnover written in invoices.

a.2/ For business individuals who can account only turnover and cannot account expenses, the taxable income is determined as follows:

$$\begin{array}{ccccccc} \text{Taxable} & = & \text{Turnover for} & \times & \text{Assessed} & + & \text{Other} \\ \text{income in} & & \text{calculation of} & & \text{ratio of} & & \text{taxable} \\ \text{a tax} & & \text{taxable income in} & & \text{taxable} & & \text{incomes in a} \\ \text{period} & & \text{a tax period} & & \text{income} & & \text{tax period} \end{array}$$

In which:

- The turnover for calculation of taxable incomes in a tax period is determined under Point b.1, Clause 1 of this Article.

- The assessed ratio of taxable income is determined under Point a.4, Clause 1 of this Article.

- Other taxable incomes are incomes generated in business activities, including fines for contract breaches or late payment; bank interests during the period of payment; interests on sale of goods on deferred or installment payment; interests on sale of fixed assets; proceeds from sale discarded materials or faulty products and other taxable incomes.

a.3/ For individuals conducting mobile business and non-business individuals engaged in goods sale or service provision who need invoices for delivery to buyers

Individuals conducting mobile business (trading from afar) and non-business individuals engaged in goods sale or service provision who need invoices for delivery to buyers shall declare and pay personal income tax at 10% of the taxable income generated each time.

Taxable income generated each time is determined as for business individuals who pay tax by the presumption method and use invoices retained by the tax agency by serial number under Item a.1.2.2, Point a, Clause 1 of this Article.

a.4/ Assessed ratio of taxable income

The assessed ratio of taxable income based on turnover applies to business individuals who fail to properly comply with the law on accounting, invoices

and documents; and individuals engaged in mobile business and non-business individuals as follows:

<b>Activities</b>	<b>Assessed ratio of taxable income (%)</b>
Goods distribution or supply	7
Services or construction without supplying materials	30
Production, transport or services attached to goods or construction with material supply	15
Other business activities	12

For individuals engaged in multiple business lines, to apply the ratio applicable to the main business line. For individuals engaged in multiple business lines without a main business line, to apply the ratio applicable to other business activities.

b/ For business individuals who fully conduct the invoice- and document-based accounting, the taxable income is determined as follows:

$$\begin{array}{ccccccc} \text{Taxable} & = & \text{Turnover for} & - & \text{Deductible} & + & \text{Other} \\ \text{income} & & \text{calculation of} & & \text{reasonable} & & \text{taxable} \\ \text{in a tax} & & \text{taxable income in} & & \text{expenses in a} & & \text{incomes in} \\ \text{period} & & \text{a tax period} & & \text{tax period} & & \text{a tax period} \end{array}$$

b.1/ Turnover for calculation of taxable incomes in a tax period

Turnover for calculation of taxable incomes from business activities means the total of sales, processing remuneration, commissions, proceeds from goods or service provision generated in a tax period, including also price subsidies and surcharges enjoyed by business individuals, regardless of whether such turnover has been collected or not, which are determined according to accounting books.

b.1.1/ The time of determination of turnover for calculation of taxable income is determined as follows:

b.1.1.1/ For goods sale, it is the time of transfer of the right to own or use goods or the time of billing for goods sale.

b.1.1.2/ For service provision, it is the time of completion of provision of services for the buyer or the time of billing for service provision. For lease of houses, land use rights, water surface or other assets, it is the time the lease contract becomes effective.

In case invoices are made before the time of transfer of goods ownership (or completion of services), the time of determination of turnover is the time of billing or vice versa.

b.1.2/ In some cases, the turnover for calculation of taxable incomes is determined as follows:

b.1.2.1/ For goods sold on installment payment, it is determined based on the selling price of goods sold on lump-sum payment exclusive of installment payment interest.

b.1.2.2/ For goods or services sold on deferred payment, it is the selling price of goods or services sold on lump-sum payment exclusive of deferred payment interest.

In case the installment or deferred payment under a purchase and sale contract is made through many tax periods, turnover is the sum of money receivable from the purchaser in a tax period exclusive of installment or deferred payment interest within the time limit stated in the contract.

The determination of expenses upon determination of taxable income for goods sold on installment or deferred payment must comply with the principle that expenses must match turnover.

b.1.2.3/ For goods or services made by business individuals for exchange, donation, presentation as gifts, equipping or giving as bonuses to employees, the turnover is determined based on the selling price of the same or equivalent goods or service on the market at the time of exchange, donation, presentation as gifts, equipping or giving as bonuses to employees.

b.1.2.4/ For goods or services made by business individuals for use in their production or business activities, the turnover is expenses for making such goods or services.

b.1.2.5/ For goods processing activities, the turnover is the total sum of money earned from processing activities, covering remuneration, costs of fuel, power and auxiliary materials and other expenses for the goods processing.

b.1.2.6/ For commissioned sale agents that sell consigned goods at prices fixed by their principals being business individuals, the turnover is commissions enjoyable under the agency or goods consignment contract.

b.1.2.7/ For lease of assets, the turnover is determined based on the contract regardless of whether the money has been received or not.

In case the lessee pays rent in advance for many years, the turnover for calculation of taxable income may be allocated to the number of years of advance rent payment or determined based on lump-sum rent.



b.1.2.8/ For construction and installation activities, the turnover is the value of the work or work item or work volume tested before acceptance. In case the construction and installation contractor is not the material, machinery and equipment supplier, the turnover for tax calculation is the sum of money earned from construction and installation activities exclusive of the value of materials, machinery and equipment.

In case the construction and installation contractor is also the material, machinery and equipment supplier, the turnover for tax calculation is the sum of money earned from construction and installation activities inclusive of the value of materials, machinery and equipment.

b.1.2.9/ For transport activities, the turnover is the total sum of money earned from the transportation of passengers, luggage or cargoes in a tax period.

#### b.2/ Deductible reasonable expenses

Deductible reasonable expenses are those actually paid and directly related to production and business activities of individuals fully accompanied with invoices and documents as prescribed by law, specifically as follows:

b.2.1/ Salaries, wages, allowances, subsidies, remunerations and other payments to employees under labor contracts, service contracts or collective labor agreements under the Labor Code.

Salaries or wages exclude those of individuals who are heads of business households or members of business groups named in their business registration certificates.

Working outfit or attire allowance to be paid to employees must not exceed VND 5,000,000/year. In case this allowance is paid in cash and in kind to employees, the maximum payment accounted as deductible expense for calculation of taxable income must not exceed VND 5,000,000/person/year. For particular business lines, this expense complies with the Ministry of Finance's regulations.

b.2.2/ Business households or individuals shall determine themselves, and take responsibility before law for, expenses for raw materials, materials, fuels, energy and goods actually used for the production and trading of goods or provision of services related to the generation of turnover and taxable income in a period, which are calculated according to their reasonable consumption rates and actual ex-warehousing prices.

For raw materials, materials, fuels, energy and goods whose consumption rates have been promulgated by the State, those rates apply.

The value of lost supplies, assets, capital or goods may not be accounted as reasonable expense, except losses caused by natural disasters, fires,

epidemics, diseases and other *force majeure* events ineligible for compensation.

For supplies and goods used for both personal consumption and business activities, only the value of parts used for business activities may be accounted as expense.

b.2.3/ Expenses for depreciation, regular repair and maintenance of fixed assets used for the production and trading of goods or provision of services, specifically as follows:

b.2.3.1/ Fixed assets of which depreciation may be accounted as reasonable expense must satisfy the following conditions:

- They are used for production or business.
- They are accompanied with sufficient invoices, documents and other lawful papers evidencing that they are owned by business individuals.
- They are managed, monitored and accounted in accounting books of business individuals under current management and cost-accounting regulations.

Particularly, depreciation of automobiles of 9 seats or less may not be accounted as reasonable expense.

b.2.3.2/ The fixed asset depreciation level accounted as reasonable expense complies with regulations on management, use and depreciation of fixed assets.

b.2.3.3/ Fully depreciated fixed assets which are further used for production or business may not be further depreciated.

For fixed assets used for both business purpose and another purposes, depreciation expense may be accounted as reasonable expense corresponding to the extent of their utility for business activities.

b.2.4/ Paid interests on loans for goods production and trading or service provision activities directly related to the generation of turnover and taxable income.

Loan interest rates are actual interest rates specified in contracts for borrowing loans from credit institutions, foreign bank branches or economic organizations. If loans are borrowed from entities other than credit institutions, foreign bank branches or economic organizations, expenses for loan interest payment are based on loan contracts but must not be 1.5 times higher than the prime interest rate announced by the State Bank of Vietnam at the time of loan provision.

The above paid loan interests are exclusive of interests paid on loans contributed as capital to setting up establishments of business individuals.

b.2.5/ Management expenses, including:

b.2.5.1/ Payment of electricity, water and telephone charges; purchase of stationery; hiring of auditors; legal consultancy and designing services; asset insurance premiums; charges for technical services and other outside services.

b.2.5.2/ Expenses for acquiring assets other than fixed assets, covering purchase and use of technical documents, patents, technology transfer licenses and commercial trademarks, which are gradually allocated to business expenses.

b.2.5.3/ Rents of fixed assets operating under rent contracts. In case the fixed asset rent is paid in lump sum in advance for many years, such rent may be gradually allocated to production or business expenses according to the number of years of fixed asset use.

b.2.5.4/ Charges for services purchased or hired from outside directly serving goods production and trading or service provision activities, which are evidenced by documents and invoices under regulations.

b.2.5.5/ Expenses for sale of goods or services, covering preservation, packaging, transportation, loading and unloading, warehousing and warranty of products and goods.

b.2.6/ Taxes, charges, fees and land rents payable for goods production and trading or service provision activities as prescribed by law (other than personal income tax, withheld input value-added tax and other taxes, charges, fees and payable amounts which are not accounted as expenses under relevant laws), including:

b.2.6.1/ License tax, export duty, import duty, excise tax, royalties, agricultural land use tax, non-agricultural land use tax, environmental protection tax, land rent, water surface rent.

b.2.6.2/ Value-added tax which may be accounted as expenses as prescribed by law.

b.2.6.3/ Charges and fees actually remitted into the state budget by business establishments under the law on charges and fees.

b.2.7/ Working mission allowances for employees (excluding travel and accommodation expenses) which must not exceed twice the prescribed allowance level applicable to state cadres, civil servants and employees as guided by the Ministry of Finance.

Expenses for travel and accommodation for employees on working missions fully accompanied with lawful invoices and documents may be accounted into deductible expenses when determining taxable income. Business individuals who allocate funds for travel and accommodation in a lump sum for their

employees may deduct these funds under the Ministry of Finance's regulations applicable to state cadres, civil servants and employees.

b.2.8/ Other expenses directly related to the generation of turnover and taxable income accompanied with documents and invoices under regulations.

b.3/ Other taxable incomes

Other taxable incomes are incomes generated in business activities, including fines for contract breaches or late payment; bank interests during the period of payment; interests on sale of goods on deferred or installment payment; interests on sale of fixed assets; proceeds from sale of discarded materials or faulty products and other taxable incomes.

c/ For groups of business individuals

In case many people attach names to a single business registration certificate, even in case of lease of houses or grounds with many people attaching names to the certificate of rights to use land and own house and other assets attached to land (collectively referred to as group of business individuals), after the taxable income from business activities is determined under Points a and b, Clause 1 of this Article, the taxable income of each individual is divided according to:

c.1/ The capital contribution ratio of each individual stated in the business registration certificate.

c.2/ The agreement between the individuals, or,

c.3/ The average income per capita in case the business registration certificate does not state the capital contribution ratio or there is no agreement on income division among the individuals.

Based on the taxable income of each business individual which is determined according to the above division principles, each individual may enjoy the deductions provided in Article 9 of this Circular for determining his/her taxed income and payable personal income tax.

2. Taxable income from salaries or wages

a/ Taxable income from salaries or wages equals the total salary, wage or remuneration amounts and other income amounts of salary or wage nature received by a taxpayer in a tax period under Clause 2, Article 2 of this Circular.

b/ Time of determination of taxable income

The time of determination of taxable income from salaries or wages is when the employer pays salaries or wages to the taxpayer.

