

**CIRCULAR 129-2008-TT-BTC**

**VALUE ADDED TAX**

**DATED 26 DECEMBER 2008**

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Hanoi, 26 December 2008

**CIRCULAR  
ON  
VALUE ADDED TAX**

**Providing guidelines for implementation of a Number of Articles  
of the *Law on Value Added Tax* and Decree 123-2008-ND-CP  
of the Government dated 8 December 2008 Making Detailed Provisions  
and Guidelines for Implementation of a Number of Articles of  
the *Law on Value Added Tax***

Pursuant to the *Law on Value Added Tax (VAT)* 13-1998-QH12 dated 3 June 1998;

Pursuant to the *Law on Management of Tax* 78-2006-QH11 dated 29 November 2006;

Pursuant to Decree 123-2008-ND-CP of the Government dated 8 December 2008 making detailed provisions and guidelines for implementation of a number of articles of the *Law on Value Added Tax*;

Pursuant to Decree 118-2008-ND-CP of the Government dated 27 November 2008 on functions, duties, powers and organizational structure of the Ministry of Finance;

The Ministry of Finance hereby provides the following guidelines on value added tax:

**A. SCOPE OF APPLICATION**

**I. Taxable objects and taxpayers**

**1. Taxable objects**

Goods and services (including goods and services purchased from organizations and individuals overseas) used for the purposes of production, trading and consumption in Vietnam shall be subject to value added tax (VAT), except as provided in Section II of Part A of this Circular.

**2. Taxpayers:**

VAT taxpayers shall be organizations and individuals producing and trading VAT taxable goods and services in Vietnam, irrespective of the line, form or organization of business (hereinafter collectively referred to as *business establishments*) and organizations and individuals importing VAT taxable goods or purchasing VAT taxable services from overseas (hereinafter collectively referred to as *importers*), comprising:

- 2.1 Business organizations established pursuant to and with business registration in accordance with the *Law on Enterprises*, the *Law on State Owned Enterprises* (now the *Law on Enterprises*) and the *Law on Co-operatives*.
- 2.2 Economic organizations of political organizations, socio-political organizations, social organizations, socio-professional organizations, units of the people's armed forces, professional organizations and other organizations.
- 2.3 Enterprises with foreign owned capital and foreign parties to business co-operation contracts under the *Law on Foreign Investment in Vietnam* (now the *Law on Investment*); and foreign organizations and individuals conducting business in Vietnam but which have not established a legal entity in Vietnam.
- 2.4 Individuals, family households, independent groups of persons conducting business, and other business entities conducting production, trading or import activities
- 2.5 Organizations and individuals conducting production and business in Vietnam and purchasing services (including services attached to goods) from foreign organizations without a permanent establishment in Vietnam or a foreign individual being a non-resident in Vietnam.

## II. Objects Not Subject to VAT

- 1 Products of cultivation (including forestry cultivation), husbandry, aquaculture or fishing which have not yet been processed into other products or which have only been semi-processed by organizations or individuals producing, catching and selling products at the import stage.  
  
Products which have been semi-processed are products which only have been cleaned, sun-dried, shelled, stoned, cut, sliced, salted or frozen and are preserved in other normal ways.  
  
*Example 1:* sun-drying, drying, shelling, stoning or cutting and slicing cultivated products; or cleaning, sun-drying, drying, salting or freezing products of aquaculture or fishing.
2. Products being domestic animal breeding stock and plant varieties, including breeding eggs, young animals, seedlings, seeds, sperm, embryos and genetic materials at the stages of rearing, importation and commercial trading. Products being domestic animal breeding stock and plant varieties which are not subject to VAT means products imported or commercially traded by establishments which possess a business registration certificate for domestic animal breeding stock and plant varieties issued by the State administrative body. With respect to products being domestic animal breeding stock and plant varieties which are subject to State regulations on standards, their quality must satisfy the conditions stipulated by the State.
3. Water supply and drainage; ploughing and harrowing of land; embanking, dredging of interior canals of fields servicing agricultural production; services for harvesting agricultural products.
4. Salt products produced from seawater or natural salt mines, table salt and iodine salt the main ingredient of which has the chemical formula being NaCl.
5. State owned residential houses sold by the State to existing tenants.
6. Transfer of land use rights.

7. Life insurance including health insurance and accident insurance included in a life insurance package; student insurance and personal insurance services such as marine crew accident insurance and personal accident insurance (including accident insurance, life cover and combined cover of life insurance and hospitalization expenses), accident insurance covering passengers, tourists, automobile drivers, driver assistants and travellers; insurance cover for hospitalization and surgical expenses; vasectomy insurance; other types of personal insurance; livestock insurance, crop insurance and other types of agricultural insurance services; reinsurance.
8. Financial services:
  - (a) Services for providing credit in the following ways comprising: lending; discounting and re-discounting negotiable instruments and other valuable papers; providing guarantees; finance leasing and other ways of providing credit in accordance with law provided by credit or financial institutions in Vietnam.
  - (b) Securities trading comprising securities brokerage, securities self-trading, securities underwriting, securities investment consultancy, securities depository, securities investment fund management; portfolio management, services for market organization provided by exchanges or securities trading centres, other trading activities pursuant to the law on securities.  
  
 Services for market organizations provided by exchanges or securities trading centres comprising approval for listing, listing management, trading management, management of trading members, provision of information relating to listing or trading management and other relevant services.
  - (c) Capital transfer comprising transfer of all or part of invested capital, including sale of an enterprise to another enterprise for the purpose of production or business, transfer of securities and other forms of capital transfer pursuant to law.
  - (d) Derivative financial services comprising swaps in rates of interest, forward contracts, futures contracts; foreign currency options and other derivative financial services pursuant to law.
9. Medical or veterinary services, comprising examination and treatment services, disease prevention for people and domestic animals, family planning services, convalescence and rehabilitation services. Medical services including transport of patients, services for leasing out hospital rooms or beds by medical establishments; tests, X-rays, imaging, blood and blood preparations used for patients.
10. Public postal or telecommunications services and internet services universalized pursuant to the program of the Government; postal or telecommunications services provided from abroad into Vietnam (incoming).
11. Public hygiene services and water drainage in urban areas; maintenance of zoos, public gardens, parks, green trees in streets and public lighting services; funeral services. The services specified in this paragraph are irrespective of the funding for payment of costs, in particular:
  - (a) Public hygiene services and water drainage in urban areas shall include collecting, cleaning and treating garbage and waste; drainage and waste water treatment. Where a business establishment provides hygiene or drainage services such as cleaning offices of organizations or individuals, such services shall be subject to VAT.

- (b) Maintenance of zoos, public gardens, parks and green trees in streets shall include the management, care and protection of birds and animals and the planting of trees in parks, zoos, public areas and national parks.
  - (c) Public lighting services shall include lighting in streets, side-streets and alleys in residential areas, public gardens and parks.
  - (d) Funeral services of establishments with the function of provision of funeral services shall include services relating to the renting of funeral homes and hearses serving funerals; cremation, burial and exhumation.
12. Maintenance, repair and construction of cultural and artistic works, public works, infrastructure and housing for persons entitled to social policies funded by public contribution and humanitarian aid.

Where a source of capital other than public contribution (including capital contributed or funded by organizations or individuals) or humanitarian aid is used but such other source of capital does not exceed fifty (50) per cent of the total capital expended for the work, the whole value of the work shall not be taxable.

Persons entitled to social policies shall comprise people who have rendered services to the country as stipulated by the law on people who have rendered services to the country; people entitled to social support by way of receiving a subsidy from the State budget; people of poor households or households close to poverty and other cases as stipulated by law.

13. Education and vocational training pursuant to law including training in foreign languages, informatics, training in dancing, singing, painting, music, drama, circus, sports and physical education, child care and other vocational training aimed at improving academic, professional and occupational knowledge.

Where educational establishments from the pre-school education level to the secondary school level charge food expenses, such food expenses shall not be taxable.

14. Radio and television broadcasting according to programs funded by the State Budget.
15. Publication, importation and distribution of newspapers, magazines and specialized newsletters, political books, textbooks, teaching materials, books of legislation, technical or scientific books, books printed in languages of ethnic minorities, and pictures, photos, posters, leaflets and brochures for propaganda purposes, including in the form of visual or audio tapes, tapes and electronic databases; and printing of money.

Newspapers, magazines and specialized newsletters, including transmission activities of pages of newspapers, magazines and specialized newsletters.

Political books being propaganda books about the political orientation of the Party and the State, which by virtue of their special subject-matter and themes serve political tasks or which service anniversaries and traditional days of organizations and of all levels, branches and localities; all types of statistical books which disseminate information about good people and good deeds; and books which print the speeches and theoretical studies of the leaders of the Party and of the State.

Textbooks (also in the form of visual or audio disks, tapes and electronic databases) being books used by teachers and used for study in all schools from pre-primary to secondary (including reference books used for teachers and students in conformity with the contents of educational programs).

Teaching materials being books used by teachers and used for study in all universities, colleges, vocational and specialist schools.

Books of legislation being books printing legal instruments of the State.

Technical or scientific books being books to be used for introduction and guidance on scientific and technical knowledge relating directly to production and scientific or technical branches.

Books printed in languages of ethnic minorities including bilingual books printed in commonly used languages as well as in languages of ethnic minorities.

Pictures, photos, posters, leaflets and brochures for propaganda purposes; slogans and pictures of leaders; the Party flag, the National flag, the flag of the Youth League and the flag of the Young Pioneers League.

Visual and audio videos, disks and tapes with contents of any of the books stipulated in this clause.

16. Public passenger transportation by bus or electrical vehicle means public passenger transportation by bus or electrical vehicle along routes within a province or urban area and routes to neighbouring provinces pursuant to regulations of the Ministry of Transportation and Communication.
17. Goods which are not yet able to be produced domestically and imported in the following cases:
  - (a) Machinery, equipment or specialized materials which are imported for direct use in scientific research and technological development activities;
  - (b) Machinery, equipment, replacement accessories, specialized means of transportation and materials required to carry out prospecting, exploration and development of gas or oil fields;
  - (c) Aircraft (including aircraft engines), drilling platforms and watercraft imported to form fixed assets of enterprises or leased from foreign parties for use for production, business or for lease.

Importers must present the documents pursuant to guidelines of the Ministry of Finance in relation to customs formalities; customs check and supervision; and import and export duties and tax management in respect of imported or exported goods to the customs office in order to determine whether VAT is payable on goods referred to in this clause at the stage of importation.

The Ministry of Planning and Investment shall issue a list of machinery, equipment and materials which have been produced domestically as a basis for distinguishing those which are not yet able to be produced domestically and are required to be imported for direct use in scientific research and technological development activities; a list of machinery, equipment, replacement accessories, specialized means of transportation and materials which have been produced domestically as a basis for distinguishing those which are not yet able to be produced domestically and are required to be imported to carry out prospecting, exploration and development of gas or oil fields; and a list of aircraft, drilling platforms and watercraft which have been produced domestically as a basis for distinguishing those which are not yet able to be produced domestically and are required to be imported to form fixed assets of enterprises or leased from foreign parties for use for production, business or leasing out.

18. Specialized arms and weaponry required for national defence and security:

- (a) Specialized arms and weaponry required for national defence and security not subject to VAT pursuant to the guidelines provided in this paragraph shall be subject to the list of specialized arms and weaponry required for national defence and security issued by the Ministry of Finance after agreement with the Ministry of National Defence and the Ministry of Public Security.

Arms and weaponry not subject to VAT pursuant to the guidelines provided in this paragraph must be complete products, synchronous items or sections, component parts, and specialized packaging for assembly and preservation of complete products. Repairs of specialized arms and weaponry required for national defence and security must be carried out by enterprises under the Ministry of Defence or the Ministry of Public Security in order to qualify as not subject to VAT.

- (b) Specialized arms and weaponry (including materials, machinery, equipment and replacement accessories) required for national defence and security, whether imported as import duty exempt under the *Law on Export and Import Duties* or whether imported under the annual quota approved by the Prime Minister of the Government, shall not be subject to VAT.

Documents and procedures applicable to imported arms and weaponry not subject to VAT at the stage of importation shall be subject to guidelines of the Ministry of Finance in relation to customs formalities; customs check and supervision; import and export duties and tax management of imported and exported goods.

