

**Circular No. 84/2008/TT-BTC of September 30, 2008, guiding the implementation of a number of articles of the law on personal income tax and guiding the implementation of the government's decree No. 100/2008/ND-CP of September 8, 2008, detailing a number of articles of the law on personal income tax**

- Pursuant to November 21, 2007 Law No. 04/2007/QH12 on Personal Income Tax;
- Pursuant to November 29, 2006 Law No. 78/2006/QH101 on Tax Administration;
- Pursuant to the Government's Decree No. 100/2008/ND-CP of September 8, 2008, detailing a number of articles of the Law on Personal Income Tax;
- Pursuant to the Government's Decree No. 77/2003/ND-CP of July 1, 2003, defining the functions, tasks, powers and organizational structure of the Ministry of Finance;

*The Ministry of Finance guides the implementation of a number of articles of the Law on Personal Income Tax and guides the Government's Decree No. 100/2008/ND-CP of September 8, 2008, detailing a number of articles of the Law on Personal Income Tax as follows:*

**Part A**

**GENERAL PROVISIONS**

**I. Taxpayers**

Under Article 2 of the Law on Personal Income Tax and Article 2 of Decree No. 100/2008/ND-CP of September 8, 2008, detailing a number of articles of the Law on Personal Income Tax (below referred to as Decree No. 100/2008/ND-CP), personal income taxpayers include resident and non-resident individuals who earn taxable incomes specified in Article 3 of the Law on Personal Income Tax and Article 3 of Decree No. 100/2008/ND-CP. The scope of determination of taxable incomes of taxpayers is as follows:

For resident individuals, their taxable incomes are incomes earned inside and outside the Vietnamese territory, regardless of where their incomes are paid and received.

For non-resident individuals, their taxable incomes are incomes earned in Vietnam, regardless of where their incomes are paid and received.

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

1.1. 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 day and the date of departure is also counted as one day. Date of arrival and date of departure are determined based on certifications of the immigration management agency 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.

Individuals present in Vietnam under the guidance of this point means those who appear in the Vietnamese territory.

1.2. Having a place of habitual residence in Vietnam in either of the following two cases:

1.2.1. Having a registered place of permanent residence under the law on residence;

a/ For Vietnamese citizens: The registered place of permanent residence means a fixed place where a citizen habitually and permanently resides for an indefinite time and for which he/she has made a residence registration under the law on residence.

b/ For foreigners: The place of habitual residence of a foreigner means a place registered and indicated in his/her card of permanent residence or temporary residence issued by a competent agency of the Ministry of Public Security.

1.2.2. Having a rented house for dwelling in Vietnam under the law on housing, under a rent contract with a term of 90 days or more in a tax year, specifically:

a/ An individual who has not yet found any or has no place of registered permanent residence or is not issued a card of permanent residence or temporary residence under the above guidance, but rents a house under a rent contract for a total of 90 days or more in a tax year is also considered a resident individual, even in case he/she rents several places.

b/ Rented houses for dwelling include also hotels, guest houses, inns and working offices where taxpayers are allowed to dwell, regardless of whether they rent by themselves or their employers rent for them.

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

3. In some specific cases, taxpayers are identified as follows:

3.1. For individuals earning incomes from business activities (below referred to as business individuals)

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

3.1.2. In case more than one person are named in a business registration (a group of business individuals) and jointly conduct business activities, every member whose name is stated in the business registration is a taxpayer.

3.1.3. In case many members of a household jointly conduct business activities but only one of them is named in a business registration, the person whose name is stated in the business registration is a taxpayer.

3.1.4. In case an individual or a household actually conducts business activities without business registration (or practice license), the individual currently conducting business activities is a taxpayer.

3.1.5. For activities of leasing houses or business spaces without business registration, persons who are named as house owners or land use rights holders are taxpayers. In case more than one person are named as house co-owners or land use rights co-holders, every individual whose name is stated in house ownership or land use rights certificates is a taxpayer.

### 3.2. For individuals earning other taxable incomes

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

3.2.2. In case of assignment or licensing of a protected object under the Intellectual Property Law or the Technology Transfer Law which is jointly owned or co-authored by many individuals, every individual who jointly owns or authors this object and earns an income from the assignment or licensing is a taxpayer.

3.2.3. In case of a commercial franchise by individuals under the Commercial Law in which the commercial franchisor consists of many individuals, every individual earning an income from the commercial franchise is a taxpayer.

### 4. Taxpayers under the guidance in Clauses 1 and 2, Section I above include:

4.1. Vietnamese nationals, including those sent on working missions, study tours or as guest workers abroad and earning taxable incomes.

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

## II. Taxable incomes

Under Article 3 of the Law on Personal Income Tax and Article 3 of Decree No. 100/2008/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:

1.1. Goods production or trading or service provision in all domains and business sectors under law, such as goods production and trading; construction; transport; food and drink catering; provision of services, including house or business space lease service.

1.2. Independent professional activities of individuals in domains and sectors for which they are licensed or issued practice certificates under law.

1.3. Agricultural production, forestry, salt making, aquaculture or fishing activities which fail to satisfy the conditions on tax exemption specified in Clause 6, Section III, Part A of this Circular.

## 2. Incomes from salaries or wages

2.1. Incomes from salaries or wages are incomes received by employees from their employers in monetary or non-monetary form, including:

2.1.1. Salaries, wages and amounts of salary or wage nature.

2.1.2. Allowances and subsidies, including cost-of-living allowances received by employees, except some allowances and subsidies specified at Point 2.2 below.

2.1.3. Remuneration received in the form of brokerage commission, payments for participation in scientific and technical researches; payments for participation in projects or schemes; royalties for book or newspaper article authorship or document translation; payments for teaching activities, art and cultural performances, physical training and sport competitions; and charges for advertising services and other services.

2.1.4. Sums of money earned for participation in professional societies or associations, business associations, boards of directors or control boards of enterprises, project management units, management boards, corporate councils and other organizations.

2.1.5. Other monetary or non-monetary benefits other than salaries and wages enjoyable by employees and paid by employers to or on behalf of their employees, specifically:

a/ House rents, charges for electricity, water and associated services. For individuals dwelling in their working offices, their taxable incomes are house rents or depreciation costs, charges for electricity, water and other services calculated according to the ratio of the area used by such an individual to the total area of his/her working office.

b/ Insurance premiums for employees which employers are not obliged to purchase under law.

c/ Membership fees for individuals such as golf course or tennis court membership cards, membership cards for members of cultural, art, physical or sport clubs.

d/ Other services for individuals in healthcare, entertainment, sports, recreation, beauty care activities.

e/ Other benefits provided by employers to their employees under law, such as payments during weekends or holidays; charges for consultancy or tax declaration services; payment of wages for chauffeurs, cooks and other household servants under contracts, except expenses for stationery, telephone, working mission allowance and uniform.

2.1.6. Monthly, quarterly, annual or irregular monetary or non-monetary bonuses or rewards, 13th month's salary, including also bonus securities, except bonuses and rewards specified at Point 2.3 below. In case employees are given bonus stocks, the bonus value shall be determined according to the bonus level stated in accounting books of bonus-paying units.

The above incomes which serve as a basis for determination of taxable incomes are incomes before personal income tax is withheld (pre-tax incomes). In case actually earned incomes are exclusive of personal income tax (after-tax incomes), these incomes must be converted into pre-tax incomes according to Appendix No. 01/PL-TNCN to this Circular.

2.2. Allowances and subsidies which are deductible upon determination of taxable incomes from salaries or wages include:

2.2.1. Allowances for persons with meritorious service to the revolution under the law on preferential treatment of persons with meritorious service, including allowances and subsidies for war invalids, diseased soldiers and fallen heroes' next of kin; allowances and subsidies for revolutionary activists; allowances and subsidies for armed forces heroes, labor heroes or heroic Vietnamese mothers.

2.2.2. Defense or security allowances as provided for by law.

2.2.3. Allowances under the Labor Code, including:

a/ Hazard or danger allowances for persons working in branches, occupations or jobs at places where exist hazardous or dangerous elements;

b/ Allowances for attraction of laborers to work in new economic zones, economic establishments and offshore islands with particularly difficult living conditions.

c/ Region-based allowances as provided for by law for persons working in remote and deep-lying areas or areas with bad climate conditions.

#### 2.2.4. Subsidies provided for by the Social Insurance Law and the Labor Code:

a/ Subsidies for sudden difficulties, subsidies for laborers having labor accidents or suffering from occupational diseases.

b/ Lump-sum maternity or child adoption subsidies.

c/ Subsidies for working capacity reduction.

d/ Lump-sum retirement subsidies, monthly survivorships.

e/ Severance and job loss or unemployment subsidies.

f/ Other subsidies paid by the Social Insurance.

#### 2.2.5. Subsidies for combat of social evils under law.

The above allowances, subsidies and allowance and subsidy levels which are deductible upon determination of taxable incomes for incomes from salaries or wages comply with guiding documents of competent state agencies and are uniformly applicable to all taxpayers and economic sectors.

In case documents guiding allowances, subsidies and allowance and subsidy levels are applicable 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 make deduction. If allowances and subsidies are paid higher than the specified allowance and subsidy levels, excessively paid amounts shall be accounted as taxable incomes.

#### 2.3. Rewards which are deductible upon calculation of taxable incomes from salaries or wages:

2.3.1. Rewards accompanying titles conferred by the State, including also those accompanying emulation titles and other forms of commendation and reward under the law on emulation and commendation, specifically:

a/ Rewards accompanying emulation titles, including National Emulator, Emulator of ministerial, branch, central organization, provincial or municipal level; Grassroots Emulator, Outstanding Laborer, Outstanding Soldier;

b/ Rewards accompanying various forms of commendation and reward, including orders and medals of all classes.

c/ Rewards accompanying state honorary titles, such as Heroic Vietnamese Mother, People's Armed Forces Hero, Hero, People's Teacher, Physician or Artist.

d/ Rewards accompanying the Ho Chi Minh Prize or State Prize.

e/ Rewards accompanying commemorative or other badges.

f/ Rewards accompanying certificates of merits.

Competence to issue commendation and reward decisions and reward levels accompanying emulation titles and commendation forms above must comply with the Emulation and Commendation Law.

2.3.2. Rewards accompanying international or national prizes recognized by the Vietnamese State.

2.3.3. Rewards for technical renovations, innovations or inventions recognized by competent state agencies.

2.3.4. Rewards for detection of and reporting on illegal acts to competent state agencies.

### 3. Incomes from capital investment

Incomes from capital investment are those earned in the following forms from activities of providing loans to or purchasing shares from or contributing capital to production or business establishments for production or business activities:

3.1. Interests on loans provided to organizations, enterprises, households, groups of business individuals or individuals under loan agreements (except deposit interests received from banks or credit institutions).

3.2. Profits or dividends received for equity contribution.

3.3. Profits received for contribution of capital to limited liability companies, partnerships, cooperatives, joint ventures, business cooperation contracts and other business forms under the Enterprise Law and the Cooperative Law.

3.4. Increased value of contributed capital amounts received upon the dissolution of enterprises, transformation of operation models, merger or consolidation of enterprises or capital withdrawal (excluding recovered principal capital amounts).

3.5. Incomes from interests of bonds, bills and other negotiable instruments issued by domestic organizations (including foreign organizations licensed to be

established and operate in Vietnam), except incomes from interests of bonds issued by the Vietnamese Government.

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

3.7. Incomes from dividend values paid in the form of share certificates.

#### 4. Incomes from capital transfer

Incomes from capital transfer are profits received from transfer of capital of individuals in the following cases:

4.1. Incomes from transfer of contributed capital amounts in limited liability companies, partnerships, joint-stock companies, business cooperation contracts, cooperatives, economic organizations or other organizations.

4.2. Incomes from transfer of securities, including incomes from transfer of share certificates, bonds, fund certificates and other securities specified in the Securities Law.

4.3. Incomes from capital transfer in other forms.

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

Incomes from transfer of real estate are earnings from transfer of real estate, including:

5.1. Incomes from transfer of land use rights.

5.2. Incomes from transfer of rights to use land and assets attached to land. Assets attached to land include:

5.2.1. Residential houses;

5.2.2. Infrastructure and construction works attached to land;

5.2.3. Other assets attached to land, including farms produce, forest or fishery products (plants or animals).

5.3. Incomes from transfer of the right to own or use residential houses.

5.4. Incomes from transfer of the right to lease land or water surface.

5.5. Other incomes earned from transfer of real estate.

#### 6. Incomes from won prizes

Incomes from won prizes means sums of money or objects received by individuals in the following forms:

- 6.1. Lottery winnings paid by lottery companies that issue lotteries.
- 6.2. Sales promotion winnings in all forms for goods or service purchasers.
- 6.3. Lawful betting winnings.
- 6.4. Lawful casino winnings.
- 6.5. Winnings 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 objects of intellectual property rights under the Intellectual Property Law or from technology transfer under the Technology Transfer Law, specifically:

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

7.1.1. 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.

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

7.1.3. Objects of rights to plant varieties, which are plant varieties and propagating materials.

7.2. Objects of technology transfer specified in Article 7 of the Technology Transfer Law, including:

7.2.1. Technical know-how.

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

7.2.3. Solutions to production rationalization and technological renewal.

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 commercial franchising

Commercial 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 conditions set out by the franchisor.

Incomes from commercial franchising are those earned by individuals from above commercial franchising contracts, including commercial sub-franchising under the law on commercial franchising.

#### 9. Incomes from inheritance

Incomes from inheritance are those received by individuals under testaments or the law on inheritance estate, including the following kinds of asset:

9.1. For inheritances being securities, they include share certificates, bonds, bills, fund certificates and other kinds of securities specified in the Securities Law.

9.2. For inheritances being capital holdings in economic organizations or business establishments, they include capital contributions to limited liability companies, joint-stock 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.

9.3. For inheritances being real estate, they include land use rights, right to use land with assets attached to land, right to own houses, condominium apartments, right to lease land or water surface.

9.4. For inheritances being other assets subject to compulsory ownership or use right registration applicable to state management agencies, they include automobiles, motorbikes (motorcycles), ships, boats and aircraft.

#### 10. Incomes from gifts

Incomes from gifts are those received by individuals from domestic or foreign organizations and individuals in the form of the following assets:

10.1. For gifts being securities, they include share certificates, bonds, bills, fund certificates and other kinds of securities specified in the Securities Law.

10.2. Gifts being capital holdings in economic organizations or business establishments, they include capital contributions to limited liability companies,

joint-stock 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.

10.3. For gifts being real estate, they include land use rights, right to use land with assets attached to land, right to own houses, condominium apartments, right to lease land or water surface.

10.4. For gifts being other assets subject to compulsory ownership or use right registration applicable to state management agencies, they include automobiles, motorbikes (motorcycles), ships, boats and aircraft.