Particularly, the time of determination of taxable income for accumulated insurance premiums under Point dd.2, Clause 2, Article 2 of this Circular is

when the insurer or the voluntary pension fund management company pays insurance money.

3. Taxable income of individuals who earn incomes from both business activities and salaries or wages is the total of taxable income from business activities and taxable income from salaries or wages.

## **Article 9. Deductions**

Deductions guided in this Article are amounts deductible to the taxable income of an individual before determining taxed income from salaries, wages and business activities, specifically as follows:

### **1. Deduction based on family circumstances**

Under Article 19 of the Law on Personal Income Tax; Clause 4, Article 1 of the Law Amending and Supplementing a Number of Articles of the Law on Personal Income Tax; and Article 12 of Decree No. 65/2013/ND-CP, the deduction based on family circumstances is effected as follows:

a/ Deduction based on family circumstances is a sum of money deductible from taxable income from business activities, salaries or wages of a taxpayer being a resident individual before tax calculation.

Resident individuals who earn incomes from both business activities and salaries or wages may have the deduction based on family circumstances made only once from their total taxable income from business activities and salaries or wages.

b/ Levels of deduction based on family circumstances:

b.1/ Deduction for a taxpayer himself/herself, which is VND 9 million/month, or VND 108 million/year.

b.2/ Deduction for each dependant of a taxpayer, which is VND 3.6 million/month.

c/ Principles of calculation of family circumstance-based deduction

c.1/ Family circumstance-based deduction for taxpayers:

c.1.1/ A taxpayer earning incomes from salaries, wages and business activities may, at a point of time (fully calculated by month), choose to get family circumstance-based deduction for himself/herself in a place.

c.1.2/ A foreigner being a resident individual in Vietnam may have family circumstance-based deduction for himself/herself made from January or from the month he/she comes to Vietnam to the month he/she terminates the labor contract and leaves Vietnam in a tax year, for individuals present in Vietnam for the first time.

Example 8: Mr. E is a foreigner working in Vietnam consecutively from March 1, 2014, to November 15, 2014, when his labor contract terminates and he returns home. From March 1, 2014, to the time he returns home, Mr. E is present in Vietnam for more than 183 days. So in 2014, Mr. E is a resident individual and is entitled to family circumstance-based deduction for himself from January through November, 2014.

Example 9: Ms. G is a foreigner coming to Vietnam for the first time on September 21, 2013. On June 15, 2014, her labor contract terminates and she leaves Vietnam. From September 21, 2013, to June 15, 2014, Ms. G is present in Vietnam for 187 days. So in the first tax year (from September 21, 2013, to September 20, 2014) Ms. G is regarded as a resident individual in Vietnam and is entitled to family circumstance-based deduction for herself from September 2013 through June 2014.

c.1.3/ In case a taxpayer does not have deduction for himself/herself made in a tax year or such deduction has not been made for full 12 months, he/she may have deduction made for full 12 months upon tax finalization under regulations.

c.2/ Family circumstance-based deduction for dependants

c.2.1/ Only taxpayers who have made tax registration and obtained tax identification numbers may get family circumstance-based deduction for their dependants.

c.2.2/ When a taxpayer registers family circumstance-based reduction for his/her dependants, the tax agency shall grant tax identification numbers for those dependants and the taxpayer may have family circumstance-based reductions temporarily calculated in the year from the time of registration. Taxpayers may enjoying family circumstance-based deduction for dependants for whom family circumstance-based deduction registration was made before the effective date of this Circular till these dependants obtain tax identification numbers.

c.2.3/ When making tax finalization, a taxpayer who has not counted family circumstance-based deduction for his/her dependants in a tax year may get deduction from the month in which the taxpayer's obligation to nurture these dependants arises if he/she has registered family circumstance-based deduction for those dependants. Particularly for other dependants specified at Item d.4, Point d, Clause 1 of this Article, the deadline for registering family circumstance-based deduction is December 31 of a tax year. Past this time limit, the family circumstance-based deduction for that tax year may not be effected.

c.2.4/ Each dependant may be counted only once for tax deduction for a taxpayer in a tax year. In case several taxpayers are obliged to nurture a



dependant, they shall reach agreement on registration of this dependant for family circumstance-based deduction for one among them.

d/ Dependants of a taxpayer include:

d.1/ His/her blood, adopted and out-of-wedlock children, and stepchildren, specifically:

d.1.1/ Children under 18 years old (fully calculated in month).

Example 10: A child of Mr. H, who is born in July 25, 2014, is counted as a dependant from July, 2014.

d.1.2/ Children aged 18 years old or older who suffer disabilities and have no working capacity.

d.1.3/ Children who are studying in Vietnam or abroad at universities, colleges, professional secondary schools or vocational training schools, or are aged 18 or older and attending schools of general education (including the time awaiting the university entrance exam result from June to September of the year of grade 12) and have no income or have an average monthly income from all sources in the year not exceeding VND 1,000,000.

d.2/ His/her spouse who satisfies the conditions specified at Point dd, Clause 1 of this Article.

d.3/ His/her blood parent or parent-in-law; or step parent or lawful adoptive parent who satisfies the conditions specified at Point dd, Clause 1 of this Article.

d.4/ Other helpless persons whom the taxpayer is directly nurturing and who satisfy the conditions specified at Point dd, Clause 1 of this Article, including:

d.4.1/ Blood siblings of the taxpayer.

d.4.2/ Paternal and maternal grandparents, blood aunts and uncles of the taxpayer.

d.4.3/ Blood nieces and nephews of the taxpayer (children of his/her blood siblings).

d.4.4/ Other persons whom the taxpayer is obliged to directly nurture under law.

dd/ A person who is regarded as a dependant under Item d.2, d.3 or d.4, Point d, Clause 1 of this Article must satisfy the following conditions:

dd.1/ For persons of the working age:

dd.1.1/ Suffering disabilities and having no working capacity; and,

dd.1.2/ Having no income or having an average monthly income from all sources in a year not exceeding VND 1,000,000.

dd.2/ For persons beyond the working age, having no income or having an average monthly income from all sources in a year not exceeding VND 1,000,000.

e/ Persons with disabilities and having no working capacity under Item dd.1.1, Point dd, Clause 1 of this Article are those governed by the law on persons with disabilities and patients of diseases which render them incapable of working (such as AIDS, cancer, chronic kidney failure, etc.)

g/ Dossiers evidencing dependants

g.1/ For children:

g.1.1/ For an under-18 child, a copy of his/her birth certificate and a copy of his/her identity card (if any).

g.1.2/ For a child aged 18 years or older who suffers disabilities and has no working capacity, the dossier comprises:

g.1.2.1/ A copy of his/her birth certificate and a copy of his/her identity card (if any).

g.1.2.2/ A copy of the certificate of disability as prescribed by the law on persons with disabilities.

g.1.3/ For a child who is studying at an educational level provided at Item d.1.3, Point d, Clause 1 of this Article, the dossier comprises:

g.1.3.1/ A copy of his/her birth certificate.

g.1.3.2/ A copy of his/her student card or declaration certified by his/her school or other papers proving that he/she is studying at that university, college, professional secondary school or vocational training school.

g.1.4/ For an adopted, out-of-wedlock child or stepchild, in addition to the papers required for each case above, there must be other papers proving the relation between the taxpayer and this child, such as copy of a competent state agency's decision on recognition of child adoption or recognition of father, mother or child acknowledgement, etc.

g.2/ For spouses:

- A copy of his/her identity card.

- A copy of the household registration book (which can prove the marriage relation) or the marriage certificate.

For a spouse who is of working age, in addition to the above papers, there must papers proving that this person has no working capacity, such as copy of the certificate of disability as prescribed by the law on persons with disabilities, for persons with disabilities having no working capacity, copy of

the health record, for patients of diseases rendering them incapable of working (such as AIDS, cancer, chronic kidney failure, etc.).

g.3/ For blood parents or siblings (or parents-in-law), stepparents or lawful adoptive parents:

- A copy of the identity card.
- Lawful papers proving the relation between the dependant and the taxpayer such as copy of the household registration book (if they are named in the same household registration book), or the birth certificate, or a competent state agency's decision on recognition of the parent or child acknowledgement.

For a dependant of the working age, in addition to the above papers, there must be papers proving that this person has no working capacity, such as copy of the certificate of disability as prescribed by the law on persons with disabilities, for persons with disabilities having no working capacity, copy of the health record, for patients of diseases rendering them incapable of working (such as AIDS, cancer, chronic kidney failure, etc.).

g.4/ For other persons specified at Item d.4, Point d, Clause 1 of this Article, a dossier comprises:

g.4.1/ A copy of the identity card or birth certificate.

g.4.2/ Other lawful papers for identifying the nurturing responsibility as prescribed by law.

For a dependant of the working age, in addition to the above papers, there must be papers proving that this person has no working capacity, such as copy of the certificate of disability as prescribed by the law on persons with disabilities, for persons with disabilities having no working capacity, copy of the health record, for patients of diseases rendering them incapable of working (such as AIDS, cancer, chronic kidney failure, etc.).

Lawful papers specified at Item g.4.2, Point g, Clause 1 of this Article are any legal documents identifying the relation between the taxpayer and the dependant, such as:

- Copy of the document determining the nurturing responsibility as prescribed by law (if any).
- Copy of the household registration book (if they are named in the same household registration book).
- Copy of the temporary residence registration of the dependant (if they are not named in the same household registration book).

- The taxpayer's declaration made according to a set form, which is certified by the commune-level People's Committee of the locality where the taxpayer resides that the dependant is living together with the taxpayer.

- The taxpayer's declaration made according to a set form, which is certified by the commune-level People's Committee of the locality where the taxpayer resides that the dependant is living in the locality and no person is nurturing him/her (if the dependant is not living together with the taxpayer).

g.5/ Resident individuals being foreigners who have no dossiers as guided for each specific case above must produce similar legal documents to evidence their dependants.

g.6/ For taxpayers working at economic organizations or administrative or non-business agencies whose parents, spouses, children or other persons regarded as dependants are named in taxpayers' resumes, the dossier evidencing dependants complies with Items g.1, g.2, g.3, g.4 and g.5, Point g, Clause 1 of this Article, or comprises only the dependant registration declaration made according to a set form, which is certified on the left of the declaration by the unit head.

The unit head shall take responsibility only for information on full names of dependants, their years of birth and relation with the taxpayer while the taxpayer shall declare and take responsibility for other information.

h/ Declaration for deduction for dependants

h.1/ Taxpayers that earn incomes of VND 9 million/month or less from business activities, salaries or wages are not required to declare their dependants.

h.2/ To get family circumstance-based deduction for dependants, taxpayers that earn incomes of more than VND 9 million/month from business activities, salaries or wages and nurture dependants shall make declaration as follows:

h.2.1/ For taxpayers earning incomes from salaries or wages:

h.2.1.1/ Registration of dependants

h.2.1.1.1/ First-time registration of dependants:

Taxpayers earning incomes from salaries or wages shall register their dependants according to a set form and submit two (2) copies to income-paying organizations or individuals as a basis for calculating deduction for dependants.

The income-paying organization or individual shall keep one (1) registration and submit one (1) to the managing tax agency together with the personal income tax declaration of the previous tax period as prescribed by the law on tax administration.

Persons directly declaring tax with tax agencies shall submit one (1) registration of dependants, made according to a set form, to tax agencies managing their income-paying organizations together with personal income tax declarations of the previous tax period in accordance with the Law on Tax Administration.

#### h.2.1.1.2/ Registration of change in dependants:

When there is a change (increase or decrease) in dependants, a taxpayer shall make additional declaration of change in his/her dependants according to a set form and submit it to the income-paying agency or individual or the tax agency, for taxpayers directly declaring tax with tax agencies.

#### h.2.1.2/ Place and time limit for submission of dossiers evidencing dependants:

- The place for a taxpayer to submit the dossier evidencing dependants is where the taxpayer submits the registration in dependants.

Income-paying organizations shall keep dossiers evidencing dependants and produce them when tax agencies conduct tax inspection or examination.

- The time limit for submitting dossiers evidencing dependants is three (3) months after submitting dependant registrations (including registration of change in dependants).

Past this time limit, taxpayers that fail to submit dossiers evidencing dependants are not entitled to deduction for dependants and shall adjust their payable tax amounts.

