

**CIRCULAR NO. 62/2009/TT-BTC OF MARCH 27, 2009,  
AMENDING AND SUPPLEMENTING THE MINISTRY OF  
FINANCE’S CIRCULAR NO. 84/2008/TT-BTC OF  
SEPTEMBER 30, 2008, GUIDING A NUMBER OF  
ARTICLES OF THE LAW ON PERSONAL INCOME TAX  
AND GUIDING 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**

THE MINISTRY OF FINANCE

*Pursuant to the Law on Personal Income Tax and the Government’s Decree No. 100/2008/ND-CP of September 8, 2008, detailing a number of articles of the Law on Personal Income Tax;*

*Pursuant to the Government’s Decree No. 118/2008/ND-CP of November 27, 2008, defining the functions, tasks, powers and organizational structure of the Ministry of Finance;*

*Based on the Prime Minister’s directing opinions in Official Letters No. 502/VPCP-KTTH of January 20, 2009, and No. 869/VPCP-KTTH of February 12, 2009, on personal income tax guidance;*

*The Ministry of Finance amends and supplements Circular No. 84/2008/TT-BTC of September 30, 2008, guiding a number of articles of the Law on Personal Income Tax and guiding 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 (below referred to as Circular No. 84/2008/TT-BTC) as follows:*

**Article 1.** To supplement Clause 2, Section II, Part A of Circular No. 84/2008/TT-BTC as follows:

**1. To add to Item 2.1.5 the following non-taxable incomes from salaries and wages of resident individuals:**

a/ One-off region transfer allowances for foreigners coming to reside in Vietnam. The deductible allowance level is based on labor contracts or agreements between employers and employees.

b/ Round trip air fares paid once a year by employers for their foreign employees who are on annual leave. Bases for determining the fares are

labor contracts and air fare rates on air tickets from Vietnam to countries of which these employees are nationals or where their families reside, and back.

c/ Schooling fees or tuitions for foreigners' children studying in Vietnam at general education schools paid by employers for their employees, which are determined based on labor contracts and school fee or tuition receipts.

## **2. To specifically guide Item 2.1.5 as follows:**

Other benefits enjoyable by employees shall be accounted as taxable incomes only when beneficiaries are specified. These benefits will not be accounted as personal taxable incomes when beneficiaries are unspecified. Following are some specific cases:

a/ House rents paid by employers for their employees: These rents shall be accounted as taxable incomes according to actually paid amounts but must not exceed 15% of total taxable incomes (exclusive of house rents).

b/ Expenses for vehicles transporting employees to and from working places will not be accounted as taxable incomes of employees. For vehicles transporting separate individuals, expenses therefor shall be accounted as taxable incomes of these individuals.

c/ For membership fees for golf courses; tennis courts; cultural, art or sports and physical training clubs, if membership cards specify the names of their holders, either individuals or groups of individuals, these fees shall be accounted as taxable incomes of cardholders. For common-use cards without specific names of any individuals or groups of individuals, these fees will not be accounted as taxable incomes.

d/ Charges for other services for individuals in healthcare, entertainment, sports, recreation and beauty care activities, if users of these services are specified, shall be accounted as taxable incomes of these individuals. If individual users of these services are not specified and service charges are paid commonly for labor collectives, these charges will not be accounted as taxable incomes.

e/ Expenses paid by employers for their employees for skills training courses relevant to employees' professions or under employers' plans will not be accounted as incomes of employees. Expenses for training courses neither relevant to employees' professional skills nor included in employers' plans shall be accounted as taxable incomes of employees.

f/ Mid-shift meal allowance will not be accounted as a taxable income of employees if employers directly cater mid-shift meals for their employees.

In case income payers do not directly cater mid-shift meals but pay to their employees a mid-shift meal allowance at the level guided by the Ministry

of Labor, War Invalids and Social Affairs, such allowance will not be accounted as a taxable income of employees. In case income payers pay the allowance at a level higher than that guided by the Ministry of Labor, War Invalids and Social Affairs, the excessive allowance amount shall be accounted as a taxable income of employees.