### III. Tax-exempt incomes

Under Article 4 of the Law on Personal Income Tax and Article 4 of Decree No. 100/2008/ND-CP, tax-exempt incomes and dossiers serving as a basis for determination of tax-exempt incomes are as follows:

1. Incomes from transfer of real estate 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 among blood siblings.

A tax exemption dossier for each specific case is as follows:

1.1. For real estate transferred between spouses, one of the following papers are required: a copy of the household registration book or the marriage certificate or the court ruling on divorce or re-marriage (for the case of house division due to divorce or consolidation of house ownership due to re-marriage).

1.2. For real estate transferred between parents and their children, either of the following papers is required: a copy of the household registration book (if they share the same household registration book) or copy of the birth certificate.

For out-of-wedlock children, a copy of a competent authority's decision on recognition of parent and child is required.

1.3. For real estate transferred between adoptive parents and their adopted children, either of the following papers is required: a copy of the household registration book (if they share the same household registration book) or a competent authority's decision on recognition of child adoption.

1.4. For real estate transferred between paternal grandparents and their grandchildren, the following papers are required: a copy of the birth certificate of the grandchild and a copy of the birth certificate of his/her father; or a copy of the

household registration book showing the relationship between the paternal grandparent and the grandchild.

1.5. For real estate transferred between maternal grandparents and their grandchildren, the following papers are required: a copy of the birth certificate of the grandchild and a copy of the birth certificate of his/her mother; or a copy of the household registration book showing the relationship between the maternal grandparent and the grandchild.

1.6. For real estate transferred between blood siblings, the following papers are required: a copy of the household registration book or copies of the birth certificates of the transferor and the transferee showing their relationship and the fact that they have the same father and mother or the same father and different mothers or the same mother and different fathers, or other papers evidencing their blood ties.

1.7. For real estate transferred between fathers-in-law or mothers-in-law and daughters-in-law or sons-in-law, the following papers are required: a copy of the household registration book showing the relationship between the father-in-law, the mother-in-law and the daughter-in-law or the son-in-law; or copies of the marriage certificate and the birth certificate of the husband or the wife to serve as a ground for identifying the relationship between the transferor being the husband's father or mother and the daughter-in-law or the wife's father or mother and the son-in-law.

In case of transfer of real estate eligible for tax exemption as specified above in which the transferor has no birth certificate or household registration book, there must be the commune-level People's Committee's certification of the relationship between the transferor and the transferee to serve as a basis for determination of tax-exempt incomes.

2. Incomes from transfer of residential houses or rights to use residential land and assets attached to residential land of individuals in case the transferor has only one residential house or the sole right to use residential land in Vietnam.

2.1. An individual having only one residential house or the sole right to use residential land specified at this Point is an individual transferor who has the ownership of only one house or the right to use only one land lot in Vietnam, regardless of whether a house has been built on that land.

2.2. In case of transfer of a residential house under a joint ownership or a residential land plot subject to the same use right, only individuals who do not have the ownership of residential houses or the right to use residential land in other localities are entitled to tax exemption. Individuals sharing the ownership of the same residential house or the right to use the same land lot may own other

residential houses or have the right to use other land lots without enjoying tax exemption.

2.3. In case a husband and a wife are named in the same certificate of residential house ownership or the right to use the same land lot, which is the only house or land lot under their joint ownership, and they also separately own or have the right to use other houses or land lots, when the residential house or land lot under their joint ownership is transferred, only husband or wife who has no own residential house or land lot is entitled to tax exemption. Husband or wife who already has his/her own residential house or land lot is not entitled to tax exemption.

2.4. In case an individual owns only one residential house or has the right to use only one residential land lot or individuals share the ownership of the same residential house or the right to use the same residential land lot and transfer part of that house or land lot, they are not entitled to tax exemption for the transferred part.

2.5. Bases for determination of tax-exempt income from transfer of the sole residential house or residential land lot shall be declared by the transferor himself/herself who shall take responsibility for the truthfulness of his/her declaration. If the declaration is detected untruthful, personal income tax shall be retrospectively collected and a fine for the tax fraud shall be imposed under the Law on Tax Administration.

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

3.1. For individuals entitled to land use levy exemption or reduction upon land allocation, when transferring land areas eligible for land use levy exemption or reduction, cost prices of transferred land areas shall be determined according to the price set by the provincial-level People's Committee at the time of land allocation.

3.2. A tax exemption dossier comprises a copy of a competent authority's land allocation decision clearly stating the land use levy exemption or reduction level.

4. Incomes from receipt of inheritances or gifts that are real estate 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 among blood siblings.

Tax exemption dossiers for these cases are similar to those for cases of real estate transfer specified in Clause 1, Section III, Part A of this Circular.

5. Incomes from conversion of use purposes of agricultural land areas allocated by the State to households and individuals for production.

5.1. For households and individuals directly engaged in agricultural production and converting use purposes of their agricultural land areas for agricultural production rationalization, incomes from agricultural land conversion are tax-exempt.

5.2. A tax exemption dossier comprises a written agreement on land conversion between involved parties certified by a competent authority.

Copies of papers required for cases of real estate transfer specified in Clauses 1, 2, 3, 4 and 5, Section III above must be notarized or certified by commune-level People's Committees. In case these copies are not notarized or certified by commune-level People's Committees, transferors shall produce original papers to tax offices for comparison.

For cases of real estate transfer specified in Clauses 1, 2, 3, 4 and 5, Section III above under Point 2.5, Clause 2, Section II, Part D of this Circular, real estate transferors shall carry out procedures for tax exemption.

6. Incomes of households and individuals directly engaged in agricultural or forest production, salt making, aquaculture, fishing and trading of aquatic resources not yet processed into other products or preliminarily processed aquatic products.

Households and individuals directly engaged in agricultural or forest production, salt making, aquaculture, fishing and trading of aquatic resources not yet processed into other products or preliminarily processed aquatic products and have tax-exempt incomes must satisfy the following conditions:

6.1. They have lawful land or water surface use or lease rights for production, and being directly engaged in agricultural or forest production, salt making or aquaculture.

For the case of sublease of land or water surface from other organizations or individuals, written land or water surface lease contracts under law are required.

For fishing activities, certificates of lawful ownership or charter parties of ships or boats for fishing purposes are required and households and individuals must be directly engaged in fishing activities.

6.2. They actually reside in localities where agricultural or forest production, salt making or aquaculture activities are conducted.

Localities where agricultural or forest production, salt making or aquaculture activities are conducted specified at this Point are urban districts, rural districts,

towns or provincial cities (collectively referred to as district-level administrative units) or adjacent districts where production activities are conducted.

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

6.3. Products of agricultural or forest production, salt making, aquaculture, fishing which are not yet processed into other products or are preliminarily processed are construed as follows:

6.3.1. Unprocessed or preliminarily processed farm produce include those which are sun-dried, heat-dried, cleaned or freshly preserved with chemicals, peeled, sorted and packaged.

6.3.2. Unprocessed or preliminarily processed husbandry and aquatic products include those which are sun-dried, heat-dried, cleaned, frozen, salted, sorted and packaged.

7. Incomes from interests on deposits at banks or credit institutions or interests from life insurance policies.

7.1. Tax-exempt deposit interests under this Point are interests received by individuals from their deposits at banks or credit institutions. All cases of receipt of deposit interests not from credit institutions established and operating under the Credit Institutions Law are not exempt from tax.

7.2. Interests from life insurance policies are interests received by individuals under life insurance policies issued by insurance companies.

7.3. Bases for determination of tax-exempt incomes for above interests are as follows:

7.3.1. Savings books (or savings cards) of individuals, for incomes from deposit interests.

7.3.2. Vouchers of payment of interests from life insurance policies, for incomes from these interests.

8. Incomes from foreign exchange remittances

8.1. Tax-exempt incomes from foreign exchange remittances are sums of money received by individuals in the country from their relatives who are overseas Vietnamese, guest laborers, persons on working missions or study courses abroad.

8.2. Bases for determination of tax-exempt incomes from foreign exchange remittances include papers evidencing sums of money received from abroad and

vouchers of payment by organizations which pay these sums of money on behalf of remitters (if any).

9. Salary or wage amounts paid for night shift or overtime work, which are higher than those paid for day shifts or prescribed working hours under the Labor Code:

9.1. Salary or wage amounts paid for night shift or overtime work which are higher than those paid for day shift, are exempt from tax based on actually paid salary or wage amounts for night shift or overtime work minus those paid for ordinary workdays.

Example: An individual has his/her wage of VND 20,000/hour paid for ordinary workdays under the Labor Code.

- In case he/she performs overtime work on an ordinary workday and gets an overtime pay of VND 30,000/hour, his/her tax-exempt income will be:

$\text{VND } 30,000/\text{hour} - \text{VND } 20,000/\text{hour} = \text{VND } 10,000/\text{hour}$

- In case he/she performs overtime work on a weekend or holiday and gets an overtime pay of VND 40,000/hour, his/her tax-exempt income will be:

$\text{VND } 40,000/\text{hour} - \text{VND } 20,000/\text{hour} = \text{VND } 20,000/\text{hour}$

9.2. Employing units shall make a list showing working time in the night shift or overtime work and wage amounts for the night shift or overtime work already additionally paid to laborers. This list shall be sent to the tax office together with dossiers of declaration for tax finalization.

10. Incomes from retirement pensions paid by the Social Insurance under the Social Insurance Law.

For laborers who participate in social insurance and retire under retirement regulations, their incomes from pensions paid by the Social Insurance are tax-exempt.

Individuals residing in Vietnam are eligible for exemption from personal income tax on pensions paid by foreign countries under the social insurance laws of these countries.

11. Incomes from scholarships, including:

11.1. Scholarships granted from the state budget, including scholarships granted by the Education and Training Ministry, provincial/municipal Education and Training Services or public schools or other kinds of scholarship originating from the state budget.

11.2. Scholarships granted by domestic and foreign organizations under their study promotion programs.

11.3. Agencies granting scholarships to individuals 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.

12. Incomes from indemnities paid under life insurance policies, non-life insurance policies, compensations for labor accidents, compensations paid by the State and other compensations as provided for by law are exempt from personal income tax.

12.1. Incomes from indemnities paid under life insurance policies or non-life insurance policies are sums of money received by individuals and paid by life or non-life insurance organizations to the insured under signed insurance policies.

Bases for identifying incomes to be life or non-life insurance indemnities are indemnification documents or decisions of insurance organizations or courts and indemnity payment vouchers.

12.2. Incomes from compensations for labor accidents are sums of money received by laborers from their employing agencies or social insurance funds for accidents occurring in their working process.

Bases for determination of incomes from compensations for labor accidents are compensation documents or decisions of employing agencies or courts and vouchers of payment of compensations for labor accidents.

12.3. Incomes from compensations paid by the State and other compensations as provided for by law.

12.3.1. Incomes from compensations paid by the State are sums of money received by individuals as compensations for damage to these individuals' interests caused by wrongful administrative sanctioning decisions of competent persons or state agencies; incomes from compensations for persons victimized by unjust or wrongful decisions of competent authorities conducting criminal procedures against them.

12.3.2 Bases for determination of incomes from compensations paid by the State are competent states agencies' decisions compelling agencies or individuals that made wrongful decisions to pay compensations and compensation payment vouchers.

13. 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 in this Clause are those established and operating under the Government's Decree No. 148/2007/ND-CP of September 25, 2007, on organization and operation of social funds and charity funds.

Bases for determination of tax-exempt incomes received from charity funds are these charity funds' decisions on delivery of these incomes and vouchers of payment of sums of money or handover of objects from charity funds.

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

Bases for determination of tax-exempt incomes received from foreign aid are competent state agencies' documents approving the receipt of aid.

#### IV. Tax reduction

Under Article 5 of Decree No. 100/2008/ND-CP, taxpayers that face difficulties caused by natural disasters, fires, accidents or severe diseases and affecting their tax payment ability may be considered for tax reduction corresponding to the extent of damage they suffer from but not exceeding payable tax amounts.

##### 1. Determination of tax amounts to be reduced

1.1. Tax reduction shall be considered based on the calendar year. Taxpayers that face difficulties caused by natural disasters, fires, accidents or severe diseases in a year will be considered for reduction of their tax amounts payable in that year.

1.2. Payable tax amount of a taxpayer serving as a basis for tax reduction consideration is total personal income tax amount payable by that taxpayer in a tax year, including:

1.2.1. Personal income tax amounts already paid or withheld for taxable incomes calculated according to the whole income tariff specified in Article 23 of the Law on Personal Income Tax.

1.2.2. Payable personal income tax amounts for incomes from business activities and incomes from salaries or wages.

1.3. The basis for determination of 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).

1.4. To-be-reduced tax amounts are determined as follows:

1.4.1. In case the payable tax amount in a tax year is larger than the damage, to-be-reduced tax amount will be equal to the damage.

1.4.2. In case the payable tax amount in a tax year is smaller than the damage, to-be-reduced tax amount will be the payable tax amount.

## 2. Dossiers and procedures for tax reduction consideration

### 2.1. For taxpayers facing difficulties caused by natural disasters or fires

Taxpayers facing difficulties caused by natural disasters or fires eligible for tax reduction consideration shall send to tax offices directly managing them tax reduction dossiers, each comprising:

- An application for tax reduction, made according to a set form (*not printed herein*).
- A written record stating the extent of property damage, made by a competent agency or a written certification of damage made by the commune-level People's Committee of the locality where the natural disaster or fire occurs.
- A voucher of compensation payment by an insurance organization (if any) or an agreement on compensation by the fire-causing person (if any).
- Vouchers of payment of expenses directly relating to the remedying of the natural disaster or fire.
- A declaration for finalization of personal income tax (if the taxpayer is subject to compulsory tax finalization).

### 2.2. For taxpayers facing difficulties caused by accidents

Taxpayers encountering accidents and entitled to tax reduction shall send to tax offices directly managing them tax reduction dossiers, each comprising:

- An application for tax reduction, made according to a set form (*not printed herein*).
- A document or a written record certifying the accident, with the police office's certification or the health agency's certification of degree of injury.
- Papers evidencing the indemnification by the insurance organization or the compensation agreement of the accident-causing person (if any).
- Vouchers of payment of expenses directly relating to the remedying of the accident.

- A declaration for personal income tax finalization (if the taxpayer is subject to compulsory tax finalization).

### 2.3. For taxpayers suffering from severe diseases

2.3.1. Taxpayers suffering from severe diseases and eligible for tax reduction consideration under this guidance are those who contract diseases which can, unless medical treatment prescribed by health agencies or doctors is provided, dangerously affect or directly threaten their life.

2.3.2. Persons suffering from severe diseases and eligible for tax reduction consideration shall send to tax offices directly managing them tax reduction dossiers, each comprising:

- An application for tax reduction, made according to a set form.
- A copy of the medical record or the medical examination book.
- Documents evidencing expenses for medical examination and treatment issued by the health agency; or invoices of purchase of curative medicines enclosed with doctor's prescriptions.
- A declaration for personal income tax finalization (if the taxpayer is subject to compulsory tax finalization).

### 3. Competence to issue tax reduction decisions

Competent to issue tax reduction decisions are heads of tax offices directly managing taxpayers.

### V. Conversion of taxable incomes into Vietnam dong

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

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

2. A taxable income received in non-cash form (a product or service) 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.