19. Imported goods and goods or services to be sold to organizations and individuals for humanitarian aid or non-refundable aid in the following cases:

- (a) Imported goods in the case of humanitarian aid or non-refundable aid requiring certification from the Ministry of Finance.
- (b) Gifts and donations to State bodies, political organizations, socio-political organizations, socio-professional-occupational organizations, social organizations, socio-occupational organizations and units of the people's armed forces pursuant to the law on gifts and donations;
- (c) Gifts and donations to individuals in Vietnam pursuant to the law on gifts and donations;
- (d) Personal effects of foreign organizations and individuals within limits under diplomatic immunity pursuant to the law on diplomatic immunity; and goods being personal effects of Vietnamese residing overseas accompanying them upon return to Vietnam.
- (dd) Hand-luggage within duty-free limits;

The limits for imported goods not subject to VAT at the stage of importation shall follow the limits for import duty exemption stipulated in the *Law on Export and Import Duties* and guidelines on its implementation.

Imported goods of organizations and individuals entitled to diplomatic immunity in accordance with the *Ordinance on Diplomatic Immunity* shall be exempt from VAT. In the case of purchase of VAT taxable goods or services in Vietnam, VAT shall be refunded in accordance with the guidelines in clause 7 of Part C of this Circular. Taxpayers, goods, documents and procedures for VAT exemption referred to in this paragraph shall be subject to guidelines of

the Ministry of Finance for VAT refund applicable to diplomatic representative offices, consulates and representative offices of international organizations in Vietnam.

Documents and procedures applicable to imported goods not subject to VAT at the stage of importation shall be subject to guidelines of the Ministry of Finance on customs formalities; customs check and supervision; import and export duties and tax management of imported and exported goods.

- (e) Goods or services sold to foreign organizations, foreigners and international organizations for humanitarian aid or non-refundable aid for Vietnam.

Procedures for international organizations and foreigners to purchase goods or services in Vietnam for humanitarian or non-refundable aid for Vietnam to be exempt from VAT: International organizations and foreigners must forward a letter to the seller stating clearly their names as purchasers of goods or services for humanitarian aid or non-refundable aid for Vietnam and the quantity or value of goods purchased; and have certification from the Ministry of Finance regarding such aid.

Upon sale, a business establishment must prepare an invoice in accordance with Section IV of Part B of this Circular, specifying that the goods are being sold to a foreign organization or individual for humanitarian aid or non-refundable aid, must not include VAT, and must retain the letter from the international organization or Vietnamese representative office in order to provide the basis for tax declaration.

20. Goods in transit or trans-shipment via the territory of Vietnam; goods temporarily imported and re-exported and goods temporarily exported and re-imported; and raw materials imported for production or processing of goods for export in accordance with production or processing contracts for export signed with foreign parties.

Goods and services purchased between foreign parties and non-tariff zones and between different non-tariff zones.

Non-tariff zones comprise export processing zones, export processing enterprises, bonded warehouse, bonded zones, customs bond warehouses, special commercial-economic zones, commercial-industrial zones and other economic areas established and entitled to tax preferences as a non-tariff zone under decisions of the Prime Minister of the Government. The relationship of exchanging or purchasing and selling goods as between these zones and foreign parties is an import/export relationship.

Documents and procedures for determining and dealing with exemption from VAT in these cases shall be subject to guidelines of the Ministry of Finance on customs formalities; customs checks and supervision; import and export duties and tax management of imported and exported goods.

21. Technology transfers pursuant to the *Law on Technology Transfers*; and intellectual property transfers pursuant to the *Law on Intellectual Property*. In the case of contracts for technology transfer or intellectual property transfer accompanied by a transfer of machinery and equipment, only the value of the transferred technology or intellectual property shall not be subject to VAT; where such value cannot be separated, the value of technology or intellectual property transferred with machinery and equipment shall also be subject to VAT.

Computer software shall include software products and software services as stipulated by law.

22. Gold imported in bars and foils and gold which is not yet processed into fine art articles, jewellery or other products.

Gold in bars and foils and unprocessed gold shall be determined in accordance with the law on management and trading of gold.

23. Exported products being unprocessed minerals or natural resources.

Unprocessed minerals or natural resources means minerals or natural resources which are not yet processed into other products, including minerals which have been screened or enriched or natural resources which have been through the stage of cutting or splitting.

24. Products being prosthetics including products being parts for permanent transplantation in the human body; crutches, wheelchairs and other specialized apparatus used for disabled people.

25. Goods and services of business individuals with average monthly income levels lower than the minimum wage applicable in general to domestic organizations and enterprises pursuant to Government regulations on regional minimum wages for employees working for companies, collectives, collective groups, farms, family households, individuals and other organizations of Vietnam hiring employees.

26. The following goods and services:

- (a) Duty-free goods sold at duty-free shops pursuant to regulations of the Prime Minister of the Government.
- (b) National reserves goods sold by the National Reserves Office.
- (c) Operations subject to collection of fees and charges in accordance with the law on fees and charges.
- (d) Search and destruction of bombs and mines conducted by national defence units in respect of works funded by capital from the State budget.

In the case of goods not subject to VAT at the state of importation as stipulated but the use purpose of which is changed, VAT must be declared and paid at the stage of importation to the customs office at which the customs declaration was registered, as stipulated. The date of calculation of VAT shall be the date of change of the use purpose. Organizations or individuals selling goods in the domestic market must make a declaration and VAT payment to the tax office directly managing them in accordance with regulations.

## **B. BASES FOR AND METHODS OF TAX CALCULATION**

The bases for calculation of VAT are taxable prices and tax rates.

### **I. Taxable Price**

1. Taxable prices of goods and services shall be specifically determined as follows:
- 1.1 In respect of goods and services sold by production or business establishments, the sale price excluding VAT. In respect of goods and services subject to special sales tax, the VAT taxable price shall be the sale price including special sales tax but excluding VAT.

Prices used for calculation of VAT on all types of goods and services shall also include additional levies and supplementary fees on top of the price of the goods and services which the business establishment is entitled to, except for additional levies and supplementary fees which the latter must pay to the State Budget. Where a business establishment applies a form of reduction or commercial discount to the sale price (if any) for its customers, VAT taxable price shall be the reduced or discounted sale price applicable to customers.

- 1.2. In respect of imported goods, the imported price at the bordergate plus (+) import duties (if any) plus (+) special sales tax (if any). The imported price at the bordergate shall be determined in accordance with the provisions on dutiable prices of imported goods.

Where imported goods are entitled to exemption from or reduction of import duties, the VAT taxable price shall be the price of the imported goods plus (+) import duties calculated at the rate of duty payable after the exemption or reduction.

- 1.3 In respect of goods and services used for the purposes of exchange, internal consumption, gift or donation, or paid instead of wages of employees, the VAT taxable price shall be the taxable price of goods or services of the same or equivalent category at the time of such use or activity as mentioned above.

Goods and services used for the purposes of internal consumption are goods and services circulated or supplied for consumption by the business establishment, excluding goods and services used in order to continue the production or business process.

VAT shall not be calculated or payable on goods circulated internally such as goods produced for transfer into an internal warehouse or materials and semi-finished products produced in order to continue the process of production within the same production or business establishment.

*Example 2:* Establishment A manufactures electrical fans and installs 50 fans in its workshops, and the sale price (before VAT) of such fans is VND 1,000,000 per fan. The output VAT payable in respect of the internally consumed fans shall be VND 1,000,000/fan x 50 fans x 10% = VND 5,000,000.

*Example 3:* Garment Establishment B has a thread workshop and a sewing workshop. Where establishment B circulates finished thread from the thread workshop to the sewing workshop in order to continue the process of production, VAT shall not be calculated or payable in respect of thread circulated to the sewing workshop.

*Example 4:* Production Establishment C carries out both production of animal feed and direct rearing of livestock. A part of feed which is produced for sale shall be subject to VAT. In the case of that part of feed used for rearing of livestock, VAT shall not be calculated or payable in respect of the amount of feed used by Establishment C for rearing of livestock. Deductible input VAT on [the feed] used for rearing livestock shall be allocated in accordance with the proportion of sales of feed over the aggregate sales of feed and livestock.

- 1.4 In respect of leasing activities of property such as houses, offices, factories, warehouses, bus or landing stations, grounds, means of transportation, machinery and equipment and so forth, the VAT taxable price shall be the rent excluding VAT.

In the case of leases for which rent is paid in instalments or paid in advance for a period of the lease, VAT taxable price shall be the amount of rent paid in each instalment or paid in advance excluding VAT.

In the case of lease of machinery, equipment or means of transportation from a foreign lessor for sub-lease, which machinery and so forth is not yet able to be produced domestically, the taxable price shall exclude rent payable to the foreign lessor.

Rent for assets shall be as agreed between the parties in a contract. Where the framework of rent is stipulated by law, rent shall be determined within such framework.

- 1.5 In respect of goods sold by instalment payments or deferred payment, the taxable price shall be the lump sum price of the goods excluding VAT on one occasion excluding interest on instalments or deferred payment.

Example 5: If a motor dealer supplies 100cc Honda motorcycles at the price payable by instalments excluding VAT of VND 25.5 million per bike (comprising the sale price being VND 25 million and interest on instalments being VND 0.5 million), the VAT taxable price shall be VND 25 million.

- 1.6 In respect of goods processing, the VAT taxable price shall be the processing price pursuant to the processing contract, excluding VAT but including charges for labour, expenses of fuel, power, auxiliary materials and other expenses required for goods processing.

- 1.7 In respect of construction and installation, the VAT taxable price shall be the value of works or item of works or part of works performed and delivered, excluding VAT:

1.7.1 In respect of construction and installation in which the supply of raw materials is included in the contract, the VAT taxable price shall include the VAT-exclusive value of such raw materials.

Example 6: Where Construction Company B is awarded a construction contract which includes the value of the raw material, the total payment price without VAT being VND 1,500 million of which the value of construction materials is VND 1,000 million, the VAT taxable price shall be VND 1,500 million.

1.7.2 In respect of construction and installation in which the supply of raw materials is not included in the contract, the VAT taxable price shall be the value of the construction and installation not including the VAT-exclusive value of the raw materials.

Example 7: Where Construction Company B is awarded a construction contract which excludes the value of construction materials and the total value of the works without VAT is VND 1,500 billion of which the value of construction materials supplied by the Owner A is VND 1,000 million, then in this case the VAT taxable price shall be VND 500 million (VND 1,500 million minus (-) VND 1,000 million).

1.7.3 In respect of construction and installation for which payment is made on the basis of delivery of completed items or the value of a quantity of completed works of construction or installation, the VAT taxable price shall be based on the value of items completed and delivered or the value of the quantity of works completed and delivered without VAT.

Example 8: Textile Company X (Party A) engages Construction Company Y (Party B) to carry out expansion of a production workshop.

The total cost of the project before VAT is VND 200 billion, comprising:

- Value of construction, 80 billion;
- Value of equipment provided and installed by Party B, 120 billion;
- 10% VAT:  $(80 + 120) \times 10\% = 20$  billion;
- Total payable by Party A is 220 billion.
- When the workshop is completed and delivered to Party A, Party A shall credit the value of fixed assets for depreciation purposes at 200 billion (value without VAT).
- The amount of VAT of 20 billion may be declared and deducted from output VAT on goods sold, or else a request for a refund may be made in accordance with regulations.

If Party A accepts and takes delivery and agrees to pay Party B for each item of works completed (assuming that the value of works of construction and instalment being VND 80 billion is accepted, delivered and agreed for first payment), then the VAT taxable price shall be VND 80 billion.

- 1.8 In respect of real estate business activities, the VAT taxable price shall be the price for transfer of real estate minus (-) the actual price of the land (or the rent for the land) at the date of transfer. Where the price of the land at the date of transfer declared by the taxpayer is not a sufficient basis in order to determine a reasonable VAT taxable price pursuant to law, the deductible price of the land shall be the price of the land (or the rent for the land) stipulated by the people's committee of a province or city under central authority at the date of transfer of real estate. The maximum deductible price of the land used for determination of a VAT taxable price shall not exceed the amount of money collected from the client.

In the case of construction and commercial operation of infrastructure facilities or construction of housing for sale or transfer with payments in accordance with the schedule of implementation of a project or schedule of payments stated in a contract, the deductible price of the land shall be the actual price of the land at the date of the first payment pursuant to the schedule. The deductible price of the land shall be calculated at a percentage (%) amount of money collected in accordance with the schedule of implementation of the project or schedule of payments stated in the contract over the actual price of the land at the date of transfer (the date of first payment pursuant to the schedule).

*Example 9:* The State allocates 10,000 m<sup>2</sup> of land to Housing Development and Investment Company A for construction of housing for sale. The Company sells one house with an area of land being 100 m<sup>2</sup> and the sale price of the house and of transfer of land use right, excluding VAT is VND 2 billion (of which the price of the house including infrastructure is 1.2 billion and the price of transfer of land use right as declared by the Company is 8 billion per square metre).