#### h.2.2/ For taxpayers earning incomes from business activities

##### h.2.2.1/ Registration of dependants

h.2.2.1.1/ Business individuals who pay tax according to declarations shall make dependant registrations according to a set form and submit them together with declarations for temporary tax payment to managing tax agencies. When there is a change (increase or decrease) in their dependants, taxpayers shall make additional declarations of change in dependants according to a set form and submit them to managing tax agencies.

h.2.2.1.2/ Business individuals who pay tax by the presumption method shall declare their dependants for family circumstance-based deduction according to declarations of tax payment by the presumption method.

h.2.2.2/ The time limit for submitting dossiers evidencing dependants is three (3) months after making declarations for family circumstance-based deduction (including increase or decrease of dependants or business startups).

h.2.2.3/ Past the above dossier submission time limit, taxpayers who fail to submit dossiers to evidence their dependants will not be entitled to deduction

for dependants and be subject to adjustment of their payable tax amounts. Business individuals paying tax by the presumption method shall have their assessed tax amounts adjusted.

i/ A taxpayer shall submit a dossier to evidence a dependant only once throughout the duration for which he/she enjoys family circumstance-based deduction. In case the taxpayer changes his/her working office or place of business, he/she shall make registration and submit the dossier evidencing dependants like in case of first-time registration of dependants provided at Item h.2.1.1.1, Point h, Clause 1 of this Article.

## 2. Deduction for insurance premiums and contributions to voluntary pension funds

a/ Insurance premiums include premiums of social insurance, health insurance, unemployment insurance and occupational liability insurance for occupations subject to compulsory insurance.

b/ Contributions to voluntary pension funds

The level of contributions to voluntary pension funds may be deducted from taxable income as actually arisen but at no more than VND one (1) million/month (VND 12 million/year) for employees buying voluntary pension products as guided by the Ministry of Finance, even in case of participating in different funds. The ground for determining the deductible income is the copy of the receipt of payment of money (or fee) issued by voluntary pension funds.

Example 11. Mr. Y contributes to a voluntary pension fund by concluding insurance policies with insurance firms or enterprises licensed to provide voluntary pension products. If these voluntary pension products comply with regulations of, and are approved by, the Ministry of Finance, Mr. Y will get deduction from taxable income as follows:

- If the level of contribution to the voluntary pension fund is VND 800,000/month or VND 9.6 million/year, the level deductible from taxable income is VND 9.6 million/year.
- If the level of contribution to the voluntary pension fund is VND 2 million/month or VND 24 million/year, the deductible level of contribution to the voluntary pension fund is VND 12 million/year.

c/ Foreigners being resident individuals in Vietnam and Vietnamese resident individuals working overseas who earn incomes from business activities or from salaries or wages overseas and have bought compulsory insurance in accordance with the countries of their citizenship or where they work similar to Vietnamese laws such as social insurance, health insurance, unemployment insurance, compulsory occupational liability insurance and other compulsory insurance (if any) may have premiums of those insurance deducted from their



taxable income from business activities or salaries or wages when calculating personal income tax.

Foreigners and Vietnamese having bought the above insurance overseas may get temporary deduction from their incomes for tax withholding in the year (if they have supporting documents) and get deduction according to official figures if they make tax finalization under regulations. If they do not have documents for temporary deduction in the year, they will get one-off deduction when making tax finalization.

d/ Insurance premiums and contributions to voluntary pension funds in a year will be deducted from taxable income of that year.

dd/ Supporting documents for deductible insurance premiums above are copies of receipts of insurance organizations or income-paying organizations' certifications of withheld or paid insurance premiums (in case these organizations pay premiums for taxpayers).

### 3. Deduction for charity, humanitarian or study promotion donations

a/ Charity, humanitarian or study promotion donations deductible before tax calculation from taxable income of taxpayers who are resident individuals and earn incomes from business activities, salaries or wages include:

a.1/ Contributions to organizations or establishments that care for or nurture specially disadvantaged children, persons with disabilities and helpless elderly people.

These organizations or establishments must be established and operate under the Government's Decree No. 68/2008/ND-CP of May 30, 2008, on conditions and procedures for the establishment, organization, operation and dissolution of social protection establishments; the Government's Decree No. 81/2012/ND-CP of October 8, 2012, amending and supplementing Decree No. 68/2008/ND-CP of May 30, 2008, on conditions and procedures for the establishment, organization, operation and dissolution of social protection establishments, and Decree No. 109/2002/ND-CP of December 27, 2002, amending and supplementing a number of articles of Decree No. 195/CP of December 31, 1994, detailing and guiding a number of articles of the Labor Code regarding working time and rest time.

Documents evidencing contributions to organizations or establishments that care for or nurture specially disadvantaged children, persons with disabilities and helpless elderly people are lawful receipts of those organizations or establishments.

a.2/ Contributions to charity funds, humanitarian funds or study promotion funds established and operating under the Government's Decree No. 30/2012/ND-CP of April 12, 2012, on organization and operation of not-for-profit social funds and charity funds operating for charity, humanitarian or

study promotion purposes, and other relevant documents on management and use of donations.

Documents evidencing charity, humanitarian or study promotion donations are lawful receipts issued by central or provincial-level organizations or funds.

b/ Charity, humanitarian or study promotion donations made in a year will be deducted from taxable income of that year. In case these donations are not fully deducted in a year, they may not be carried forward for deduction from taxable incomes of the subsequent tax year. The maximum deduction must not exceed taxed income from salaries or wages and income from business activities of the tax year in which charity, humanitarian or study promotion donations are made.

#### **Article 10.** Tax bases for incomes from capital investment

Tax bases for incomes from capital investment are taxed income and tax rate.

##### **1. Taxed income**

Taxed income from capital investment is taxable income received by an individual under Clause 3, Article 2 of this Circular.

2. Tax rate for income from capital investment is 5% under the Whole Personal Income Tax Tariff.

##### **3. Time of determination of taxed income**

The time of determination of taxed income for income from capital investment is when an organization or individual pays income to the taxpayer.

Particularly, the time of determination of taxed income for some cases is as follows:

a/ For income from the increased value of capital contributions under Point d, Clause 3, Article 2 of this Circular, the time of determination of income from capital investment is when an individual actually receives income upon dissolution, transformation of operation model, division, split, merger or consolidation of an enterprise or upon capital withdrawal.

b/ For income from yield from capital addition under Point g, Clause 3, Article 2 of this Circular, the time of determination of income from capital investment is when an individual transfers or withdraws capital.

c/ For income from dividends paid in stocks under Point g, Clause 3, Article 2 of this Circular, the time of determination of income from capital transfer is when an individual transfers stocks.

d/ In case an individual earns income from overseas capital investment in any form, the time of determination of taxed income is when he/she receives

#### 4. Tax calculation method

$$\text{Payable personal income tax amount} = \text{Taxed income} \times \text{Tax rate of 5\%}$$

#### **Article 11.** Tax bases for income from capital transfer

##### 1. For income from transfer of capital contributions

Tax bases for income from transfer of capital contributions are taxed income and tax rate.

a/ Taxed income: Taxed income from the transfer of capital contributions equals the transfer price minus the purchase price of the capital contributions and reasonable expenses related to the generation of capital transfer income.

For an enterprise making accounting in a foreign currency and an individual transferring capital contributions in a foreign currency, the transfer price and the purchase price of the capital contributions are set in that foreign currency. For an enterprise making accounting in Vietnam dong and an individual transferring capital contributions in a foreign currency, the transfer price must be set in Vietnam dong at the average interbank foreign exchange rate announced by the State Bank of Vietnam at the time of transfer.

##### a.1/ Transfer price

Transfer price means a sum of money received by an individual under a capital transfer contract.

In case the transfer contract does not state the payment price or the payment price stated in the contract does not match the market price, the tax agency may assess the transfer price in accordance with the law on tax administration.

##### a.2/ Purchase price

The purchase price of capital contributions is the value of the capital contributions at the time of capital transfer.

The value of capital contributions at the time of transfer includes the value of the capital amount contributed for founding the enterprise, the value of additionally contributed amounts, the value of acquisitioned capital amounts and the value of capital amounts from capital addition yield, specifically as follows:

a.2.1/ For a capital amount contributed for enterprise foundation, it is the value of the capital amount at the time of capital contribution. The value of the contributed capital is determined based on accounting books, invoices and documents.

a.2.2/ For an additionally contributed capital amount, it is the value of additionally contributed amount at the time of additional capital contribution.

The value of the additionally contributed capital is determined based on accounting books, invoices and documents.

a.2.3/ For an acquisitioned capital amount, it is the value of that capital amount at the time of acquisition. The purchase price is determined based on the contract on acquisition of contributed capital. In case the contract on acquisition of contributed capital does not state the payment price or the payment price under contract does not match the market price, the tax agency may assess the purchase price in accordance with the law on tax administration.

a.2.4/ For a capital amount from capital addition yield, it is the value of the capital addition yield.

a.3/ Related expenses deductible upon determination of taxable income from capital transfer are actually paid reasonable expenses related to the generation of capital transfer income accompanied with lawful invoices and documents, specifically as follows:

a.3.1/ Expenses for completion of legal procedures necessary for the transfer.

a.3.2/ Charges and fees paid by the transferor into the state budget when carrying out transfer procedures.

a.3.3/ Other expenses directly related to the capital transfer.

b/ Tax rate

The personal income tax rate for income from transfer of capital contributions is 20% according to the Whole Personal Income Tax Tariff.

c/ Time of determination of taxed income

Time of determination of taxed income is when the contract on capital transfer takes effect. In case of contributing capital with a capital contributions, the time of determination of taxed income from capital transfer is when an individual transfers or withdraws capital.

d/ Tax calculation method

Payable personal income tax amount = Taxed income x Tax rate of 20%

2. For incomes from securities transfer

Tax bases for incomes from securities transfer are taxed income and tax rate.

a/ Taxed income

Taxed income from securities transfer equals the securities sale price minus the purchase price and reasonable expenses related to the transfer.

a.1/ The securities sale price is determined as follows:

a.1.1/ For securities of listed public companies: The securities sale price is the price traded on the stock exchange. The price traded on the stock exchange is the order-matching price or the price formed from agreed transactions on the stock exchange.

a.1.2/ For securities of unlisted public whose ownership is transferred through the ownership transfer system of the securities depository center, the sale price is that stated in the securities transfer contract.

a.1.3/ For securities not falling into the above cases, the securities sale price is the actual transfer price stated in the transfer contract or recorded in accounting books of the unit whose securities are transferred at the nearest time before the time of transfer.

If the contract does not state a transfer price or states a transfer price which does not match the market price, the tax agency may assess the sale price in accordance with the law on tax administration.

a.2/ The securities purchase price is determined as follows:

a.2.1/ For securities of listed public companies: The securities purchase price is the price traded on the stock exchange. The traded price is the order-matching price or the price formed from agreed transactions on the stock exchange.

a.2.2/ For securities of unlisted public companies whose ownership is transferred through the ownership transfer system of the securities depository center, the sale price is that stated in the securities transfer contract.

a.2.3/ For securities purchased through auction, the purchase price is the price written in the notice of winning bid of the share-auctioning organization and the receipt of payment.

a.2.4/ For securities not falling into the above cases, the securities purchase price is the price stated in the transfer contract or recorded in accounting books of the unit holding securities at the nearest time before the time of purchase.

If the transfer contract does not state a purchase price or states a price which does not match the market price, the tax agency may assess the purchase price in accordance with the law on tax administration.

a.3/ Reasonable expenses deductible upon determination of taxable income from securities transfer are those actually paid for securities transfer activities accompanied with invoices and documents under regulations, including:

a.3.1/ Expenses for completion of legal procedures necessary for the transfer.

a.3.2/ Charges and fees paid into the state budget by the transferor when carrying out transfer procedures.

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- a.3.3/ Securities depository charge prescribed by the Ministry of Finance and based on charge receipts of securities companies.
- a.3.4/ Securities entrustment charge, securities investment portfolio management charge based on receipts of entrusted units.
- a.3.5/ Securities brokerage charge upon transfer.
- a.3.6/ Charges for investment consultancy services and information provision.
- a.3.7/ Charges for account transfer and ownership transfer through the securities depository center (if any).
- a.3.8/ Other expenses evidenced by documents.

b/ Tax rate and calculation method

b.1/ For application of the 20% tax rate

b.1.1/ Principle of application

The tax rate of 20% is applicable to securities-transferring individuals who have made tax registration, have tax identification numbers at the time of carrying out tax finalization procedures and can determine their taxed income for each type of securities under Point a, Clause 2, Article 11 of this Circular.