### VI. Tax period

#### 1. For resident individuals

1.1. Annual tax period is applicable to incomes from business activities, 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 twelve consecutive months from the first day of his/her presence in Vietnam, the first tax year is twelve 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: Mr. X, a Japanese national, arrives in Vietnam on May 15, 2009. He is present in Vietnam for a total 140 days in 2009 and more than 43 days in 2010 by May 14, 2010. His first tax year will be counted from May 15, 2009, to the end of May 14, 2010. His second tax year will be counted from January 1, 2010, to the end of December 31, 2010.

1.2. 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 won prizes; incomes from copyright; incomes from commercial franchising; incomes from inheritances; and incomes from gifts.

1.3. Tax period upon each transfer or annual tax period is applicable to securities transfer. Individuals who apply the annual tax period shall register with tax offices at the beginning of the year.

## 2. For non-resident individuals

Tax period applicable to non-resident individuals shall be counted upon each time of income generation and applicable to all their taxable incomes.

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.

## **Part B**

### **TAX BASES FOR RESIDENT INDIVIDUALS**

I. 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.

Taxed incomes are taxable incomes minus the following amounts:

- Compulsory social insurance premiums under law, including social insurance, health insurance, professional liability insurance for some professions subject to compulsory insurance and other compulsory insurance premiums under law.
- Reductions based on family circumstances.
- Contributions to charity funds, humanitarian funds and study promotion funds.

Taxable incomes of individuals who earn taxable incomes from both business activities and salaries or wages will be the total of taxable incomes from business activities and taxable incomes from salaries or wages.

#### 1. Taxable incomes from business activities

Taxable incomes from business activities are determined to be turnover minus reasonable expenses directly related to the generation of taxable incomes in a tax period.

For individuals who earn incomes from both business activities and capital investment or transfer or real estate transfer (except real estate being fixed assets used for business purposes), incomes from copyrights, commercial franchising, inheritances or gifts, these incomes will not be calculated as incomes from business activities but these individuals shall pay personal income tax for each separate income under this Circular's guidance.

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

1.1. For business individuals who fail to conduct accounting using invoices and documents on tax payment by the presumptive method, their incomes liable to personal income tax shall be determined according to the following formula:

$$\begin{array}{ccccc} \text{Taxable} & & \text{Turnover} & & \text{Ratio} \\ \text{income in} & = & \text{assessed in} & \times & \text{of assessed} \\ \text{a tax period} & & \text{a tax period} & & \text{taxable incomes} \end{array}$$

Assessed turnover shall be determined on the basis of declarations of business individuals, results of investigation by tax offices and advices of commune or ward tax consultancy councils.

1.2. For business individuals who can account only goods or service sales turnover and cannot account and determine expenses, their incomes liable to personal income tax shall be determined according to the following formula:

$$\begin{array}{ccccc} \text{Taxable} & & \text{Turnover for} & & \text{Ratio} \\ \text{income in} & = & \text{calculation of taxable} & \times & \text{of} \\ \text{assessed} & & & & \end{array}$$

a tax period
income in a tax period
taxable  
incomes

In which, turnover for calculation of taxable income shall be determined according to invoice- and document-based accounting books and consistent with turnover used for value-added tax calculation.

The General Department of Taxation shall specify the taxable income-turnover ratio for application to business individuals who cannot account expenses or fail to conduct cost-accounting.

1.3. For business individuals who fully conduct the invoice- and document-based accounting, their taxable incomes shall be determined according to the following formula:

$$\begin{array}{rcl}
 \text{Turnover} & & \text{Reasonable} \\
 \text{Taxable} & & \text{for calculation} \\
 & & \text{expenses} \\
 & \text{Other taxable} & \\
 \text{income in} & = & \text{of taxable} \quad - \quad \text{for generation of} \\
 + \text{ incomes in} & & \\
 \text{a tax period} & \text{income in a tax} & \text{incomes in a} \\
 & \text{a tax period} & \\
 & \text{period} & \text{tax period}
 \end{array}$$

In which:

- Turnover and expenses shall be determined according to invoice- and document-based accounting books. For business individuals who are subject to value-added tax, their turnover serving as a basis for determination of taxable income must be consistent with turnover used for value-added tax calculation.

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

#### 1.3.1. Turnover for calculation of taxable incomes

Turnover for calculation of taxable incomes from business activities means the total of sales, processing remuneration, commissions, goods or service provision charges 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.

a/ The time of determination of turnover for calculation of taxable incomes is determined as follows:

- For goods, it is the time of transfer of goods ownership or the time of making goods sale invoices.

- For services, it is the time of completion of services or the time of making service provision invoices.

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 making invoices or vice versa.

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

- For goods sold on installment payment, it is determined based on selling prices of goods sold on lump-sum payment exclusive of deferred payment interest;

- For goods or services sold on deferred payment, it is selling prices 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 incomes for goods sold on installment or deferred payment must comply with the principle that expenses must correspond with turnover.

- For goods or services made by business individuals for exchange, donation, presentation as gifts, equipping or giving as bonuses to laborers, turnover is determined based on selling prices of the same or equivalent goods or services on the market at the time of exchange, donation, presentation as gifts, equipping or giving as bonuses to laborers.

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

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

- For commissioned sale agents that sell consigned goods at prices fixed by their principals being business individuals, turnover is commissions enjoyable under agency or goods consignment contracts.

- For lease of assets, turnover is rent periodically paid by the lessee under the lease contract.

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

In case the lessee pays rent in advance for many years and bears all costs arising in the course of asset use, turnover for calculation of taxable incomes case be allocated to the number of years of advance rent payment but the lesser shall promptly calculate the tax amount payable for each year and pay tax for the whole duration for which the rent is collected in advance.

- For construction and installation activities, turnover is the value of the work or work item or work volume to be tested for handover. In case the construction and installation contractor is not the material, machinery and equipment supply contractor, turnover for tax calculation is the sum of money earned from construction and installation activities exclusive of the value of materials, machinery and equipment.

- For transport activities, turnover is total sum of money earned from the transportation of passengers, luggage or cargoes.

#### 1.3.2. Deductible reasonable expenses for calculation of taxable incomes

Deductible reasonable expenses are those actually paid and directly related to the generation of turnover and taxable incomes in a tax period and accompanied with invoices and vouchers under law.

Reasonable expenses are determined as follows:

- a/ Salaries, wages, allowances, subsidies, remunerations and other payments to laborers under labor 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 registrations.

Working outfit or attire allowance to be paid to laborers must not exceed VND 1,000,000/year.

- b/ 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 incomes in a period, which shall be calculated according to their reasonable consumption rates and actual ex-warehousing prices determined by business households or individuals themselves, for which they shall take responsibility before law.

The value of lost supplies, assets, capital or goods is not allowed to be accounted as a reasonable expense, except losses caused by natural disasters, fires, epidemics, diseases and other *force majeure* circumstances 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 expenses.

c/ Expenses for depreciation, regular repair and maintenance of fixed assets used for the production and trading of goods or provision of services:

- Fixed assets of which depreciation may be accounted as a reasonable expense must satisfy the following conditions:

- + They are used for production or business.

- + They are accompanied with sufficient invoices, vouchers 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.

- The fixed asset depreciation level is accounted as a reasonable expense under regulations on management, use and depreciation of fixed assets.

- 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 purpose, deductible depreciation expenses shall be based on the extent of their utility for business activities and their common use level.

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

Loan interest rates are actual interest rates specified in contracts for borrowing loans from banks or credit institutions. If loans are borrowed from entities other than banks and credit institutions, loan interests shall be paid 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.

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

e/ Management expenses

- Payment of electricity, water and telephone charges; purchase of stationery; hiring of auditors; legal consultancy and designing service charges; asset insurance premiums; charges for technical services and other services provided from outside.

- Expenses for acquisition of assets other than fixed assets, covering purchase and use of technical documents, invention patents, technology transfer licenses and trademarks, which are gradually allocated to business expenses.

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

- Charges for services purchased or hired from outside in direct service of activities of producing and trading in goods or providing services, which are evidenced by vouchers and invoices under regulations.

- Expenses for sale of goods and services, covering preservation, packaging, transportation, loading and unloading, warehousing and warranty of products and goods.

f/ Taxes, charges, fees, land rents payable under law for goods production and trading or service provision activities, including:

- License tax, export tax, import tax, excise tax, royalty tax, agricultural land use tax, house and land tax, land rent.

- Value-added tax allowed by law to be accounted as expenses.

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

g/ Working mission allowances for laborers (excluding travel and accommodation expenses) which must not exceed twice the prescribed allowance level for state employees and servants as guided by the Ministry of Finance.

h/ Other expenses directly related to the generation of turnover and taxable incomes accompanied with vouchers and invoices under regulations.

## 2. Taxable incomes from salaries or wages

2.1. Taxable incomes from salaries or wages are determined to be total salary, wage or remuneration amounts and other income amounts of salary or wage nature received by taxpayers in a tax period under the guidance in Clause 2, Section II, Part A of this Circular.

### 2.2. Time of determination of taxable incomes

Time of determination of taxable incomes from salaries or wages is the time when employers pay salaries or wages to their employees.

### 3. Determination of reductions

#### 3.1. Reduction based on family circumstances

Under Article 19 of the Law on Personal Income Tax and Article 12 of Decree No. 100/2008/ND-CP, the reduction based on family circumstances shall be effected as follows:

3.1.1. Reduction based on family circumstances is a sum of money deductible from taxable incomes 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 will enjoy the reduction based on family circumstances made only once from their total taxable incomes from business activities and salaries or wages.

#### 3.1.2. Levels of reduction based on family circumstances

a/ Reduction for a taxpayer himself/herself is VND 4 million/month or VND 48 million/year. The reduction level of VND 4 million/month is an average for the whole year, regardless of whether there are some months in the tax year in which he/she earns no income or earns less than VND 4 million/month.

b/ Reduction for each dependant of a taxpayer, which is VND 1.6 million/month given from the month in which the taxpayer's obligation to nurture the dependant arises.

#### 3.1.3. Principles for calculation of family circumstance-based reduction for dependants

- Only taxpayers who have made tax registrations and been granted tax identification numbers may get family circumstance-based reduction for their dependants. Particularly for the tax year of 2009, taxpayers without tax declarations may temporarily be entitled to family circumstance-based reduction if they have registered for family circumstance-based reduction and complete dossiers evidencing their dependants under the guidance at Point 3.1.7, Clause 3, Section I, Part B of this Circular.

- The family circumstance-based reduction for dependants shall be effected on the principle that each dependant may be counted only once for tax reduction for a taxpayer in a tax year. Reduction for dependants shall be given from the month in which taxpayers' obligation to nurture these dependants arises.

In case several taxpayers are jointly obliged to nurture a dependant, they shall reach agreement on registration of this dependant for family circumstance-based reduction for one among them.

- Taxpayers shall declare the number of their dependants for whom reduction is to be given and be held responsible before law for the truthfulness of their declarations.

3.1.4. Dependants of a taxpayer include:

a/ His/her blood, adopted and out-of-wedlock children, specifically:

- Children under 18 years old (fully calculated in month).

Example: A child of Mr. Nguyen Van A was born in July 1992. In this case, this child is counted as a dependant until the end of June 2010.

- Disabled children of 18 years or older and incapable of working.

- Children who are studying at universities, colleges, professional secondary schools or job-training schools and have no income or have incomes not exceeding the level specified at Point 3.1.5 below.

b/ Spouse of the taxpayer who is beyond working age or is of working age prescribed by law but disabled and incapable of working or has no income or has incomes not exceeding the level specified at Point 3.1.5 below.

c/ Blood parents or parents-in-law of the taxpayer who is beyond working age or is of working age prescribed by law but disabled and incapable of working or has no income or has incomes not exceeding the level specified at Point 3.1.5 below.

d/ Other helpless individuals who are beyond working age or are of working age prescribed by law but disabled and incapable of working or has no income or has incomes not exceeding the level specified at Point 3.1.5 below, and whom the taxpayer is obliged to directly nurture, including:

- Blood siblings of the taxpayer.

- Paternal and maternal grandparents, aunts and uncles of the taxpayer.

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

- Other persons whom the taxpayer is obliged to directly nurture under law.

3.1.5. The income level serving as a basis for identifying dependants to be counted for reduction is an average monthly income of VND 500,000 or less in a year from all income sources.

3.1.6. Disabled persons who are incapable of working under the above guidance are those governed by the law on disabled people, specifically:

Disabled persons who are incapable of working are those with disabilities or insufficient bodily functions which render them incapable of directly conducting production or business activities or those with inborn defects or deformities which render them incapable of serving themselves and are certified by a health agency of district or higher level or stated in their declarations with the commune-level People's Committee's certification of their disability and working incapability level.

#### 3.1.7. Dossiers evidencing dependants

a/ For children:

- For an under-18 child, one of the following papers is required: a copy of his/her birth certificate or a copy of the household registration book.

- For a child aged 18 years or older and disabled and incapable of working, the following papers are required:

  - + A copy of his/her birth certificate or the household registration book.

  - + A copy of certification of a health agency of district or higher level or declaration with the commune-level People's Committee's certification of the child's disability and working incapability level.

- For a child who is studying at a university, college, professional secondary school or vocational training school (including those studying overseas), the following papers are required:

  - + A copy of his/her birth certificate or the household registration book.

  - + A copy of his/her student card or declaration with his/her school's certification or other papers proving that he/she is studying at that university, college, professional secondary school or vocational training school.

For adopted or out-of-wedlock children, in addition to birth certificates, there must also be copies of competent state agencies' decisions on recognition of child adoption or decisions on recognition of father, mother or child acknowledgement.

b/ For spouses:

- For a wife or husband who is beyond working age, one of the following papers is required: a copy of the household registration book or the marriage certificate.

- For a wife or husband who is of working age, in addition to the above papers, there must also be a copy of the certification of a health agency of district or higher level or this dependant's declaration with the commune-level People's Committee's certification of his/her disability and working incapability level.

c/ For blood parents or siblings:

- For a parent or sibling who is beyond working age, one of the following papers is required: A copy of the household registration book or copies of other relevant papers showing the familial relation between the dependant and the taxpayer (blood father, mother, brother or sister of the taxpayer).

- For a parent or sibling who is of working age, in addition to the above papers, there must also be a copy of the certification of a health agency of district or higher level or this dependant's declaration with the commune-level People's Committee's certification of his/her disability and working incapability level.

d/ For paternal or maternal grandparents, aunts, uncles, blood nieces and nephews, there must be lawful papers showing the familial relation between the dependant and the taxpayer (paternal or maternal grandfather, grandmother, aunt or uncle or blood niece or nephew) and this dependant's declaration with the certification of the taxpayer's responsibility to nurture this dependant by the People's Committee of the commune where the taxpayer resides.

Lawful papers specified above are any legal documents identifying the familial relation between the taxpayer and the dependant, such as copy of the household registration book (if they are named in the same household registration book), copies of birth certificates, etc., showing this relation.

