

# CIRCULAR ON CORPORATE INCOME TAX

## TABLE OF CONTENTS

<b>PART A.....</b>	<b>1</b>
<b>SCOPE OF APPLICATION OF CORPORATE INCOME TAX ["CIT"] .....</b>	<b>1</b>
<b>PART B.....</b>	<b>2</b>
<b>METHOD OF ASSESSING CIT .....</b>	<b>2</b>
<b>PART C.....</b>	<b>3</b>
<b>BASES FOR ASSESSING CIT.....</b>	<b>3</b>
I.    ASSESSABLE INCOME.....	3
II.   TAXABLE INCOME .....	4
III.  TURNOVER .....	4
IV.  DEDUCTIBLE EXPENSES AND NON-DEDUCTIBLE EXPENSES WHEN DETERMINING TAXABLE INCOME.....	7
V.    OTHER INCOME .....	15
VI.  TAX EXEMPT INCOME.....	19
VII.  DETERMINATION OF LOSSES AND CARRYING FORWARD LOSSES.....	21
VIII. ESTABLISHMENT OF SCIENCE AND TECHNOLOGY DEVELOPMENT FUND OF AN ENTERPRISE .....	22
IX.  TAX RATES.....	24
<b>PART D.....</b>	<b>24</b>
<b>PAYMENT OF CORPORATE INCOME TAX .....</b>	<b>24</b>
<b>PART E .....</b>	<b>26</b>
<b>DETERMINATION OF ASSESSABLE INCOME AND CIT FROM CAPITAL ASSIGNMENTS AND FROM TRANSFERS OF SECURITIES.....</b>	<b>26</b>
1.    WHAT INCOME IS ASSESSABLE INCOME .....	26
2.    BASIS FOR TAX ASSESSMENT.....	26
3.    DECLARATION AND PAYMENT OF TAX .....	29
<b>PART G.....</b>	<b>30</b>
<b>DETERMINATION OF ASSESSABLE INCOME AND CIT FROM REAL PROPERTY TRANSFERS.....</b>	<b>30</b>
I.    WHAT INCOME IS ASSESSABLE INCOME .....	30
II.   BASIS FOR TAX ASSESSMENT.....	30
III.  DECLARATION, PAYMENT AND TAX FINALIZATION .....	34
<b>PART H.....</b>	<b>36</b>
<b>CORPORATE INCOME TAX INCENTIVES.....</b>	<b>36</b>
I.    CONDITIONS AND PRINCIPLES FOR APPLICATION OF CIT INCENTIVES .....	36
II.   PREFERENTIAL TAX RATES.....	38
III.  LEVELS AND DURATION OF EXEMPTION FROM AND REDUCTION OF CIT .....	39
IV.  OTHER CASES OF TAX REDUCTION .....	40
V.    PROCEDURES FOR IMPLEMENTING CORPORATE INCOME TAX INCENTIVES.....	40

**PART I..... 40**

**ORGANIZATION OF IMPLEMENTATION..... 40**

Hanoi, 26 December 2008

**CIRCULAR  
PROVIDING GUIDELINES  
FOR IMPLEMENTATION OF THE LAW ON CORPORATE INCOME TAX  
AND DECREE 124-2008-ND-CP OF THE GOVERNMENT  
DATED 11 DECEMBER 2008 IMPLEMENTING THE  
LAW ON CORPORATE INCOME TAX**

Pursuant to *Law 14 on Corporate Income Tax* dated 3 June 2008;

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

Pursuant to Decree 124-2008-ND-CP of the Government dated 11 December 2008 with detailed provisions for implementation of the *Law on Corporate Income 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 corporate income tax:

**PART A**

**SCOPE OF APPLICATION OF CORPORATE INCOME TAX ["CIT"]**

1. *Corporate income taxpayer* means any organization producing and trading goods and services which has taxable income (hereinafter referred to as *an enterprise*), comprising:
  - 1.1 Enterprises established and operating in accordance with the *Law on Enterprises*, the *Law on State Owned Enterprises*, the *Law on Foreign Investment in Vietnam*, the *Law on Investment*, the *Law on Credit Institutions*, the *Law on Insurance Business*, the *Law on Securities*, the *Law on Petroleum*, the *Commercial Law* and other legal instruments, in the following forms: shareholding companies; limited liability companies; partnerships; private enterprises; State enterprises; law offices; notary offices; parties to business co-operation contracts; parties to petroleum<sup>1</sup> production sharing contracts; petroleum joint venture enterprises and general operation companies.
  - 1.2 Public and non-public professional entities which have taxable income in all sectors producing and trading goods and services.
  - 1.3 Organizations established and operating in accordance with the *Law on Co-operatives*.
  - 1.4 Enterprises established pursuant to foreign law (hereinafter referred to as *foreign enterprises*) with a resident establishment in Vietnam.

