

Circular no. 18/2005/TT-BTC of March 8, 2005 amending and supplementing a number of points of the Ministry Finance's circular No. 119/2003/TT-BTC of December 12, 2003 which guides the implementation of the Government's decree No. 149/2003/ND-CP of December 4, 2003 detailing the implementation of the special consumption tax law and The law amending and supplementing a number of articles of the special consumption tax law

Pursuant to May 20, 1998 Special Consumption Tax (SCT) Law No. 05/1998/QH10;

Pursuant to June 17, 2003 Law No. 08/2003/QH11 Amending and Supplementing a Number of Articles of the SCT Law;

Pursuant to the Government's Decree No. 149/2003/ND-CP of December 4, 2003 detailing the implementation of the SCT Law and the Law Amending and Supplementing a Number of Articles of the SCT Law;

Pursuant to the Government's Decree No. 77/2003/ND-CP of July 1, 2003 defining the functions, tasks, powers and organizational structure of the Ministry of Finance;

Pursuant to the Government Office's Official Dispatch No. 1287/VPCP-KTTH of March 19, 2004 correcting the time limit for business establishments to submit SCT settlements and Official Dispatch No. 227/VPCP-KTTH of January 14, 2005 announcing the Prime Minister's opinions on SCT on cars of under 24 seats imported into export-processing zones,

The Finance Ministry hereby guides the amendments and supplements to a number of points in its Circular No. 119/2003/TT-BTC of December 12, 2003 guiding the implementation of the Government's Decree No. 149/2003/ND-CP of December 4, 2003 as follows:

1. To amend and supplement Section II of Part A as follows:

1.1. To amend Point 1, Section II of Part A into new Point 1 as follows:

“1. Goods, including those sold to, or processed for, export-processing enterprises, excluding cars of under 24 seats sold to export-processing enterprises, which are directly exported to foreign countries by production and/or processing establishments.

Establishments that have SCT-free goods prescribed at this Point must have dossiers proving that their goods have been actually exported, concretely as follows:

- Goods sale contracts or contracts on processing for foreign countries.

- Invoices on export goods sale, goods delivery, or payment of processing remuneration.
- Export goods declarations with the customs offices' certification that goods have been exported.
- Via-bank payment vouchers.

Establishments producing SCT-liable goods that conduct temporary export for re-import under the permits for temporary export for re-import, during the period of non-payment of export tax, import tax under the prescribed regime, shall not have to pay SCT when conducting the re-import thereof, but have to pay SCT when selling such goods.”

1.2. To amend Point 8, Section II of Part A into new Point 8 as follows:

“8. Goods imported from foreign countries into export-processing zones and/or export-processing enterprises, excluding cars of under 24 seats.

The dossiers, order and competence for non-collection of SCT for cases prescribed at Points 4, 5, 6, 7 and 8 above shall comply with the regulations on import tax non-collection and exemption under the provisions of the Law on Export Tax and Import Tax.”

1.3. To add Point 10 to the end of Section II of Part A as follows:

“10. Passenger cars exclusively used in recreation, entertainment and sport areas, which do not join in traffic under the provisions of the Road Traffic Law.”

2. To amend Point 3, Section I of Part B into new Point 3 as follows:

“3. For processed goods: The SCT calculation prices shall be the sans-SCT and -value added tax (VAT) sale prices set by the processee-establishments, which are specifically determined as follows:

$$\begin{array}{ccc} \text{SCT} & & \text{Sans-VAT sale prices set by} \\ \text{calculation} & & \text{the processee-establishments} \\ \text{prices for} & = & \hline \text{processed} & & \text{1 + SCT rate”} \\ & & \text{goods} \end{array}$$

3. To add Point 5 to the end of Section II of Part B as follows:

“5. The tax rate of 25% shall apply to cars of between 16 and under 24 seats (including cars designed for transporting both passengers and cargoes, and assorted lambrettas).