For dependants who are of working age, in addition to the above papers, there must also be a copy of the certification of a health agency of district or higher level or the dependant's declaration with the commune-level People's Committee's certification of his/her disability and working incapability level.

e/ If papers included in a dossier guided above are copies, they must be notarized or certified by the commune-level People's Committee. If they are neither notarized nor certified, original papers must be produced together with copies to tax offices for checking and comparison.

f/ Resident individuals being foreigners who have no dossiers under the above case-by-case guidance are required to produce similar legal documents to evidence their dependants.

### 3.1.8. Declaration for reduction for dependants

Taxpayers that earn incomes of VND 4 million/month or less from business activities, salaries or wages are not required to declare their dependants.

Taxpayers that earn incomes of more than VND 4 million/month from business activities, salaries or wages and nurture dependants shall declare these dependants for family circumstance-based reduction under the following guidance:

a/ For taxpayers earning incomes from salaries or wages:

- At the beginning of the year, January 30 at the latest, a taxpayer shall make two declarations of his/her dependants eligible for family circumstance-based reduction according to a set form and send them to the income-paying agency. In the year, for any change in the registration of dependants at the beginning of the year, the taxpayer shall, within 30 days after the change (increase or decrease in the number of dependants) occurs, make two declarations for registration of change in dependants according to a set form and send them to the income-paying agency.

If the taxpayer enters into a labor contract (or receives an employment decision) after January 30, the deadline for registration of dependants is the last day of the month in which the labor contract is entered into or the employment decision is issued.

- Taxpayers that register their dependants for family circumstance-based reduction shall submit complete dossiers evidencing these dependants made under the guidance at Point 3.1.7 above to tax offices directly managing their income-paying agencies.

- Deadline and time limits for submitting dossiers evidencing dependants are as follows:

- + For cases in which registrations for family circumstance-based reduction are made at the beginning of 2009, the deadline for dossier submission is June 30, 2009.

- + For cases in which registrations for family circumstance-based reduction are made after January 30, 2009, the time limit for dossier submission is three months from the date of reduction registration.

- + For cases in which there is an increase or decrease in the number of registered dependants, the time limit for dossier submission is three months from the date of registration of such increase or decrease.

Past the above dossier submission deadline or time limits, if taxpayers fail to submit dossiers to evidence their dependants, they will not be entitled to reduction for dependants and adjustment of their payable tax amounts.

- Income-paying agencies shall:

+ Receive taxpayers' registrations of dependants eligible for reduction.

+ Monthly, effect family circumstance-based reduction for dependants already registered by taxpayers before calculating tax amounts to be temporarily deducted.

+ Transfer one registration for reduction for a taxpayer's dependant to the tax offices directly managing them. The deadline for transfer is February 20 of the year in which reduction is effected. If a registration for reduction is made after January 30 of the year in which reduction is effected or a registration of change in dependants is made, the deadline for transfer of the registration to the tax office directly managing the income-paying agency is the 20th day of the month following the month in which the registration is received.

b/ For taxpayers earning incomes from business activities

- They shall make declarations of their dependants for family circumstance-based reduction together with declarations for temporary tax payment applicable to business individuals who pay tax according to declarations or with tax returns applicable to business individuals who pay tax by the presumptive method.

- Those declare their dependants for family circumstance-based reduction in declarations specified above at the beginning of 2009 shall make complete dossiers to evidence their dependants under the guidance at Point 3.1.7, Clause 3, Section I, Part B of this Circular and submit them to district-level Tax Departments directly managing business individuals before June 30, 2009.

- In case there is an increase or a decrease in the number of dependants or business activities have just started, dossiers evidencing dependants must be submitted within three months after these dependants are stated in tax declarations.

- Past the above dossier submission deadline or time limit, if taxpayers fail to submit dossiers to evidence their dependants, they will not be entitled to reduction for their dependants and adjustment of their payable tax amounts. For business individuals that pay presumptive tax amounts, these presumptive tax amounts shall be readjusted.

3.1.9. A taxpayer shall submit a dossier to evidence a dependant only once throughout the duration for which he/she enjoys reduction, including the case in which the taxpayer changes his/her working office or place of business.

Taxpayers that earn incomes from both business activities and salaries or wages can choose and register either kind of income for which the temporary family circumstance-based reduction is given for their dependants under the above guidance. A taxpayer with many dependants for whom the registered temporary

reduction cannot be fully given for either kind of income, temporary reduction shall be given for both kinds of income.

### 3.2. Reduction for charity, humanitarian or study promotion donations

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

a/ Contributions to organizations or establishments that care for or nurture children in special plights, disabled people 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, specifying conditions and procedures for the establishment, organization, operation and dissolution of social relief establishments. Documents evidencing contributions to organizations or establishments that care for or nurture children in special plights, disabled people and helpless elderly people are these organizations' or establishments' lawful receipts.

b/ Contributions to charity funds, humanitarian funds or study promotion funds established and operating under the Government's Decree No. 148/2007/ND-CP of September 25, 2007, on the organization and operation of social funds and charity funds operating for charity, humanitarian or study promotion purposes and not for profit purposes, and other relevant documents on the management and use of financial aid.

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

3.2.2. Charity, humanitarian or study promotion donations made in a year shall be counted for a reduction deductible from taxable incomes of that year. In case the reduction for these donations cannot be fully given in the year, these donations are not allowed to be carried forward for deduction from taxable incomes of the subsequent tax year. The maximum reduction must not exceed taxed incomes from salaries or wages and incomes from business activities of the year in which charity or humanitarian donations are made.

### 4. Tax rates

Personal income tax rates for incomes from business activities, salaries or wages are applied according to the partially progressive tariff under Article 22 of the Law on Personal Income Tax, specifically:

Tax	Taxed income per year	Taxed income per month	Tax rate
-----	-----------------------	------------------------	----------

grade	(VND million)	(VND million)	(%)
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

Taxed incomes subject to this tariff are incomes of resident individuals earning taxable incomes from business activities and from salaries or wages after subtracting the family circumstance-based reduction, compulsory insurance premiums, and charity, humanitarian or study promotion donations.

#### 5. Methods of tax calculation

Personal income tax on incomes from business activities, salaries or wages is the total tax amount calculated according to each grade of income and corresponding tax rate in the partially progressive tariff, in which the tax amount calculated according to each grade of income is determined to be taxed income within that grade of income multiplied by (x) the corresponding tax rate.

Example: Mr. A is a resident individual who earns in a month an income of VND 10 million from salaries or wages and is obliged to nurture two under-18 children. In the month, he has to pay a compulsory insurance premium equal to 5% and a health insurance premium equal to 1% of his salary, but he makes no charity, humanitarian or study promotion donation.

Mr. A's personal income tax to be temporarily paid in the month is determined as follows:

- Mr. A enjoys the following reductions deductible from his taxable income:

+ Reduction for himself: VND 4 million;

+ Reduction for his two dependants (two children): VND 1.6 million x 2 = VND 3.2 million;

+ Social insurance and health insurance: VND 10 million x 6% = VND 0.6 million.

Total reductions:  $4 + 3.2 + 0.6 = \text{VND } 7.8 \text{ million}$ .

- His taxed income subject to the application of the partially progressive tariff for calculation of the payable tax amount is: VND 10 million - VND 7.8 million = VND 2.2 million.

- After reductions are deducted under regulations, Mr. A's taxed income falls into grade 1 of the partially progressive tariff and his total payable tax amount in the month is:

$\text{VND } 2.2 \text{ million} \times 5\% = \text{VND } 0.11 \text{ million}$ .

Example: Mr. B earns in a month an income of VND 90 million from salaries or wages (after subtracting compulsory insurance premiums) and is obliged to nurture two under-18 children. In the month, he makes no charity, humanitarian or study promotion donation.

a/ Mr. B's personal income tax to be temporarily paid in the month is determined as follows:

- Mr. B enjoys the following reductions:

+ Reduction for himself: VND 4 million;

+ Reduction for his two dependants: VND 1.6 million x 2 = VND 3.2 million;

- His taxed income subject to the application of the partially progressive tariff for calculation of payable tax amount is: VND 90 million - VND 4 million - VND 3.2 million = VND 82.8 million.

- His payable tax amount is calculated as follows:

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

$\text{VND } 5 \text{ million} \times 5\% = \text{VND } 0.25 \text{ million}$

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

$(\text{VND } 10 \text{ million} - \text{VND } 5 \text{ million}) \times 10\% = \text{VND } 0.5 \text{ million}$

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

$$(\text{VND } 18 \text{ million} - \text{VND } 10 \text{ million}) \times 15\% = \text{VND } 1.2 \text{ million}$$

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

$$(\text{VND } 32 \text{ million} - \text{VND } 18 \text{ million}) \times 20\% = \text{VND } 2.8 \text{ million}$$

+ Grade 5: Taxed income of between over VND 32 million and 52 million subject to the tax rate of 25%:

$$(\text{VND } 52 \text{ million} - \text{VND } 32 \text{ million}) \times 25\% = \text{VND } 5 \text{ million}$$

+ Grade 6: Taxed income of between over VND 52 million and 80 million subject to the tax rate of 30%:

$$(\text{VND } 80 \text{ million} - \text{VND } 52 \text{ million}) \times 30\% = \text{VND } 8.4 \text{ million}$$

+ Grade 7: Taxed income of between over VND 80 million and 82.8 million subject to the tax rate of 35%:

$$(\text{VND } 82.8 \text{ million} - \text{VND } 80 \text{ million}) \times 35\% = \text{VND } 0.98 \text{ million}$$

Mr. B, with an income of VND 90 million in a month, shall temporarily pay in the month, according to the partially progressive tariff, the following personal income tax amount:

$$(0.25 + 0.5 + 1.2 + 2.8 + 5 + 8.4 + 0.98) = \text{VND } 19.13 \text{ million}$$

To facilitate the calculation, a simplified method of calculation specified in an appendix to this Circular may be applied.

6. If many persons are named in the same business registration, including the case of lease of a house or business space in which many persons are named in the certificate of house ownership or land use rights (collectively referred to as a group of business individuals), after taxable incomes from business activities are determined under the guidance in Clause 1, Section I, Part B of this Circular, taxable income of each individual is divided by one of the following methods:

6.1. According to the contributed capital portion of each individual stated in the business registration; or,

6.2. Under the agreement among these individuals; or,

6.3. According to per-capita average income amount in case the business registration does not state contributed capital portions or contains no agreement on division of incomes among individuals.

On the basis of taxable income of each individual jointly conducting business activities determined on the above division principle, each individual will enjoy family circumstance-based reduction and reductions for charity, humanitarian and study promotion donations and compulsory insurance premiums before his/her own taxed income and payable personal income tax amount are determined.

Example: Mr. A, Mr. B and Mr. C are all named in the same business registration and jointly conduct business activities (in a group of business individuals).

- In case the business registration clearly states the contributed capital portion of each individual: Mr. A: 50%, Mr. B: 30% and Mr. C: 20%; and assume that the personal income tax-liable income in the year X is VND 300 million and each individual has two dependants and makes no charity donation in the year. The personal income tax amount payable by each individual is determined as follows:

- Step 1: To determine the taxable income of each individual:

Mr. A: VND 300 million x 50% = VND 150 million

Mr. B: VND 300 million x 30% = VND 90 million

Mr. C: VND 300 million x 20% = VND 60 million

- Step 2: To determine the taxed income of each individual:

Mr. A: VND 150 million - [(VND 4 million x 12 months) + (VND 1.6 million x 2 dependants x 12 months)] = VND 63.6 million

Mr. B: VND 90 million - [(VND 4 million x 12 months) + (VND 1.6 million x 2 dependants x 12 months)] = VND 3.6 million

Mr. C: VND 60 million - [(VND 4 million x 12 months) + (VND 1.6 million x 2 dependants x 12 months)] = VND -26.4 million

So, Mr. C's income in the year X is below the personal income tax-liable level.

- Step 3: To determine payable personal income tax amounts of individuals with tax-liable incomes:

According to the partially progressive tariff:

Mr. A: (VND 60 million x 5%) + (VND 3.6 million x 10%) = VND 3.36 million

Mr. B: VND 3.6 million x 5% = VND 180,000.

## II. Tax bases for other incomes

### 1. For incomes from capital investment

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

#### 1.1. Taxed income

Taxed income from capital investment is taxable income received by an individual under the guidance in Clause 3, Section II, Part A of this Circular.

1.2. Tax rate for incomes from capital investment is 5% as specified in the whole income tariff.

#### 1.3. Time of determination of taxed income

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

For incomes from capital investment specified at Points 3.4 and 3.7, Clause 3, Section II, Part A of this Circular, the time of determination of taxed income is the time when an individual actually receives income from increased value of capital contribution or the time of share certificate transfer.

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

#### 1.4. Tax calculation method

$$\begin{array}{ccccc} & & & \text{Payable} & \\ & & & \text{Tax rate of 5\%} & \\ \text{personal income} & = & \text{Taxed income} & \times & \\ \text{tax amount} & & & & \end{array}$$

### 2. For incomes from capital transfer

#### 2.1. For incomes from transfer of contributed capital amounts

Tax bases for incomes from transfer of contributed capital amounts are taxed income and tax rate.

2.1.1. Taxed income: taxed income from the transfer of a contributed capital amount is taxable income determined to be the transfer price minus (-) the purchase price of the contributed capital amount and expenses related to the generation of capital transfer income.

a/ Transfer prices

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

In case the transfer contract does not state a payment price or the payment price stated in the contract is inconsistent with the market price, the tax office may assess the transfer price in accordance with the Law on Tax Administration and guiding documents.

#### b/ Purchase prices

The purchase price of a contributed capital amount is determined on a cases-by-cases basis as follows:

- In case of transfer of a contributed capital amount for enterprise foundation, the purchase price is the value of the capital amount at the time of capital contribution. The value of the contributed capital shall be determined based on accounting books, invoices and vouchers.
- For acquisitioned capital amounts, the purchase price is the value of that capital amount at the time of acquisition. The purchase price shall be determined based on the contract on acquisition of contributed capital.

c/ Related expenses to be subtracted upon determination of taxable incomes from capital transfer are actually paid expenses related to the generation of capital transfer incomes with lawful invoices and vouchers, including:

- Expenses for completion of legal procedures necessary for the transfer;
- Charges and fees paid by the transferor into the state budget upon carrying out transfer procedures;
- Other expenses directly related to the capital transfer with lawful invoices and vouchers.

#### 2.1.2. Tax rate

The personal income tax rate for incomes from transfer of contributed capital is 20% as specified in the whole income tariff.

#### 2. 1.3. Time of determination of taxed incomes

Time of determination of a taxed income is the time when a capital transfer transaction is completed under law.

Time of completion of a capital transfer transaction specified in this Clause is the time when parties to transaction carry out procedures for declaring the transfer of

ownership to the business registration office or the enterprise managing the contributed capital.