Particularly, the purchase price of securities equals the total of average purchase price of each type of securities sold in a period as follows:

$$\begin{array}{ccccc} \text{Average} & = & \text{Prime cost at the} & + & \text{Prime cost} & \times & \text{Volume} \\ \text{purchase} & & \text{period beginning} & & \text{arising in the} & & \text{of} \\ \text{price of each} & & & & \text{period} & & \text{securities} \\ \text{type of} & & & & & & \text{sold} \\ \text{securities} & & & & & & \\ \text{sold} & & \text{Volume of} & + & \text{Volume of} & & \\ & & \text{securities left at the} & & \text{securities arising} & & \\ & & \text{period beginning} & & \text{in the period} & & \end{array}$$

b.1.2/ Tax calculation method

Payable personal income tax amount = Taxed income x Tax rate of 20%

Upon tax finalization, individuals subject to the 20% tax rate may have their temporarily paid tax amounts deducted at the tax rate of 0.1% in a tax year.

b.2/ For application of the 0.1% tax rate

Securities-transferring individuals shall temporarily pay tax at the rate of 0.1% of the securities transfer price upon each time of transfer even when the 20% tax rate is applicable.

Tax calculation method:

Payable personal income = Transfer price upon each time of transfer x Tax rate of 0.1%



c/ Time of determination of taxed income

The time of determination of taxed income from securities transfer is determined as follows:

c.1/ For securities of listed public companies, it is when a taxpayer receives income from securities transfer.

c.2/ For securities of unlisted public companies whose ownership is transferred through the ownership transfer system of the securities depository center, it is when the securities ownership is transferred at the securities depository center.

c.3/ For securities not falling into the above cases, it is when a securities transfer contract takes effect.

c.4/ For securities contributed as capital for which tax has not been paid, it is when an individual transfers or withdraws capital.

d/ For receipt of dividends in stocks

An individual is not required to pay personal income tax when receiving dividends in stocks but shall pay this tax for income from capital investment and securities transfer when transferring those stocks, specifically as follows:

d.1/ The base for determination of the payable personal income tax amount for income from capital investment is the value of dividends recorded in accounting books or the volume of actually received stocks multiplied by (x) the par value of those stocks and the personal income tax rate applicable to income from capital investment.

In case the transfer price of stocks received as dividends is lower than the par value, the personal income tax for capital investment is calculated based on the market price at the time of transfer.

After receiving dividends in stocks, an individual who transfers stocks of the same type shall declare and pay personal income tax for the stocks received as dividends till these stocks run out.

d.2/ The base for determination of the payable personal income tax amount for income from securities transfer is determined under Point b, Clause 2 of this Article.

Example 12: Mr. K is a shareholder of joint-stock company X (which is listed on the stock exchange). In 2011, Mr. K received 5,000 stocks as dividends of company X (with a par value of VND 10,000). In February 2014, Mr. K transfers 2,000 stocks of company X at VND 30,000/stock. In August 2014, he transfers 7,000 stocks at VND 20,000/stock.

When transferring stocks, Mr. K must pay personal income tax for income from capital investment and securities transfer, specifically as follows:

\* For the transfer in February 2014

- Personal income tax for income from capital investment:

$(2,000 \text{ stocks} \times \text{VND } 10,000) \times 5\% = \text{VND } 1 \text{ million}$

- Personal income tax (temporarily paid) for income from securities transfer:

$(2,000 \text{ stocks} \times \text{VND } 30,000) \times 0.1\% = \text{VND } 60,000$

\* For the transfer in August 2014

- Personal income tax for income from capital investment:

$(3,000 \text{ stocks} \times \text{VND } 10,000) \times 5\% = \text{VND } 1.5 \text{ million}$

- Personal income tax (temporarily paid) for income from securities transfer:

$(7,000 \text{ stocks} \times \text{VND } 20,000) \times 0.1\% = \text{VND } 140,000$

**Article 12.** Tax bases for income from real estate transfer

Tax bases for income from real estate transfer are taxed income and tax rate.

1. Taxed income

a/ Taxed income from transfer of the right to use land without construction works on land equals the land use rights transfer price minus (-) the cost price and related reasonable expenses.

a.1/ Transfer price

The land use rights transfer price is the actual price stated in the transfer contract at the time of transfer.

In case the actual transfer price cannot be determined or the price stated in the transfer contract is lower than the land price set by the provincial-level People's Committee at the time of transfer, the transfer price is determined according to the land price bracket set by the provincial-level People's Committee.

a.2/ Cost price:

The land use rights transfer cost price is determined in some specific cases as follows:

a.2.1/ For state-allocated land subject to land use levy payment, the cost price is based on the State's land use levy receipt.

a.2.2/ For state-allocated land entitled to exemption from or reduction of land use levy as prescribed by law, the cost price of transferred land is determined based on the price set by the provincial-level People's Committee at the time of land allocation.

a.2.3/ For land whose use rights are transferred from organizations or individuals, the cost price is based on the transfer contract at the time of transfer.

a.2.4/ For land use rights auction, the cost price is the payable amount based on the winning bid.

a.2.5/ For land not falling into the above cases, the cost price is determined based on documents evidencing the fulfillment of financial obligations toward the State when obtaining the certificate of rights to use land and own houses and other land-attached assets.

#### a.3/ Related reasonable expenses

Related reasonable expenses deductible upon determination of income from land use rights transfer are actually paid expenses related to the transfer accompanied with lawful invoices and documents, including:

a.3.1/ Charges and fees prescribed by law related to the grant of land use rights, which are paid by transferors into the state budget.

a.3.2/ Expenses for land rehabilitation and ground leveling (if any).

a.3.3/ Other expenses directly related to the transfer of land use rights, such as expenses for completion of legal procedures for transfer or for hired measuring services.

b/ Taxed income from transfer of land use rights associated with construction works on land, including construction works to be formed in the future, equals the transfer price minus (-) the cost price and related reasonable expenses.

#### b.1/ Transfer price

Transfer price is the actual price stated in the transfer contract at the time of transfer.

In case the contract does not state the transfer price or states a price which is lower than the price set by the provincial-level People's Committee, the transfer price is determined based on the land price bracket and the price for calculation of the house registration fee set by the provincial-level People's Committee at the time of transfer.

In case the provincial-level People's Committee does not set the price for calculation of the house registration fee, the transfer price is based on the Ministry of Construction's regulations on housing classification, capital construction standards and norms, and regulations on the actual residual value of works on land.

For construction works to be formed in the future, the transfer price is determined based on the capital contribution ratio to the total contract value multiplied by (x) the price for calculation of the construction work

registration fee set the provincial-level People's Committee. In case the provincial-level People's Committee has not set the unit price, to apply the Ministry of Construction's work construction investment capital ration applicable at the time of transfer.

#### b.2/ Cost price

The cost price is determined based on the price stated in the transfer contract at the time of purchase. For real estate received not through transfer, the cost price is based on documents evidencing the fulfillment of financial obligations toward the State at the time of obtaining the certificate of rights to use land and own houses and other land-attached assets.

#### b.3/ Related reasonable expenses

Related reasonable expenses deductible upon determination of income from land use rights transfer are actually paid expenses related to the transfer accompanied with lawful invoices and documents, including:

b.3.1/ Charges and fees prescribed by law related to the grant of land use rights which are paid into the state budget by transferors.

b.3.2/ Expenses for land rehabilitation and ground leveling.

b.3.3/ Expenses for building, renovation, upgrading and repair of infrastructure and construction works on land.

b.3.4/ Other expenses directly related to the transfer of real estate, such as expenses for completion of legal procedures for transfer or for hired measuring services.

c/ Taxed income from transfer of the right to own houses, including houses to be formed in the future.

The taxed income from house ownership transfer equals the sale price minus (-) the purchase price and related reasonable expenses.

#### c.1/ Sale price

The sale price is the actual transfer price determined according to the market price and stated in the transfer contract.

In case the house transfer price stated in the transfer contract is lower than the price for calculation of the house registration fee set by the provincial-level People's Committee at the time of transfer or the transfer contract does not state the transfer price, the transfer price is determined based on the price for calculation of the registration fee set by the provincial-level People's Committee.

#### c.2/ Purchase price

The purchase price is determined based on the price stated in the purchase contract. For houses received neither through transfer nor through re-purchase, the purchase price is based on documents evidencing the fulfillment of financial obligations toward the State at the time of obtaining the certificate of rights to use land and own houses and other land-attached assets.

c.3/ Related reasonable expenses

Deductible related reasonable expenses are actually paid expenses for transfer accompanied with lawful invoices and documents, including:

c.3.1/ Charges and fees prescribed by law related to the grant of house use rights which are paid into the state budget by transferors.

c.3.2/ Expenses for house repair, renovation and upgrading.

c.3.3/ Other expenses directly related to the transfer.

d/ Taxed income from transfer of the right to lease land or water surface

Taxed income from transfer of the right to lease land or water surface equals the sublease rate minus (-) the lease rate and related expenses.

d.1/ Sublease rate

The sublease rate is the actual rate stated in the contract at the time of transfer of the right to lease land or water surface.

In case the sublease unit rate stated in the contract is lower than the lease rate set the by provincial-level People's Committee at the time of sublease, the sublease rate is determined according to the lease rate bracket set by the provincial-level People's Committee.

d.2/ Lease rate

The lease rate is determined based on the lease contract.

d.3/ Related reasonable expenses

Deductible related reasonable expenses are actually paid expenses for transfer of the right accompanied with lawful invoices and documents, including:

d.3.1/ Charges and fees prescribed by law related to the right to lease land or water surface, which are paid into the state budget by the right transferor;

d.3.2/ Expenses for land or water surface rehabilitation;

d.3.3/ Other expenses directly related to the transfer of the right to lease land or water surface.

2. Tax rate

The tax rate applicable to income from real estate transfer is 25% of taxed income.

In case a taxpayer cannot determine, or there is no dossier to determine, the cost price or the purchase price or lease rate and there is no lawful document to determine related expenses as a basis for determining taxed income, the tax rate of 2% of the transfer price or the sale price or sublease rate applies.

### 3. Time of determination of taxed income

The time of determination of taxed income from real estate transfer is when a person carries out real estate transfer procedures as prescribed by law.

### 4. Tax calculation methods

a/ In case the taxed income is identifiable, personal income tax on income from real estate transfer is determined as follows:

Payable personal income tax amount = Taxed income x Tax rate of 25%

b/ In case a taxpayer cannot determine, or there is no dossier to determine, the cost price or the purchase price or lease rate and there is no lawful document to determine related expenses as a basis for determining taxed income, personal income tax is determined as follows:

Payable personal income tax amount = Transfer price x Tax rate of 2%

c/ For transfer of real estate under joint ownership, the tax will be calculated separately for each taxpayer according to his/her real estate ownership rate. The basis for determining the ownership rate is any of the following lawful documents: agreement on start-up capital contribution, testament or court ruling on division, etc. In case those documents are not available, the tax obligation of each taxpayer will be determined at the average rate.

## **Article 13.** Tax bases for income from copyright

Tax bases for incomes from copyright royalty are taxed income and tax rate.

### 1. Taxed income

Taxed income from a copyright royalty is an income amount in excess of VND 10 million under an assignment contract, regardless of the number of installments or times of payment to a taxpayer for the assignment or licensing of an intellectual property object or the technology transfer.

In case there are many contracts on assignment or licensing of the same intellectual property object or transfer of the same technology, taxed income is the income amount in excess of VND 10 million counted on total incomes from all of these contracts.

In case the object of an assignment or licensing is under joint ownership, taxed income will be divided to each co-owner. The proportional division of income will be based on the ownership or use right certificate issued by a competent state agency.



2. The personal income tax rate for income from copyright is 5% according to the Whole Personal Income Tax Tariff.

3. Time of determination of taxed income

The time of determination of taxed income from copyright is when the copyright royalty is paid.