Specific allowance levels applicable to state enterprises and licensed business organizations and units of administrative non-business agencies, Party organizations, mass organizations and associations must not exceed the level specified by the Ministry of Labor, War Invalids and Social Affairs. For non-state enterprises and other organizations, applicable allowance levels may be decided by their heads after reaching agreement with trade union leaders but must not exceed that applicable to state enterprises.

g/ Presumptive expenditures for stationery, working mission allowances, telephone charges and working outfits shall not be accounted as taxable incomes if they are compliant with the State's current regulations. Following are presumptive expenditure limits applicable to some specific cases:

- For cadres, civil servants and persons working in non-business and administrative agencies, Party organizations, mass organizations and associations: Applicable presumptive expenditure limits must comply with the guidance of the Ministry of Finance.
- For laborers working in business organizations and representative offices: Applicable presumptive expenditure limits must comply with levels for determining incomes liable to enterprise income tax under documents guiding the implementation of the Enterprise Income Tax.
- For laborers working in international organizations and representative offices of foreign organizations: Presumptive expenditure limits must comply with regulations of these organizations and representative offices.

**3. To add to Point 2.2 the following allowances deductible upon determination of taxable incomes from salaries and wages:**

For working domains, professions and occupations which are eligible for allowances as prescribed by the State, these allowances will not be accounted as taxable incomes.

**Article 2.** To additionally guide Point 3.1, Clause 3, Section I, Part B of Circular No. 84/2008/TT-BTC on family circumstance-based reductions as follows:

**1. To additionally guide Item 3.1.4 as follows:**

1.1. In case taxpayers have step mothers or fathers who are beyond the working age or who are of the working age under law but disabled and incapable of working, earn no income or earn an average monthly income of VND 500,000 or less from all income sources, these persons will be treated as taxpayers' dependants for reduction.

1.2. Persons treated as taxpayers' dependants under the guidance of Point 1.1 above and Items 3.1.4 and 3.1.5, Clause 3, Section I, Part B of Circular No. 84/2008/TT-BTC (except for dependants being children) are specified as follows:

- Persons of the working age must fully satisfy the following conditions to be treated as dependants:

+ Being disabled and incapable of working;

+ Earning no income or an average monthly income of VND 500,000 or less from all income sources.

- Persons beyond the working age and earning no income or an average monthly income of VND 500,000 or less from all income sources will be treated as dependants.

- Dependants being grandparents; blood uncles and aunts; blood siblings; blood nephews and nieces and other individuals must also satisfy the condition that they are helpless and directly nurtured by taxpayers.

## **2. To additionally guide Item 3.1.7 as follows:**

2.1. A dossier for a dependant being a step mother or father comprises a copy of the birth certificate of the taxpayer and a copy of the marriage certificate to prove that the dependant is the step mother or father of the taxpayer or other relevant papers certifying the taxpayer's step mother or father.

2.2. Additional guidance on dossiers for dependants being paternal or maternal grandparents, blood uncles or aunts; blood siblings; blood nephews and nieces and other individuals and certification by commune-level People's Committees of dependants being paternal or maternal grandparents, blood uncles or aunts; blood nephews and nieces and other individuals:

a/ In case the dependant is named in the household registration book of the taxpayer, certification by the commune-level People's Committee is not required but only a copy of this household book registration is required.

b/ In case the dependant is not named in the household registration book of the taxpayer but actually lives together with the taxpayer: A copy of the temporary residence registration paper or self-declaration (made according to a form enclosed with this Circular, *not printed herein*) with the

certification by the commune-level People's Committee in the locality where the taxpayer lives with the dependant.

c/ In case the dependant does not live together with the taxpayer but the latter must directly nurture him/her, he/she shall make a self-declaration (according to a form enclosed with this Circular, *not printed herein*) and request the commune-level People's Committee in the locality where the dependant is residing to certify that the dependant is residing in the locality and helpless.