#### 2.1.4. Tax calculation method

$$\begin{array}{ccccc} \text{Payable} & & & & \\ \text{personal income} & = & \text{Taxed income} & \times & \text{Tax rate of 20\%} \\ \text{tax amount} & & & & \end{array}$$

#### 2.2. For incomes from securities transfer

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

2.2.1. Taxed incomes: A taxed income from a securities transfer is determined to be the securities sale price minus (-) the purchase price and expenses for the transfer.

a/ The securities sale price is determined as follows:

- For listed securities: The securities sale price is the actual transfer price on the securities market at the time of sale. The market price at the time of sale is the order-matching price disclosed by the Stock Exchange or the Securities Trading Center.
- For securities of unlisted public companies which have registered for trading at the Securities Trading Center, the securities sale price is the actual transfer price at the Securities Trading Center.
- For securities of companies not falling into the above cases, the securities sale price is the transfer price stated in the transfer contract or recorded in accounting books of the unit whose securities are transferred at the time of sale.

If the contract does not state a transfer price or states a transfer price lower than that recorded in accounting books of the unit whose securities are transferred at the time of sale, the securities sale price shall be determined according to accounting books of the securities-issuing company at the time of sale.

b/ The securities purchase price is determined as follows:

- For listed securities: The securities purchase price is the purchase price actually paid at the Stock Exchange or the Securities Trading Center.
- For securities of unlisted public companies which have registered for trading at the Securities Trading Center, the securities purchase price is the purchase price actually paid at the Securities Trading Center.
- For securities purchased through auction, the purchase price is the winning bid.

- 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 time of purchase.

If the price stated in the contract is higher than that recorded in accounting books of the unit holding securities at the time of purchase, the securities purchase price shall be determined according to accounting books of the unit holding securities at the time of purchase.

c/ Reasonable expenses to be subtracted upon determination of taxable incomes from securities transfer are those actually paid for securities transfer activities with invoices and vouchers under regulations, including:

- Expenses for completion of legal procedures necessary for the transfer;
- Charges and fees paid by the transferor into the state budget upon carrying out transfer procedures;
- Securities depository charge prescribed by the State Securities Commission and charge receipts of securities companies;
- Securities entrustment charge based on receipts of entrusted unit.
- Other expenses evidenced by vouchers.

#### 2.2.2. Tax rates and calculation methods

a/ For securities-transferring individuals who register for tax payment under the whole income tariff at the tax rate of 20%

Individuals who may apply the tax rate of 20% for securities transfer must satisfy the following requirements:

- They register for application of the tax payment method according to a set form with tax offices directly managing securities companies at which they register to conduct trading or with district-level Tax Departments in localities where they reside. The registration deadlines are as follows:

- + In 2009, securities-trading individuals shall make registration right at the beginning of the year and no later than March 31, 2009.

- + From 2010 on, securities-trading individuals shall make registration for tax payment in a year no later than December 31 of the previous year.

- They make tax registration and are granted tax identification numbers.

- They conduct the invoice- and voucher-based accounting and can determine taxed incomes from securities transfer under regulations.

- The tax rate of 20% shall be applied to the total volume of securities of various kinds traded in a calendar year.

The method of calculation of the payable personal income tax amount is as follows:

$$\begin{array}{l} \text{Payable} \\ \text{personal income} \\ \text{tax amount} \end{array} = \text{Taxed income} \times \text{Tax rate of 20\%}$$

Securities-transferring individuals who have registered for tax payment at the tax rate of 20% shall still temporarily pay the tax at the tax rate of 0.1% of securities transfer price upon each time of transfer.

b/ For securities-transferring individuals who do not register for tax payment under the whole income tariff at the tax rate of 20%, the tax rate of 0.1% of securities transfer price upon each time of transfer shall apply.

The method of calculation of the payable tax amount is as follows:

$$\begin{array}{l} \text{Payable} \\ \text{personal income} \\ \text{tax amount} \end{array} = \text{Transfer price} \times \text{Tax rate of 0.1\%}$$

### 2.2.3. Time of determination of taxed incomes

Time of determination of taxed incomes from securities transfer is specified as follows:

a/ For listed securities, it is the time when the Securities Trading Center or the Stock Exchange discloses exercise prices.

b/ For unlisted securities which have been registered for trading at the Securities Trading Center, it is the time when the Securities Trading Center discloses exercise prices.

c/ For securities not falling into the above cases, it is the time when securities transfer contracts take effect. For securities transfers without securities transfer contracts, the time of tax calculation is the time of registration of change of securities owners' names.

## 3. For incomes from real estate transfer

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

3.1.1. Taxed income is determined to be the land use rights transfer price minus (-) the cost price and related reasonable expenses.

3.1.2. Land use rights transfer prices

Land use rights transfer prices are actual prices stated in transfer contracts at the time of transfer.

In case actual prices are unidentifiable or prices stated in transfer contracts are lower than land prices stipulated by provincial-level People's Committees at the time of transfer, transfer prices shall be determined according to land price brackets set by provincial-level People's Committees.

3.1.3. Cost prices: Land use rights transfer cost prices are determined in some specific cases as follows:

a/ For transfer of rights to use land areas allocated by the State with the collection of land use levy or land rent, cost prices are based on receipts of land use levy or land rent amounts collected by the State.

b/ For land use rights transferred from organizations and individuals, cost prices are based on transfer contracts and lawful vouchers of monetary payment for receipt of land use rights or land lease right (if any).

Lawful vouchers of monetary payment are receipts of land-selling organizations, via-bank money transfer vouchers or receipts of payment between individuals.

c/ In case of land use rights auction, cost prices are payable amounts according to winning bids.

d/ In case cost prices at the time of purchase are unidentifiable or incorrectly identified, personal income tax shall be calculated at the tax rate of 2% of transfer price.

3.1.4. Related expenses to be subtracted upon determination of incomes from land use rights transfer are expenses related to the transfer and actually paid with lawful invoices and vouchers, including:

a/ Charges and fees prescribed by law, related to the grant of land use rights and already paid by transferors into the state budget;

b/ Expenses for land revamp and ground leveling (if any);

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

3.2. Taxed incomes from transfer of land use rights associated with infrastructure or construction works on land.

3.2.1. Taxed incomes: A taxed income is determined to be the transfer price minus (-) the cost price of the transferred real estate and related reasonable expenses.

### 3.2.2. Transfer prices

Transfer prices are actual prices stated in transfer contracts at the time of transfer.

In case actual prices are unidentifiable or prices stated in transfer contracts are lower than the market price at the time of transfer, transfer prices are determined to be:

a/ The value of transferred land, which is determined according to the land price bracket set by the provincial-level People's Committee at the time of transfer;

b/ The value of houses, infrastructure works and architectures attached to land, which is determined as follows:

- Under the Construction Ministry's regulations on house value classification.
- Based on capital construction standards and norms promulgated by the Construction Ministry.
- Based on the actual residual value of works on land.

In case provincial-level People's Committees have promulgated tables of registration fee rates, the value of houses or infrastructure works on land shall be calculated according to these tables.

### 3.2.3. Cost prices

Cost prices are determined based on prices stated in transfer contracts at the time of purchase.

In case the land use rights cost price and house value are unidentifiable or prices stated in purchase contracts are higher than actual prices at the time of purchase, personal income tax shall be calculated at the tax rate of 2% of transfer price.

3.2.4. Related expenses to be subtracted upon determination of incomes are expenses related to the transfer actually paid with lawful invoices and vouchers, including:

a/ Charges and fees prescribed by law, related to the grant of land use rights and already paid by transferors into the state budget;

b/ Expenses for land revamp and ground leveling;

c/ Expenses for building, renovation, upgrading and repair of infrastructure and construction works on land;

d/ Other expenses directly related to the transfer, such as expenses for completion of legal procedures for transfer or for hired measurement services.

### 3.3. Taxed incomes from transfer of the right to own or use residential houses

3.3.1. Taxed incomes: A taxed income is determined to be the sale price minus (-) the purchase price and related reasonable expenses.

3.3.2. Sale prices are actual transfer prices determined according to market prices and stated in transfer contracts.

In case sale prices stated in transfer contracts are lower than market prices at the time of transfer, residential house transfer prices shall be determined under the Construction Ministry's regulations on house classification or registration fee rates promulgated by provincial-level People's Committees.

3.3.3. Purchase prices shall be determined based on prices stated in purchase contracts.

In case purchase prices are unidentifiable or purchase prices stated in contracts are higher than actual prices at the time of purchase, personal income tax shall be calculated at the tax rate of 2% of transfer price.

3.3.4. Related expenses to be subtracted are actually paid expenses for transfer with lawful invoices and vouchers, including:

a/ Charges and fees prescribed by law, related to the grant of right to own houses and already paid by transferors into the state budget;

b/ Expenses for house repair, renovation and upgrading;

c/ Other expenses directly related to the transfer.

### 3.4. Taxed incomes from transfer of the right to lease land or water surface

A taxed income from transfer of the right to lease land or water surface is determined to be the sublease rate minus (-) the lease rate and related expenses.

#### 3.4.1. Sublease rates:

Sublease rates are determined to be actual rates stated in lease contracts at the time of transfer of the right to lease land or water surface.

In case sublease unit rates stated in contracts are lower than lease rates prescribed by provincial-level People's Committees by the time of sublease, sublease rates shall be determined according to lease rate brackets set by provincial-level People's Committees.

3.4.2. Lease rates shall be determined based on lease contracts.

In case lease rates are unidentifiable or lease rates stated in contracts are higher than actual rates at the time of lease, personal income tax shall be calculated at the tax rate of 2% of transfer price.

3.4.3. Related expenses to be subtracted upon determination of taxed incomes are actually paid expenses for transfer of the right with lawful invoices and vouchers, including:

a/ Charges and fees prescribed by law, related to the right to lease land or water surface, and already paid by the right transferor into the state budget;

b/ Expenses for land or water surface revamp;

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

### 3.5. Tax rates and tax calculation methods

#### 3.5.1. Tax rates

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

In case cost prices and related expenses, which serve as a basis for determining taxed incomes, are unidentifiable, the tax rate of 2% of transfer price shall be applied.

#### 3.5.2. Tax calculation methods

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

$$\begin{array}{l} \text{Payable} \\ \text{personal income} \\ \text{tax amount} \end{array} = \text{Taxed income} \times \text{Tax rate of 25\%}$$

b/ In case cost prices (purchase prices) of transferred real estate and related expenses, which serve as a basis for determining taxed incomes, are unidentifiable, personal income tax is determined as follows:

$$\begin{array}{l} \text{Payable} \\ \text{personal income} \\ \text{tax amount} \end{array} = \text{Transfer price} \times \text{Tax rate of 2\%}$$

### 3.6. Time of determination of taxed incomes

Time of determination of taxed incomes from real estate transfer is the time when the real estate transfer contract takes effect under law.

3.7. For transfer of a real estate under joint ownership, the tax shall be calculated separately for each co-owner. Taxed income of each individual shall be determined based on total income from the real estate transfer and the proportional division of the income to co-owners. The proportional division of income shall be based on such lawful documents as agreement on start-up capital contribution, testaments or court rulings on division, etc. In case there is no such lawful document, the income shall be equally divided.

#### 4. For incomes from copyright

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

##### 4.1. Taxed incomes

A taxed income from a copyright royalty is an income amount in excess of VND 10 million under an assignment or licensing contract, regardless of the number of payment installments or times when a taxpayer receives sums of money 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 shall be divided to each co-owner. The proportional division of income shall be based on the ownership or use right certificate issued by a competent state agency.

4.2. The personal income tax rate for incomes from copyright is 5% as specified in the whole income tariff.

##### 4.3. Time of determination of taxed incomes

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

##### 4.4. Tax calculation method

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

#### 5. For incomes from commercial franchising

Tax bases for incomes from commercial franchising are taxed income and tax rate.

### 5.1. Taxed income:

A taxed income from commercial franchising is an income amount in excess of VND 10 million under a commercial franchising contract, regardless of the number of payment installments or times when a taxpayer receives sums of money for franchising.

In case there are many contracts on commercial franchising of the same object of commercial rights, taxed income is the income amount in excess of VND 10 million counted on total incomes from all of these contracts.

### 5.2. Tax rate

The personal income tax rate for incomes from commercial franchising is 5% as specified in the whole income tariff.

### 5.3. Time of determination of taxed incomes

Time of determination of a taxed income from commercial franchising is the time when the commercial franchising charge is paid by the franchisee to the franchisor.

### 5.4. Tax calculation method

$$\begin{array}{ccccc} \text{Payable} & & & & \\ \text{personal income} & = & \text{Taxed income} & \times & \text{Tax rate of 5\%} \\ \text{tax amount} & & & & \end{array}$$

## 6. For incomes from won prizes

Tax bases for incomes from won prizes are taxed income and tax rate.

### 6.1. Taxed incomes

A taxed income from a won prize is the value of the won prize in excess of VND 10 million received by a taxpayer upon each time of prize winning, regardless of the number of times of prize money receipt.

In case there are many prize winners for the same prize, the taxed income shall be divided to each winner. Prize winners shall produce legal evidence of the prize winning. If no legal evidence can be produced, the income from the won prize shall be calculated for an individual. For an individual who wins many prizes in a game, his/her taxed income shall be calculated on the total value of these prizes.

A taxed income for some prized games is specified as follows:

- For lottery prizes, it is the whole monetary prize value in excess of VND 10 million received after a prize-winner picking round without subtracting any expense.
- For sales promotion prizes in kind, it is the value of the sales promotion product in excess of VND 10 million which is monetized at the market price at the time of receipt without subtracting any expense.
- For betting or casino prizes of various kinds, it is the whole prize value in excess of VND 10 million received by the bet maker without subtracting any expense.
- For prizes of prized games or contests, it is calculated upon each time of prize receipt. The prize value is the whole prize money in excess of VND 10 million received by a participant without subtracting any expense.

6.2. The personal income tax rate for incomes from won prizes is 10% as specified in the whole income tariff.

#### 6.3. Time of determination of taxed incomes

Time of determination of a taxed income from a won prize is the time when the organizer pays or gives the prize to the winner.

#### 6.4. Tax calculation method

$$\begin{array}{ccccccc} & \text{Payable} & & & & & \\ \text{personal income} & & = & \text{Taxed income} & \times & \text{Tax rate of 10\%} \\ \text{tax amount} & & & & & & \end{array}$$

### 7. For incomes from inheritances or gifts

Tax bases for incomes from inheritances or gifts are taxed income and tax rate.

#### 7.1. Taxed incomes

A taxed income from inheritance or gift is the value of an inherited asset or a received gift in excess of VND 10 million upon each time of inheritance or receipt. The value of inherited assets or received gifts shall be determined for each case, specifically as follows:

7.1.1. For inheritances or gifts being real estate, the real estate value shall be determined as follows:

a/ For real estate being land use rights, their value shall be determined based on land price brackets set by provincial-level People's Committees at the time when inheriting individuals carry out procedures for transfer of real estate use rights.

b/ For real estate being residential houses and architectures on land, their value shall be determined based on competent state management agencies' regulations on classification of house values; regulations on capital construction standards and norms promulgated by competent state management agencies; and the residual value of houses and architectures.

In case the real estate value cannot be determined under the above regulations, registration fee rates prescribed by provincial-level People's Committees shall be based on.