*Resident establishment of a foreign enterprise* means a production and business establishment via which a foreign enterprise conducts all or a part of its production and business activities in Vietnam which earn income, comprising:

- Branch, operational office, plant, workshop, means of transportation, mine, petroleum or gas field, and any location where natural resources are exploited in Vietnam;
- Construction site, construction project works or installation and assembly works;
- Establishment providing services including consultancy services via its employees or another entity;
- Agent for a foreign enterprise;
- Representative in Vietnam with authority to enter into contracts in the name of the foreign enterprise; or a representative not so authorized to enter into contracts in the name of a foreign enterprise but which regularly delivers goods or provides services in Vietnam.

Where a treaty on avoidance of double taxation to which Vietnam is a signatory contains different provisions relating to resident establishments, such treaty shall prevail.

- 1.5 Organizations other than those prescribed in sub-clauses 1.1 to 1.4 inclusive above which have a production or business operation in goods or services and which have taxable income.
2. Foreign enterprises and foreign organizations conducting production and business in Vietnam other than pursuant to the *Law on Investment* [or] *the Law on Enterprises* or<sup>2</sup> having income arising in Vietnam shall pay CIT in accordance with specific regulations of the Ministry of Finance; and if such enterprises have capital assignment activities, then they must pay CIT in accordance with the guidelines in Part E of this Circular.

## **PART B**

### **METHOD OF ASSESSING CIT**

1. The amount of CIT payable in any one tax period shall be assessable income multiplied by the tax rate.

The amount of CIT payable shall be determined in accordance with the following formula:

$$\text{CIT payable} = \text{Assessable income} \times \text{CIT rate.}$$

If an enterprise establishes a Science and Technology Development Fund ["*R&D Fund*"] then the amount of CIT payable shall be:

$$\text{CIT payable} = (\text{Assessable income} - \text{Allocation to R\&D fund}) \times \text{CIT rate.}$$

If an enterprise has already paid CIT or an equivalent tax overseas, then it shall be entitled to deduct the amount so paid but not to exceed the amount of CIT payable in accordance with the *Law on Corporate Income Tax*.

2. The tax assessment period shall be fixed in accordance with the Gregorian calendar year. Where any enterprise applies a financial year other than the Gregorian year then such financial year shall be its tax assessment period. When assessing tax on the initial occasion for a new business establishment [case A], and when assessing tax on the final occasion for an enterprise which converts its form of enterprise or ownership, or merges, divides, dissolves or is declared bankrupt [case B], the tax assessment period shall be fixed in accordance with the accounting period stipulated in the law on accounting.
3. When the initial tax assessment period for a newly established enterprise from the date of grant of its business registration certificate [case A], and the final tax period for a business establishment [case B] is less than three (3) months, it shall be added to the following tax assessment year in case A, or added to the previous tax assessment year in case B, to form the one tax period which must not, however, exceed fifteen (15) months.
4. Any professional entity which conducts business in goods and services corresponding to the CIT rate of 25%, and after implementing any incentives to which it is entitled on exemption or reduction of CIT, and if such entity conducts cost accounting for its turnover but without determining revenue and expenses from its business activities, shall declare and pay CIT as a percentage of its turnover from the sale of goods and services as follows:
  - Services: 5%,
  - Business in goods: 1%,
  - With respect to other activities: 2%.
5. An enterprise with revenue, expenses, taxable income and assessable income in foreign currency must convert it into Vietnamese dong at the average trading rate on the inter-bank foreign currency market as announced by the State Bank on the date when such revenue, expenses, taxable income or assessable income arose, unless otherwise provided by law. Foreign currencies for which there is no exchange rate with Vietnamese dong must be converted via a foreign currency for which there is an exchange rate with Vietnamese dong.

## PART C

### BASES FOR ASSESSING CIT

#### I. Assessable income

Assessable income in any one tax assessment period shall equal taxable income less exempt income and less losses carried forward from previous years in accordance with regulations.

Assessable income within any one tax assessment period shall be fixed as follows:

$$\text{Assessable income} = \text{Taxable income} - \left[ \text{Exempt income} + \text{Losses carried forward in accordance with law.} \right]$$

## II. Taxable income

Taxable income within any one tax assessment period shall comprise income from production and business activities in goods and services and other income.

Taxable income within any one tax assessment period shall be fixed as follows:

$$\text{Taxable income} = \left[ \text{Turnover} - \text{Deductible expenses} \right] + \text{Other income items.}$$

Income earned from activities of production and business in goods and services shall equal turnover from such activities less deductible expenses of such activities. Any enterprise which has multiple business activities to which different tax rates apply must separately calculate income from each activity and multiply it with the appropriate tax rate.

Income from real property transfers must be separately accounted for in order to declare and pay tax, and it may not be deducted from income or losses from other business activities.

## III. Turnover

1. Turnover used to assess taxable income means total goods' sales revenue, processing fees and fees for providing services including price subsidies, additional charges and fees to which the enterprise is entitled, irrespective of whether or not money has been received.
- 1.1 If an enterprise pays value added tax ["VAT"] by the tax credit method, turnover used to assess taxable income shall be turnover excluding VAT.