The tax office directly responsible for management determines that the price declared by the Company is not a sufficient basis to determine a reasonable VAT taxable price pursuant to law.

At the date of transfer, the price of the land stipulated by the people's committee is VND 6 billion per square metre, so the VAT taxable price in respect of the aforesaid house shall be:

$\text{VND 2 billion} - (\text{VND 6 million} \times 100 \text{ m}^2) = \text{VND 1.4 billion}.$

Output VAT shall be  $\text{VND 1.4 billion} \times 10\% = \text{VND 140 million}.$

Example 10: Real Estate Business Company C sells a villa. The price stated in the transfer contract is VND 8 billion comprising the sale price of the house being VND 5 billion and the price of the land being VND 3 billion. Company C collects payments pursuant to the schedule of implementation of the project. The client must make payment by three instalments. The first instalment is for 30% of the contractual price (equivalent to VND 2.4 billion), the second instalment is for 50% of the contractual price (equivalent to VND 4 billion) and the third instalment is for the remaining amount of VND 1.6 billion. The VAT taxable price for each instalment shall be as follows:

VAT taxable price for the first instalment shall be:

$$\text{VND 2.4 billion} - 30\% \times \text{VND 3 billion} = \text{VND 1.5 billion}$$

VAT taxable price for the second instalment shall be:

$$\text{VND 4 billion} - 50\% \times \text{VND 3 billion} = \text{VND 2.5 billion}$$

VAT taxable price for the third instalment shall be:

$$\text{VND 1.6 billion} - 20\% \times \text{VND 3 billion} = \text{VND 1 billion}$$

- In respect of business establishments to which the State allocates land for investment in infrastructure facilities for lease, the VAT taxable price shall be the infrastructure lease rent excluding VAT minus (-) the rent for the land payable to the State budget.

Example 11: The State leases to Industrial Zone Infrastructure Business Investment Company Y 500,000m<sup>2</sup> of land for 50 years to construct technical infrastructure facilities for lease. Land lease rent is VND 300,000 per m<sup>2</sup> per year. After investing in the infrastructure, Company Y leases to Company Z 5,000m<sup>2</sup> of land for 20 years to construct a production workshop, the land lease rent without VAT (excluding the charge of public utilities) is VND 800,000 per m<sup>2</sup> per year. Company Z pays rent for the infrastructure facilities once per year.

The VAT taxable price on the income per year from the infrastructure facilities leased by Company Z from Industrial Zone Infrastructure Business Investment Company Y shall be:

$$(5,000 \text{ m}^2 \times \text{VND } 800,000) - (5,000 \text{ m}^2 \times \text{VND } 300,000) \times 1 \text{ year} = \text{VND } 2,500,000,000.$$

$$\text{VAT shall be: VND } 2,500,000,000 \times 10\% = \text{VND } 250,000,000.$$

- 1.9 In respect of agency activities, broking for purchase or sale of goods and services, and import-export agency for which wages or commission are received, the VAT taxable price shall be the wages or commission receivable from such activities without VAT.
- 1.10 In respect of goods or services which use receipts for payment in which the sale price is stated as VAT inclusive such as stamps, transportation tickets, lottery tickets and so forth, the pre-VAT price shall be determined as follows:

$$\text{Pre-VAT price} = \frac{\text{Payment price (price of ticket or stamp or whatever)}}{1 + \% \text{ of applicable VAT rate for such goods or services.}}$$

- 1.11 In respect of electricity generated by dependent cost accounting hydroelectric plants under Electricity of Vietnam, the VAT taxable price for calculation of an amount of VAT payable in their locality shall be equal to sixty (60) per cent of the average sale price of commercial electricity in the previous year, excluding VAT. Where an average sale price of commercial electricity of the previous year has not yet been determined, a provisional price notified by EVN shall be used but it shall not less than the sale price of commercial electricity of the year immediately preceding year. When an average sale price of commercial electricity of such previous year is determined, a declaration shall be made for adjusting any difference in the period of the declaration for the month in which the official price is available. An average sale price of commercial electricity of the previous year shall be determined no later than 31 March of the subsequent year.
- 1.12 In respect of casino services, electronic games with prizes or entertainment businesses with betting, the VAT taxable price shall be the proceeds from such activities including special sales tax, but excluding amounts of prizes paid to players.

VAT taxable price shall be calculated in accordance with the following formula:

$$\text{VAT taxable price} = \frac{\text{Proceeds}}{1 + \text{tax rate.}}$$

*Example 12:* A business establishment providing casino services has the following data in the tax period:

- Amount earned from exchange of money for chips for players at the cash desk before they play games is VND 43 billion.
- Amount paid back to players upon exchange of chips for money after they played games is VND 10 billion.

The amount actually earned by the business establishment: VND 43 billion – VND 10 billion = VND 33 billion

The amount of VND 33 billion is turnover of the business establishment, including VAT and SST.

The VAT taxable price shall be calculated as follows:

$$\text{VAT taxable price} = \frac{\text{VND 33 billion}}{1 + 10\%} = \text{VND 30 billion.}$$

- 1.13 In respect of transportation and loading and unloading activities, the VAT taxable price shall be the transportation, loading and unloading charges before VAT, irrespective of whether the establishment directly carries out or sub-contracts out the transportation, loading and unloading.
- 1.14 In respect of tourism services in the form of travel or tour package contracts (including accommodation, travel and meals) the tax-inclusive price shall be determined as the package contract price.

Where the package contract price includes items such as airfares for tourists from other countries to Vietnam and vice versa, meals and accommodation costs and excursion costs in

foreign countries (if there are legal source documents), such costs shall be deducted from the VAT taxable price (turnover).

*Example 13:* Ho Chi Minh Tourism Company performs a package tour contract with Thailand for 50 tourists for 5 days in Vietnam with total payment of USD 32,000. The Vietnamese company pays for all airfares, meals, accommodation and excursion tickets in accordance with the agreed program, and the cost of the return airfares between Thailand and Vietnam is USD 10,000. The exchange rate is VND 17,000 for one US dollar.

The payable VAT price under this contract shall be determined as follows:

+ VAT taxable turnover shall be  $(\text{USD } 32,000 - 10,000) \times \text{VND } 17,000 = \text{VND } 374,000,000$

+ VAT taxable price shall be:  $\frac{\text{VND } 374,000,000}{1 + 10\%} = \text{VND } 340,000,000$

*Example 14:* Hanoi Tourism Company has a contract to take Vietnamese tourists to China at the package price of USD 400/per person for 5 days. If Hanoi Tourism Company pays the Chinese Tourism Company USD 300/per person, the taxable turnover of Hanoi Tourism Company shall be USD 100/per person (USD 400 - USD 300).

- 1.15 In respect of pawnbroking services, the taxable price shall be the amount receivable from this service, comprising interest receivable from providing loans when pawning and the difference earned from selling pawned goods (if any).

Turnover from such services shall be determined as VAT-inclusive price.

*Example 15:* A Pawnbroking Company has turnover from pawnbroking of VND 110 million in the tax period.

+ VAT taxable price shall be calculated as follows:

$$\frac{\text{VND } 110 \text{ million}}{1 + 10\%} = \text{VND } 100 \text{ million}$$

- 1.16 In respect of books subject to VAT sold at the published price (cover price) in accordance with the *Law on Publishing*, the sale price shall be the VAT-inclusive price for the purpose of calculation of VAT and turnover of the establishment. Where books are not sold at the cover price, VAT shall be calculated on the basis of the sale price.
- 1.17 In respect of printing services, the VAT taxable price shall be the printing wages. Where the printing establishment performs printing contracts and the payment price includes the printing wages and the costs of the paper used for printing, the VAT taxable price shall include the costs of the paper.
- 1.18 In respect of services of an assessment agency, agency of assessment for compensation and agency for third party claims or agency for dealing with goods for which a claim for compensation of 100% is made, and for which wages or commission are received, the VAT taxable price shall be the wages or commission entitlement (including any items of costs) receivable by the insurance business establishment, excluding VAT.

VAT taxable prices shall be determined in Vietnamese Dong. Where a taxpayer has turnover in foreign currency, there must be a conversion of such foreign currency into Vietnamese dong at the average inter-bank rate published by the State Bank of Vietnam at the time when the turnover arises, for the purpose of determining a VAT payable price.

2. The time for determination of VAT shall be:

- In the case of sale of goods, the time of transfer of ownership or right to use the goods to the purchaser, irrespective of whether money was received.
- In the case of provision of services, the time of completion of the provision of services or the time of billing for provision of services, irrespective of whether money was received.
- In the case of portable water or electricity supply activities, the date on which the reading of consumed electricity or water is recorded for billing.
- In the case of real estate business or construction of infrastructure facilities or housing for sale, transfer or for lease, the date of collection of money pursuant to the schedule of implementation of the project or the schedule for payment specified in the contract. A business establishment shall, on the basis of the amount of money collected, make a declaration of output VAT arising in the relevant period.
- In the case of construction and installation, the time of acceptance and handover of the completed works or items of works or completed volume of construction or installation, irrespective of whether money was received.
- In the case of imported goods, the date of registration of a customs declaration.

## II. VAT Rates

VAT rates applicable to goods and services shall be applied as follows:

1. **The tax rate of zero (0) per cent** shall apply to exported goods or services; construction and installation operations of export processing enterprises; goods sold to duty-free shops; and goods and services which are not subject to VAT upon export, except for the cases not entitled to the tax rate of zero per cent specified in clause 1.3 of this Section.

1.1 Exported goods and services:

(a) Exported goods shall comprise:

- Goods exported to foreign countries including via authorized agents;
- Goods sold into non-tariff zones pursuant to regulations of the Prime Minister; goods sold to duty-free shops;
- Cases deemed to be export pursuant to the law on commerce:
  - + Transitional processed goods in accordance with the commercial law regulating international purchases and sales of goods and agency for sale and purchase, processing and transit of goods involving foreign parties.

- + Processed goods for on-the-spot export in accordance with the commercial law regulating international purchases and sales of goods and agency for sale and purchase, processing and transit of goods involving foreign parties.
- + Export goods for sale at fairs and exhibitions overseas.

(b) Export services includes services provided directly to organizations and individuals overseas or in non-tariff zones.

Organizations overseas means foreign organizations which do not have any permanent establishment in Vietnam and are not VAT taxpayers in Vietnam;

Individuals overseas means foreigners who do not reside in Vietnam or Vietnamese residing overseas and who are outside Vietnam during provision of the services;

Organizations and individuals in non-tariff zones with business registration and other cases as stipulated by regulations of the Prime Minister.

(c) Other goods and services:

- Construction and installation operations of export processing enterprises;
- International transportation comprises transportation of cargo, luggage or goods from Vietnam to foreign countries or vice versa. Where a domestic transport stage is included in the international transport contract, international transportation shall include the domestic transport stage;
- Goods and services not subject to VAT upon export, except for the cases not entitled to the tax rate of zero per cent specified in clause 1.3 of this Section;
- Aircraft or sea-going vessel repair services provided to foreign organizations or individuals.

1.2 Goods and services which are entitled to the tax rate of zero per cent must satisfy the following conditions:

- There must be a contract for sale or processing of goods for export; a contract for export authorization or authorization for processing of goods for export; or a contract for provision of services with an organization or individual overseas or in a non-tariff zone is available;
- Receipts for payment for exported goods or services via a bank and other source documents pursuant to law must be available;
- A customs declaration of exported goods must be available.

In the case of aircraft or sea-going vessel repair services provided to foreign organizations or individuals and for application of the tax rate of zero per cent, in addition to the aforesaid conditions, there must be performance of procedures for import upon aircraft or sea-going vessel entering Vietnam or for export upon completion of the repairs.

1.3 Cases which are not entitled to the tax rate of zero per cent shall comprise:

- Reinsurance services with insurers overseas; technology transfer, transfer of intellectual property to parties overseas; transfer of capital, provision of credit, investment in securities overseas; derivative financial services; outgoing international postal or telecommunications services; products for export being exploited natural resources or minerals which have not been processed into other products; goods or services provided to individuals who do not have business registration in a non-tariff zone, except for other cases as stipulated by the Prime Minister;
- Petrol and oil sold to automobiles of business establishments in non-tariff zones which are purchased domestically;
- Automobiles sold to organizations and individuals in non-tariff zones;
- Services provided by domestic business establishments to organizations and individuals in non-tariff zones but the place of provision and consumption of services is located outside the non-tariff zone such as leasing of housing, of meeting-halls, offices, hotels or warehouses; and transport services for employees.