7.1.2. For inheritances or gifts being automobiles, motorbikes, ships and boats, the asset value shall be determined based on tables of registration fee rates prescribed by provincial-level People's Committees by the time when individuals inherit assets or receive gifts.

7.1.3. For inheritances or gifts being capital holdings in economic organizations or business establishments, the inheritance or gift value is the value of capital holdings based on accounting books, invoices and vouchers at the time of inheritance or gift receipt. In case there is no accounting book, invoice or voucher serving as a basis for determining the capital holding value, that value shall be determined according to market prices at the time of inheritance or gift receipt.

7.1.4. For inheritances or gifts being securities: Income for calculation of tax on securities is the value of securities at the time of ownership transfer, specifically as follows:

a/ For listed securities: Their value shall be based on their prices quoted at the Stock Exchange or the Securities Trading Center on the date of inheritance or gift receipt or the day preceding that date.

b/ For securities of unlisted public companies which have registered for trading at the Securities Trading Center: Their value shall be based on prices quoted at the Securities Trading Center on the date of inheritances or gift receipt or the day preceding that date.

c/ For securities other than those specified above: Their value shall be based on the value recorded in accounting books of their issuing companies on the date of inheritance or receipt of gifts being securities.

7.2. Tax rate: The personal income tax rate for inheritances or gifts is 10% as specified in the whole income tariff.

7.3. Time of determination of taxed incomes

7.3.1. For incomes from inheritances: Time of determination of taxed incomes from inheritances is the time when inheriting taxpayers carry out procedures for transferring ownership or the right to use assets.

7.3.2. For incomes from gifts: Time of determination of taxed incomes from gifts is the time when organizations or individuals present these gifts to taxpayers. In case of gifts from overseas, time of determination of taxed incomes is the time when taxpayers receive these gifts.

#### 7.4. Method of calculation of payable tax amounts

$$\begin{array}{ccccc} \text{Payable} & & & & \\ \text{personal income} & = & \text{Taxed income} & \times & \text{Tax rate of 10\%} \\ \text{tax amount} & & & & \end{array}$$

### **Part C**

#### **TAX BASES FOR NON-RESIDENT INDIVIDUALS**

##### I. For incomes from business activities

Under Article 25 of the Personal Income Tax Law, personal income tax on incomes from business activities of non-resident individuals is determined as follows:

1. Tax on incomes from business activities of a non-resident individual is determined to be his/her turnover from production or business activities multiplied by (x) the specified tax rate.

2. Turnover is the total sum of money derived from the provision of goods or services, including also expenses paid by the goods or service purchaser on behalf of the non-resident individual but not refunded to the goods or service purchaser.

Turnover from business activities of a non-resident individual shall be determined in the same way as turnover serving as a basis for calculating tax on incomes from business activities of resident individuals under the guidance in Clause 1, Section I, Part B of this Circular.

If a contract between the goods or service provider and purchaser does not cover personal income tax, the taxable turnover that must be converted is the total sum of money in any form received by a non-resident individual from the provision of goods or services in Vietnam, regardless of places where business activities are conducted.

##### 3. Tax rates

Personal income tax rates for incomes from business activities of non-resident individuals are specified for different production sectors or business lines as follows:

3.1. 1% for goods trading;

3.2. 5% for service provision;

3.3. 2% for production, construction, transportation and other business activities.

In case a non-resident individual earns turnover from different production sectors or business lines but cannot separately account turnover from each sector or line, the applicable personal income tax rate is the highest tax rate specified for the production sector or business line in which he/she is actually engaged and applied to the whole turnover.

## II. For incomes from salaries or wages

1. Personal income tax on income from salaries or wages of a non-resident individual is determined to be his/her income from salaries or wages multiplied by (x) the tax rate of 20%.

2. Taxable income from salaries or wages of a non-resident individual is the total of salary or wage amounts and income amounts of salary or wage nature received by a non-resident individual in cash or non-cash forms for job performance in Vietnam, regardless of income payers.

Personal income tax-liable incomes from salaries or wages of non-resident individuals shall be determined in the same way as personal income tax-liable incomes from salaries or wages of resident individuals under the guidance in Clause 2, Section I, Part B of this Circular.

## III. For incomes from capital investment

Personal income tax on income from capital investment of a non-resident individual is determined to be the total sum of money earned by that non-resident individual from his/her capital investment in organizations or other individuals in Vietnam, multiplied by (x) the tax rate of 5%.

Taxable incomes and time of determination of personal income tax-liable incomes from capital investment of non-resident individuals shall be determined in the same way as taxable incomes and time of determination of personal income tax-liable incomes from capital investment of resident individuals under the guidance in Clause 1, Section II, Part B of this Circular.

## IV. For incomes from capital transfer

1. Personal income tax on income from capital transfer of a non-resident individual is determined to be the total sum of money earned by that non-resident individual from the transfer of his/her capital holdings in Vietnamese organizations or individuals multiplied by (x) the tax rate of 0.1%, regardless of whether the transfer is made in Vietnam or abroad.

Total sum of money earned by a non-resident individual from the transfer of his/her capital holdings in Vietnamese organizations or individuals is the total capital transfer value covering all expenses, including cost price.

2. Total sum of money for transfer shall be determined for each specific case as follows:

2.1. For transfer of capital holdings, it shall be determined based on the transfer value stated in the transfer contract.

In case the transfer contract does not state any payment price or the payment price stated in the contract is incompatible with the market price, the tax office may fix a transfer price under the Tax Administration Law and guiding documents.

2.2. For transfer of securities, it shall be determined based on the price of securities as follows:

2.2.1. For listed securities: The securities sale price is the actual transfer price on the securities market at the time of sale. The market price at the time of sale is the order-matching price disclosed by the Stock Exchange or the Securities Trading Center.

2.2.2. For unlisted securities which have been registered for trading at the Securities Trading Center: The securities sale price is the trading price agreed upon under regulations of the Securities Trading Center on the date of securities transfer.

2.2.3. For securities not falling into the above cases: The securities sale price is the transfer price stated in the transfer contract. If the transfer contract does not state any transfer price or the transfer price stated in the contract is incompatible with the market price, the tax office may fix a transfer price.

3. Time of determination of taxed incomes from capital transfer of non-resident individuals is the time when their capital transfer contracts take effect or when the ownership transfer is completed (for transfer of capital holdings, unlisted securities which have not been registered for trading) or when the Securities Trading Center or the Stock Exchange disclose exercise prices (for listed securities and unlisted securities which have been registered for trading).

V. For incomes from real estate transfer

1. Personal income tax on income from a real estate transfer in Vietnam of a non-resident individual is determined to be the real estate transfer price multiplied (x) by the tax rate of 2%.

The transfer price of a real estate of a non-resident individual is the total sum of money he/she earns from the real estate transfer covering all transfer expenses, including cost price.

2. Transfer price of real estate of non-resident individuals in each specific case is shall be determined by the method applicable to resident individuals under the guidance in Clause 3, Section II, Part B of this Circular.

#### VI. For incomes from copyright or commercial franchising

##### 1. Tax on incomes from copyright

1.1. Tax on income from copyright of a non-resident individual is determined to be equal to the income in excess of VND 10 million earned from each contract on assignment or licensing of an intellectual property object or technology transfer in Vietnam, multiplied by the tax rate of 5%.

Incomes from copyright shall be determined under the guidance in Clause 4, Section II, Part B of this Circular.

1.2. Time of determination of incomes from copyright is the time when organizations or individuals pay incomes from copyright transfer to taxpayers that are non-resident individuals.

2. Tax on income from commercial franchising of a non-resident individual is determined to be the income in excess of VND 10 million earned from each contract on commercial franchising in Vietnam, multiplied by the tax rate of 5%.

Incomes from commercial franchising shall be determined under the guidance in Clause 5, Section II, Part B of this Circular.

2.2. Time of determination of incomes from commercial franchising is the time when non-resident individuals earn incomes from commercial franchising.

#### VII. For incomes from won prizes, inheritances or gifts

1. Tax on income from a won prize, inheritance or gift of a non-resident individual is determined to be his/her taxable income under the guidance in Clause 2 below multiplied by the tax rate of 10%.

##### 2. Taxable incomes

2.1. Taxable income from a won prize of a non-resident individual is the prize value in excess of VND 10 million upon each time of winning in Vietnam.

Incomes from won prizes of non-resident individuals shall be determined under guidance in Clause 6, Section II, Part B of this Circular.

2.2. Taxable income from an inheritance or gift of a non-resident individual is the inheritance or gift value in excess of VND 10 million upon each time of income receipt in Vietnam.

Incomes from inheritances or gifts of non-resident individuals shall be determined under the guidance in Clause 7, Section II, Part B of this Circular.

### 3. Time of determination of taxed incomes

3.1. For incomes from won prizes: Time of determination of taxed incomes is the time when organizations or individuals in Vietnam pay prize money to non-resident individuals.

3.2. For incomes from inheritances: Time of determination of taxed incomes is the time when inheriting individuals carry out procedures for transfer of estate ownership or use right.

3.3. For incomes from gifts: Time of determination of taxed incomes is the time when gift-receiving individuals carry out procedures for transfer of asset ownership or use right.

## **Part D**

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

#### **I. Tax registration**

##### **1. Entities obliged to make tax registration**

Under Article 21 of the Tax Administration Law; and Articles 2 and 8 of the Personal Income Tax Law, entities obliged to make personal income tax registration include:

##### **1.1. Income-paying organizations and individuals, including:**

1.1.1. Economic organizations, business households and individuals, including also their branches and affiliated units, which are obliged to make tax registration under the guidance in the Finance Ministry's Circular No. 85/2007/TT-BTC of July 18, 2007, guiding the implementation of the Tax Administration Law regarding tax registration.

- 1.1.2. State administrative management agencies at all levels.
- 1.1.3. Political organizations, socio-political organizations and socio-professional organizations.
- 1.1.4. Non-business units.
- 1.1.5. International organizations and foreign organizations.
- 1.1.6. Project management units, representative offices of foreign organizations.
- 1.1.7. Other income-paying units.

In case income-paying agencies have affiliated units which have the legal person status and conduct independent cost-accounting, these units shall also make tax registration.

## 1.2. Individuals with personal income tax-liable incomes, including:

- 1.2.1. Individuals who earn incomes from production or business activities, including also independent professional practitioners; agricultural production individuals and households ineligible for personal income tax exemption; and individuals who earn incomes from production or business activities and make personal income tax registration concurrently with registration of other taxes.
- 1.2.2. Individuals who earn incomes from salaries or wages.
- 1.2.3. Other individuals with taxable incomes, which are earned on a regular basis.

If entities specified at Points 1.1 and 1.2 above have made tax registration and been issued tax identification numbers, they are not required to make new registration. Issued tax identification numbers may continue to be used in performing the personal income tax obligation. An individual who earns many personal income tax-liable incomes shall make tax registration only once. His/her tax identification number may be used in making tax declarations for all his/her incomes.

## 2. Tax registration dossiers

2.1. For business organizations and individuals, tax registration dossiers comply with Point 2, Section I, Part II of the Finance Ministry's Circular No. 85/2007/TT-BTC of July 18, 2007, guiding the implementation of the Tax Administration Law regarding tax registration.

For a group of business individuals who contribute capital and jointly conduct business activities, its authorized representative shall make tax registration under the guidance in Circular No. 85/2007/TT-BTC to get a tax identification number

for himself/herself. The tax identification number of the representative of the group of business individuals may be used in making value-added tax, excise tax and license tax declaration and payment for the whole group and for making the representative's own personal income tax declarations. Other capital-contributing members of the group are still required to make tax registration in order to be issued their own personal income tax identification numbers as for independent business individuals.

2.2. For income-paying units other than business organizations, tax registration dossiers comply with Point 2.10, Section I, Part II of Circular No. 85/2007/TT-BTC.

2.3. For individuals who earn incomes from salaries or wages, securities investment or capital transfer (including securities transfer) and other individuals with taxable incomes, a tax registration dossier comprises:

- A declaration for tax registration, made according to a set form.
- A copy of the taxpayer's identity card or passport.

### 3. Places for filing tax registration dossiers

3.1. For enterprises established and operating under the Enterprise Law and business individuals, including also independent professional practitioners: Places for filing of tax registration dossiers are specified in Circular No. 85/2007/TT-BTC.

3.2. For administrative management agencies, non-business units, mass organizations, political organizations, social organizations and professional organizations, places for dossier filing are as follows:

3.2.1. Central agencies, agencies under or attached to ministries, branches, provincial-level People's Committees, and provincial-level agencies shall file their tax registration dossiers with provincial-level Tax Departments.

3.2.2. Agencies under or attached to district-level People's Committees and district-level agencies shall file their tax registration dossiers with district-level Tax Departments.

3.2.3. Diplomatic missions, international organizations, representative offices of foreign organizations shall file their tax registration dossiers with provincial-level Tax Departments in localities where they are based.

3.3. Individuals who earn taxable incomes from salaries or wages shall file their tax registration dossiers with their income-paying units or tax offices directly managing their income-paying units. In case individuals file their tax registration

dossiers with their income-paying units, the latter shall collect tax registration declarations of registering individuals and submit them to their managing tax offices.

3.4. Individuals who earn other taxable incomes shall file their tax registration dossiers with district-level Tax Departments in localities where they reside.

3.5. Individuals who earn incomes from different sources: business activities, salaries, wages and other taxable incomes, may choose to file their tax registration dossiers with their income-paying agencies or units or district-level Tax Departments in localities where they conduct business activities.

## II. Tax withholding, declaration and finalization

1. Tax withholding means that income-paying organizations and individuals deduct payable tax amounts from incomes of taxpayers before paying incomes.

1.1. Kinds of income subject to tax withholding:

1.1.1. Incomes of non-resident individuals, including also those who are not present in Vietnam;

1.1.2. Incomes of resident individuals:

a/ Incomes from salaries or wages;

b/ Incomes from capital investment;

c/ Incomes from capital transfer or securities transfer;

d/ Incomes from won prizes of all kinds;

e/ Incomes from copyright;

f/ Incomes from commercial franchising.

1.2. In some specific cases, tax withholding shall be made as follows:

1.2.1. Withholding of tax on incomes from salaries or wages of individuals who have labor contracts or are recruited to work in a long-term and stable manner.

The withholding of tax on incomes from salaries or wages shall be made on a monthly basis. Income-paying agencies shall base themselves on salaries, wages and other salary or wage-based amounts actually paid to their employees to make temporary family circumstance-based reductions for taxpayers and their dependants according to taxpayers' registrations. Based on remaining incomes and the partially progressive tariff, income-paying agencies shall calculate tax amounts and withhold calculated tax amounts for remittance into the state budget.

Example: Mr. A is a resident individual working for Company X, earning a regular income of VND 10 million from monthly salary and nurturing two minor children.

Every month, Company X shall withhold personal income tax of Mr. A as follows:

His income is eligible for a total family circumstance-based reduction of VND 7.2 million/month, including:

- Reduction for himself: VND 4 million/month.
- For his two dependants (two children):  $\text{VND } 1.6 \text{ million} \times 2 = \text{VND } 3.2 \text{ million/month}$ .