*Example:* Enterprise A pays VAT by the tax credit method and its VAT sales invoice states:

Selling price:	100,000 dong
Value added tax (10%):	10,000 dong
Payment price:	110,000 dong

Turnover earned by Enterprise A to assess taxable income is 100,000 dong.

- 1.2 If an enterprise pays VAT calculated directly on the basis of added value, turnover used to assess taxable income shall include VAT.

*Example:* Enterprise B pays VAT calculated directly on the basis of added value and its sales invoice states the selling price of 110,000 dong (including VAT). Turnover earned by Enterprise B to assess taxable income is 110,000 dong.

### 2. The point of time for fixing turnover in order to assess taxable income shall be:

- 2.1 In respect of sales of goods, when ownership of or use right to the goods is transferred to the purchaser.
- 2.2 In respect of services, when the services to the purchaser are completed or when a sales invoice is prepared.

If a sales invoice is prepared before the services are completed, the point of time for fixing turnover shall be when the sales invoice is prepared.

2.3 Other cases as stipulated by law.

**3. Turnover used to assess taxable income shall be determined in a number of specific industries as follows:**

- 3.1 Where goods and services are sold by way of instalments or deferred payment, turnover on goods sold shall be calculated on a lump sum payment price excluding any interest payable on instalments or deferred payment.
- 3.2 With respect to goods and services used for the purpose of exchange, donation or internal consumption, turnover shall be calculated on the basis of the selling price of products, goods or services of the same or similar kind in the market at the time of such exchange, donation or internal use.  
Goods and services for internal consumption means goods or services produced or supplied by the enterprise for its internal consumption, excluding goods and services directly used in the production and business process of the enterprise.
- 3.3 With respect to processing of goods, turnover shall be turnover from processing including processing fees, expenses for fuel, power and sub-materials and other expenses servicing the processing of goods.
- 3.4 With respect to goods of an establishment which authorizes an agent or acts as an agent or accepts goods on consignment pursuant to an agency or consignment contract to sell at the price fixed by the principal on commission, turnover shall be:
- The total proceeds from the sale of goods, if the enterprise delivers the goods to the agent or bailee (including pyramid selling).
  - The amount of commission to which the enterprise is entitled pursuant to the agency or consignment contract, if the enterprise agreed to act as agent or bailee for the sale of goods at the price fixed by the principal.
- 3.5 With respect to leasing out assets, turnover shall be the amount of rent paid by the lessee for each period under the lease contract. If a lessee pays rent in advance for a number of years, turnover used to assess taxable income shall be allocated over the number of years for which the lessee paid rent in advance.
- 3.6 With respect to credit or finance leasing operations, turnover shall be loan interest or revenue from the finance leasing arising in any one tax assessment period.
- 3.7 Turnover from transportation shall be total turnover from passenger, luggage and cargo transportation arising in any one tax assessment period.
- 3.8 Turnover from sale of electricity or clean water shall be the sum recorded in VAT invoices. The date for determining turnover in order to assess taxable income shall be the date of the meter index reading and recorded in the invoice for electricity or clean water.  
*Example:* An invoice is issued calculating the electricity price on the meter index 5 December up to 5 January. Turnover from this invoice shall be assessed in January.
- 3.9 With respect to golf course business, turnover shall be proceeds from the sale of membership cards and tickets to play golf, and other types of income within the tax assessment period.

3.10 With respect to insurance and re-insurance operations, turnover shall be the amount receivable for primary premiums, agents' fees (for conducting loss assessment, claims settlement, third party recovery claims and 100% payment for goods); reinsurance premiums, commission for ceding re-insurance, and all other income from insurance business after deducting refunds of premiums and reinsurance premiums, and reductions or refunds of commission for ceding re-insurance.

In the case of syndicated or joint insurance, turnover in order to assess taxable income of each insurer shall be the amount of primary premium collected and allocated to each party at the relevant insuring ratio, excluding VAT.

If the provisions in the insurance contract provide for payment on a periodical basis, then turnover shall be the amount arising within each period.

3.11 In the case of construction works or installation and assembly works, turnover shall be the value of the works or items of works which have been tested and handed over.

- In the case of construction works or installation and assembly works for which the tender included raw materials, machinery and equipment, turnover shall be the proceeds from the construction or installation and assembly activities including the value of such raw materials, machinery and equipment.
- In the case of construction works or installation and assembly works for which the tender did not include raw materials, machinery and equipment, turnover shall be such proceeds excluding the value of the raw materials, machinery and equipment.