2.3. Additional guidance on certification by commune-level People's Committees in case dependants are disabled and incapable of working:

For disabled people who are incapable of working and obtain no certification of a health establishment, taxpayers shall make self-declarations (according to a set form provided together with this Circular, *not printed herein*) and request commune-level People's Committees in localities where these dependants are residing to certify their specific disabilities, for example: certification of lack of a limb, blindness, suffering from the down syndrome or deformities caused by agent orange.

For dependants infected with diseases which render them incapable of working (AIDS, cancer, chronic kidney failure) with their case histories recorded by district- or higher-level health establishments, only case history copies are required without certification of commune-level People's Committees.

2.4. For employees of economic organizations or non-business administrative agencies whose parents, spouses, children or other persons are eligible for being treated as dependants who have already been declared in these employees' curricula vitae, dossiers to evidence these dependants may be made by either of the following methods as chosen by these employees:

- Method 1: Only the declaration for dependant registration is required to be made according to a form provided together with Circular No. 84/2008/TT-BTC, with the certification by the head of the employing unit on the left side. The head of the employing unit shall take responsibility only for the following details: full name(s) of dependant(s), year(s) of birth and their relations with the taxpayer. Taxpayers shall take responsibility for the accuracy of other details declared by themselves.

In case of a change in dependants, taxpayers may request heads of their employing units to give certification in adjusted declarations.

- Method 2: To comply with the guidance in Item 3.1.7, Point 3.1, Clause 3, Section I, Part B of Circular No. 84/2008/TT-BTC and in this Circular.

**3. To additionally guide Item 3.1.8 as follows:**

In case taxpayers earn incomes from salaries or wages on a regular and stable basis and paid by two or more employers, or earn incomes from both business activities and regular and stable salaries or wages, or earn incomes from regular and stable business activities paid by two or more employers, they may choose places for registration of family circumstance-based reductions, specifically as follows:

- Regarding reduction for taxpayers themselves: A taxpayer may choose to make declaration for reduction for himself/herself at a place where he/she earns incomes, and concurrently notify such to other income-paying units or tax offices (in localities where he/she conducts other business activities) for the latter not to calculate reduction anymore.

- Regarding reduction for dependants: In case a taxpayer has more than one dependant eligible for reduction in a place of earning incomes and reductions for them are larger than his/her incomes earned at this place, the taxpayer may register his/her dependants for whom reductions cannot be given yet at other places of earning incomes for reduction.

**Article 3.** To add a new point (3.3) to Clause 3, Section I, Part B of Circular No. 84/2008/TT-BTC as follows:

Compulsory insurance premiums eligible for deduction when determining taxed incomes are those specified by the Labor Code, the Social Insurance Law and the Health Insurance Law, such as social insurance, health insurance, insurance for professional liability for some professions subject to compulsory insurance and unemployment insurance. Other insurance premiums are ineligible for deduction from taxable incomes.

Insurance premiums eligible for deduction are based on the guidance of the Labor, War Invalids and Social Affairs Ministry. In case individuals pay by themselves these insurance premiums, the deduction levels shall be based on vouchers of insurers and insurance premium percentages under the guidance of the Labor, War Invalids and Social Affairs Ministry.

**Article 4.** To replace the provisions at the 3<sup>rd</sup> em rule, Item 2.2.1 a, Point 2.2, Clause 2, Section II, Part B of Circular No. 84/2008/TT-BTC with the following:

- For unlisted stocks which have not yet been registered for trading at the Securities Trading Center, with their issuing companies having or not having entrusted securities companies to manage shareholder lists, their transfer prices to serve as a basis for tax withholding shall be based on transfer contracts. In case transfer contracts indicate no transfer price, the basis for tax withholding is transfer prices declared by transferors themselves. Individuals who transfer stocks without specifying transfer prices in transfer contracts and declare these prices by themselves shall be

held responsible for the accuracy of declared prices. In case tax offices have grounds for determining that contractual prices or self-declared prices are untruthful, they may assess transfer prices for recalculation of payable tax amounts and concurrently impose fines for tax fraud under the Law on Tax Administration.