His taxed income:  $\text{VND } 10 \text{ million} - \text{VND } 7.2 \text{ million} = \text{VND } 2.8 \text{ million/month}$ .

His personal income tax amount to be withheld:  $\text{VND } 2.8 \text{ million} \times 5\% = \text{VND } 0.14 \text{ million/month}$ .

#### 1.2.2. Withholding of tax on incomes from capital investment

Before each time of payment of profits or dividends to individual investors, organizations shall withhold personal income tax. A tax amount to be withheld is determined to be the profit or dividend amount to be paid multiplied by (x) the tax rate of 5%.

#### 1.2.3. Withholding of tax on incomes from securities transfer

All cases of securities transfer, regardless of whether personal income tax is paid at the tax rate of 0.1% or 20%, are subject to tax withholding before incomes are paid to transferors. A tax amount to be withheld is determined to be the transfer price inclusive of transfer expenses multiplied by (x) the tax rate of 0.1%.

Securities companies or commercial banks where investors open their trading accounts shall withhold personal income tax. For unlisted securities traded at the Stock Exchange or the Securities Trading Center, issuing organizations shall withhold tax if they do not authorize securities companies to manage shareholders' lists.

#### 1.2.4. Withholding of tax on incomes from copyright or commercial franchising

Organizations and individuals that pay incomes from copyright or commercial franchising shall withhold personal income tax before paying those incomes. A tax amount to be withheld is determined to be the income amount in excess of VND 10 million earned under each transfer contract multiplied by (x) the tax rate of 5%. For a contract of a large value and to be paid for in installments, the organization or individual that pays income shall deduct, upon the first payment installment,

VND 10 million from the payment value and multiply the remainder by the tax rate of 5% for tax withholding. For subsequent payment installments, personal income tax calculated based on total amount of each payment installment shall be withheld.

#### 1.2.5. Withholding of tax on incomes from won prizes:

Organizations that pay prize money to prize winners shall withhold personal income tax before paying those prizes. A tax amount to be withheld is determined to be the prize value in excess of VND 10 million multiplied by (x) the tax rate of 10%.

#### 1.2.6. Withholding of tax for non-resident individuals who have taxable incomes

Organizations and individuals that pay taxable incomes to non-resident individuals shall withhold personal income tax before paying those incomes. Bases for withholding personal income tax are taxed income and personal income tax rate applicable to each kind of income and each kind of occupation or business line.

#### 1.2.7. Withholding of tax in some other cases

Organizations and individuals that pay wages, remuneration or other sums of money to individuals performing services without entering into labor contracts, such as emoluments, royalties for book translators, payments for teachers and lecturers or allowances for members of associations, boards of directors, members' councils or management boards; charges for provision of scientific, technical, cultural, sport, physical training, construction engineering consulting and legal services of VND 500,000 or more each time, shall withhold personal income tax before paying incomes to individuals under the following guidance:

- Withholding tax at the rate of 10% of incomes, for individuals having tax identification numbers.
- Withholding tax at the rate of 20% of incomes, for individuals having no tax identification numbers.

Organizations and individuals that pay incomes from which tax has been withheld under the above guidance shall issue tax withholding vouchers at the request of individuals from whom tax is withheld. Tax offices shall supply tax withholding vouchers to income-paying organizations or individuals upon their written requests (made according to a set form).

## 2. Tax declaration

Organizations and individuals that pay personal income tax-liable incomes and individuals who earn personal income tax-liable incomes shall make tax declaration as follows:

2.1. Tax declaration by income-paying organizations and individuals that withhold tax.

2.1.1. Monthly tax declaration

Organizations and individuals that pay personal income tax-liable incomes and withhold tax under the guidance at Point 1, Section II, Part D above shall complete and file tax returns with tax offices on a monthly basis, specifically as follows:

a/ For withholding of personal income tax on incomes from salaries or wages, tax returns shall be made according to a set form.

b/ For withholding of personal income tax on incomes from capital investment, securities transfer, copyright, commercial franchising or won prizes, tax returns shall be made according to a set form.

c/ For withholding of personal income tax for non-resident individuals who earn incomes from salaries or wages or business activities, tax returns shall be made according to a set form.

2.1.2. The deadline for filing a tax return for a month is the 20th of the following month.

In case income-paying organizations or individuals have a total withheld personal income tax amount of less than VND 5 million/month in each tax return, they may make and file tax returns on a quarterly basis. The deadline for filing a tax return for a quarter is the 30th of the first month of the following quarter.

2.1.3. Declaration for tax finalization

Organizations and individuals that pay incomes subject to tax withholding, regardless of whether tax is actually withheld or not, shall make personal income tax declaration for finalization under the following specific provisions:

a/ A dossier of declaration for tax finalization comprises:

- A declaration for personal income tax finalization, made according to a set form, and the following detailed lists:

+ List of incomes from salaries or wages paid to individuals who have labor contracts, made according to a set form, regardless of whether these incomes reach the taxable level or not.

+ List of incomes from salaries or wages paid to individuals who do not have labor contracts, made according to a set form.

- In case personal income tax is withheld on incomes from capital investment, securities transfer, copyright, commercial franchising or won prizes, there must be a declaration for personal income tax finalization, made according to a set form, and detailed lists enclosed with this declaration. Specifically as follows:

+ Detailed list of incomes from capital investment, made according to a set form.

+ Detailed list of incomes from securities transfer, made according to a set form.

+ Detailed list of incomes from copyright or commercial franchising, made according to a set form.

+ Detailed list of incomes from won prizes, made according to a set form.

b/ The deadline for filing a dossier for tax finalization for a calendar year is the 90th day after the end of that year.

2.1.4. Places for filing monthly or quarterly tax declaration dossiers and tax finalization dossiers

a/ For income-paying units that are organizations or individuals engaged in production or business activities: Tax declaration dossiers shall be filed with tax offices directly managing them.

b/ For other cases:

- Central agencies, agencies under or attached to ministries, branches or provincial-level People's Committees, and provincial-level agencies shall file their tax declaration dossiers with provincial-level Tax Departments.

- Agencies under or attached to district-level People's Committees and district-level agencies shall file their tax declaration dossiers with district-level Tax Departments.

- Diplomatic missions, international organizations and representative offices of foreign organizations shall file their tax declaration dossiers with provincial-level Tax Departments in localities where they are headquartered.

2.1.5. Deadline for tax payment

The deadline for payment of withheld tax amounts and remaining tax amounts to be paid upon tax finalization is the deadline for filing monthly or quarterly tax declaration dossiers and dossiers for annual tax finalization.

## 2.2. Personal income tax declaration by resident individuals earning incomes from business activities

### 2.2.1. Personal income tax declaration by business individuals who have conducted the invoice and voucher-based accounting (declaration-based tax payment):

a/ Declaration for temporary payment of personal income tax on a quarterly basis: Business individuals who have fully conducted the invoice and voucher-based accounting shall temporarily determine, on a quarterly basis, their taxable incomes and declare personal income tax amounts to be temporarily paid according to a set form and file tax returns with district-level Tax Departments directly managing them.

- The deadline for filing a tax return for a quarter is the 30th of the first day of the first month of the following quarter.

- Bases for determination of a personal income tax to be temporarily paid are:

+ Taxable income temporarily calculated in a quarter, which is the turnover in the quarter minus (-) expenses temporarily calculated in the quarter:

Turnover in the quarter is determined to be goods or service sale turnover declared in the quarter and consistent with turnover for value-added tax calculation and payment for the quarter.

Expenses temporarily calculated in the quarter are those actually paid in relation to turnover in the quarter.

+ Taxed income temporarily calculated in a quarter, which is determined to be taxable income minus (-) family circumstance-based reductions calculated for the whole quarter.

Family circumstance-based reductions include reduction for the business individual himself/herself and reduction for his/her dependants. The number of a business as individual's dependants eligible for temporary reduction is that declared by that business individual.

+ Personal income tax amount to be temporarily paid for a quarter shall be determined according to the following formula:

$$\begin{array}{lclclcl} \text{Tax amount} & & \text{Taxed income temporarily} & & \text{Tax rate under} & \\ \text{to be} & = & \text{calculated in the quarter} & \times & \text{the partially} & \times 3 \\ \text{temporarily} & & \text{-----} & & \text{progressive tariff} & \end{array}$$

paid for  
a quarter

3

applicable to  
monthly incomes

b/ Declaration for tax finalization

- Individuals who earn incomes from business activities and pay tax according to tax declarations shall make declaration for tax finalization.
- A dossier for tax finalization comprises:
  - + A declaration for tax finalization, made according to a set form.
  - + Vouchers evidencing the tax amount already temporarily paid in the year.
- Dossiers for tax finalization shall be filed with district-level Tax Departments directly managing taxpayers.
- The deadline for filing a dossier for tax finalization for a calendar year is the 90th day after the end of that year.

c/ The deadline for tax payment is the deadline for filing tax declaration dossiers.

2.2.2. Tax declaration by business individuals who can account only turnover from but not expenses for business activities: tax declaration dossiers, tax bases and tax payment deadline applicable to these individuals are those applicable to business individuals who have fully conducted the invoice and voucher-based accounting. Particularly, for business expenses, they shall be assessed by tax offices.

2.2.3. Tax declaration by business individuals or groups of business individuals that fail to conduct or improperly conduct the invoice and voucher-based accounting and pay tax by the presumptive method.

a/ Tax declaration dossiers

Business individuals or groups of business individuals that fail to conduct or improperly conduct the invoice and voucher-based accounting shall make annual tax declaration (once a year) according to a set form.

b/ The deadline for filing a tax declaration dossier for a year is the December 31 of the preceding year. Business individuals or groups of business individuals that have newly commenced their business activities shall file their tax declaration dossiers within 10 days after the date of business commencement.

c/ Determination of payable presumptive tax amounts

- Based on business individuals' declaration of turnover and dependants eligible for family circumstance-based reduction, tax offices shall coordinate with tax

advisory councils in communes or wards in inspecting and assessing turnover to serve as a basis for determination of taxable incomes and presumptive personal income tax amounts payable or exempted.

- Tax offices shall post up lists of business individuals and their estimated taxable incomes, tax bases and tax amount payable by each individual. Tax offices shall give notices of tax amounts payable for the whole year and tax amounts to be temporarily paid for each quarter, made according to a set form, to individuals liable to pay tax no later than the last day of February.

Business individuals liable to pay tax shall file dossiers to evidence their dependants under the provisions of Point 3.1.7, Clause 3, Section I, Part B of this Circular.

- In case of a change in business scale, business line or number of dependants in a year, a business individual shall declare such change to the tax office for adjustment of the presumptive tax amount as appropriate.

- For a group of business individuals: Based on taxable income assessed for the whole group and the proportionally divided income and declaration for family circumstance-based reduction of each member of the group, the tax office shall calculate and give to each member a notice of the presumptive tax amount payable for the whole year and tax amount to be temporarily paid for each quarter, made according to a set form, no later than the last day of February.

d/ The place for filing tax declaration dossiers is the district-level Tax Department in the locality where the business individual or group of business individuals conducts business activities.

e/ The deadline for tax payment is the last day of the quarter.

f/ Individuals who earn incomes only from business activities and pay personal income tax by the presumptive method are not required to make tax finalization.

2.2.5. Tax declaration by individuals who contribute capital to a business, jointly conduct business activities and are named in the same business registration, including case of lease of a house or business place under joint ownership (referred to as business group), fully conduct the invoice and voucher-based accounting and pay tax by the declaration method:

- a/ Declaration for temporary payment of personal income tax on a quarterly basis: the individual representing the business group shall declare the tax to be temporarily paid in a quarter according to a set form. Turnover and expenses temporarily calculated in the quarter shall be determined as for business individuals who have properly conducted the invoice and voucher-based accounting.

- The business group's representative shall temporarily distribute taxable income to each individual member of the group under Clause 6, Section I, Part B of this Circular on income distribution.
- The personal income tax amount to be temporarily paid shall be calculated separately for each individual member of the group based on the income temporarily distributed to him/her, his/her family circumstance and the tariff. Based on the personal income tax amount temporarily calculated for each individual member, the business group's representative shall pay tax into the state budget according to each separate budget remittance voucher for each member.
- The deadline for filing a tax declaration dossier for a quarter is the 30th of the first month of the following quarter.

b/ Declaration for tax finalization

- For a business group, the individual representing the group shall make a dossier of declaration for tax finalization according to a set form for determination of taxable income of the whole group and taxable income of each individual member of the group. Taxable income of each individual member shall be distributed under Clause 6, Section I, Part B of this Circular.
- Each individual member of the business group may receive one original of the group's tax finalization declaration and shall make his/her own declaration for tax finalization.
- A dossier of declaration for tax finalization for each individual member of a business group comprises:
  - + A declaration for tax finalization for the business group, made according to a set form.
  - + A tax return, made according to a set form and its appendix made according to another set form.
  - + Vouchers evidencing the tax amount already temporarily paid in the year.
- The dossier of declaration for tax finalization shall be filed with the district-level Tax Department in the locality where the business group conducts its business activities.

c/ The deadline for tax payment for a business group and individuals of the group is the deadline for filing its tax declaration dossier.

2.3. Declaration of personal income tax for resident individuals earning incomes from salaries or wages

### 2.3.1. Monthly tax declaration

#### a/ Individuals liable to make monthly tax declaration

- Individuals receiving incomes from salaries or wages paid by overseas organizations or individuals.
- Vietnamese individuals earning incomes from salaries or wages paid by Vietnam-based international organizations, embassies or consular offices.

Individuals earning incomes from salaries or wages and not falling into the above cases are not required to make monthly tax declaration.

b/ The monthly tax declaration dossier is the personal income tax return made according to a set form.

#### c/ Place and deadline for filing monthly tax declaration dossiers

- The place for filing a monthly tax declaration dossier is the provincial-level Tax Department in the locality where the declarant resides.
- The deadline for filing a monthly tax declaration dossier for a month is the 20th of the following month.

d/ Individuals earning a monthly income of over VND 4 million and eligible for family circumstance-based reduction for their dependants shall file their tax declaration dossiers directly with tax offices and file registrations of their dependants together with tax declaration dossiers for the first month of the tax year. Time of filing dossiers evidencing dependants by these individuals is the time of dossier filing applicable to individuals earning incomes from salaries or wages guided in Item a, Point 3.1.8, Section I, Part B of this Circular.

Registrations of dependants and dossiers evidencing dependants shall be filed with provincial-level Tax Departments with which individuals have filed their tax declaration dossiers.

### 2.3.2. Declaration for tax finalization

a/ An individual earning incomes from salaries or wages shall make declaration for tax finalization in the following cases:

- He/she has a tax amount payable in a year larger than the tax amount withheld or temporarily paid in the year or has a tax amount due in the year but neither has it withheld nor temporarily paid it.
- He/she wishes to have his/her tax amount in a period refunded or cleared against the payable tax amount of the following period.