3.12 With respect to business activities in the form of a business co-operation contract ["BCC"]:

- If the parties to the BCC distribute their business results in the form of turnover from sales of goods and services, turnover for the purposes of assessing tax shall be turnover of each party to which a share is distributable under the BCC.
- If the parties to the BCC distribute business results in the form of products, turnover for the purposes of assessing tax shall be turnover of each party to which a share is distributable under the BCC.
- If the parties to the BCC distribute their business results in the form of pre-tax profits, then turnover shall be the proceeds from the sale of goods and services pursuant to the contract. The parties to the BCC must appoint one of them as the representative responsible to provide invoices, to record turnover and expenses, and to fix the amount of pre-tax profits to be distributed to each contracting party. Each contracting party shall be responsible to discharge its CIT obligations in accordance with current regulations.
- If the parties to the BCC distribute their business results in the form of after-tax profits, then turnover shall also be the proceeds from the sale of goods and services pursuant to the contract. The parties to the BCC must appoint one of them as the representative responsible to provide invoices, to record turnover and expenses, and to declare and pay CIT on behalf of all other contracting parties.

3.13 With respect to casino services, electronic games with prizes and other betting entertainment businesses, turnover shall be the proceeds from these operations including special sales tax and less sums paid as prizes to customers.

- 3.14 With respect to securities business, turnover shall be revenue from brokerage services, securities self-trading, underwriting of issues, securities investment consultancy, management of investment funds, issuance of fund certificates, market organization services or other securities services as defined by law.
- 3.15 With respect to derivative financial services, turnover shall be proceeds from the provision of such services arising [and] performed within anyone tax assessment period.

#### **IV. Deductible expenses and non-deductible expenses when determining taxable income**

1. An enterprise shall be permitted to deduct all expenses except for those stipulated in clause 2 of this article, which satisfy the following conditions:
- 1.1 The expenses actually arose and relate to the activities of production and business of the enterprise.
- 1.2 The expenses are accompanied by legal and complete invoices and source vouchers as required by law.
2. Non-deductible expenses when determining taxable income
- 2.1 Expenses which fail to satisfy both conditions stipulated in clause 1 above, except for that part of the value of a loss due to a natural disaster, epidemic or other event of force majeure for which compensation is not payable.

Enterprises must themselves fix the total value of any loss due to a natural disaster, epidemic or other event of force majeure in accordance with law.

The above-mentioned part of the value of the loss due to the above-mentioned events for which compensation is not payable shall be fixed as equal to the total value of the loss less that part of the loss for which the entity which was liable made a payment [of indemnity or compensation] in accordance with law.

- 2.2 Depreciation of fixed assets in any one of the following cases:
- (a) Depreciation of fixed assets which are not in fact used for producing or trading goods and services.
- [However] depreciation may be included in deductible expenses in the case of fixed assets servicing the employees working at the enterprise such as accommodation for employees to rest during shifts, a canteen providing mid-shift meals, changing rooms, toilet facilities, drinking water facilities, a garage [parking facilities], a health office or medical station, a bus to collect employees to travel to work, education and training establishments, and housing for employees in which the enterprise invested in construction.
- (b) Depreciation of fixed assets which do not have proper and complete invoices and source vouchers proving ownership by the enterprise (except for finance leased fixed assets).
- (c) Depreciation of fixed assets which are not managed, monitored and entered in the accounting books of the enterprise in accordance with current regulations on cost accounting.
- (d) That part of depreciation of fixed assets which exceeds the level of depreciation of fixed assets in current regulations of the Minister of Finance on management, use and depreciation of fixed

assets; or in the case of enterprises which make a profit and which currently adopt the straight line method of depreciation but need to adopt the accelerated depreciation method in order to renovate technology, then that part of depreciation of fixed assets which exceeds the permissible level of depreciation of fixed assets by the accelerated method [shall not be deductible].

Enterprises must register with the tax office directly managing them, the method of depreciation of fixed assets which they choose to apply, before they commence to apply such method. Each year enterprises shall make their own decision on the level of such depreciation in accordance with current regulations of the Ministry of Finance on depreciation of fixed assets, including where they adopt the accelerated method. In the course of their operations, enterprises may change the level of depreciation so long as it remains within the stipulated levels, but enterprises may not make any such change after lodging their declaration on finalization of CIT for that year.

In the case of contributing capital by fixed assets and in a case when fixed assets are transferred on division, merger, consolidation, demerger, or conversion of enterprise form and their value is re-assessed in accordance with regulations, the enterprise receiving such assets shall account for their depreciation in deductible expenses in accordance with the re-assessed prime cost. But in the case of assets which do not satisfy the criteria to qualify as fixed assets and which are contributed as capital or transferred in the above cases and their value is re-assessed in accordance with regulations, the enterprise receiving them shall account for their depreciation in deductible expenses in accordance with their re-assessed value.

In the case of an enterprise itself producing its own fixed assets at prime cost, the prime cost for depreciation purposes and inclusion in deductible expenses shall be total costs of production in order to form such fixed assets.

- (e) That part of depreciation where the prime cost exceeded 1.6 billion dong per vehicle in the case of vehicles seating nine or less people newly registered for use and for which depreciation of such fixed assets is accounted for as from 1 January 2009 (except for vehicles in the business lines of passenger transportation, tourism and hotels); and that part of depreciation for fixed assets being civilian aircraft and yachts not used for business purposes or for transporting tourists, passengers and cargo.