**2. The tax rate of five per cent shall apply to the following goods or services:**

2.1 Clean water used for production and living consumption, except for types of bottled water and other types of beverages subject to the tax rate of ten (10) per cent.

2.2 Fertilizer; ore used for production of fertilizer; pesticides and growth stimulants for domestic animals and cultivated plants:

(a) Fertilizer means types of organic and non-organic fertilizers such as potash fertilizer, nitrogenous fertilizer (urea), NPK fertilizer, mixed nitrogenous fertilizer, phosphatized fertilizer, potash; bacterial fertilizer and other types of fertilizer.

(b) Ore used for production of fertilizer means ore used as raw materials for production of fertilizer such as apatite ore used to produce phosphatized fertilizer, and muddy soil used for the production of bacterial fertilizer.

(c) Pesticides and growth stimulants for domestic animals and cultivated plants.

2.3 Feed for cattle and poultry and other domestic animals, including unprocessed or processed types of feed such as bran, all types of oil-cake, fish powder, bone powder and other types of feed for cattle, poultry and domestic animals.

2.4 Services for digging, embanking, dredging of canals, ponds and lakes serving agricultural production; rearing, planting, cultivation, pest control for cultivated crops; semi-processing and preservation of agricultural products (except for dredging of inner canals within fields specified in clause 3 of Section II of Part A of this Circular).

Services for semi-processing and preservation of agricultural products comprise sun-drying, drying, shelling, stoning, cutting, slicing, husking, freezing, salt preserving and other normal methods of preservation.

2.5 Products of cultivation and husbandry; products of aquaculture or fishing which have not yet been processed or which have only been semi-processed by way of cleaning, sun-drying,

[industrial] drying, shelling, toning, cutting into slices, husking, freezing or salt preserving and other normal methods of preservation at the commercial trading stage.

Products of cultivation which have not yet been processed referred to in this clause shall include rice, maize, sweet potato, cassava and wheat.

- 2.6 Semi-processed latex in the form of crepe, sheets, rubber or nuggets; semi-processed turpentine; netting, cord and fibre used for weaving into all types of fishing nets; specialized fibre or cord used for weaving into fishing nets, irrespective of raw materials.
- 2.7 Fresh foodstuffs; forestry products which have not yet been processed at the stage of commercial trading except for wood, bamboo shoots and products stipulated in clause 1 of Section II of Part A of this Circular.

Fresh foodstuffs means all types of foodstuffs which have not yet been cooked or processed into another product or which have only been semi-processed by way of cleaning, shelling, cutting, slicing, freezing or sun-drying but still remain fresh foodstuffs such as cattle and poultry meat, shrimp, crab and fish, and other aquaculture and marine products.

Unprocessed forestry products means products exploited from natural forests in the categories of bamboo, rattan, mushrooms, Job's ear mushrooms, roots, leaves, flowers and plants used for production of medicine, resin and other types of forestry products.

- 2.8 Sugar; by-products obtained in manufacture of sugar including sugar-cane dregs, bagasse and mud waste.
- 2.9 Products made from jute, sedge, bamboo, rattan, thatch, straw, copra, coconut shell, water hyacinth and other hand-made products made from raw materials salvaged from agriculture being assorted products produced or processed from main materials being jute, sedge, bamboo and thatch such as jute carpets, jute fibre, jute bags, jute strings, coconut fibre mats, jute or sedge mats, ropes made from bamboo or coconut fibre, conical hats, bamboo blinds; semi-processed cotton; and newsprint.
- 2.10 Specialized machinery or equipment servicing agricultural production including ploughing machines, harrowing machines, transplanting machines, seeding machines, rice plucking machines, harvesters, combine harvesters, harvesters for agricultural products, machinery or spray canisters.
- 2.11 Specialized medical equipment and instruments, such as x-ray machines used for disease diagnosis and treatment, equipment and specialized apparatus for surgery and treatment of injuries; ambulances; equipment for measuring blood pressure, heart and pulse, and blood transfusion; injection syringes; contraceptive devices and other specialized medical equipment and instruments.
- Medical sanitary cotton and bandages, and medical sanitary tissue; preventive and curative medicines comprising finished medicines, raw materials for producing medicines except for functional food; vaccines, medical biological products, distilled water for the preparation of anaesthetic and infusion; chemical supplies for medical testing or sterilization.
- 2.12 Teaching and study aids such as models, drawings, blackboards, chalk, rulers, compasses used for teaching and study, and specialized equipment and tools for teaching, research and experiments.

- 2.13 Public cultural, exhibition, physical training and sporting activities; artistic performances; production of films; importation, distribution and screening of films.
- (a) Public cultural, exhibition, physical training and sporting activities except for revenue from the sale of goods, from the lease of parking areas, and from stalls at fairs and exhibitions.
- (b) Artistic performances such as *tuong* opera, *cheo* opera, *cai luong* performances, singing, dancing, musical performances, drama and circuses; other types of artistic performance and services of organizing artistic performances by opera companies, performing groups and circuses and so forth which possess an operational licence issued by the State administrative body.
- (c) Production of films; importation, distribution and screening of films, except for the products specified in clause 15 of Section II of Part A of this Circular.
- 2.14 Children's toys; books of all types except for books not subject to VAT as provided in clause 15 of Section II of Part A of this Circular.
- 2.15 Scientific and technological services being activities servicing scientific research and technological development; activities relating to intellectual property; services regarding information, consultancy, training, improvement, dissemination and application of scientific and technological knowledge and practical experience excluding on-line games and entertainment services on the internet.

**3. The rate of ten (10) per cent shall apply to goods and services which are not stipulated in Section II of Part A; or clauses 1 and 2 of Section II of Part B of this Circular:**

The above VAT rates shall apply uniformly to each type of goods and services in the stage of importation, manufacture, processing or commercial trading.

Example 16: The VAT rate applicable to garments is 10%, such rate shall apply at all stages of import, production, processing or commercial trading.

Where a business establishment deals in different items of goods and services subject to different rates of VAT, it must declare VAT for each individual item of goods or services at the applicable tax rates. Where it is unable to determine individual applicable tax rates, payment of tax shall be at the highest tax rate applicable to the goods produced or services provided.

If in the process of implementation there is a case where a VAT rate in the VAT Tariff pursuant to the List of Preferential Import Rates is inconsistent with the guidelines provided in this Circular, the guidelines provided in this Circular shall prevail. Where the VAT rate is not applied uniformly to the same type of imported goods and domestically produced goods, then the local tax office and customs office shall report on the matter to the Ministry of Finance for guidelines in a timely manner for uniform implementation.

### III. Methods of VAT Calculation

Business establishments shall pay VAT in accordance with the tax credit method or directly on the basis of added value.

The applicability and calculation of tax payable by each method shall be as follows:

#### 1. Tax credit method:

1.1 The tax credit method shall apply to business establishments which implement all regimes on accounting, invoices and receipts in accordance with the law on accounting, invoices and receipts and which register for tax payment in accordance with the tax credit method, except for those applying the method of calculation directly on the basis of added value as provided in clause 2 of this Section.

1.2 Determination of VAT payable:

The amount of VAT payable shall be equal to (=) output VAT less (-) creditable input VAT.

In which:

(a) Output VAT shall be equal to the total VAT on goods or service sold as stated in an added value invoice.

VAT on goods or service sold as stated in an added value invoice shall be equal to (=) taxable price of goods or service sold multiplied by (x) the VAT rate applicable to such goods or service.

In the case of use of a receipt in which the VAT-inclusive payment price is stated, output VAT shall be equal to (=) the payment price less (-) taxable price stipulated in clause 1.10 of Section II of this Part.

Business establishments calculating tax in accordance with the tax credit method shall, upon selling or providing goods or services, calculate and collect VAT on the sold goods or services. When preparing sales invoices for goods or services, business establishments shall specify the pre-tax sale price, VAT and total amount payable by the purchaser. Where an invoice only states the total payable amount (except for the cases in which the use of special receipts is permissible) and not the pre-tax price and VAT, VAT on the sold goods or services shall be calculated on the payment price stated in the invoice or source document.

*Example 17:* An enterprise selling iron and steel sells 6mm steel rods at the pre-VAT price of VND 11,000,000/tonne. VAT at 10% is VND 1,000,000/tonne. However, some of the invoices issued by the enterprise only state the sale price of VND 12,100,000/tonne. The VAT calculated on the sales revenue shall be VND 12,100,000/tonne x 10% = VND 1,210,000/tonne instead of being calculated on the pre-tax price of VND 11,000,000/tonne.

Business enterprises must implement the regime on accounting, invoices and receipts as stipulated by law and guided in Section IV of Part B of this Circular. If a business establishment writes an incorrect VAT rate in an invoice but fails to correct it, the tax office shall deal with it as follows:

In the case of business establishments selling goods and services: if the VAT rate stated in the invoice is higher than the rate stipulated by the legal instruments on VAT, the business establishment must declare and pay VAT at the VAT rate stated in the invoice. If the VAT rate in the invoice is lower than the rate stipulated by the legal instruments on VAT, it must declare and pay VAT at the VAT rate stipulated by the legal instruments on VAT.

- (b) Input VAT shall equal (=) the aggregate amount of VAT as recorded in added value invoices for the purchase of goods or services (including fixed assets) used for production and trading of goods and services subject to VAT, [and/or] the VAT amounts stated on receipts for payment of tax on imported goods or receipts for payment of VAT on behalf of foreign parties in accordance with the guidelines of the Ministry of Finance applicable to foreign organizations which are not a legal entity in Vietnam and foreign individuals conducting business in Vietnam or having income earned in Vietnam.

In respect of purchased goods and services for which special vouchers stating the tax-inclusive price are used, establishments shall be permitted to rely on the tax-inclusive price and the calculation method stipulated in clause 1.10 of Section I of Part B of this Circular in order to determine the pre-tax price and the input VAT.

*Example 18:* During a tax period, Company A paid deductible input VAT for a special service.

The total payment was VND 110 million (VAT-inclusive). The service is subject to 10% VAT rate. The deductible input VAT shall be calculated as follows:

$$\begin{array}{r} \text{VND 110 million} \\ \text{-----} \\ \text{1 + 10\%} \end{array} \times 10\% = \text{VND 10 million}$$

The pre-tax price is VND 100 million and VAT is 10 million.

If a business establishment writes an incorrect VAT rate on an invoice but fails to correct it and the tax office checks and discovers it, the tax office shall deal with it as follows:

In the case of business establishments purchasing goods and services: if the VAT rate stated in the purchase invoice is higher than the VAT rate stipulated by the legal instruments on VAT, input VAT shall be deductible at the VAT rate stated in legal instruments on VAT; where it is confirmed that the seller has declared and paid VAT exactly at the VAT rate stated in the invoice, input VAT may be deducted at the VAT rate stated in the invoice but the confirmation of the tax office directly managing the seller shall be required; if the VAT rate stated in the invoice is lower than the VAT rate stipulated by the legal instruments on VAT, input VAT shall be deductible at the VAT rate stated in the invoice.

- (c) Calculating deductible input VAT:

- (c1) Input VAT on goods and services used for the production or trading of goods and services which are subject to VAT shall be deductible in full.
- (c2) In respect of goods or services which are used for production or trading of both VAT taxable and non-taxable goods and services, only the amount of input VAT on goods and services used for the production or trading of VAT taxable goods and services

shall be deductible. The business establishment must account separately for deductible and non-deductible input VAT; where separate accounts are not kept, input VAT shall be deductible at a percentage (%) turnover subject to VAT over the aggregate turnover of goods and services sold.

- (c3) Input VAT on fixed assets which are used for production or trading of both VAT taxable and non-taxable goods and services shall be deductible in full.

In the following cases input VAT shall not be deductible but shall be included in the original cost of the fixed assets: specialized fixed assets which are used in production of arms and weaponry required for national defence and security; fixed assets being housing used as offices and other specialized equipment used for the operation of credit institutions, enterprises carrying out reinsurance, life insurers, securities business establishments, hospitals and schools; and civilian aircraft and yachts not used for business of transportation of tourists, passengers and cargo.

Input VAT on goods and services forming fixed assets of an enterprise such as a canteen providing mid-shift meals, accommodation for employees to rest during shifts, free of charge housing, changing rooms, a garage [parking facilities], toilet facilities, water tanks servicing employees working in production or business sections and residential housing or medical stations for employees working in industrial zones shall be deductible in full.