4. Tax calculation method

Payable personal income tax amount = Taxed income x Tax rate of 5%

**Article 14.** Tax bases for income from franchising

Tax bases for income from franchising include taxed income and tax rate.

1. Taxed income

Taxed income from franchising is the income amount exceeding VND 10 million under a franchising contract, regardless of the number of times of payment or times of money receipt of a taxpayer.

If the same object of franchise is transferred under different contracts, taxed income is the income amount exceeding VND 10 million calculated on the total value of franchising contracts.

2. Tax rate

The personal income tax rate for income from franchising is 5% according to the Whole Personal Income Tax Tariff.

3. Time for determining taxed income

The time for determining taxed income from franchising is the time of payment of franchise charge between the franchisee and franchisor.

4. Tax calculation method

Payable personal income tax amount = Taxed income x Tax rate of 5%

**Article 15.** Tax bases for income from prize winning

Tax bases for income from prize winning include taxed income and tax rate.

1. Taxed income

Taxed income from prize winning is the prize value exceeding VND 10 million received by a taxpayer upon each time of prize winning, regardless of the number of times of receiving prize money.

If many persons win the same prize, taxed income is divided to each winner. The winners shall produce legal grounds for proof. If no legal ground is produced, income from prize winning is considered being received by one winner. If a person wins many prizes in a game, taxed income is the total value of such prizes.

Taxed income for a number of prize-winning games is specified below:

a/ For lottery prize, taxed income is the whole prize value exceeding VND 10 million per lottery ticket which is received in a drive of spinning the lottery prize's wheel, without deducting any expense.

b/ For sales promotion prize in kind, taxed income is the value of products used for sales promotion exceeding VND 10 million which is converted into money at the market price at the time of prize receipt without deducting any expense.

c/ For prizes in betting, casinos or games at prize-winning recreation and entertainment centers:

c.1/ For prizes in betting, taxed income is the whole prize value exceeding VND 10 million received by a bettor, without deducting any expense.

c.2/ For prizes in casinos or games at prize-winning recreation and entertainment centers, taxed income is the value exceeding VND 10 million received by a winner in a game, specifically as follows:

c.2.1/ Income from prize winning in a game is the difference between the amount cashed out and the amount cashed in by the player in the game.

Income from prize winning in foreign currency must be converted into Vietnam dong at the exchange rate announced by the State Bank and effective at the time such income is earned.

c.2.2/ Method of determining amounts cashed out and cashed in:

c.2.2.1/ For games played with a conventional currency (chips, intermediary chips or tokens under the Ministry of Finance's Regulation on financial management of business of prize-winning games):

c.2.2.1.1/ The amount cashed out by a player in a game is the total value of chips/tokens exchanged for cash by the player throughout the game.

c.2.2.1.2/ The amount cashed in a game is the total value of cash exchanged by the player for chips/tokens throughout the game.

For determining the amounts cashed out and cashed in a game, exchange receipts (made according to the form enclosed with the Ministry of Finance's Regulation on financial management of business of prize-winning games) and invoices and documents under the current accounting law shall be used.

Example 13: From the time of entering to the time of going out of a prize-winning recreation and entertainment center, Mr. M exchanged cash three times for chips totaling USD 500 and chips two times for cash totaling USD 700. Based on these exchanges, his income from prize winning and taxed income are determined as follows:

- Income from prize winning = USD 700 - USD 500 = USD 200

- Taxed income = USD 200 x USD/VND exchange rate - VND 10 million

c.2.2.2/ For slot machine games:

c.2.2.2.1/ The amount cashed out by a player in a game is the total value of amounts cashed out when the game is over minus the accumulated prize (if any).

c.2.2.2.2/ The amount cashed in by a player in a game is the total value of amounts cashed in throughout the game.

Particularly for jackpot, regular prizes for lucky players and prizes in other similar forms, income from prize winning is the whole prize value without subtracting any expense.

Example 14: Mr. N plays a slot machine game. In a game he cashed in two times amounts totaling USD 300. When the game is over, he withdrew the remaining amount already cashed out from the machine totaling USD 1,500. In that game, Mr. N also won a jackpot worth USD 1,000 (which was accumulated in the amount cashed out). Based on the amount cashed out, his income from prize winning and taxed income include 2 amounts below:

- His income from jackpot is the whole value of jackpot:

+ Income from jackpot = USD 1,000

+ Taxed income = USD 1,000 x USD/VND exchange rate - VND 10 million.

- His income from prize winning from the slot machine game is:

+ Income from prize winning = USD 1,500 - USD 1,000 - USD 300 = USD 200

+ Taxed income = USD 200 x USD/VND exchange rate - VND 10 million.

c.2.3/ A prize-paying organization for prize-winning electronic games or casinos that cannot determine taxable incomes of winners for tax withholding under Point c.2, Clause 1 of this Article shall pay tax on behalf of these winners based on fixed amounts calculated on the total amount cashed out. If wishing to pay personal income tax based on fixed amounts, such prize-paying organization shall register such payment with the tax agency and adjust players' income from prize winning into after-tax income and publicize such adjustment at prize-winning recreation and entertainment centers. Fixed tax amounts comply with the Ministry of Finance's separate guidance.

c.2.4/ "A game" is determined as follows:

- For games played with conventional currency, a game starts when a player enters a prize-winning recreation and entertainment center and ends when he/she goes out of this center.

- For slot machine games, a game starts when a player makes cash-in and ends when he/she makes cash-out.

- For jackpot, regular prizes for lucky players and prizes in other similar forms, each time of prize winning is regarded a separate game.

d/ For prizes from prize-winning games or competitions, taxed income is calculated per prize receipt. The value of prize money equals the whole prize amount exceeding VND 10 million received by a player, without subtracting any expense.

2. The personal income tax rate for income from prize winning is 10% according to the Whole Personal Income Tax Tariff.

3. Time for determining taxed income

The time for determining taxed income with regard to income from prize winning is the time when an organization or individual pays prize money to winners.

4. Tax calculation method:

Payable personal income tax = Taxed income x Tax rate of 10%

**Article 16.** Tax bases for income from inheritances and gifts

Tax bases for income from inheritances and gifts include taxed income and tax rate.

1. Taxed income

Taxed income from inheritances and gifts is the value of assets inherited or received as gifts which exceeds VND 10 million upon each time of receipt. The value of assets inherited or received as gifts is determined on a case-by-case basis as follows:

a/ For inheritances and gifts being securities, the value of inherited assets is the value of securities at the time of ownership transfer registration, specifically:

a.1/ For securities traded at a Stock Exchange, their value is based on the reference prices at the Stock Exchange at the time of securities ownership registration.

a.2/ For securities not mentioned above, their value is based on the book value of the company issuing such securities at the nearest time preceding the time of securities ownership registration.

b/ For inheritances and gifts being capital contributions in economic institutions or business establishments, taxed income is the value of capital contributions which is determined based on the company's book value at the

nearest time preceding the time of registration of ownership of such capital contributions.

c/ For inheritances and gifts being real estate, the value of real estate is determined as follows:

c.1/ For real estate being land use rights, the value of land use rights is determined based on the land price tariff prescribed by the provincial-level People's Committee at the time of carrying out procedures for registration of real estate use rights.

c.2/ For real estate being houses and architectural works on land, the value of real estate is determined under a competent state management agency's regulations on valuation of houses; capital construction standards and norms promulgated by a competent state management agency; and the residual value of houses and architectural works at the time of carrying out procedures for ownership registration.

If the value of real estate cannot be determined under the above regulations, it will be determined based on the registration fee calculation prices set by the provincial-level People's Committee.

d/ For inheritances and gifts being other assets subject to registration of ownership or use rights with state management agencies, the value of these assets is determined based on the registration fee calculation price tariff prescribed by the provincial-level People's Committee at the time of carrying out procedures for registration of asset ownership or use rights.

2. Tax rate: The personal income tax rate for inheritances and gifts is 10% according to the Whole Personal Income Tax Tariff.

3. Time for determining taxed income

The time for determining taxed income from inheritances and gifts is the time when a person carries out procedures for registration of ownership or use rights for assets received as inheritances or gifts.

4. Tax calculation method

Payable personal income tax amount = Taxed income x Tax rate of 10%.

### Chapter III

## TAX BASES FOR NON-RESIDENT INDIVIDUALS

### **Article 17.** Income from business activities

Personal income tax on income from business activities of non-resident individuals is turnover from production and business activities multiplied by (x) tax rate.

1. Turnover

Turnover from business activities of non-resident individuals is determined like turnover used as a tax basis for business activities of resident individuals as guided in Clause 1, Article 8 of this Circular.

## 2. Tax rate

Personal income tax rates for income from business activities of non-resident individuals are specified for each field and line of production and business below:

a/ 1%, for goods trading activities.

b/ 5%, for service provision activities.

c/ 2%, for production, construction, transportation and other business activities.

For a non-resident individual who has incomes from different fields and lines of production and business but cannot separate incomes in each field or line, the applicable personal income tax rate is the highest rate for the whole turnover in the field or line in which he/she actually conducts business.

## **Article 18.** Income from salaries and wages

1. Personal income tax on income from salaries and wages of non-resident individuals is taxable income from salaries and wages multiplied by (x) the tax rate of 20%.

2. Taxable income from salaries and wages of non-resident individuals is the same as personal income tax-liable income from salaries and wages of resident individuals guided in Clause 2, Article 8 of this Circular.

Personal income tax-liable income from salaries and wages in Vietnam for a non-resident individual who works both in Vietnam and abroad but whose income generated in Vietnam cannot be separated is determined according to the following formula:

a/ For foreign individuals not present in Vietnam:

$$\begin{array}{ccccccc} \text{Total} & = & \text{Number of working} & \times & \text{(Pre-tax)} & + & \text{(Pre-tax)} \\ \text{income} & & \text{days for their jobs} & & \text{income from} & & \text{other} \\ \text{generated} & & \text{in Vietnam} & & \text{salaries and} & & \text{taxable} \\ \text{in} & & \text{Total working days} & & \text{wages} & & \text{incomes} \\ \text{Vietnam} & & \text{in a year} & & \text{received} & & \text{generated in} \\ & & & & \text{elsewhere} & & \text{Vietnam} \end{array}$$

Of which, the total working days in a year is calculated in accordance with Vietnam's Labor Code.

b/ For foreign individuals present in Vietnam:

$$\text{Total} = \text{Number of} \times \text{(Pre-tax) income} + \text{(Pre-tax) other}$$



income generated in Vietnam	days of their presence in Vietnam 365 days	from salaries and wages received elsewhere	taxable incomes generated in Vietnam
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Other (pre-tax) taxable incomes generated in Vietnam prescribed at Points a and b above are other interests in cash or not in cash paid by employers to or on behalf of employees in addition to their salaries and wages.

#### **Article 19.** Income from capital investment

Personal income tax on income from capital investment of non-resident individuals is the total taxed income they receive from their investment of capital in Vietnam-based organizations or individuals multiplied by (x) the tax rate of 5%.

Taxed income and time for determining income used for personal income tax calculation from capital investment of non-resident individuals are the same as taxed income and time for determining income used for personal income tax calculation from capital investment of resident individuals guided in Clauses 1 and 3, Article 10 of this Circular.

#### **Article 20.** Income from capital transfer

1. Personal income tax for income from capital transfer of non-resident individuals is the total amount they receive from the transfer of capital contributions in Vietnamese organizations or individuals, multiplied by (x) the tax rate of 0.1%, regardless of whether the transfer is conducted in Vietnam or abroad.

The total amount received by non-resident individuals from the transfer of capital contributions in Vietnamese organizations or individuals is the capital transfer price, without subtracting any expense, even cost price.

2. Transfer price in some specific cases is determined as follows:

a/ In case of transfer of capital contributions, the transfer price is the same as that for resident individuals guided at Point a.1, Clause 1, Article 11 of this Circular.

b/ In case of transfer of securities, the transfer price is the same as that for resident individuals guided at Point a.1, Clause 2, Article 11 of this Circular.

3. Time for determining taxed income

a/ For income from transfer of capital contributions of non-resident individuals, the time for determining taxed income is the effective time of the contract on transfer of capital contributions.

b/ For income from transfer of securities of non-resident individuals, the time for determining taxed income is the same as that for resident individuals guided at Point c, Clause 2, Article 11 of this Circular.