Vehicles seating nine or less people and used in the business lines of passenger transportation, tourism and hotels means vehicles registered in the name of the enterprise whose business registration certificate also registers its business lines as passenger transportation, tourism, or hotel business.

Civilian aircraft and yachts not used for business purposes or for transporting tourists, passengers and cargo means civilian aircraft and yachts of an enterprise which has registered them and which accounts for depreciation of fixed assets, but the business registration certificate of such enterprise does not include the business lines of passenger and cargo transportation, or tourism.

- (g) Depreciation of fixed assets after they have been depreciated to their full value.
- (h) Depreciation of buildings on land which are used for both business and production purposes [on the one hand] and also for other purposes [on the other hand] shall not be included in reasonable expenses as to that part of the value of the buildings corresponding to the area of land not used for production and business activities.

In the case of buildings being offices, factories or shops servicing production and business and built on land leased or borrowed from some other entity<sup>3</sup> (in other words not directly leased from the State or not leased within an industrial zone), then an enterprise may only include depreciation in its deductible expenses if it satisfies the following conditions:

- The lease or borrowing contract has been notarized in accordance with law, and the term of the lease or borrowing as stipulated in such contract is not less than the minimum period for depreciation of fixed assets.
- There is an invoice for payment of the items of works handed over, enclosing the contract for construction of such works, the contract liquidating the former contract, and accounting finalization of the value of such works bearing the name, address and tax code of the enterprise.
- There is accounting management and monitoring of such works or buildings on the land, in accordance with current regulations on cost accounting of fixed assets.

2.3 Costs of raw materials, supplies, fuel, power and goods exceeding reasonable consumption levels.

An enterprise shall establish its own reasonable consumption levels for raw materials, supplies, fuel, power and goods used for production, business and service activities at the beginning of a year or production cycle, and notify same to the tax office directly managing it within three months from the date of commencement of production. If during the duration of production and business the enterprise amends or adds to such consumption levels, it must notify the tax office directly managing it, but no such notification may be made after the date of lodging the CIT finalization declaration of the enterprise. Enterprises must comply with regulations regarding those items of raw materials, supplies, fuel and goods for which the State has stipulated consumption levels.

2.4 Expenses of an enterprise for the purchase of goods and services without an invoice and for which the enterprise is permitted to prepare a List of external [or inward] purchases of goods and services (on Appendix 1-TNDN issued with this Circular) but fails to prepare such List and hand it to the seller of goods or supplier of services [shall be non-deductible] namely agricultural, forestry or aquaculture products purchased from the producer; seafood purchased from fishermen; products made directly by farmers from rattan, bamboo, reed, coconut or grass; or handcraft products made by non-business artisans who sell them directly; soil, stone, sand or gravel mined by citizens themselves who sell them directly; scrap sold by persons who collected it themselves; second-hand domestic appliances sold directly by a family household or individual; and a number of other services provided by non-business individuals.

The List of external [or inward] purchases of goods and services must be signed by the legal representative of the enterprise, who shall be legally liable for the accuracy and truthfulness of the List. If prices on the List are higher than market prices at the time of purchase, then the tax office may rely on the market price at the time of purchase of goods and services of the same or similar type to re-fix prices for the purposes of re-determining reasonable expenses when calculating taxable income.

2.5 Expenses being salaries and wages in any one of the following cases:

- (a) Expenses being salaries, wages and allowances payable to employees but which have not in fact been paid or which do not have invoices and source vouchers required by law.

- (b) Expenses being bonuses to employees which are not in the nature of salary or wages, and bonuses which are not specifically recorded in the labour contract or in the collective labour agreement.
  - (c) Expenses being salaries, wages and allowances payable to employees but which have not in fact been paid on expiry of the time-limit for lodging the annual tax finalization file, unless the enterprise has established a contingency fund to supplement the salary fund in the immediately following year to ensure that payment of salary is not interrupted and so long as such fund is not used for some other purpose. Each enterprise may make its own decision on the amount of such annual contingency, which must not exceed 17% of the currently implemented salary fund.
  - (d) Salaries and wages of the owner of a private enterprise or of a single member limited liability company (headed by one individual); and remuneration paid to founding members or to members of the member's council or board of management who do not directly participate in executive operation of production and business in goods and services.
- 2.6 That part of expenses for uniforms paid in kind to employees without invoices; and that part of expenses for uniforms paid in kind to employees exceeding one million five hundred dong per person per year, or paid in money and exceeding one million dong per person per year.
- 2.7 Expenses being rewards for innovations and improvements paid by enterprises without rules on payment of such rewards and without a council to test such innovations and improvements.
- 2.8 Expenses being purchase of life insurance for employees.
- 2.9 Travel allowances for staff on leave not in accordance with the provisions of the *Labour Code*; and that part of expenses of employees' business trips both within Vietnam and overseas (excluding fares and accommodation expenses) which exceed twice the level stipulated by the Ministry of Finance for State employees.
- 2.10 The following expenses [shall not be deductible] if made to the incorrect person, made for an incorrect objective, or if in excess of stipulated levels:
- (a) Additional payments made to female employees which are includable in deductible expenses, comprising:
    - Expenses for retraining female employees where their previous jobs become redundant and they must do other work in accordance with the developmental plan of the enterprise.