In the case of fixed assets which are automobiles seating nine or less people (except for vehicles in the business lines of passenger transportation, tourism and hotels) whose value exceeded 1.6 billion dong, the amount of input VAT corresponding to the excess value over 1.6 billion shall not be deductible.

- (c4) Production establishments in agriculture or forestry and establishments rearing, cultivating, catching or exploiting aquatic products which organize complete production, carry out consolidated accounting of results of production and business, and use agricultural or forest products or reared, cultivated, caught or exploited aquatic or sea products as raw materials in order to continue the production or processing of products subject to VAT (including agricultural, forest or aquatic products which have not yet been processed for export or processed products which are subject to VAT) shall be entitled to declare and credit input VAT [of goods and services] used for production or trading at all stages of investment in capital construction, production or processing. Where the establishment sells goods being agricultural, forestry or aquatic products which have not yet been processed or which have only been semi-processed, not subject to VAT, the amount of VAT on the purchased goods and services shall be deductible at a percentage (%) turnover of the taxable goods and services over the aggregate turnover of goods and services sold.
- (c5) Input VAT on fixed assets which are lost or damaged due to a natural calamity, fire or unexpected [contingent] accident shall not be deductible.
- (c6) Input VAT on goods (including goods purchased externally or produced by the enterprise itself) which are used by an enterprise for advertising and promoting in any way the production and trading of goods and services subject to VAT shall be deductible.
- (c7) Input VAT on goods and services used for the production or trading of goods and

services not subject to VAT referred to in Section II of Part A of this Circular shall be included in the original cost of fixed assets, value of raw materials or business expenses, except for the following cases:

- VAT on goods or services purchased by a business establishment for production or business of goods or services to be provided to foreign organizations and individuals or international organizations for humanitarian or non-refundable aid as stipulated in clause 19(e) of Section II of Part A of this Circular shall be deductible in full.
- Input VAT on goods and services used in prospecting, exploration and development of petroleum fields shall be deductible in full.

(c8) Input VAT which is deductible arising in whatever month shall be declared as deductible when the amount of tax payable for that month is determined, irrespective of whether goods have been put to use or kept in store. Where the business establishment discovers an amount of VAT which was not deductible upon declaration, due to omission of an invoice or receipt for tax payment which was not declared for credit, it shall be permitted to make declaration for an additional credit; the maximum period for the declaration and additional credit shall be six months from the month in which the omission of the invoice or receipt arises.

*Example 19:* Business establishment A has one purchase added value invoice which was prepared on 10 February 2009. The accountant of the business establishment omitted such invoice in the period of the tax declaration for February 2009. Business establishment A is permitted to make a declaration for additional credit within the maximum period up to the period of the declaration for July 2009.

- (c9) Business establishments shall be permitted to include any amount of non-deductible input VAT in expenses for calculation of corporate income tax or in the original cost of fixed assets in accordance with law.
- (c10) In the case of a corporation or group having offices which do not directly conduct business activities and professional or administrative units under its control such as hospitals, clinics, convalescent homes, institutes, training schools and so forth which are not required to pay VAT, claims for deduction or refund of input VAT on goods and services purchased to service the activities of those subsidiaries shall not be permitted.

If such subsidiaries engage in trading of goods and services subject to VAT, there must be registration, declaration and payment of VAT for such activities.

*Example 20:* An office of Corporation A does not directly engage in production or business but exists on the budget contributed by its subsidiaries. If the office of Corporation A leases out the unused part of its building (office), it must keep separate accounts and separately declare and pay VAT for such leasing activity. Input VAT on goods and services servicing the activities of the office of Corporation A shall not be deductible or refundable, and it must use the budget contributed as stated above in order to make payment.

1.3 Conditions for credit of input VAT shall be stipulated as follows:

- (a) Having a lawful added value invoice for goods or services purchased or a receipt for VAT payment at the stage of importation or a receipt for VAT payment on behalf of a foreign party pursuant to guidelines of the Ministry of Finance applicable to any foreign organization not being a legal entity in Vietnam and foreign individuals carrying out business or having income earned in Vietnam.
- (b) Having a receipt for payment via a bank for goods or services purchased, except where the aggregate value of goods or services which are purchased on each occasion at the VAT-inclusive price is less than twenty (20) million Vietnamese Dong pursuant to an invoice.

Goods or services which are purchased at a VAT-inclusive price on each occasion for which the payment is more than twenty (20) million Vietnamese Dong pursuant to an invoice shall not be entitled to a credit [of VAT] if there is no receipt for payment via a bank. The business establishment shall declare such invoices in a separate section in the list of invoices and source documents for purchased goods and services.

In the case of goods and services purchased with deferred payment or payment by instalments whose value is more than twenty (20) million Vietnamese Dong, the business establishment shall, on the basis of the contract for purchase of goods or services, an added value invoice and the receipt for payment via a bank for goods or services purchased with deferred payment or payment by instalments, declare and credit input VAT and shall specify the period of payment in the section for notes in the list of invoices and receipts of purchased goods and services. Where the receipt for payment via a bank is not available because payment has not fallen due pursuant to the contract, the business establishment shall still be entitled to declare and credit input VAT. If there is no receipt for payment via a bank upon the due date, input VAT is not deductible and the business establishment must declare and reduce the credited amount of input VAT on the value of goods for which there is no receipt for payment via a bank.

*Example 21:* In January 2009, Company A purchased a consignment of goods from Company B for production and business with an aggregate contractual value of VND 330 million (including VAT at the VAT rate of 10%), and pursuant to the contract Company A will make payment for the goods to Company B in May 2009.

In this case, Company A shall be entitled to temporarily declare input VAT being VND 30 million in the period of the declaration for January 2009. Upon the due date in May 2009, Company A must provide a receipt for payment of VND 330 million via a bank. If Company A fails to provide such receipt for payment via a bank, the amount of VAT (being VND 30 million) which was temporarily credited must be declared and deducted from the deductible amount of VAT in the period of the declaration for May 2009.

Where Company A provides a receipt for payment via a bank at the time of payment being May 2009, but the amount of money recorded in such receipt for payment has a value of VND 257 million, only the amount of deductible VAT being VND 25 million is acceptable and Company A must reduce the amount of deductible VAT by VND 5 million in the period of the declaration for May 2009.

In the case of goods or services purchased for which payment is made by way of set-off of the value of goods or service purchased against the value of goods or services sold; set-off against a debt; or by way of authorizing a third party to make payment via a bank

as specified in a contract, such payment shall be deemed to be made via a bank; where after a payment is made by the aforesaid method, the remaining value which is paid in cash is more than VND 20 million, VAT will only be deductible in the case where there is a receipt for payment via a bank. Upon declaration of invoices for input VAT, the business establishment shall specify the method of payment which is stipulated in the contract in the section for notes in the list of invoices and receipts of purchased goods and services.

In the case of purchase of goods or services from a supplier with a value of less than VND 20 million, but the aggregate value of goods or services purchased on several occasions within the same day is more than VND 20 million, VAT will only be deductible if there is a receipt for payment via a bank.

(c) Exported goods or services (except for the cases specified in clauses 1(d) and 1(dd) of this Section) which are entitled to a credit or refund of input VAT must satisfy all of the conditions and procedures specified in paragraphs (a) and (b) of this clause and clause 1.2 of Section II of Part B of this Circular, in particular as follows:

(c.1) Contract for sale of goods or processing of goods (in the case of processing of goods) or for provision of services to a foreign organization or individual. In the case of authorized export, a contract for export authorization and minutes of liquidation of the contract for export authorization (if the contract has expired) or a periodical debt reconciliation statement between the principal and the authorized dealer, specifying the quantity and types of products and the value of goods which were exported under the authorization; the number and date of the export contract which the authorized dealer has signed with the foreign party; the serial number, date and amount stated in the receipt for payment via a bank by the foreign party to the authorized dealer; the serial number, date and amount stated in the receipt for payment by the principal to the authorized dealer; and the serial number and date of the customs declaration of goods exported by the authorized dealer.

(c2) Customs declaration of exported goods with certification by the customs office of actual export.

In the case of export of computer software in the form of materials, documents or databases which are wrapped in hard packaging, business establishments must comply with custom declaration procedures the same as for normal exports in order to be entitled to a credit or refund of input VAT.

A customs declaration shall not be required in the following cases:

- Business establishments electronically exporting services or computer software need not complete a customs declaration but they must complete the stipulated procedures acknowledging receipt of electronically exported services or computer software by the purchaser in accordance with the law on e-commerce.
- Construction and installation activities of export processing enterprises.
- Business establishments supplying electricity, water, stationery [or] goods servicing daily living conditions of an export processing enterprise.

(c3) Payment for exported goods or services must be made via a bank in accordance with the following guidelines:

Payment via a bank means the transfer of money from the bank of the importer to the bank of the exporter to pay for goods or services in accordance with the method of payment agreed in the contract and in accordance with the regulations of the bank. The receipt for payment shall be the credit advice issued by the bank of the exporter, notifying the amount of money received from the bank account at the bank of the importer. Where deferred payment is agreed in the export contract, the business establishment must produce a receipt for payment via a bank upon the due date. In the case of authorized export, the authorized dealer must conduct payment with the foreign party via a bank.

- Payment shall be deemed to be made via a bank in the following cases:
  - + Where payment for exported goods or services is set off against a foreign loan, the business establishment must satisfy all of the following conditions, procedures and documents:
    - (1) Loan agreement (with respect to loans with a term of under one year); or certificate of registration of a loan issued by the State Bank of Vietnam (with respect to loans with a term of over one year);
    - (2) Receipt for transfer of money by the foreign party into Vietnam via a bank.

The method of payment for exported goods or services by way of set-off against a foreign loan must be set out in the export contract.
    - (3) Confirmation from the foreign party regarding the set-off against a loan.
    - (4) Where there is any difference after set-off of the value of exported goods or services against the foreign loan, payment of the difference shall be made via a bank. The receipt for payment via a bank shall be in accordance with the guidelines in this clause.
  - + Where an export business establishment uses payment for exported goods or services for the purpose of capital contribution to the importer overseas, the business establishment must satisfy all of the following conditions, procedures and documents:
    - (1) Capital contribution agreement.
    - (2) The use of the payment for exported goods or services for the purpose of capital contribution with the importer overseas must be specified in the export contract.
    - (3) Where the amount of money used for the purpose of capital contribution is less than the proceeds from export of goods, the difference must be paid via a bank in accordance with the guidelines in this clause.
  - + Where an establishment exporting goods or services conducts payment via a bank, but the foreign party authorizes a third party being an organization or individual overseas to make the payment, payment made in accordance

- with the authorization must be specified in the export contract (or in any addendum to the contract).
- + Where the foreign party authorizes its representative office in Vietnam to make payment to the account of the exporter, payment made in accordance with the authorization must be specified in the export contract (or in any addendum to the contract).
  - + Where the foreign party makes payment via a request to a third party organization in Vietnam to pay off a debt via a bank payment and this is stipulated in the export contract (or in any addendum to the contract) there must be a receipt for payment being a credit advice issued by the exporter's bank, notifying the amount of money received from an account of the third party and also a debt reconciliation statement certified by both the foreign party and the third party.
  - + Where the foreign party makes payment from its current account opened with a credit institution in Vietnam, this payment must be specified in the export contract (or in any addendum to the contract) and the receipt for payment shall be the credit advice issued by the bank of the exporter, notifying the amount of money received from the current account of the contracting foreign purchaser.
  - Other cases of payments for exported goods or services in accordance with regulations of the Government:
    - + In the case of labour export with collection of fees directly from employees working overseas, there must be receipts for collection of fees in cash from employees.
    - + Where a business establishment exports goods to sell at a fair or exhibition overseas, if foreign currency in cash is earned in the country where the commercial fair and exhibition is held and is remitted into Vietnam, there must be a declaration of the remitted amount of foreign currency earned from the sale of goods with the customs office and a source document for deposit of money with a bank in Vietnam.
    - + In the case of export of goods or services for repayment of a foreign debt for the Government, there must be confirmation from the foreign trade bank that the foreign party has accepted the consignment of exported goods to set off against the debt or confirmation that the set of documents has been sent to the foreign party to set off against the debt; the receipts for payment shall be produced in accordance with separate regulations of the Ministry of Finance.
    - + The export of goods or services for which payment is made in the form of goods means the export of goods (including processing of goods for export) or services to a foreign organization or individual (referred to as the *foreign party*) where the payment between the Vietnamese enterprise and the foreign party is made in the form of exchange of the value of exported goods or services or of the payment for processing of goods for export for the value of goods or services purchased from the foreign party.