**Article 5.** To amend and supplement Item 1.2.7, Clause 1, Section II, Part D of Circular No. 84/2008/TT-BTC as follows:

Organizations and individuals that pay commissions to goods sale agents; salaries, wages, remuneration or other sums of money to individuals performing services of VND 500,000 or more each time or as the total value of commissions or service charges, shall withhold personal income tax before paying incomes to these individuals under the following guidance:

- Withholding tax at the single rate of 10% of paid incomes, except for cases for which the Ministry of Finance has given a written guidance on specific temporary withholding rates (for insurance or lottery agency commission).

- In case individuals acting as goods sale agents (including also insurance or lottery agents) or performing services earn only incomes subject to tax withholding at the above rate but their estimated total taxable incomes after deducting family circumstance-based reductions are not high enough to be taxed (for example, an individual earns an annual income of less than VND 48 million, for single ones, or less than VND 67.2 million, for those with one dependant, or less than VND 86.4 million, for those with two dependants, will be entitled to reduction for full 12 months), these individuals shall make written commitments (according to a form provided together with this Circular, *not printed herein*) and send them to income payers for use as a temporary basis for delay of 10% personal income tax withholding. Based on commitments of income recipients, income payers shall temporarily delay the tax withholding but shall still supply lists of these recipients to tax offices at the end of the year. These individuals shall take responsibility for their commitments. Any frauds in their commitments shall be handled under the Law on Tax Administration.

- For organizations and individuals that employ laborers under seasonal labor contracts of a term of between over 3 months and under 12 months, the tax withholding rate of 10% upon each time of income payment or of the total income will not apply but temporary tax withholding will be made on monthly incomes according to the Partially Progressive Tariff.

**Article 6.** To supplement Point 2.2, Clause 2, Section II, Part D of Circular No. 84/2008/TT-BTC on tax declaration by resident individuals earning incomes from business activities as follows:

1. For house and asset lease:

For individuals who lease houses or assets before 2009, have collected rents for the whole lease term from 2009 onward, and declared and paid enterprise income tax for the whole previously collected rent amount, from January 1, 2009, they may choose either to pay the enterprise income tax at the rate at which they have paid enterprise income tax amounts for their rents collected from 2009 onward or to pay income tax under the Law on Personal Income Tax.

Individuals wishing to have their payable tax amounts recalculated under the Law on Personal Income Tax shall file written requests with tax offices that have collected enterprise income tax on rent turnover. Such a request must clearly state the full names of the lessor and lessee, previously collected rent amount, duration for which the rent has been paid and enterprise income tax amount already paid for the collected rent amount, and be enclosed with the lease contract and receipt of the enterprise income tax amount paid for the rents collected from 2009. Based on the requests of house or asset lessors, lease contracts and enterprise income tax payment receipts, tax offices shall calculate payable personal income tax amounts for rent amounts earned from 2009.

If payable personal income tax amounts are lower than previously paid enterprise income tax amounts, tax offices shall refund overpaid amounts to taxpayers or clear overpaid amounts against payable tax amounts of the subsequent tax period. House or asset lessors may request tax refund or clearing at their own will.

In case prices paid to lessors as stated in lease contracts are exclusive of tax and lessees have paid the whole payable tax amounts on behalf of lessors, tax recalculation under the Law on Personal Income Tax complies with of this Section.

2. Regarding personal income tax reduction for business individuals who pay personal income tax by the presumptive method and have temporarily ceased their business activities:

In case in a year of presumptive taxation, a business individual who ceases his/her business activities for one full month (from the first day to the last day of a month) or longer will be entitled to reduction of one-third of the quarterly payable tax amount. Likewise, if a business individual ceases his/her business activities for two full months or the whole quarter, he/she will be entitled to reduction of two-thirds or the whole of the quarterly payable tax amount, respectively.