These expenses shall include schooling fees (if any) plus the difference between salary rates for different grades of employees (ensuring payment of 100% salary to employees during the time they are in school).

    - Expenses being salaries and allowances for teachers at kindergartens and primary schools run and managed by the enterprise.
    - Expenses for additional medical examinations during the year for female employees such as for occupational or chronic illness, or gynaecological examinations.

- Expenses being child-care payments to female employees after the birth of their first or second child.
  - Expenses being overtime allowances in accordance with current regulations paid to female employees when, for objective reasons, they do not have a rest break to return home to feed the baby but remain working at the enterprise; including where salary is paid in the form of products to female employees who remain working.
- (b) The following additional payments made to ethnic minority employees which may be included in deductible expenses comprise any schooling fees plus difference between salary rates for different grades of employees (ensuring payment of 100% salary to such ethnic minority employees during the time they are in school); and any monetary subsidies for housing, social and health care insurance when such employees are not paid these subsidies by the State in accordance with current regulations.
- 2.11 That part of contributions to social and medical insurance funds and the trade union budget which exceed the stipulated level; that part of contributions to management costs of the higher level and contributions to funds of professional associations which exceed the stipulated level for associations.
- 2.12 Costs of electricity and water in a case where the contract for the electricity and water supply is signed directly by the lessor of the business and production location with the electricity or water supplier, and there are insufficient source documents in one of the following cases:
- (a) The enterprise as lessee of the business and production location pays the costs of such electricity or water directly to the supplier without a List (on the standard form in Appendix 2-TNDN), without invoices for the electricity or water, and without a lease contract of the business location.
  - (b) The enterprise as lessee of the business and production location pays the costs of such electricity or water to the owner of the business location [the lessor] without a List (on the standard form in Appendix 2), without invoices for payment of the appropriate proportion of electricity or water charges for actual use by the lessee, and without a lease contract of the business location.
- 2.13 That part of expenses for hiring fixed assets which exceed allocation over the number of years of the lease for which the lessee paid in advance.

*Example:* Enterprise A hires fixed assets for 4 years, the cost of the hire is 400 million dong and the enterprise makes a lump sum payment. The costs of hiring the fixed assets are accounted into expenses for each year at 100 million dong. Any costs of hiring fixed assets in a year which exceeds 100 million dong shall not be included in reasonable expenses when determining taxable income.

In the case of costs of repairing leased fixed assets for which the lease contract stipulates that the lessee is liable for repairs during the lease term, such costs may be allocated gradually to reasonable expenses for a maximum period of three years.

Where expenses are incurred in order to avoid having to have fixed assets, for example expenses being purchase and use of technical data, patents, licences for technology transfer, commercial trade marks or business advantages or so forth, such expenses may also be allocated gradually to business expenses for a maximum period of three years.

- 2.14 Payment of interest on loans for production and trading of goods and services borrowed from entities which are not credit institutions or economic organizations and which exceed 150% of the basic interest rate announced by the State Bank as at the date of the loan.
- 2.15 Payment of interest on loans for contribution to legal capital or to registered legal capital which is not yet fully paid up, as per the schedule for capital contribution set out in the enterprise charter including an enterprise which has already commenced production and business.
- 2.16 Costs of setting up and using contingency provisions for reduction of inventory prices, for losses on financial investments, for bad debts; and for contingency provisions for warranty of products, goods, and installation and assembly works not in accordance with relevant guidelines of the Ministry of Finance.
- 2.17 Costs of setting up and using contingency provisions for payment of allowances for loss of work and retrenchment benefits to employees, which are not in accordance with current regulations.
- 2.18 Expenses allocated in advance to a term but not actually spent or spent in full.

Expenses allocated in advance comprise expenses for major repairs to fixed assets conducted in cycles, expenses allocated in advance for activities for which turnover has already been accounted but it is necessary to discharge contractual obligations, and other expenses allocated in advance. In the case of repairs to fixed assets of a cyclical nature, the enterprise may allocate budgeted expenses for such repairs in its annual expenses, and if the actual cost is greater than the budgeted amount, the enterprise may include the difference in its reasonable expenses.

- 2.19 That part of expenses for advertising, marketing, promotion and broker's commissions; of expenses for receptions, formal occasions and conferences; of expenses for assisting marketing, of expenses for assisting costs and discounting payments; and of expenses for complimentary newspapers by press agencies directly related to production or business which exceed ten (10) per cent of the total amount of deductible expenses; [but] applicable to newly established enterprises, that part of [such] expenses which exceed fifteen (15) per cent in the first three years as from the date of establishment. Total amount of deductible expenses shall not include the expenses stipulated in this clause; and shall not include purchase price of goods sold in the case of commercial business activities.