With respect to exported goods or services for which payment is made in the form of goods, the following additional procedures and documents shall be required:

- (1) Method of payment for exported goods in the form of goods must be set out in the export contract;
- (2) Contract for purchase of goods or services from the foreign party;
- (3) Customs declaration of imported goods for which payment is exchanged for the exported goods or services;
- (4) Confirmation from the foreign party regarding the amount of money of the exchange of the exported goods or services for imported goods or services purchased from the foreign party;
- (5) Where there is any difference after exchange of the value of exported goods or services for the value of the imported goods or services, payment of the difference shall be made via a bank. The receipt for payment via a bank shall be in accordance with the guidelines in this clause.

- + Export to neighbouring countries pursuant to regulations of the Prime Minister of the Government on management of commercial activities over borders with neighbouring countries must comply with guidelines of the Ministry of Finance and of the State Bank.
- + Other forms of payment applicable to some cases of export as provided in the relevant laws.

(c.4) Added value invoices for the sale of goods or services or invoices for the payment for processing of goods.

(d) Conditions, procedures and documents for a credit of input VAT in a number of cases where goods are deemed to be exported:

(d.1) Transitional processed goods stipulated in the *Commercial Law* regulating international purchases and sales of goods and agency for sale and purchase, processing and transit of goods involving foreign parties:

- Contract for processing for export together with attached appendices (if any) signed with the foreign party, specifying the recipient in Vietnam;
- Added value invoice specifying the processing fees and the quantity of processed goods returned overseas (in accordance with the fees recorded in the contract signed with the foreign party) and the name of the recipient as designated by the foreign party;
- Order form for delivery of transitional processed products (referred to as the delivery form) fully certified by the deliverer and the recipient in respect of transitional processed products, and certified by the customs offices managing the processing contracts of the deliverer and of the recipient;

- Payment for goods processed for the foreign party must be made via a bank in accordance with the guidelines provided in paragraph (c.3) of this clause.

Procedures for the delivery and receipt of transitional processed products and delivery forms shall be implemented in accordance with guidelines of the General Department of Customs.

*Example 22:* Company A signs a processing contract with a foreign party for 200,000 pairs of shoe soles for export, with processing fees at VND 800 million. The contract specifies the shoe soles are to be transferred to Company B to produce the finished shoe product.

In this case, Company A falls within the category of a transitional processor of goods for export. When preparing the vouchers for transferring the shoe soles to Company B, Company A shall specify the quantity, type and specifications of the product for delivery, and the total revenue for processing the shoe soles at VND 800 million including VAT at 0%.

(d.2) Goods processed for on-the-spot export pursuant to the law regulating international purchases and sales of goods and agency for sale and purchase, processing and transit of goods involving foreign parties:

- Contract for sale of goods signed with the foreign party specifying goods, quantity and value of goods, and the name and address of the recipient in Vietnam;
- Customs declaration form of on-the-spot import-export goods with certification of the customs office that such goods have been delivered to an enterprise in Vietnam as designated by the foreign party;
- Payment for goods sold to a foreign entity but delivered in Vietnam must be made via a bank in freely convertible foreign currency. The receipt for payment via a bank shall be in accordance with the guidelines in clause 1.2(c.3) of this Section;
- Added value invoice for goods for on-the-spot export specifying the names of the foreign purchaser and the enterprise receiving the goods, and the address for delivery of the goods in Vietnam;
- On-the-spot export of goods by an enterprise with foreign owned capital must comply with the provisions in its investment licence.

(d.3) In the case of goods or materials exported by a Vietnamese organization for implementation of construction works overseas, the Vietnamese enterprise implementing the construction works overseas must satisfy the following procedures and documents for a credit or refund of input VAT:

- Customs declaration for exported goods;
- Exported goods or materials must conform with the list of exported goods for implementation of the construction works overseas as approved by the director of the Vietnamese enterprise implementing the construction works overseas.

- Contract for export authorization (in the case of export authorization).

(d.4) In the case of goods or materials sold by a domestic business establishment to a Vietnamese enterprise for implementing construction works overseas and goods delivered overseas pursuant to a signed contract, the domestic business establishment selling goods must satisfy the following procedures and documents for a credit or refund of input VAT on exported goods:

- Customs declaration of exported goods with certification by the customs office of actual export;
- Exported goods or materials must conform with the list of exported goods for implementation of the construction works overseas as approved by the director of the Vietnamese enterprise implementing such works overseas.
- Purchase and sale contract signed by the domestic business establishment and the Vietnamese enterprise implementing the construction works overseas, specifying conditions for delivery of goods, quantity, types and value of goods.
- Contract for authorization (in the case of export authorization).
- Receipt for payment via a bank;
- Added value invoice for sale of goods.

With respect to exported goods or goods which are deemed to be exported pursuant to clause (d) above, if there is certification of the customs office (in the case of export goods) but other procedures and documents are not satisfied, the business establishment shall not be required to calculate output VAT but its input VAT shall not be deductible. With respect to transitional processed goods and on-the-spot exports, if one of the above procedures is not satisfied, the business establishment must calculate and pay VAT the same as for goods sold domestically. With respect to export services establishments, if they fail to satisfy the requirement for payment via a bank, they shall not be entitled to the VAT rate of zero per cent nor shall they be required to calculate output VAT but their input VAT shall not be deductible.

(dd) In respect of business households which pay VAT directly on the basis of added value but change to paying VAT by the tax credit method, they shall deduct VAT paid on purchases of goods and services arising as from the month to which the method of paying VAT by the tax credit method applies; and input VAT on goods and services purchased before such month shall not be deductible.

- 1.3 A business establishment shall not be permitted to include deductible input VAT in cases where an added value invoice is not used in accordance with law, such as cases where the added value invoice does not state the VAT (except for special cases where the added value invoice states the payment price as VAT-inclusive) or does not provide items such as the name, address and tax code of the seller or does not state them correctly such that the seller cannot be identified; or if false invoices or receipts for payment of VAT are used or unauthorized amendments are made in the invoices or blank invoices are issued (without purchase or sale of goods or services) or the value stated on the invoice is greater than the actual value of goods or services.

## 2. Method of calculation of VAT directly on the basis of added value:

2.1 The method of tax calculation directly on the basis of added value shall apply to the following:

- (a) Business individuals or households failing to implement or implementing incompletely regimes on accounting, invoices and receipt as stipulated by law.
- (b) Foreign organizations and individuals conducting business not in accordance with the *Law on Investment* and other organizations failing to implement or implementing incompletely the regime on accounting, invoices and receipts as stipulated by law.
- (c) Gold, silver, precious stone and foreign currency trading activities.

Where a business establishment making VAT payment in accordance with the tax credit method carries out both gold, silver and precious stone trading activities and gold, silver and precious stone processing activities, such establishment must maintain a separate account with respect to the gold, silver and precious stone trading activities for the purpose of calculation of VAT directly on the basis of added value.

2.2 Determination of VAT payable:

Amount of VAT payable directly on the basis of added value shall be equal to (=) the added value of taxable goods or services multiplied by (x) VAT rate applicable to such goods or services.

- (a) Added value of goods or services shall be equal to (=) the payment price of goods or services sold minus (-) the payment price of relevant goods or service purchased.

Payment price of goods or services sold shall be the actual sale price recorded in a sales invoice for goods or services, including VAT and additional charges or fees to which the seller is entitled, irrespective of whether or not they have been collected.

Payment price of goods or services purchased shall be the value of the purchased or imported goods or services, including VAT, used for production or trading of relevant goods or services sold subject to VAT.

With respect to certain lines of business, the added value shall be determined as follows:

- With respect to production or trading activities, the difference between the sales and the value of supplies, goods and services purchased for production or trading. Where a business establishment does not separately account for the value of purchased materials, goods and services corresponding to the sales of goods, it shall be determined as follows:

Prime cost price of goods shall be equal to (=) revenue at start of period plus (+) turnover of purchases during the period less (-) revenue at end of period.

Example 23: Establishment A manufactures timber products. In a particular month it sells 150 products, its total sales being VND 25 million.

Total cost of raw materials and supplies purchased externally to produce these 150 products is VND 19 million, comprising:

- + Main materials (timber): VND 14 million;
- + Other materials and services purchased externally: VND 5 million.

At the applicable VAT rate of 10%, the VAT payable by establishment A shall be calculated as follows:

- + Added value of products sold: VND 25 million - 19 million = VND 6 million;
- + VAT payable: VND 6 million x 10% = VND 0.6 million.

- With respect to construction or installation: The difference between the revenue received from construction and installation of works or items of works less (-) cost of materials, power, transportation and services and other expenses of externally purchased goods or services attributable to the activities of construction and installation of works or items of works.
- With respect to transportation activities: The difference between the revenue received from transportation, loading and unloading charges less (-) fuel costs, spare parts costs and other costs of externally purchased goods and services attributable to the transportation activities.
- With respect to catering activities: The difference between the revenue received from selling food and drink, service charges and other revenue less (-) costs of input goods and services attributable to the provision of catering services.
- With respect to activities of trading in gold, silver, precious stones and foreign currency: Added value shall be the difference between the turnover on sales of gold, silver, precious stones and foreign currency, less (-) the net cost price of these goods.
- Where business establishments in the category of those calculating tax by the tax credit method also trade in the purchase and sale of gold, silver, precious stones and foreign currency to which the method of tax calculation directly on the basis of added value applies, they must account separately for input VAT in order to declare the amount of VAT payable on goods and services for each kind of business activity and under each method of calculating VAT.

Where separate accounts are not kept, an apportionment of deductible input VAT shall be determined equivalent to the turnover on goods and services subject to VAT calculated by the tax credit method over the total turnover from sales generated in the period.

- With respect to other business activities: Added value shall be the difference between the revenue from the business activities less (-) the prime cost of goods and services purchased externally to conduct those business activities.
- Business establishments which belong to the category of those paying VAT by the method of tax calculation directly on the basis of added value shall not be entitled to include the value of assets purchased externally and investment and construction for

forming fixed assets in their input purchase price of goods and services for the purpose of calculating added value.

- (b) Where a business establishment carries out the sale of goods and services with adequate invoices for goods or services sold pursuant to the stipulated regime or is able to determine correctly the revenue earned from the sale of goods and services such as contract and receipts for payment, but maintains insufficient purchase invoices relating to such goods or services, the added value shall be calculated by multiplying the revenue by (x) the proportion (%) of added value levied on such turnover.

Proportions (%) of added value levied on turnover as a basis for calculation of added value shall be stipulated as follows:

- Commerce (distribution or supply of goods): 10%
- Services or construction (except for construction in which the supply of raw materials is included in the contract): 50%
- Production, transportation or services attached to goods or construction in which the supply of raw materials is included in the contract: 30%

- (c) Business activities, business individuals or households failing to carry out or carrying out incompletely the regime on accounting, invoices and receipts as stipulated by law shall make tax payment at a rate (%) stipulated by the Ministry of Finance.

#### **IV. Sale and Purchase Invoices and Receipts for Goods and services**

Business enterprises must implement the regime on invoices and receipts as stipulated by law when they purchase or sell goods and services.

1. Business establishments paying VAT by the tax credit method, when selling or providing VAT taxable goods or services must use added value invoices. When billing, business establishments must record fully and correctly all the stipulated items on the invoice. Added value invoices must specify the sale price excluding tax, any additional charges and fees, the VAT amount and the total payment price including tax. If the sale price excluding tax and the VAT are not specified separately, but only the payment price is specified, output VAT shall be calculated on the payment price, except when using special receipts.

Business establishments paying VAT directly on the basis of added value, when selling goods and services must use sales invoices.

2. Guidelines for the use of, and recording on, invoices in a number of specific cases are provided as follows:
  - 2.1 Production and business establishments paying tax by the tax credit method selling non-VAT taxable goods or services; selling goods or services to entities which are VAT exempt; or selling gold, silver, precious stones and foreign currency must use added value invoices but may write only the VAT-exclusive price on the line for sale price and cross out the line for tax rate and VAT amount. In cases of sales of non-VAT taxable goods or services, or sales of goods or services to entities which are VAT exempt, the invoice must specify that the goods are non-taxable or that they are being sold to an entity which is VAT exempt.

- 2.2 In the case of an import-export business establishment paying tax by the tax credit method which imports goods as the authorized dealer for other establishments, the authorized dealer must provide the following documents when it delivers the goods:

An authorized dealer which delivers imported goods on which VAT has been paid at the import stage shall provide an added value invoice as the basis for the principal to declare deductible input VAT on the goods imported by the authorized dealer. Where the authorized dealer has not paid VAT on the imported goods at the import stage, when delivering the imported goods it must prepare an ex-warehouse order concurrently being an internal transportation order accompanied by an internal transfer order stipulated as the vouchers for circulation of the goods on the market. The establishment may only provide the above added value invoice after VAT has been paid at the import stage on the goods it has imported as authorized dealer.