Upon the expiration of their contracts for working in Vietnam and before their departure, resident foreigners shall make tax finalization with tax offices. Individuals other than those specified above are not required to make declaration for tax finalization.

b/ A dossier of declaration for tax finalization comprises:

- A declaration for tax finalization, made according to a set form, and its annexes made according to set forms.
- Vouchers evidencing the tax amount already withheld or temporarily paid in the year.
- For individuals receiving incomes from international organizations, embassies, consular offices or overseas entities, there must be documents evidencing or certifying sums of money paid by overseas income-paying units or organizations enclosed with written certifications of annual incomes, made according to a set form.

c/ The deadline and place for filing tax finalization dossiers

- The deadline for filing a tax finalization dossier is the 90th day after the end of a calendar year.
- The place for filing a tax finalization dossier is the tax office directly managing the income-paying unit.

For individuals who earn incomes from salaries or wages and directly make monthly tax declaration, the place for filing tax finalization dossiers is the place for filing monthly tax declaration dossiers (provincial-level Tax Department).

## 2.4. Tax declaration by resident individuals earning incomes from both business activities and salaries or wages

### 2.4.1. Tax declaration

Individuals earning incomes from both business activities and salaries or wages shall only make declaration for temporary payment of personal income tax on incomes from business activities under the guidance of Point 2.2 above.

### 2.4.2. Tax finalization

a/ An individual earning incomes from both business activities and salaries or wages shall make declaration for tax finalization in the following cases:

- He/she has a total monthly taxable income of over VND 4 million.

- He/she files a dossier of request for tax refund or clearing of his/her overpaid tax amount in the period against the payable tax amount of the following period.

Upon the expiration of their contracts for working in Vietnam and before their departure, resident foreigners shall make tax finalization with tax offices. Individuals other than those specified above are not required to make declaration for tax finalization.

b/ A dossier of declaration for tax finalization comprises:

- A declaration for tax finalization, made according to a set form;
- Annexes to the declaration, made according to set forms.

c/ The place for filing a tax finalization dossier is the district-level Tax Department in the locality where the individual conducts business activities.

## 2.5. Tax declaration for incomes from real estate transfer

2.5.1. Time of tax declaration: Individuals earning incomes from real estate transfer, regardless of whether these incomes are liable to or exempt from tax, shall make personal income tax declaration dossiers and file them together with dossiers for transfer of the ownership of or the right to use real estate.

2.5.2. A tax declaration dossier comprises:

- A personal income tax return applicable to individuals transferring real estate, made according to a set form.
- A copy of the land use rights certificate or copies of title documents of the house or works on land.
- The real estate transfer contract.
- In case the individual wishes to pay tax at the tax rate of 25% of income from the real estate transfer, he/she shall additionally produce valid documents evidencing the following expenses:
  - + Cost price of the real estate.
  - + Expenses for building or renovating the house and works on land.
  - + Paid charges and fees.
  - + Other expenses directly related to the real estate transfer.
- For cases of real estate transfer eligible for personal income tax exemption, there must be papers to serve as a basis for identifying these cases as eligible for tax

exemption in specific cases guided in Clauses 1, 2, 3, 4 and 5, Section III, Part A of this Circular.

2.5.3. Places for filing tax declaration dossiers: Individuals shall file their tax declaration dossiers together with real estate transfer dossiers with the real estate-managing agency. For localities in which the inter-branch one-stop-shop mechanism is not yet applied, dossiers shall directly filed with district-level Tax Departments in districts where transferred real estate exist.

Based on personal income tax declaration dossiers for real estate transfer, tax offices shall check and determine payable tax amounts and give notices thereof, made according to a set form, to taxpayers within three (3) working days after the receipt of complete dossiers. Tax notices shall be handed directly to taxpayers or sent together with dossiers through the competent real estate-managing agency. For individuals exempt from tax, tax offices shall give certifications in such individuals' declarations and forward them to the real estate-managing agency.

The real estate-managing agency shall carry out procedures for transferring the ownership of or the right to use real estate only when receiving vouchers evidencing the payment of personal income tax or tax offices' certification that incomes from real estate transfer are exempt from tax.

2.5.4. The deadline for tax payment shall be that stated in tax notices.

## 2.6. Tax declaration for incomes from capital transfer

Individuals earning incomes from capital transfer (except for incomes from securities transfer) shall make and file tax returns with tax offices under the following provisions:

2.6.1. Time of making tax declaration: Individuals earning incomes from capital transfer shall make personal income tax declaration concurrently with carrying out procedures for transferring the ownership of capital amounts to other organizations or individuals under law.

2.6.2. A tax declaration dossier comprises:

- A personal income tax return applicable to individuals earning incomes from capital transfer, made according to a set form.
- A copy of the capital transfer contract.
- Vouchers evidencing expenses related to the determination of income from capital transfer.

2.6.3. The place for filing tax declaration dossiers: Personal income tax declaration dossiers for incomes from capital transfer shall be filed with tax offices directly

managing business establishments where capital transfer transactions are conducted or with district-level Tax Departments in localities where capital transferors (sellers) reside.

2.6.4. The deadline for tax payment shall be stated in tax notices, made according to a set form.

2.6.5. Competent state management agencies or enterprises having their capital transferred shall carry out procedures for transferring the capital ownership to the transferees only when receiving vouchers evidencing the payment of personal income tax on capital transfer.

## 2.7. Tax declaration by individuals earning incomes from securities transfer

2.7.1. A securities-transferring individual who has made tax registration with a tax office shall pay personal income tax under the whole income tariff at the tax rate of 20% of income and shall make tax finalization in the following cases:

a/ His/her payable tax amount calculated at the tax rate of 20% is larger than that temporarily withheld at the tax rate of 0.1% in the year.

b/ He/she requests tax refund or clearing of the overpaid tax amount against the following year's payable tax amount.

2.7.2. A tax finalization dossier comprises:

- A declaration for tax finalization, made according to a set form.
- A detailed list of securities transferred in the year, made according to a set form.
- Invoices and vouchers evidencing expenses related to the securities transfer.
- Vouchers evidencing the tax amount withheld in the year.

2.7.3. Places for filing tax finalization dossiers are tax offices directly managing securities companies with which individuals have registered for trading or district-level Tax Departments of localities where individuals reside.

2.7.4. The deadline for filing a tax finalization dossier is the 90th day after the end of a calendar year.

## 2.8. Tax declaration for incomes from inheritances or gifts

Individuals earning incomes from inheritances or gifts shall make tax declaration upon each time of receiving incomes from inheritances or gifts. Particularly for inheritances or gifts being real estate, they shall make tax declaration under the guidance at Point 2.5, Clause 2, Section II, Part D of this Circular.

2.8.1. A tax declaration dossier comprises:

- A personal income tax return for incomes from inheritances or gifts, made according to a set form.
- Copies of legal papers evidencing the right to receive the inheritance or gift.

2.8.2. Places for filing tax declaration dossiers are district-level Tax Departments of localities where heirs or gift recipients reside.

Based on these tax declaration dossiers, tax offices shall check and calculate tax amounts payable by heirs or gift recipients into the state budget. For case of incomes of under VND 10 million from inheritances or gifts.

State management agencies and concerned organizations shall carry out procedures for transferring the ownership of securities, capital holdings and assets which must be registered as inheritances or gifts for heirs or gift recipients only when they receive vouchers evidencing tax payment by individuals liable to pay tax.

2.8.3. The deadline for filing tax declaration dossiers

Individuals earning incomes from inheritances or gifts shall file their tax declaration dossiers concurrently with carrying out procedures for transferring the ownership of or the right to use assets received as inheritances or gifts.

2.8.4. The deadline for tax payment shall be stated in tax notices made according to a set form.

2.9. Tax declaration by resident individuals with incomes generated abroad

2.9.1. Resident individuals with incomes generated abroad shall make tax declaration and payment under the Personal Income Tax Law.

In case personal income tax on incomes generated abroad has been calculated and paid under foreign personal income tax laws, tax amounts paid abroad will be deducted. Deductible tax amounts must not exceed payable tax amounts calculated under Vietnam's tariffs and allocated to incomes generated abroad. The allocation ratio shall be determined to be the ratio of income generated abroad to the total taxable income.

2.9.2. Tax declaration for each kind of income is as follows:

a/ Tax declaration for incomes from salaries or wages and incomes from business activities

Individuals who are residents in Vietnam and earn incomes from salaries, wages or business activities abroad shall make personal income tax declaration under the guidance in Clause 2, Section II, Part D of this Circular.

b/ Tax declaration for other taxable incomes (incomes from capital investment, capital transfer, real estate transfer, copyright, commercial franchising, won prizes, inheritances, gifts).

- The time limit for making declaration is 10 days after the generation or receipt of incomes. For individuals who are abroad when their incomes are generated or received abroad, the time limit for making tax declaration is 10 days after their entry into Vietnam.

- A tax declaration dossier comprises:

- + A tax return, made according to a set form, for taxable incomes from capital investment, copyright, commercial franchising or won prizes generated abroad.

- + A tax return, made according to a specific form set for incomes from real estate transfer, securities transfer, inheritances or gifts in Vietnam.

The above tax returns must be enclosed with vouchers evidencing payment of incomes and personal income tax abroad which will serve as a basis for determination of incomes and personal income tax amounts paid abroad.

- Places for filing tax declaration dossiers are those designated for these kinds of income generated in Vietnam.

2.10. Tax declaration by a resident individual who earns incomes from business activities, salaries or wages and is present in Vietnam for less than 183 days counted within the first calendar year but more than 183 days counted within 12 consecutive months from the first day of his/her presence in Vietnam.

- The first tax year: He/she shall make tax declaration and file the tax finalization dossier no later than the 90th day after the last day of the period of full 12 consecutive months.

- The second tax year: He/she shall make tax declaration and file the tax finalization dossier no later than the 90th day after the end of the calendar year.

The payable tax amount for the second tax year may be cleared against the tax amount already paid in the first tax year corresponding to the overlapping period between the two tax years.

The duplicated tax amount to be cleared against the payable tax amount for the second tax year is determined as follows:

$$\begin{array}{lcl} \text{Double tax} & & \text{Payable tax amount for the first tax year} \\ \text{amount to} & = & \text{-----} \\ \text{be cleared} & & 12 \end{array} \quad \times \quad \begin{array}{l} \text{Number of} \\ \text{overlapping} \\ \text{months} \end{array}$$

Example: Mr. A comes to work in Vietnam from May 1, 2009 (the date shown in his passport) and earns taxable incomes in Vietnam.

Assuming that during the period from May 1, 2009, to December 31, 2009, Mr. A is present in Vietnam for a total of 160 days and during the period from January 1, 2010 to April 30, 2010, he is present in Vietnam for a total of 30 days. Under regulations, the period of Mr. A's presence in Vietnam in 2009 is not enough for him to be identified as a resident individual (160 days < 183 days). However, for the reason that the total number of days of his presence in Vietnam counted within 12 consecutive months (from May 1, 2009, to April 30, 2010) is 190 days (160 days plus 30 days), Mr. A can still be identified as a resident individual.

The first tax year of Mr. A is counted from May 1, 2009, to the end of April 30, 2010, and he shall file his tax finalization dossier no later than the 90th day after April 30, 2010.

The second tax year of Mr. A is counted from January 1, 2010, to the end of December 31, 2010, and he shall file his tax finalization dossier no later than the 90th day after December 31, 2010.

The payable tax amount for the second tax year of Mr. A will be cleared against the tax amount paid in the first year for the overlapping period between the two tax years, including four months January, February, March and April.

So, Mr. A's duplicated tax amount in 2009 to be cleared against his payable tax amount for 2010 shall be determined as follows:

$$\begin{array}{lcl} \text{Duplicated} & & \text{Payable tax amount for 2009} \\ \text{tax amount to} & = & \text{-----} \\ \text{be cleared} & & 12 \end{array} \quad \times \quad 4 \text{ months}$$

### 3. Tax refund

3.1. An individual is entitled to tax refund in the following cases:

3.1.1. His/her paid personal income tax amount for a tax period is larger than the tax amount payable for that tax period.

3.1.2. He/she has paid personal income tax but his/her taxable income is below the taxable level.

3.1.3. Other cases under decisions of competent state agencies.

Personal income tax refund is applicable only to individuals who have made tax registration and had tax identification numbers.

### 3.2. A tax refund dossier comprises:

- An application for tax refund, made according to form No. 01/HTBT attached to the Finance Ministry's Circular No. 60/2007/TT-BTC of June 14, 2007.
- A copy of the applicant's identity card or passport.
- The personal income tax return for finalization.
- Personal income tax withholding vouchers or receipts.
- Documents evidencing the expiration of the applicant's working period, such as decision on retirement or resignation, written record of liquidation of the labor contract, and list of days of residence in Vietnam (if any).
- A power of attorney in case of authorized declaration for tax refund (if any).

### 3.3. Places for filing tax refund dossiers

- Individuals earning incomes from salaries, wages or securities transfer shall file their tax refund dossiers with tax offices directly managing their income-paying units.
- Individuals earning incomes from business activities shall file their tax refund dossiers with district-level Tax Departments in localities where they conduct business activities.
- Individuals earning incomes from both salaries or wages and business activities shall file their tax refund dossiers with district-level Tax Departments in localities where they conduct business activities.

### 3.4. Handling of tax refund dossiers

The receipt of tax refund dossiers and the responsibility to handle tax refund dossiers comply with the guidance in Section II, Part G of the Finance Ministry's Circular No. 60/2007/TT-BTC of June 14, 2007.

### 3.5. Tax refund procedures

After examining and considering tax refund dossiers valid, tax offices shall issue and send tax refund decisions to the State Treasury of the same level and to individuals eligible for tax refund.

Upon receiving tax refund decisions of tax offices, the State Treasury of the same level shall refund tax amounts to eligible individuals.

## **Part E**

### **ORGANIZATION OF IMPLEMENTATION**

1. This Circular takes effect 15 days after its publication in “CONG BAO”[1] and applies from January 1, 2009.

To annul regulations guiding income tax on high-income earners, corporate income tax applicable to business households and individuals, and land use rights transfer tax applicable to individuals transferring land use rights.

2. Other matters concerning tax administration not guided in this Circular comply with the Tax Administration Law and guiding documents.

3. Problems related to income tax on high-income earners, corporate income tax applicable to business households and individuals, and land use rights transfer tax arising before January 1, 2009, shall be settled in accordance with the tax laws and ordinances and the Government’s and the Finance Ministry’s guiding documents which are effective at the time such problems arise.

4. Individuals who are currently entitled to personal income tax (income tax on high-income earners) incentives as stated in their investment preference certificates, investment licenses or provided for in the Government’s or the Prime Minister’s regulations before the effective date of the Law on Personal Income Tax will continue enjoying those incentives till the end of the incentive duration.

5. In case a treaty to which the Socialist Republic of Vietnam is a contracting party contains provisions on personal income tax different from the guidance in this Circular, that treaty’s provisions prevail.

Any problems arising in the course of implementation should be reported to the Ministry of Finance (the General Department of Taxation) for study and solution.

For the Minister of Finance  
Vice Minister  
*NGUYEN CONG NGHIEP*