**Article 21.** For income from transfer of real estate

1. Personal income tax for income of non-resident individuals from transfer of real estate in Vietnam is the transfer price multiplied by (x) the tax rate of 2%.

The price of transfer of real estate of non-resident individuals is the whole amount they receive from such transfer, without subtracting any expense, even cost price.

2. The price of transfer of real estate of non-resident individuals in some specific cases is determined like the price of transfer of real estate of resident individuals guided at Points a.1, b.1, c.1 and d.1, Clause 1, Article 12 of this Circular.

3. The time for determining income from real estate transfer is the time when a non-resident individual carries out procedures for real estate transfer in accordance with law.

**Article 22.** Income from copyright or franchising

1. Tax on income from copyright

a/ Tax on income from copyright of non-resident individuals is the income amount exceeding VND 10 million under each contract on transfer of use rights for objects of intellectual property rights or technology transfer in Vietnam, multiplied by the tax rate of 5%.

Income from copyright is determined under Clause 1, Article 13 of this Circular.

b/ The time for determining income from copyright is the time when an organization or individual pays income from the transfer of copyright to a non-resident taxpayer.

2. Tax on income from franchising

a/ Tax on income from franchising of non-resident individuals is the income amount exceeding VND 10 million under each contract on franchising in Vietnam, multiplied by the tax rate of 5%.

Income from franchising is determined under Clause 1, Article 14 of this Circular.

b/ The time for determining taxed income from franchising is the time of making payment for the franchising between the franchisee and franchisor.

**Article 23.** Income from prize winning, inheritances or gifts

1. Personal income tax on income from prize winning, inheritances and gifts of non-resident individuals is the taxed income guided in Clause 2 of this Article, multiplied by (x) the tax rate of 10%.

## 2. Taxed income

a/ Taxed income from prize winning of non-resident individuals is the prize value exceeding VND 10 million upon each time of prize winning in Vietnam.

Income from prize winning of non-resident individuals is determined like that for resident individuals guided in Clause 1, Article 15 of this Circular.

b/ Taxable income from inheritances or gifts of non-resident individuals is the value of inheritances or gifts exceeding VND 10 million upon each time income is generated in Vietnam.

Income from inheritances or gifts of non-resident individuals is determined like that for resident individuals guided in Clause 1, Article 16 of this Circular.

## 3. Time for determining taxed income

a/ For income from prize winning, the time for determining taxed income is the time when a Vietnam-based organization or individual pays prize money to a non-resident individual.

b/ For income from inheritances, the time for determining taxed income is the time when an individual carries out procedures for registration of ownership or use rights of assets received as inheritances in Vietnam.

c/ For income from gifts, the time for determining taxed income is the time when an individual carries out procedures for registration of ownership or use rights of assets received as gifts in Vietnam.

## Chapter IV

### TAX REGISTRATION, WITHHOLDING, DECLARATION, FINALIZATION AND REFUND

#### **Article 24.** Tax registration

##### 1. Tax registrants

Under Article 27 of Decree No. 65/2013/ND-CP, personal income tax registrants include:

a/ Income payers, including:

a.1/ Business organizations and individuals, including their branches, dependent units, and attached units practicing separate accounting and having their own legal entity status.

a.2/ State administrative management agencies at all levels.

a.3/ Political organizations, socio-political organizations and socio-professional organizations.

a.4/ Non-business units.

a.5/ International organizations and foreign organizations.

a.6/ Projects management units, and representative offices of foreign organizations.

a.7/ Other income payers.

b/ Individuals earning income liable to personal income tax, including:

b.1/ Individuals earning income from production and business activities, including independent practitioners; and individuals and households engaged in agricultural production that are not exempted from personal income tax. Individuals earning income from production and business activities shall register personal income tax simultaneously with other taxes.

b.2/ Individuals earning income from salaries and wages, including foreign individuals working for foreign contractors or subcontractors in Vietnam.

b.3/ Individuals transferring real estate.

b.4/ Individuals earning other taxable incomes (when they so request).

c/ Dependants eligible for reductions based on family circumstances.

Tax registrants specified at Points a, b and c, Clause 1 of this Article that have made tax registration and been granted tax identification numbers are not required to make new registration. Individuals who have different incomes liable to personal income tax shall make tax registration only once. A tax identification number is used for tax declaration for all incomes.

## 2. Tax registration dossiers

Tax registration procedures and dossiers comply with guiding documents on tax administration.

## 3. Places for submission of tax registration dossiers

a/ Places for submission of tax registration dossiers comply with guiding documents on tax administration.

b/ Places for submission of tax registration dossiers in some specific cases:

b.1/ Individuals earning taxable income from salaries and wages shall submit tax registration dossiers to income payers or tax agencies directly managing income payers. Income payers shall summarize tax registration declarations of individuals and submit them to managing tax agencies.

b.2/ Individuals earning incomes from different sources such as business activities, salaries, wages and other taxable incomes may select to submit tax

registration dossiers at income payers or district-level Tax Departments of localities where they conduct business activities.

b.3/ Individuals earning other taxable incomes may submit tax registration dossiers at any tax agencies.

4. Tax registration in some specific cases:

a/ For groups of business individuals, their representatives shall make tax registration under the guidance for business individuals in order to be granted tax identification numbers. Tax identification numbers of these representatives are used for declaration and payment of value-added tax, excise tax, license tax, etc., for the whole groups, and for declaration of personal income tax for such representatives. Other capital contributors in the groups shall also make tax registration in order to be granted separate tax identification numbers like business individuals.

b/ For individuals that transfer real estate and have no tax identification numbers, tax agencies shall automatically grant tax identification numbers to them based on their personal information in real estate transfer dossiers.

c/ For individuals being dependants and taxpayers declaring deductions based on family circumstances who have no tax identification numbers, tax agencies shall automatically grant tax identification numbers to these dependants based on their information in taxpayers' declarations of registration of deductions based on family circumstances (made according to the form enclosed with guiding documents on tax administration).

## **Article 25. Tax withholding and tax withholding documents**

### **1. Tax withholding**

Tax withholding means that income payers calculate and withhold payable tax amounts from incomes of taxpayers before paying incomes, specifically as follows:

a/ Income of non-resident individuals

Payers of taxable incomes to non-resident individuals shall withhold personal income tax before paying incomes. To-be-withheld tax amounts are determined under the guidance in Chapter III (Articles 17 thru 23) of this Circular.

b/ Income from salaries and wages

b.1/ For resident individuals who sign labor contracts of three (3) months or more, including those signing such contracts with many entities, income payers shall withhold tax according to the Partially Progressive Tax Tariff.

b.2/ For resident individuals who sign labor contracts of three (3) months or more but cease their jobs before such contracts expire, income payers shall also withhold tax according to the Partially Progressive Tax Tariff.

b.3/ For foreigners working in Vietnam, income payers shall base themselves on the taxpayers' working duration in Vietnam as written in contracts or documents on sending these foreigners to Vietnam to work to temporarily withhold tax according to the Partially Progressive Tax Tariff (for individuals who have worked in Vietnam for at least 183 days in a tax year) or the Whole Personal Income Tax Tariff (for individuals who have worked in Vietnam for less than 183 days in a tax year).

b.4/ Insurance businesses and voluntary pension fund management companies shall withhold personal income tax for accumulated amounts to buy non-compulsory insurance and accumulated amounts contributed to voluntary pension funds as guided in Clause 6, Article 7 of this Circular.

b.5/ To-be-withheld tax amounts for income from salaries and wages of resident individuals are determined under Article 7 of this Circular, and those of non-resident individuals, under Article 18 of this Circular.

c/ Income from insurance agency, lottery agency and multi-level marketing activities

Lottery companies, insurance businesses and multi-level marketing businesses that pay incomes to individuals acting as lottery agents, insurance agents or multi-level marketing network members shall withhold personal income tax before paying incomes to these individuals. To-be-withheld tax amounts are determined under Clause 5, Article 7 of this Circular.

d/ Income from capital investment

Payers of income from capital transfer under Clause 3, Article 2 of this Circular shall withhold personal income tax before paying income to individuals, unless the latter make tax declaration by themselves under Clause 9, Article 26 of this Circular. To-be-withheld tax amounts are determined under Article 10 of this Circular.

dd/ Income from securities transfer

All cases of securities transfer are subject to tax withholding at the rate of 0.1% of the transfer price before a payment is made to the transferor. Tax withholding is specified below:

dd.1/ For securities traded at Stock Exchanges:

dd.1.1/ Securities companies or commercial banks where individuals open securities depository accounts shall withhold personal income tax at the rate of 0.1% of the transfer price before making payments to these individuals. To-



be-withheld tax amounts are determined under Point b.2, Clause 2, Article 11 of this Circular.

dd.1.2/ Fund management companies entrusted by individuals to manage securities investment portfolios shall withhold personal income tax at the rate of 0.1% of the securities transfer price for these individuals according to the companies' distribution tables sent to custodian banks where the companies open their depository accounts.

dd.2/ For securities transferred not via the trading systems at the Stock Exchanges:

dd.2.1/ For public companies' securities already registered at Vietnam Securities Depository:

Securities companies or commercial banks where individuals open securities depository accounts shall withhold personal income tax at the rate of 0.1% of the transfer price before carrying out procedures for securities ownership transfer at Vietnam Securities Depository.

dd.2.2/ For securities of joint-stock companies that are not yet public companies but whose shareholder lists are managed by securities companies as authorized by securities issuing organizations:

Securities companies authorized to manage shareholder lists shall withhold personal income tax at the rate of 0.1% of the transfer price before carrying out procedures for securities ownership transfer.

When carrying out procedures for securities ownership transfer, securities-transferring individuals shall produce transfer contracts to securities companies.

e/ Income from transfer of capital contributions of non-resident individuals  
Organizations and individuals that receive capital contributions transferred from non-resident individuals shall withhold personal income tax at the rate of 0.1% of the transfer price.

g/ Income from prize winning

Prize payers shall withhold personal income tax before paying prize money to prize winners. To-be-withheld tax amounts are determined under Article 15 of this Circular.

h/ Income from copyright and franchising

Payers of income from copyright or franchising shall withhold personal income tax before paying income to individuals. A to-be-withheld amount is the income amount exceeding VND 10 million under each transfer contract, multiplied by (x) the tax rate of 5%. For a high-value contract involving multiple payments, income payers shall, upon the first payment, deduct VND

10 million from the to-be-paid value, and multiple the remaining amount by the tax rate of 5% for tax withholding. For subsequent payments, income tax must be withheld based on the total amount upon each payment.

i/ Tax withholding in other cases

Payers of wages, remunerations or other amounts to resident individuals who do not sign labor contracts (under Points c and d, Clause 2, Article 2 of this Circular) or sign labor contracts of under three (3) months with a total income of VND two million (2,000,000) or more each time shall withhold tax at the rate of 10% of income before making payment to these individuals.

If an individual has the sole income subject to tax withholding at the above rate while his/her total taxable income after subtracting family circumstance-based deductions is not enough for tax payment as estimated, he/she shall make a commitment (according to the form enclosed with the document guiding tax administration) and send it to the income payer for use as a basis for temporarily not withholding personal income tax.

Based on the income earner's commitment, the income payer will not withhold tax. At the end of a tax year, the income payer shall still make a list and incomes of individuals whose income is not enough for tax withholding (according to the form enclosed with guiding documents on tax administration) and send this list to the tax agency. The individual shall take responsibility for his/her commitment and shall be handled in accordance with the Law on Tax Administration if committing fraud.

Individuals making commitments under this Point must have made tax registration and have tax identification numbers at the time of making commitment.

2. Tax withholding documents

a/ Payers of incomes with withheld tax under Clause 1 of this Article shall provide tax withholding documents at the request of individuals having such incomes. Tax withholding documents are not provided in case individuals authorize others to make tax finalization.

b/ Provision of tax withholding documents in some specific cases:

b.1/ Individuals who do not sign labor contracts or who sign labor contracts of under three (3) months may request income payers to provide a tax withholding document for each time of tax withholding or provide a tax withholding document for multiple times of tax withholding in a tax period.