An added value invoice for the delivery of goods imported by an authorized dealer shall state:

- (a) Pre-VAT selling price comprising: the value of the goods actually imported at the CIF price, import duty, special sales tax and other items payable in accordance with regulations at the import stage (if any).
- (b) VAT rate and VAT amount stated pursuant to the amount of tax paid at the import stage.
- (c) Total amount of payment (= (a) + (b)).

An authorized dealer which imports goods shall provide a separate added value invoice for the purpose of payment of its commission.

- 2.3 In the case of a production and business establishment paying tax by the tax credit method which has goods for export (including an establishment processing goods for export) which are subject to VAT, an added value invoice shall be used upon export of the goods.

Upon removal of the goods for transportation to the bordergate or to the place where export procedures will be carried out, if there is not yet a basis for providing an added value invoice, the establishment shall use an ex-warehouse order concurrently being an internal transportation order accompanied by an internal transfer order as stipulated, as the vouchers for circulation of the goods on the market. After it has completed the procedures to export the goods, the establishment shall provide an added value invoice for the exported goods.

With respect to export of goods by an authorized dealer, when moving the goods to the authorized dealer, the principal shall use an ex-warehouse order concurrently being an internal transportation order accompanied by an internal transfer order. After the customs office has certified the goods actually exported and their quantity and value based on a comparison of the source documents of the authorized dealer, the principal in the export of the goods shall provide an added value invoice for the declaration and payment of tax and refund of VAT. In this case, the export business establishment shall retain the second copy of the invoice at the enterprise. Where the export business establishment registers with the tax office to self-print and issue invoices for export goods to foreign customers, it shall use self-printed invoices for declaration and payment of tax and tax refund.

- 2.4 Use of invoices and receipts for goods and services being promotions, advertising, samples, gifts, donations, or items for internal consumption:

- (a) With respect to goods and services used for promotion, advertising or samples to service production and trading of goods and services (namely products, goods and services used for promotion, advertising and samples as stipulated in commercial laws on commercial

promotional activities), establishments must prepare added value invoices, specifying on the invoice the name and quantity of the goods and that they are promotional, advertising or sample goods for which money is not receivable, and a diagonal line should be drawn across the lines for tax rate and VAT.

- (b) With respect to goods and services used for gifts, donations, exchange, substitutes for wages of employees or for internal consumption, the establishment must prepare added value invoices (or sales invoices) on which items are fully recorded and VAT is calculated the same as in the case of an invoice for selling goods and services to customers.

Where an establishment uses goods or services for internal consumption but not for production or trading such as transportation, aviation, railway, posts and telecommunications and calculation of output VAT is not required, such establishment must specify objects and limits of goods or services for internal consumption which are approved in writing by the competent body.

- 2.5 With respect to goods and services with a price reduction, the reduced price, VAT and total payment price including VAT shall be specified on the invoice.

Where a price reduction applies when a quantity or turnover from purchases reaches a certain fixed level, the amount of reduction for goods already sold and calculated earlier shall be adjusted on the sales invoice for the goods and services upon the final purchase occasion or in the following period. Such invoice must specify the invoice number subject to the price reduction and the price reduction.

- 2.6 In the case of a production and business establishment which transfers goods to dependent cost accounting establishments such as branches, shops and so forth in other localities (provinces and cities under central authority) for the purpose of sale or for transfer by these dependent branches and units between each other; or moves goods to an authorized dealer to sell at a fixed price on commission, subject to the method of business organization and cost accounting, the establishment may choose only one of the following two methods of using invoices and receipts:

- (a) Use an added value invoice as the basis for payment and for declaration and payment of VAT by each unit and at each stage independently;
- (b) Use an ex-warehouse order concurrently being an internal transportation order accompanied by an internal transfer order; or use a consignment order accompanied by an internal transfer order for the transportation of goods to an establishment acting as agent.

When a dependent cost accounting establishment, branch, shop or an establishment acting as agent sells goods, it must provide an invoice as stipulated and deliver it to the purchaser and also provide a list of goods sold and forward it to the establishment which provided it with the goods or to the principal (hereinafter referred to as goods delivery establishment), in order that such establishments may prepare value added invoices for the goods actually sold and deliver them to the dependent cost accounting establishment, branch, shop or an establishment acting as agent sells goods.

Where there is a large number and turnover of goods for sale, the list may be provided every five or ten (10) days. If different VAT rates apply to the goods sold, a separate list must be provided for each different VAT tax rate group.

A dependent cost accounting establishment, branch, shop or an establishment acting as agent sells goods must declare and pay VAT on goods which are sold to purchasers and are declared and for which input VAT is credited in accordance with the added value invoices delivered by the goods delivery establishment.

- 2.7 An establishment acting as commission agent for the purchase of goods shall prepare an invoice for goods purchased by the agent and commission (if any) upon return of goods to the principal.
- 2.8 In the case of a business establishment which purchases and takes possession of goods for which the seller provides an invoice but, after that, the purchaser discovers that the goods fail to meet specifications or quality and a part or all of them are returned: Upon return of the goods to the seller, the establishment must provide an invoice specifying that the goods are returned to the seller for failure to meet specifications or quality and the amount of VAT. This invoice shall be the basis for the seller to amend the turnover on the sale and the amount of output VAT; and for the purchaser to amend the turnover on the purchase and the amount of input VAT.

If the purchaser is in the category of purchasers without invoices, upon return of the goods the seller and purchaser must prepare minutes or reach written agreement specifying the type, quantity and value of goods returned at the VAT-exclusive price and the amount of VAT in accordance with the sales invoice (number, code and date of invoice) and the reason for their return, and forward same to the seller together with the sales invoice. Such minutes shall be retained with the sales invoice to provide the basis for amendment of the declaration of turnover on sale and VAT of the seller.

If the seller has already sent out the goods and prepared an invoice but, prior to receipt, the purchaser discovers that the goods fail to meet specifications or quality and that a part or all of the goods must be returned: Upon return of the goods the seller and purchaser must prepare minutes specifying the type, quantity, VAT-exclusive value of goods and the amount of VAT in accordance with the sales invoice (with its number, code and date) and the reason for their return, and forward same to the seller together with the invoice for the seller to prepare a replacement added value invoice for the amount of goods received, in order to provide the basis for the seller to amend its turnover and output VAT.

- 2.9 In the case of a business establishment which has already delivered or supplied goods and services and provided an invoice but, because the goods or services fail to meet specifications, quality or type or a wrong tax rate is recorded, the selling price or VAT rate must be amended (reduced or increased), then the seller and purchaser must prepare minutes or reach written agreement specifying the quantity of goods, their specifications, the amount of the price increase (or reduction) in accordance with the sales invoice (code number, date of the invoice and duration) and the reason for the price increase (or reduction) or for change of the tax rate. At the same time, the seller shall prepare an invoice to reflect the amended price. The invoice shall specify the amendment (increase or reduction) of the price (it shall not be permitted to write negative (-) numbers), VAT on goods or services in the sales invoice with number and code, and so forth. The invoice amending the price shall provide the basis for the seller and purchaser to make amended declarations of turnover on sale or purchase and output VAT and input VAT. Where the tax rate recorded in the invoice is higher than the stipulated tax rate and it is impossible to identify the purchaser, no invoice for adjustment of VAT need be prepared.

- 2.10 When a business establishment sends out goods for sale at a mobile place, it shall use an ex-warehouse order concurrently being an internal transportation order accompanied by an internal transfer order as stipulated, and upon sale of the goods, it shall prepare an invoice as stipulated.
- 2.11 When a business establishment directly retails goods or provides services at a low price below the stipulated level, it shall only be required to prepare an invoice at the request of a purchaser, but if it does not prepare an invoice, it must prepare a list of retail goods sold. At the end of the day, the business establishment shall, on the basis of the list of retail goods sold, prepare invoices in order to provide a basis for tax calculation.
- 2.12 When a construction business establishment performs construction or installation works over a long period for which payment is made in accordance with a schedule or depending on the quantity of works completed and handed over, it must prepare an invoice for payment for the quantity of works constructed or installed and handed over. The added value invoice must specify pre-tax revenue and VAT. In the case of construction works for which an invoice for payment for the value of the work has been completed, if there is a reduction of the value of the volume of construction upon finalization of the value of capital construction works, an invoice or receipt shall be prepared for the adjustment of the value of the works to be paid.
- 2.13 Business establishments to which the State allocates or leases land for investment in construction of housing for sale or lease or for investment in infrastructure for sale or lease; which provide transportation services; or which provide international package tour services shall prepare invoices as follows:
- (a) In the line for sale price, they shall write the selling price of the house or infrastructure facilities (the selling price of the house and the price of the land, the rent for the land or the rent for the infrastructure facilities shall be stated separately in the invoice), the revenue from transportation, or the revenue from package tour services, and pre-VAT.
  - (b) In the line for VAT taxable price, they shall write the price which is determined in accordance with clause 1.8 of Section I of Part B of this Circular; the revenue from transportation; or the revenue from tour services less (-) expenses incurred overseas such as meals, accommodation and freight.
  - (c) In the line for tax rate, they shall write the amount of VAT and the payment price as stipulated.

If a establishment conducting real estate business or constructing infrastructure facilities or housing for sale or transfer collects payments in accordance with the schedule of implementation of the project or the schedule of payments stated in the contract, such establishment must prepare an added value invoice upon collecting such payments. The invoice shall specify the amount of money collected, price of the land to be deducted from the taxable turnover, the VAT rate and the amount of VAT. The price of the land shall be calculated at a percentage (%) amount of money collected in accordance with the schedule of implementation of the project or the schedule of payments stated in the contract over the price of the land calculated for deduction at the date of transfer (the date of collection of the first payment pursuant to the schedule) as stipulated.

- 2.14 Establishments engaged in finance leasing which lease property subject to VAT shall prepare invoices in accordance with regulations.

When establishments engaged in finance leasing lease assets subject to VAT, they must provide an added value invoice (for assets purchased domestically) or a receipt for payment of VAT at the import stage (for imported assets); the total amount of VAT stated on the invoice for the finance leasing services must match the amount of VAT stated on the added value invoice (or on the receipt for payment of VAT at the import stage).

Where assets are purchased for leasing not subject to VAT, without an added value invoice or receipt for payment of VAT at the import stage, VAT shall not be recorded on the invoice.

When VAT on finance leased assets has been fully credited and the ownership of the assets have been transferred to the lessee, the lessor shall transfer to the lessee the file on the origin of the assets in accordance with regulations.

Business establishments providing finance leasing services shall not be required to declare and pay VAT in respect of finance leasing services. These establishments must declare and calculate tax in respect of finance leased assets subject to VAT leased by other entities on the basis of the aforesaid invoice.

Business establishments providing finance leasing services shall not be required to submit a declaration of VAT in respect of finance leasing services but only submit a list of invoices for goods or services sold and a list of invoices for goods or services purchased in which only VAT on the leased assets which is allocated in compliance with added value invoices prepared for turnover from finance leasing services in the period of the declaration is stated for the item of VAT on purchases. The taxpayer must submit the tax declaration file for finance leased assets leased by other entities.

Where the lessee fails to perform a contract resulting in the recovery of assets by the lessor, the lessor must give notification to the lessee and specify the amount of VAT paid and the outstanding amount of VAT. When the lessor continues to lease out [such assets] to another entity, the lessor shall calculate the outstanding amount of VAT for collection under the new contract.

Where, after a period of lease of an asset, the lessor sells such asset to the lessee or another entity, the lessor must calculate VAT on the asset sold and prepare an added value invoice and shall only be entitled to a credit of outstanding input VAT on the asset.

Where the lessor and the lessee jointly contribute capital for purchase of an asset and the lessor will only collect rent (comprising principal and interest) corresponding to its capital contribution, the lessor shall manage the invoice for purchase of the asset for lease until transfer of the ownership of the asset to the lessee. The amount of VAT corresponding to the amount of capital contributed by the lessor shall be included in the invoice for collection of the first payment.

Where the finance leasing contract is performed and the lessee has paid in full the amount of VAT and the two parties agree to continue the lease, the invoice prepared for the next turnover shall exclude VAT.

- 2.15 Establishments engaged in activities of purchase and sale of foreign currencies arising overseas shall prepare lists detailing turnover on the purchase and sale of each type of foreign currency. Establishments must retain all source documents of transactions with buyers and sellers overseas strictly in accordance with the law on accounting. Invoices in accordance with regulations must be prepared for all activities of the purchase and sale of foreign currencies arising domestically.