Expenses for advertising, marketing, promotion and broker's commissions which are excessive as described above do not include insurance broking commission as stipulated in the *Law on Insurance Business*; commission payable to agents who sell goods at the price nominated by the principal; nor do they include the following expenses arising within or outside Vietnam, namely market research expenses for obtaining, collating and analysing information; for developing and assisting market research; for hiring consultants to conduct the work of market research including developing and assisting market research; for exhibiting and introducing products and holding commercial fairs; for opening offices or having stalls to exhibit and introduce products; for hiring space to exhibit and introduce products; and costs of materials and other items to service the exhibition and introduction of products, including transporting the products for such purposes.

The above-mentioned limit of 15% in the first three years only applies to newly established enterprises granted a business registration certificate as from 1 January 2009, and not to newly established enterprises resulting from consolidation, division, merger, de-merger, or conversion of enterprise form or ownership.

*Example:*

Company A was established in year 2008 and its annual CIT finalization report for year 2009 contains the following data on expenses:

250 million dong for expenses for advertising, marketing, promotion and broker's commissions; for receptions, formal occasions and conferences; for assisting marketing, for assisting costs and discounting payments; and for complimentary newspapers by press agencies directly related to production or business ["above advertising expenses"]. The above advertising expenses have complete invoices and source documents as required by law.

The total amount of deductible expenses is two billion dong excluding all of the above advertising expenses.

Accordingly, the maximum level of the above advertising expense permitted to be included in deductible expenses shall be as follows:

Two billion dong            X            ten per cent year       =            200 million dong.

Total deductible expenses permitted in expenses for year 2009 shall be:

Two billion dong            +            200 million dong       =            2.2 million dong.

- 2.20 Exchange rate differences when money sourced from foreign currency is re-assessed at the end of the financial year. Exchange rate differences arising throughout the process of investment in capital construction (during the stage prior to commencing production and business operation).
- 2.21 Expenses being educational subsidies paid to an entity outside those listed in sub-clause (a) below, or without the file proving the expenses as required by sub-clause (b) below [shall not be deductible]:
- (a) Educational assistance including funding for both public and private schools within the national educational system as defined in the *Law on Education* where such funding is not by way of capital contribution or purchase of shareholding in schools; funding for material facilities to assist teaching, study and other school activities; funding for normal school activities, for scholarships for students in the secondary, vocational training and university levels as stipulated in the *Law on Education* and paid directly to such students or paid to them via an entity with the function of raising funds as stipulated by law; funding for competitions in school subjects where the competitors are students; and funding to establish educational promotional funds in accordance with the law on education and training.
  - (b) A file certifying the expenses as educational funding shall be required, and must contain minutes signed by the representatives of the donor enterprise and of the recipient being a legal educational establishment or the student concerned or the recipient of the funding being the entity with the function of raising funds for education (on the standard form in Appendix 3), enclosing invoices for the purchase of goods (if the donation was made in kind) or vouchers proving the disbursement (if the donation was paid in cash).
- 2.22 Expenses being funding for medical health care paid to an entity outside those listed in sub-clause (a) below, or without the file proving the expenses as required by sub-clause (b) below [shall not be deductible]:
- (a) Funding for medical health care including funding paid to a medical health care establishment established in accordance with the law on medical health care where such contribution is not a capital contribution or purchase of shareholding in a hospital or health centre; funding for

medical apparatus, equipment and treatment medicine; funding for normal hospital or medical centre activities; and funding paid in cash to patients via an entity with the function of raising funding in accordance with law.

- (b) A file certifying the expenses as medical health care funding shall be required, and must contain minutes signed by the representatives of the donor enterprise and of the recipient or entity with the function of raising funds for education (on the standard form in Appendix 4), enclosing invoices for the purchase of goods (if the donation was made in kind) or vouchers proving the disbursement (if the donation was paid in cash).

2.23 Expenses for remedying consequences of a natural disaster paid to an entity outside those listed in sub-clause (a) below, or without the file proving the expenses as required by sub-clause (b) below [shall not be deductible]:

- (a) Funding to remedy the consequences of a natural disaster including cash or payment in kind paid directly to an entity established and operating in accordance with law; or to an individual suffering loss and damage as a result of a natural disaster and paid via an entity with the function of raising aid funds in accordance with law.
- (b) A file certifying the expenses as funding to remedy the consequences of a natural disaster shall be required, and must contain minutes signed by the representatives of the donor enterprise and of the organization which suffered loss or the entity with the function of raising aid funds (on the standard form in Appendix 5), enclosing invoices for the purchase of goods (if the donation was made in kind) or vouchers proving the disbursement (if the donation was paid in cash).