Example 15: Mr. Q signs a service contract with company X for bonsai tending in the company's premises once every month from September 2013 to April 2014. Mr. Q's income of VND 3 million is paid by the company on a monthly basis. So in this case, Mr. Q may request the company to provide

monthly tax withholding documents or a tax withholding document expressing the tax amount already withheld between September and December of 2013 and a tax withholding document for the period from January to April of 2014.

b.2/ Income payers shall provide individuals who sign labor contracts of three (3) months or more with only one tax withholding document in a tax period.

Example 16: Mr. R signs a long-term labor contract (from September of 2013 through August of 2014) with company Y. In this case, Mr. R is subject to direct tax finalization with the tax agency and request the company to provide tax withholding documents, the company shall provide one document expressing the withheld tax amount from September through December of 2013 and one document for the period from January through August of 2014.

## **Article 26.** Tax declaration and finalization

Payers of incomes subject to personal income tax and individuals that have incomes subject to personal income tax shall make tax declaration and finalization according to the procedures and dossiers specified in the guiding documents on tax administration. Tax declaration principles in some specific cases are as follows:

### 1. Tax declaration by payers of incomes subject to personal income tax

a/ Income payers that withhold personal income tax shall make tax declaration on a monthly or quarterly basis. In a month or quarter, if income payers have no personal income tax to withhold, they are not required to make tax declaration.

b/ Monthly or quarterly tax declaration is made once, counting from the first month in which tax withholding arises, and applies to the whole tax year, specifically as follows:

b.1/ Income payers that have a tax amount of at least VND 50 million of at least one kind of personal income tax declaration to be withheld in a month shall make tax declaration on a monthly basis, except those subject to value-added tax declaration on a quarterly basis.

b.2/ Income payers not required to make monthly tax declaration as guided above shall make quarterly tax declaration.

c/ Payers of incomes subject to personal income tax, regardless of whether tax withholding arises or not, shall declare and finalize personal income tax on behalf of authorizing individuals.

### 2. Tax declaration by resident individuals earning income from salaries, wages and business activities

a/ Resident individuals who earn income from salaries and wages and declare tax directly to tax agencies include:

a.1/ Resident individuals who earn income from salaries and wages paid by international organizations, embassies or consulates in Vietnam without withholding tax. These individuals shall declare tax directly to tax agencies on a quarterly basis.

a.2/ Resident individuals who earn income from salaries and wages paid by overseas organizations or individuals. These individuals shall declare tax directly to tax agencies on a quarterly basis.

b/ Resident individuals or groups of resident individuals that earn income from business activities and declare tax directly to tax agencies include:

b.1/ Business individuals or groups of business individuals that pay tax according to declaration are those that fully comply with regulations on accounting, invoices and documents, and those that can account turnover only but cannot account expenses. They shall declare tax on a quarterly basis.

b.2/ Business individuals or groups of business individuals that pay tax according to the presumption method are those that fail to strictly comply with regulations on accounting, invoices and documents and cannot determine turnover, expenditures and taxable income. They shall declare tax on an annual basis.

b.3/ Individuals doing mobile business (trading from afar) that shall declare personal income tax upon each time it arises.

b.4/ Business individuals who use separate invoices sold by tax agencies. They shall declare personal income tax upon each time it generates turnover as written in the invoice.

b.5/ Non-business individuals who sell goods or provide services and need invoices for delivery to customers. They shall declare personal income tax upon each time it arises.

b.6/ Individuals or groups of individuals who earn income from lease of houses or land use rights, water surface or other asset use rights. They shall declare tax on a quarterly basis or every time it arises.

c/ Resident individuals who earn income from salaries and wages or business activities shall make declaration for tax finalization if they have to pay additional tax amounts or request refund of overpaid tax amounts or clearing of these overpaid tax amounts in the subsequent tax period, except the following cases:

c.1/ The payable tax amount is smaller than the temporarily paid tax amount and taxpayers do not request tax refund or clearing in the subsequent period.

c.2/ Business individuals or households have the sole income from business activities and have paid tax according to the presumption method.

c.3/ Individuals and households have the sole income from lease of houses or land use rights and have paid tax according to declaration in the locality where such house or land is located.

c.4/ Individuals earn income from salaries or wages under labor contracts of three (3) months or more in a unit and earn other incomes in other units, which on average do not exceed VND 10 million a month in the year and from which the income payers have withheld tax at source at the rate of 10%. These incomes do not need tax finalization if these individuals make no request.

c.5/ Individuals earn income from salaries and wages under labor contracts of three (3) months or more in a unit and earn other incomes from lease of houses or land use rights, which on average do not exceed VND 20 million a month in the year, and have paid tax in the locality where such house or land is located. These incomes do not need tax finalization if these individuals make no request.

d/ Individuals who earn income from salaries and wages may authorize income payers to make tax finalization on their behalf in the following cases:

d.1/ Individuals earn the sole income from salaries and wages under labor contracts of three (3) months or more in a unit and are currently working in this unit at the time of authorization, even when they have not worked for full 12 months in the year.

d.2/ Individuals earn only income from salaries and wages under labor contracts of three (3) months or more and earn other incomes as guided at Items c.4 and c.5, Point c, Clause 2 of this Article.

dd/ Income payers may make tax finalization on behalf of individuals only for income from salaries and wages they have paid to these individuals.

e/ Principles of tax declaration and finalization in some specific cases:

e.1/ Resident individuals who earn an income in a foreign country and have paid personal income tax according to the law of such country may have the paid tax amount deducted. The deducted tax amount must not exceed the payable tax amount calculated according to Vietnam's tax tariff which is allocated for the income generated in the foreign country. The ratio of allocation is the ratio of income generated in the foreign country to the total taxable income.

e.2/ Resident individuals earn income from business activities or from salaries and wages and are present in Vietnam in the first calendar year for fewer than

183 days but for 183 days or more if calculated during 12 consecutive months from the first date of their arrival in Vietnam

- In the first tax year, they shall declare and submit tax finalization dossiers within 90 days from the last day of the full 12 consecutive months.

- From the second tax year on, they shall declare and submit tax finalization dossiers within 90 days from the last day of the calendar year. The remaining tax amount to be paid in the second tax year is determined as follows:

$$\begin{array}{rcl} \text{Remaining tax amount} & = & \text{Payable tax} \\ \text{to be paid in the second} & & \text{amount in the} \\ \text{tax year} & & \text{second tax year} \end{array} - \begin{array}{r} \text{Deductible} \\ \text{duplicated tax} \\ \text{amount} \end{array}$$

Of which:

$$\begin{array}{rcl} \text{Payable tax} & = & \text{Taxed income} \\ \text{amount in the} & & \text{in the second} \\ \text{second tax year} & & \text{tax year} \end{array} - \begin{array}{r} \text{Personal income tax rate} \\ \text{according to the Partially} \\ \text{Progressive Tax Tariff} \end{array}$$

$$\begin{array}{rcl} \text{Deductible} & = & \text{Payable tax amount in the} \\ \text{duplicated} & & \text{first tax year} \\ \text{tax amount} & & \end{array} \times \frac{\text{Number of months in}}{12} \begin{array}{r} \text{which tax is} \\ \text{duplicated} \end{array}$$

Example 17: Mr. S is a foreigner who comes for the first time to Vietnam to work under a definite-term contract from June 1, 2014, to May 31, 2016. In 2014, he is present in Vietnam for 80 days and earns an income of VND 134 million in salary. In 2015, he is present in Vietnam for 110 days from January 1, 2015, through May 31, 2015, and earns an income of VND 106 million in salary. In his presence in Vietnam for 105 days from June 1, 2015, to December 31, 2015, he earns an income of VND 122 million in salary. Mr. S neither registers deductions based on family circumstances for his dependants nor pays any insurance premiums, charity, humanitarian or study promotion contributions.

So, Mr. S's payable personal income tax amount is determined as follows:

+ If calculated according to the year 2014, he is a non-resident individual, but if calculated for 12 consecutive months from June 1, 2014, through May 31, 2015, he is a resident individual because the total duration of his presence in Vietnam is 190 days (80 days + 110 days).

+ In the first tax year (from June 1, 2014, to May 31, 2015):

- Total taxable income in the first tax year:

$$\text{VND 134 million} + \text{VND 106 million} = \text{VND 240 million}$$



- Deductions based on family circumstances: VND 9 million x 12 = VND 108 million

- Taxed income: VND 240 million - VND 108 million = VND 132 million

- Payable personal income tax amount in the first tax year: VND 60 million x 5% + (VND 120 million - VND 60 million) x 10% + (VND 132 million - VND 120 million) x 15% = VND 10.8 million

+ In the second tax year (from January 1, 2015, through 31, 2015), Mr. S is present in Vietnam for 215 days (110 days + 105 days), so he is a resident individual in Vietnam.

- Taxable income generated in 2015:

VND 106 million + VND 122 million = VND 228 million

- Deductions based on family circumstances: VND 9 million x 12 = VND 108 million

- Taxed income in 2015:

VND 228 million - VND 108 million = VND 120 million

- Payable personal income tax amount in 2015:

VND 60 million x 5% + (VND 120 million - VND 60 million) x 10% = VND 9 million

+ In the tax finalization for 2015, tax is duplicated for 5 months as compared to the first tax year (from January to May of 2015)

- Deductible duplicated tax amount:

(VND 10.8 million/12 months) x 5 months = VND 4.5 million

- Remaining personal income tax amount to be paid in 2015:

VND 9 million - VND 4.5 million = VND 4.5 million

e.3/ Resident foreigners who complete their working contracts in Vietnam shall make tax finalization with tax agencies before their exit.

e.4/ Except those not required to make tax finalization under Points c.3 and c.5, Clause 2 of this Article, individuals who lease houses or land use rights, water surface or other asset use rights shall finalize personal income tax as follows:

e.4.1/ Individuals who declare tax on a quarterly basis or upon each time the tax arises for contracts with a payment term of one year or less shall make tax finalization like business individuals who pay tax according to declaration.

e.4.2/ Individuals who declare tax upon each time the tax arises for contracts with a payment term of over one year and receive the rent in advance for the whole lease term may make tax finalization in either of the following forms:

If making full tax finalization in the first year, turnover will be the one-off

paid turnover and deductions based on family circumstances will be made for one year, but not for subsequent years; if making tax finalization annually, they shall temporarily declare the one-off paid turnover and calculate deductions based on family circumstances for the first year; in the subsequent years, turnover from the asset lease will be re-allocated and deductions based on family circumstances will be calculated according to reality.

e.5/ Individuals who earn income from insurance agency, lottery agency or multi-level marketing and are required to make tax finalization shall finalize tax directly with tax agencies.

e.6/ Individuals who earn income from salaries and wages or from business activities and are eligible for tax reduction due to natural disasters, fires, accidents or dangerous diseases shall finalize tax directly with tax agencies.

e.7/ Non-resident business individuals and groups of business individuals that have fixed business places in the Vietnamese territory shall make tax declaration and finalization like resident ones.

### 3. Tax declaration for income from real estate transfer

a/ Individuals who earn income from real estate transfer, including those eligible for tax exemption, shall declare tax upon each time it arises. Tax declaration in some specific cases is as follows:

a.1/ For individuals who mortgage their land use rights or house ownership as security for loans or payment at credit institutions or foreign bank branches but, upon the debt payment deadline, cannot pay debts, the credit institutions or foreign bank branches shall carry out procedures for compulsory sale of such real estate and concurrently declare and pay personal income tax on behalf of these individuals before paying and settling their debts.

a.2/ Individuals who mortgage their land use rights or house ownership for loans from or payment to other organizations or individuals, and now transfer the whole (or part) of such real estate for paying debts shall declare and pay personal income tax; or organizations or individuals that carry out transfer procedures on behalf of these individuals shall declare and pay personal income tax on behalf of these individuals before paying and settling the debts.

a.3/ Individuals who transfer real estate to organizations or other individuals under courts' judgment execution decisions shall declare and pay personal income tax, or real estate auctioning organizations or individuals shall declare and pay the tax on behalf of these individuals. Personal income tax declaration and payment are not required for individuals' real estate confiscated and auctioned by competent state agencies for payment into the state budget in accordance with law.

a.4/ For houses and land transferred among individuals who do not fall in the cases of conversion of agricultural land for production eligible for personal

income tax exemption under Point dd, Clause 1, Article 3 of this Circular, each individual shall declare and pay personal income tax.

a.5/ In case of making on behalf of others personal income tax declaration dossiers in real estate transfer, organizations or individuals making such dossiers shall write “Declare on behalf of” before the phrase “Taxpayer or lawful representative of taxpayer”, then sign and write their full names, and append their seals, for organizations. In tax calculation dossiers and tax receipts, taxpayers are still real estate transferors.

b/ Real estate management agencies shall carry out procedures for transfer of real estate ownership or use rights only when receiving personal income tax payment documents or the tax agency’s certification that the income from real estate transfer is eligible for tax exemption or deferred tax collection.