4. To amend and supplement Point 2e, Section I of Part C into new Point 2e as follows:

“For exporting establishments that purchase goods for export but do not export such goods and sell them in the country, within 5 days after selling the goods, they must declare and fully pay SCT on behalf of production establishments. SCT calculation prices in this case shall be the sans-SCT and -VAT sale prices, which are specifically determined as follows:

$$\text{SCT calculation prices} = \frac{\text{Sans-VAT domestic sale prices set by the exporting establishments}}{1 + \text{SCT rate}}$$

In cases where the exporting establishments declare the sale prices (inclusive VAT and SCT) for use as basis for determining SCT calculation prices as 10% lower than the market sale prices, the tax offices shall set SCT calculation prices according to the provisions of Point 8e, Part D of Circular No. 119/2003/TT-BTC.”

5. To amend Point 5a, Section I of Part C into new Point 5a as follows:

“5. SCT settlement:

Establishments producing goods and/or providing services, which are subject to SCT, must make SCT settlement according to the following regulations:

a/ Establishments producing goods and/or providing services, which are subject to SCT, must make annual SCT settlement with the tax offices. The establishments must fully declare the norms on the payable tax amounts, the amounts already paid, the outstanding amounts or the overpaid amounts by the time of settlement according to the set tax settlement form and send them to the tax offices within the prescribed time limits. The tax settlement year shall be the calendar year; in cases where the business establishments are allowed to apply a financial settlement year other than the calendar year, they shall still have to make SCT settlement according to the calendar year. The time limit for production/business establishments to submit the tax settlements to the tax offices shall be sixty days, counting from December 31 of the tax settlement year.

In cases where production establishments sell goods via their branches or attached units in localities other than the places of production, the tax settlement shall be based on the actual sale turnovers of such branches and attached units.

Both processee-establishments and processor-establishments must make SCT settlement with the tax offices of the localities where they conduct production/business activities.

Production/business establishments must pay their outstanding SCT amounts into the State budget within 10 days after submitting their tax settlement reports; in case of overpayment, the overpaid amounts shall be deducted from

the subsequent period's payable amounts or reimbursed according to regulations.”

6. To supplement and amend Point 2 of Part D as follows:

“2. Tax notices, notices on tax late payment, payment of fines, and handling of violations:

2.1. To notify the payable tax amounts to the subjects being individuals and households producing goods and/or providing services subject to SCT, that have failed to fully implement the accounting, invoice and voucher regimes; to urge taxpayers to pay tax on time. Tax payment notices must be sent to taxpayers 3 days before the tax payment deadlines stated in the notices (made according to a set form). The tax payment deadline shall be the last day of the month at the latest.

2.2. To notify and urge business establishments that have not yet sent SCT declarations or settlements on time.

2.3. To notify the late-paid tax amounts and fines for late payment according to the provisions of Clauses 2 and 3, Article 17 of the SCT Law.

2.4. The time limits for calculating fines for monthly late tax payment for taxpayers shall count:

- from the 26th day of the subsequent month, for production/business establishments.

- from the 1st day of the subsequent month, for taxpayers being individual households producing goods and/or providing services that have failed to fully implement the accounting, invoice and voucher regimes.

- from the date following the tax payment deadlines prescribed by the Law on Export Tax and Import Tax for import goods.

2.5. To apply measures for handling tax-related administrative violations or propose competent agencies to apply measures prescribed in Clause 4, Article 17 of the SCT Law in order to ensure the full collection of tax and fine amounts. In cases where tax-related administratively-handling measures have been applied, the production/business establishments still fail to fully pay the tax and/or fine amounts, the tax offices shall transfer the dossiers of the cases to competent agencies for handling according to law.”

This Circular takes effect 15 days after its publication in the Official Gazette. The provisions of the Finance Ministry's Circular No. 119/2003/TT-BTC of December 12, 2003, which are not amended or supplemented under this Circular, shall still be effective. Any problems arising in the course of implementation should be promptly reported by organizations and individuals to the Finance Ministry for study and solution.

For the Finance Minister

Vice Minister

TRUONG CHI TRUNG