Example: Mr. A, a business individual, has a payable presumptive tax amount of VND 12 million in 2009. In the year, he ceases his business

activities continuously from February 20 to the end of June 20. Mr. A will be considered for tax reduction as follows:

- The number of months of Mr. A's continuous business cessation is three (March, April and May);
- Mr. A's quarterly presumptive tax amount is VND 12 million divided by 4 quarters = VND 3 million.

So, Mr. A's reduced tax amount will be:

- In the first quarter: Mr. A ceases his business activities continuously for one full month. So, he will be entitled to reduction of one-third of the payable tax amount of the first quarter (VND 1 million).
- In the second quarter: Mr. A ceases his business activities continuously for two full months. So, he will be entitled to reduction of two-thirds of the payable tax amount of the second quarter (VND 2 million).

Individuals who temporarily cease their business activities and eligible for tax reduction shall make dossiers of request for tax reduction. Dossiers of request for tax reduction must comply with the guidance at Point 3, Section II, Part E of the Ministry of Finance's Circular No. 60/2007/TT-BTC of June 14, 2007, guiding a number of articles of the Law on Tax Administration and guiding the Government's Decree No. 85/2007/ND-CP of May 25, 2007, detailing the implementation of a number of articles of the Law on Tax Administration.

Tax offices shall directly examine dossiers of request for tax reduction and issue decisions on tax reduction.

3. To add to Item 2.2.3 the following guidance on tax declaration by business individuals and groups of business individuals that stably pay presumptive tax: In a year of presumptive taxation, if such an individual or group earns an actual business turnover higher than the presumptive turnover, he/she/it shall make, at the end of the year, a declaration for recalculation of the personal income tax amount payable for the whole year.

4. To add the following guidance on tax declaration and payment by individuals conducting mobile business activities (shipment trading):

Individuals conducting mobile business activities shall temporarily pay a personal income tax of 10% of taxable income from each shipment.

Individuals conducting mobile business activities shall temporarily pay personal income tax concurrently with value-added tax upon each shipment.

5. To add the following guidance on tax declaration and payment by business individuals who request issuance of separate invoices:

- Business individuals (except for house or asset lessors) or asset sellers who request tax offices to issue separate invoices shall temporarily pay a personal income tax of 10% of taxable income from the sale of a goods or asset lot.

Business individuals who request tax offices to issue separate invoices shall temporarily pay personal income tax concurrently with value-added tax upon the issuance of separate invoices.

If business individuals who are issued separate invoices request tax refund (or clearing of overpaid tax amounts against payable tax amounts of the subsequent period), they shall make, at the end of the year, tax finalization in order to determine their total taxable incomes, payable tax amounts, paid tax amounts and tax amounts requested to be refunded or cleared against payable tax amounts of the subsequent period.

6. To add the following guidance on tax declaration and payment by a business individual or a group of business individuals that has two or more places of business in different districts, provinces or cities.

A business individual or group of business individuals shall make declaration and temporary payment of personal income tax at the district-level tax department in the locality where he/she/it conducts business activities and make tax finalization for the whole taxable income from business activities with the district-level tax department in the locality where one of his/her/its places of business is located and he/she/it has registered for family circumstance-based reduction.

**Article 7.** To add the following to the end of Clause 2, Section II, Part D of Circular No. 84/2008/TT-BTC on tax declaration by individuals earning incomes from capital investment:

1. For individuals receiving dividends in the form of stocks or bonus stocks:

Individuals receiving dividends in the form of stocks or bonus stocks are not required to pay personal income tax upon receipt of these stocks. When transferring these stocks, individuals shall pay personal income tax for securities transfer and incomes from capital investment.

- Bases for determining payable personal income tax amounts on incomes from capital investment are book values of dividends or actually received stock volumes multiplied (x) by stock par value and the personal income tax rate applicable to incomes from capital investment. In case of transfer of stocks received in substitution for dividends or bonus stocks at a price lower than their par value, personal income tax on incomes from capital investment shall be calculated based on the market price at the time of transfer.