- 2.16 Where business establishments purchase or sell gold, silver and precious stones from non-trading individuals without an invoice, they shall prepare a list of input purchased goods.
- 2.17 When export processing enterprises sell goods or services, they shall use sales invoices (or invoices they themselves issue) in accordance with regulations of the Ministry of Finance.
- 2.18 Invoices and receipts regarding assets being capital contribution and assets transferred [internally] shall comprise:
- (a) Parties being non-business organizations or individuals which have assets being capital contribution.
- (a1) In the case of non-business organizations and individuals making a capital contribution by assets to a limited liability company or shareholding company, the receipt shall be the minutes certifying capital contribution and the minutes recording delivery of the assets. Where the assets being capital contribution are newly purchased assets as yet unused and with a lawful invoice accepted by the council for receipt of capital contribution, the value of capital contribution shall be determined as the value stated in the invoice including VAT; the party receiving capital contribution shall be permitted to declare and credit VAT stated in the invoice for purchase of the assets of the party making the capital contribution.
- (a2) In the case of an individual using his or her own assets or value of a land use right to form a private enterprise or law office, the transfer of ownership of the assets or land use right to the private enterprise shall not be required. If there is no proof of the prime cost of the assets then there must be a written valuation by a valuer for accounting purposes to fix the value of the fixed assets in accordance with law.
- (b) Parties being business organizations or individuals which have assets being capital contribution.
- (b1) In the case of business establishment making a capital contribution by assets to an enterprise, there must be minutes certifying capital contribution for production and business and the joint venture contract or business co-operation agreement; and minutes of valuation of the assets prepared by the council for receipt of capital contribution from the parties (or a written valuation of an organization with a function of valuation pursuant to law) accompanied by a file on the origin of the assets.
- (b2) In the case of assets transferred [internally] between dependent cost accounting member entities within one business establishment; or when assets are transferred when a business establishment is demerged, divided, consolidated or converts the form of enterprise, then the entity transferring the assets must have an order for the transfer and a file on the origin of the assets, but an invoice shall not be required to be presented.

In the case of assets transferred between independent cost accounting entities or member entities enjoying full legal entity status within the same business establishment, the entity transferring the assets must prepare an added value invoice and declare and pay VAT in accordance with regulations.

A business establishment shall not be required to declare and pay VAT in the following cases:

- Receipt of compensation for land, support in relation to land, resettlement due to recovery of land;
- Capital contribution by assets for establishment of an enterprise;
- Transfer of assets between dependent cost accounting entities within an enterprise;
- Transfer of assets upon demerger, division, consolidation or conversion of form of enterprise;
- Claim against a third person in insurance activities;
- Collection of payments on behalf of others which is not relevant to the sale of goods or services of a business establishment.

2.19 In the case of a business establishment receiving aid from another business establishment, upon receipt of money the former shall prepare a receipt certifying "other income" in order to declare and pay corporate income tax in accordance with regulations.

The business establishment paying out the aid shall rely on the purpose of the aid as recorded in the contract to prepare a disbursement voucher.

2.20 Any business establishment donating, lending or returning assets must prepare an added value invoice the same as for a normal purchase or sale.

### C. REFUND OF VAT

Entities and cases of entitlement to VAT refund shall be stipulated as follows:

1. Business establishments paying tax by the tax credit method shall be entitled to a tax refund if they have not yet been fully credited for input tax of three or more consecutive months.

The refunded tax amount shall be the input tax which has not yet been fully credited for the tax refund period.

Example 24: Enterprise A declares VAT with input VAT and output VAT as follows:

(Unit: VND million)

<i>Month of tax declaration</i>	<i>Deductible input VAT in the month</i>	<i>Output VAT arising in the month</i>	<i>Tax payable</i>	<i>Accumulated amount of input VAT not yet credited</i>
December 2008	200	100	- 100	- 100
January 2009	300	350	+ 50	- 50
February 2009	300	200	- 100	- 150

In the above example, Enterprise A has accumulated three consecutive months of input tax which exceeds output tax. Enterprise A shall therefore be entitled to a refund of VAT in the amount of VND 150 million.

2. Where a new business establishment has been established from an investment project and has made business registration and registration for tax payment by the tax credit method, or a project for prospecting, exploration and development of a petroleum field is in the period of investment and has not commenced operations: if the period of investment is one year or more, it shall be entitled to a refund of VAT on goods or services used for investment on an annual basis. If the accumulated amount of VAT on goods or services purchased for investment is more than VND 200 million, it shall be entitled to a refund of VAT.
3. Where a business establishment currently operating and paying tax by the tax credit method carries out a new investment project which is in the period of investment, it must declare for set-off against the amount of VAT on goods or services purchased for the new investment project at the same time as declaring VAT on its current production and business activities. If after set-off the remaining amount of input VAT, which has not yet been fully credited, on goods and services purchased for the investment is more than VND 200 million, it shall be entitled to a refund of VAT for the investment project.

Where a business establishment currently operating (except for enterprises maintaining a cost accounting system for an entire industry or branch) and paying tax by the tax credit method carries out an investment project for a new business establishment in a province or city under central authority other than the province or city in which its head office is located, is within the period of investment and has not commenced operations, has not made business registration and tax registration and has an amount of VAT on goods or services purchased for investment being VND 200 million or more, it shall be entitled to a refund of VAT for such investment project. The business establishment must declare and prepare a separate file for tax refund for this case.

4. A business establishment exporting goods or services in a month with input VAT on export goods not yet credited of VND 200 million or more shall be considered for refund of VAT for the month. A business establishment exporting goods or services in a month and also selling goods domestically with input VAT on export goods or services not yet credited of VND 200 million or more but is later compensated for the input VAT on the goods sold domestically, shall not be considered for a refund of VAT for the month if the input VAT not yet credited is less than VND 200 million, but it shall be entitled to a refund of VAT for the month if the input VAT not yet credited is VND 200 million or more.

Entities entitled to a refund in several cases of export shall be the principal authorizing the export in the case of goods exported by an authorized agent; the processing establishment which directly signs a contract with a foreign party in the case of processing by an authorized processor; the establishment which signs a contract for processing of goods for export with a foreign party in the case of transitional processing; or the enterprise having goods or materials exported for implementation of construction works overseas in the case of goods exported for implementation of construction works overseas.

5. Business establishments must conduct tax finalization upon division, demerger, dissolution, bankruptcy, or conversion of ownership; and upon transfer, sale, contractual management or lease of a State owned enterprise when they have any amount of input VAT not yet credited in full or an excess amount of VAT paid.
6. Refund of VAT for programs and projects funded by non-refundable Official Development Aid (ODA), non-refundable aid or humanitarian aid:
  - 6.1 In the case of projects funded by non-refundable ODA, the investor of a project or program or the main contractor or the organization which is designated by the foreign donor to manage

the program or project shall be entitled to a refund of VAT already paid on goods or services purchased in Vietnam for the program or project.

- 6.2 Organizations in Vietnam using humanitarian aid money from foreign organizations or individuals to purchase goods or services for a program or project funded by non-refundable or humanitarian aid in Vietnam shall be entitled to a refund of VAT already paid on such goods or services.

*Example 25:* The Red Cross receives VND 200 million aid money from an international organization to purchase humanitarian aid goods for citizens in provinces affected by a natural disaster. The VAT-exclusive price of the goods is VND 200 million and VAT is VND 20 million. The Red Cross shall be entitled to a refund of VAT namely VND 20 million as stipulated.

Refund of VAT paid by non-refundable ODA funded projects or programs shall be subject to separate guidelines of the Ministry of Finance

7. Entities which are entitled to diplomatic immunity in accordance with the *Ordinance on Diplomatic Immunity* and purchase goods and services in Vietnam shall be entitled to a refund of the amount of VAT paid and recorded on the value added invoice or receipt for payment in which a VAT-inclusive price is recorded.
8. Business establishments having a decision of a competent tax authority on tax refund in accordance with law.

All business establishments and organizations which are entitled to a refund of VAT in accordance with the provisions in clauses 1, 2, 3, 4, 5, 6 and 8 of this Section I must pay tax by the tax credit method, must have been issued with a certificate of business registration or investment licence (practising licence), have a seal, maintain accounting books and accounting source documents in accordance with regulations and must have a deposit account at a bank with the tax code of the establishment.

Once an establishment has prepared its application file for a VAT refund, it may not include any input VAT which is the subject of the application in the amount of tax to be credited in the next month after the time of preparation of the application file for a tax refund.

#### **D. PLACE OF TAX PAYMENT**

Taxpayers shall declare and pay VAT at the locality of production or business. Declaration and payment of VAT shall be carried out in accordance with the *Law on Management of Tax* and the legal instruments providing guidelines for its implementation.

Declaration and payment of VAT and procedures for circulation of source documents in several specific cases shall be subject to the following guidelines:

1. Taxpayers declaring and paying tax by the tax credit method and having a dependent cost accounting production establishment (including manufacturing or assembly establishments) located in a province or city under central authority other than the province or city in which their head office is located shall pay VAT at the locality in which the production establishment is located and at the locality in which the head office is located.

A dependent cost accounting production establishment maintaining a cost accounting system must declare and pay tax by the tax credit method at the locality of production and, upon circulation of semi-finished products or finished products, including circulation of those to its head office, must use added value invoices to provide a basis for declaration and tax payment at the locality of production.

Where a dependent production establishment does not maintain a cost accounting system, the taxpayer making tax payment at the head office shall pay VAT at the rate of 2% (in respect of goods subject to the VAT rate of 10%) or the rate of 1% (in respect of goods subject to the VAT rate of 5%) of the sales at pre-VAT prices of products produced or products of the same type in the locality where the production establishment is located. The amount of VAT payable by the taxpayer for the dependent production establishment shall be deducted from the amount of VAT payable by the taxpayer at the locality in which the head office is located.

*Example 26:* Enterprise A has its head office in Ho Chi Minh City and a dependent cost accounting production establishment in Ba Ria – Vung Tau producing products subject to the VAT rate of 10%. Because the head office sells produced products, Enterprise A will be responsible to declare and pay VAT on a monthly basis for its dependent cost accounting establishment at the rate of 2% of sales of goods produced by the dependent production establishment in Ba Ria – Vung Tau at the VAT-exclusive price. The amount of VAT already paid for the dependent cost accounting establishment will be deducted from the amount of VAT payable by Enterprise A in Ho Chi Minh City.

2. Procedures for circulation of source documents between the Treasury and tax offices.

A taxpayer shall pay VAT incurred in the locality in which its head office is located to the State Treasury at the same level with the tax office at which the taxpayer has registered and declared tax at the same time as paying VAT at a rate (%) for dependent production establishments located in provinces or cities under central authority other than the province or city in which its head office is located. Receipts for tax payment shall be prepared separately for each State treasury and shall specify the State budget revenue account of the locality in which revenue of the budget arises.

Where a taxpayer pays [tax] in cash to the State Treasury of the locality in which its head office is located, the State Treasury shall transfer money and forward the source document for State budget revenue to the relevant State Treasury for accounting for the amount of tax for the dependent cost accounting production establishment as State budget revenue.

## **DD. ORGANIZATION OF IMPLEMENTATION**

### **I. Organization of Collection of VAT**

1. Tax offices shall be responsible to organize implementation of management of collection of VAT from, and VAT refunds to, business establishments.
2. Customs offices shall be responsible to organize implementation of management of collection of VAT on imported goods.

### **II. Effectiveness**

1. This Circular shall be of full force and effect fifteen (15) days after the date of its publication in the Official Gazette and shall apply from 1 January 2009; it shall replace Circulars of the Ministry of Finance 32-2007-TT-BTC dated 9 April 2007 and 30-2008-TT-BTC dated 16 April 2008.

2. Business establishments engaged in shipbuilding and having shipbuilding contracts with clients before the effective date of this Circular at a VAT-inclusive price subject to the tax rate of 5% but which have not yet completed and delivered [a ship] by 31 December 2008 shall continue to be subject to the tax rate of 5% in respect of such contracts. Business establishments engaged in shipbuilding must notify the tax office directly managing them in writing of a list of shipbuilding contracts in progress to be carried forward to 2009 accompanying by copies of such contracts before 31 March 2009.

Entities and business establishment are requested to report to the Ministry of Finance any difficulties or problems arising during implementation in a timely manner, for timely resolution.

For the Minister of Finance  
Deputy Minister  
DO HOANG ANH TUAN