#### 4. Tax declaration for income from capital transfer (except securities transfer)

a/ Resident individuals who transfer capital contributions shall declare tax upon each time of transfer, regardless of whether or not they earn income.

b/ Non-resident individuals who earn income from transferring capital contributions in Vietnam are not required to declare tax directly to tax agencies. The transferees shall withhold tax under Point e, Clause 1, Article 25 of this Circular and declare tax upon each time it arises.

c/ In case enterprises carry out procedures for changing lists of capital contributors in case of capital transfer without documents proving that the transferors have fulfilled tax obligations, they shall declare and pay tax on behalf of these transferors.

Enterprises that pay tax on behalf of capital transferors shall make personal income tax declaration dossiers for these transferors, in which they shall write “Declare tax on behalf of” before the phrase “Taxpayer or lawful representative of taxpayer”, and concurrently sign and write the full names and append the enterprises’ seals. In tax calculation dossiers and tax receipts, taxpayers are still transferors of capital contributions (in case transferors are resident individuals) or are transferees (in case transferors are non-resident individuals).

#### 5. Tax declaration for individuals earning income from securities transfer

a/ Individuals who transfer public companies’ securities traded on a Stock Exchange are not required to declare tax directly to tax agencies. Securities companies and commercial banks at which these individuals open depository accounts or fund management companies entrusted by these individuals to manage their investment portfolios shall declare tax under Clause 1, Article 26 of this Circular.

b/ For individuals who transfer securities not via the trading systems at the Stock Exchanges:

b.1/ Individuals who transfer public companies' securities already registered at Vietnam Securities Depository are not required to declare tax directly to tax agencies. Securities companies and commercial banks at which these individuals open securities depository accounts shall withhold and declare tax under Clause 1, Article 26 of this Circular.

b.2/ Individuals who transfer securities of joint-stock companies that are not yet public companies and authorize securities companies to manage shareholder lists, are not required to declare tax directly to tax agencies. Authorized securities companies shall withhold and declare tax under Clause 1, Article 26 of this Circular.

c/ Individuals who transfer securities not listed at Points a and b, Clause 5 of this Article shall declare tax upon each time the tax arises.

d/ In case enterprises carry out procedures for changing shareholder lists in case of transfer of securities without documents proving that the transferors have fulfilled tax obligations, they shall declare and pay tax on behalf of these transferors.

Enterprises that declare tax on behalf of securities transferors shall make personal income tax declaration dossiers for these transferors in which they shall write "Declare tax on behalf of" before the phrase "Taxpayer or lawful representative of taxpayer," and concurrently sign and write the full names and append the enterprises' seals. In tax calculation dossiers and tax receipts, taxpayers are still securities transferors.

dd/ At the year end, securities transferors who request tax finalization shall declare tax finalization directly to tax agencies.

## 6. Tax declaration for income from inheritances and gifts

a/ Individuals who earn income from inheritances and gifts, including those eligible for tax exemption, shall declare tax upon each time the tax arises.

b/ State management agencies and related organizations shall carry out procedures for transfer of ownership or use rights of real estate, securities, capital contributions and other assets which are subject to ownership or use right registration for recipients of inheritances or gifts only when receiving tax payment documents or the tax agency's certification that income from inheritances or gifts in real estate is eligible for tax exemption.

## 7. Tax declaration for resident individuals earning income overseas

Resident individuals who earn income overseas shall declare tax upon each time the tax arises. Particularly, individuals who earn income from salaries or wages paid overseas shall declare tax on a quarterly basis.

8. Tax declaration for non-resident individuals earning income generated in Vietnam but receiving income overseas

a/ Non-resident individuals who earn income generated in Vietnam but receive income overseas shall declare tax upon each time the tax arises. Particularly, non-resident individuals who earn income from salaries or wages generated in Vietnam but receive income overseas shall declare tax on a quarterly basis.

b/ Non-resident individuals who earn income from the transfer of real estate or capital (including securities) generated in Vietnam but receive income overseas shall declare tax upon each time the tax arises as guided in Clauses 3, 4 and 5 of this Article.

9. Tax declaration for income from capital investment in case of receiving stocks as dividends or profits as capital increase

Individuals who receive stocks as dividends or profits as capital increase are not required to declare and pay tax on such capital investment upon receipt. When transferring or withdrawing capital or when their enterprises are dissolved, they shall declare and pay personal income tax on income from capital transfer and income from capital investment.

10. Tax declaration for income from transfer of capital, securities or real estate in case of contribution as capital of capital contributions, securities or real estate

Individuals who contribute as capital their capital contributions, securities or real estate are not required to declare and pay tax upon contribution. When transferring or withdrawing capital or their enterprises are dissolved, they shall declare and pay tax on income from the transfer of capital or real estate upon capital contribution or transfer.

11. Tax declaration from salaries and wages for income from bonus stocks

Individuals who receive bonus stocks from employers are not required to pay tax on salaries or wages. When transferring bonus stocks, they shall declare tax on income from transfer of stocks and income from salaries or wages.

**Article 27.** Responsibilities of Vietnamese organizations signing contracts to purchase services of foreign contractors not operating in Vietnam

In case organizations established and operating under Vietnam's law (below referred to as Vietnamese side) sign contracts to purchase services of foreign contractors that sign labor contracts with foreigners working in Vietnam, the Vietnamese side shall notify foreign contractors of the obligation of foreign workers to pay personal income tax and the responsibility to provide information on foreign workers, including list, nationality, passport number, working duration, job and income, to the Vietnamese side for forwarding to



the tax agency at least 7 days before the date foreign workers start to work in Vietnam.

#### **Article 28. Tax refund**

1. Personal income tax refund applies to individuals who have made tax registration and have tax identification numbers at the time of submission of tax finalization dossiers.
2. For individuals who authorize income payers to finalize tax on their behalf, tax refund shall be made through the income payers. Income payers shall offset overpaid and deficient tax amounts of individuals. After offsetting, redundant tax amounts (if any) must be offset in the subsequent period or refunded upon request.
3. Individuals who declare tax directly to tax agencies may select tax refund or offsetting in the subsequent period at the same tax agencies.
4. Individuals who have personal income tax to be refunded but submit tax finalization declarations late according to regulations are not liable to pay a fine for administrative violations for late declaration of tax finalization.

#### **Chapter V**

#### **IMPLEMENTATION PROVISIONS**

#### **Article 29. Effect**

1. This Circular takes effect on October 1, 2013.

The provisions on personal income tax in the Law Amending and Supplementing a Number of Articles of the Law on Personal Income Tax and Decree No. 65/2013/ND-CP take effect on the effective date of the Law and Decree (July 1, 2013).

To annul the guidance on personal income tax in the Ministry of Finance's Circulars No. 84/2008/TT-BTC of September 30, 2008; No. 10/2009/TT-BTC of January 21, 2009; No. 42/2009/TT-BTC of March 9, 2009; No. 62/2009/TT-BTC of March 27, 2009; No. 161/2009/TT-BTC of August 12, 2009; No. 164/2009/TT-BTC of August 13, 2009; No. 02/2010/TT-BTC of January 11, 2010; No. 12/2011/TT-BTC of January 26, 2011; No. 78/2011/TT-BTC of June 8, 2011; and No. 113/2011/TT-BTC of August 4, 2011.

2. To annul the guidance on personal income tax promulgated by the Ministry of Finance before the effective date of this Circular which are contrary to this Circular.

#### **Article 30. Implementation responsibility**

1. Other contents related to tax administration which are not guided in this Circular comply with the Law on Tax Administration and guiding documents.



2. Problems related to personal income tax which arise before July 1, 2013, must be settled under guiding documents which are effective at that time.
  3. The application of fixed taxable income rates to business individuals under Article 8 of this Circular is uniformly implemented from January 1, 2014.
  4. For contracts to purchase and sell house foundations and contracts on capital contribution to have the right to purchase house foundations, houses or apartments signed before the effective date of the Government's Decree No. 71/2010/ND-CP of June 23, 2010, detailing and guiding the Housing Law, and now allowed by investors to be transferred, tax must be declared and paid as in the case of transferring future houses.
  5. In case persons who were transferred land before January 1, 2009, submit valid dossiers of application for land use right or house and other land-attached asset ownership certificates and obtain approval of competent state agencies, personal income tax must be collected only once for the last transfer but not retrospectively collected for the previous transfers.
- From January 1, 2009, the effective date of the Law on Personal Income Tax, individuals who transfer real estate under notarized contracts or hand-written transfer papers shall pay personal income tax on each transfer.
6. Individuals currently enjoying personal income tax incentives since before the effective date of the Law Amending and Supplementing a Number of Articles of the Law on Personal Income Tax continue to enjoy such incentives for the remaining period.
  7. In case a treaty to which the Socialist Republic of Vietnam has acceded contains provisions on personal income tax different from those guided in this Circular, such treaty prevails.

Any problems arising in the course of implementation should be promptly reported to the Ministry of Finance (the General Department of Taxation) for study and settlement.

For the Minister of Finance  
*Deputy Minister*  
**DO HOANG ANH TUAN**

## **Appendix 01/PL-TNCN**

*(To the Ministry of Finance's Circular No. 111/2013/TT-BTC of August 15, 2013)*

## **Appendix**

### **GUIDANCE ON THE TAX CALCULATION METHOD ACCORDING TO THE PARTIALLY PROGRESSIVE TAX TARIFF**

*(For income from salaries and wages and business activities)*

The partially progressive tax calculation method is concretized under the abridged tariff below:

Grade	Taxed income per month	Tax rate (%)	Calculation of payable tax amount	
			Method 1	Method 2
1	Up to VND 5 million	5	VND 0 million + 5% of taxed income	5% of taxed income
2	Between over VND 5 million and 10 million	10	VND 0.25 million + 10% of taxed income exceeding VND 5 million	10% of taxed income - VND 0.25 million
3	Between over VND 10 million and 18 million	15	VND 0.75 million + 15% of taxed income exceeding VND 10 million	15% of taxed income - VND 0.75 million
4	Between over VND 18 million and 32 million	20	VND 1.95 million + 20% of taxed income exceeding VND 18 million	20% of taxed income - VND 1.65 million
5	Between VND 32 million and 52 million	25	VND 4.75 million + 25% of taxed income exceeding VND 32 million	25% of taxed income - VND 3.25 million
6	Between over VND 52 million and 80 million	30	VND 9.75 million + 30% of taxed income exceeding VND 52 million	30% of taxed income - VND 5.85 million
7	Over VND 80 million	35	VND 18.15 million + 35% of taxed income exceeding VND 80 million	35% of taxed income - VND 9.85 million

## Appendix 02/PL-TNCN

*(To the Ministry of Finance's Circular No. 111/2013/TT-BTC of August 15, 2013)*

## Appendix

TABLE FOR CONVERSION OF TAX-EXCLUSIVE INCOME INTO  
TAXED INCOME

*(For income from salaries and wages)*

No.	Per-month income serving as a basis for conversion (converted income)	Taxed income
1	Up to VND 4.75 million	Converted income/0.95
2	Between over VND 4.75 million and 9.25 million	(Converted income - VND 0.25 million)/0.9
3	Between over VND 9.25 million and 16.05 million	(Converted income - VND 0.75 million)/0.85
4	Between over VND 16.05 million and 27.25 million	(Converted income - VND 1.65 million)/0.8
5	Between over VND 27.25 million and 42.25 million	(Converted income - VND 3.25 million)/0.75
6	Between over VND 42.25 million and 61.85 million	(Converted income - VND 5.85 million)/0.7
7	Over VND 61.85 million	(Converted income - VND 9.85 million)/0.65

THE END