Individuals who transfer stock volumes received as dividends or bonus stocks shall make by themselves declarations (according to a form provided together with this Circular, *not printed herein*) and pay personal income tax thereon at district-level Tax Departments in localities where they reside.

- Bases for determining payable personal income tax amounts for incomes from transfer of stocks received as dividends or bonus stocks are actual prices at the time of transfer and the personal income tax rate for incomes from securities transfer.

In case the actual stock transfer price is lower than the stock par value, personal income tax is not required to be paid on securities transfer activities.

In case the actual stock transfer price is higher than the stock par value, individuals shall pay tax on securities transfer at the rate of 0.1% of the actual transfer price or 20% of the difference between the actual stock transfer price and the par value or the book value of dividends.

- After receiving dividends in the form of stocks or bonus stocks, if individuals wish to transfer stocks of the same type, they shall immediately declare and pay personal income tax on dividends in the form of stocks or bonus stocks. In case the volume of stocks transferred at the first time is smaller than that received as dividends or that of bonus stocks, personal income tax shall be calculated and paid upon subsequent transfers until the received stock volume is wholly transferred.

2. For individuals who are entitled to dividends in cash but do not receive them and wish to record an increase in their investment capital, the personal income tax collection method applicable to dividends received in the form of stocks or bonus stocks applies.

After receiving dividends in cash and record an increase in their investment capital, individuals who withdraw their capital contributions from enterprises or transfer their capital contributions shall immediately declare and pay personal income tax in proportion to the received bonus stocks. In case the value of capital contributions withdrawn from enterprises or transferred at the first time is lower than that of received dividends, personal income tax shall be declared and paid upon subsequent capital withdrawals or transfers until the capital is wholly withdrawn or transferred.

**Article 8.** To supplement and amend Point 2.8, Clause 2, Section II, Part D of Circular No. 84/2008/TT-BTC:

The guidance at Point 2.8, Clause 2, Section II, Part D of Circular No. 84/2008/TT-BTC is as follows: “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 incomes of under VND 10 million from inheritances or gifts.”

The above guidance is amended as follows: “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 incomes of under VND 10 million from inheritances or gifts or are exempt from tax, tax offices shall give certification in declarations.”

**Article 9.** Replacement of the tax return form for transfer of real estate or receipt of inheritance or gifts being real estate

To provide the new personal income tax return form applicable to individuals who earn incomes from real estate transfer or receipt of real estate inheritance or gifts (Form No. 11/KK-TNCN enclosed with this Circular, *not printed herein*) to replace Form No. 11/KK-TNCN provided together with Circular No. 84/2008/TT-BTC.

**Article 10.** To add the following provision on the deadline for payment of tax on transfer of real estate, receipt of inheritance or gifts or transfer of capital contributions

The deadline for payment of personal income tax on transfer of real estate, receipt of inheritance or gifts, transfer of capital contributions or investment of capital (in case of direct tax declaration to tax offices) is the date stated in tax payment notices of tax offices, which must not be later than the 30<sup>th</sup> day from the date of receipt of tax notices.

**Article 11.** To add the following provision on personal income tax reduction for employees in economic zones

Under Clause 3, Article 34 of the Law on Personal Income Tax, individuals entitled to income tax incentives specified in legal documents issued before the effective date of the Law on Personal Income Tax will continue enjoying such incentives.

Pursuant to the above provision, all individuals being Vietnamese or foreigners working in economic zones from the effective date of the Government’s Decree No. 29/2008/ND-CP of March 14, 2008, and after January 1, 2009, will be entitled to 50% reduction of personal income tax.

**Article 12.** Organization of implementation

This Circular takes effect 45 days from the date of its signing and applies to incomes earned from January 1, 2009. To annul all guidance on personal income tax in Circular No. 84/2008/TT-BTC of September 30, 2008, and other documents of the Ministry of Finance which is contrary to this Circular’s guidance.

Any problems arising in the course of implementation should be reported to the Ministry of Finance for timely settlement.

For the Minister of Finance  
*Vice Minister*  
*DO HOANG ANH TUAN*