2.24 Expenses being funding for housing for the poor paid to an entity outside those listed in sub-clause (a) below, or without the file proving the expenses as required by sub-clause (b) below [shall not be deductible]:

- (a) The recipient must be a poor person as defined in Government regulations, and funding may be by cash or in kind to build housing directly or via an entity with the function of raising aid funds in accordance with law.
- (b) A file certifying the expenses as funding for housing for the poor paid shall be required, and must contain minutes signed by the representative of the donor enterprise and by the recipient or the entity with the function of raising aid funds (on the standard form in Appendix 6), enclosing certification from the local authority that the recipient is a poor person, and invoices for the purchase of goods (if the donation was made in kind) or vouchers proving the disbursement (if the donation was paid in cash).

2.25 That part of business management expenses allocated by overseas companies to their resident establishments in Vietnam in excess of expenses calculated in accordance with the following formula [shall not be deductible]:

Business management expenses allocated by the overseas company to its resident establishment in Vietnam in the tax period = (Assessable turnover of resident establishment in Vietnam in the tax period ÷ Total turnover of overseas company, including turnover of resident establishments in other countries, in the tax period) x Total business management expenses of the overseas company in the tax period.

Business management expenses of an overseas company allocated to a resident establishment in Vietnam may only be included when such company has a resident establishment established in Vietnam.

The basis for determining the expenses and revenue of the overseas company shall be the independently audited financial statements of such overseas company which stipulate its revenue and management expenses, and that part of the management expenses allocated to the resident establishment in Vietnam.

Resident establishments of overseas companies in Vietnam which do not implement the regime on accounting and accounting source documents and which do not pay tax by the declaration method shall not be permitted to include in their reasonable expenses any business management expenses allocated by the overseas companies to them.

- 2.26 Expenses sourced from other funding and expenses paid from the Science and Technology Development Fund [R&D Fund] of the enterprise.
- 2.27 Expenses which do not correspond to the turnover for assessing taxable income.
- 2.28 Expenses for business operations being insurance, lotteries, securities and a number of other special business operations, not conducted correctly in accordance with specific guidelines of the Ministry of Finance.
- 2.29 Fines for administrative offences such as breaches of traffic laws, business registration regulations, and of accounting and statistics regulations; fines for offences in the taxation sector and other fines for administrative offences.
- 2.30 Expenses of investment in capital construction during the stage of investment to form fixed assets; expenses paid to support localities, mass organizations and social organizations outside the enterprise; and expenses paid for charitable and humanitarian purposes except for those stipulated in clauses 2.21 to 2.24 inclusive above, namely educational funding, medical health care funding, funding to remedy consequences of a natural disaster, and funding for housing for the poor; and expenses being the purchase of golf club membership cards and fees for playing golf.
- 2.31 Input value added tax which has been credited or refunded; corporate income tax; and personal income tax.

## V. Other income

Other income means:

- 1. Income from capital transfers and transfers of securities in accordance with the guidelines in Part E.
- 2. Income from real property transfers in accordance with the guidelines in Part G.
- 3. Income from ownership of and rights to use assets including monetary receipts from all forms of copyright [i.e. royalties] paid for ownership of or rights to use assets; income from intellectual property rights; and income from technology transfers as stipulated by law. Leasing out assets in all forms.

Income from intellectual property copyright and from a technology transfer shall equal total income receivable less prime cost or expenses for creating such intellectual property right or technology, less

expenses for maintaining, upgrading and developing such intellectual property right or technology and other deductible expenses.

Income from leasing out assets shall equal turnover from the leasing activities less expenses of depreciating, maintaining, repairing and preserving the assets, expenses for hiring assets for sub-letting (if any), and other deductible expenses related to the leasing out.

4. Income from transfer and liquidation of assets (except for real property) and other types of valuable papers. Taxable income shall be income receivable from assignment or liquidation of the assets after deducting their residual value in the accounting books at the time of such transfer or liquidation and deductible expenses relating to the assignment or liquidation.
5. Interest income on deposits and loans comprising interest from deposits at credit institutions, interest on loans made in any form as stipulated by law, fees for providing credit guarantees and other loan contract fees.
6. Income from foreign currency business; and interest on exchange rate differences arising in the tax period from production or business operations (excluding any exchange rate difference when money sourced from foreign currency is re-assessed at the end of the financial year, and any exchange rate difference arising throughout the process of investment in capital construction during the stage prior to commencing production or business operation).

Income from foreign currency business shall equal total receipts from the sale of foreign currency less total purchase price of the quantity of foreign currency which was sold.

7. Recoveries from contingency reserves for reduction of prices of goods in store, from contingencies for losses arising from financial investments, from contingencies for bad debts, and recoveries from contingency reserves for warranty of products, goods and construction and assembly works which were appropriated in advance but in fact not used or not fully used within the planned period.
8. Income earned from bad debts which were written-off and are now repaid.
9. Income from accounts payable for which the creditors cannot be identified.
10. Newly discovered income from production, business or services omitted in previous years.
11. The difference between income being receipt of fines and compensation paid [to the taxpayer] for breach of economic contracts, less any items of fines or compensation [payable by the taxpayer] in accordance with law for its own contractual breaches.
12. Any difference on revaluation of assets in accordance with law in order to contribute capital or transfer the assets on division, de-merger, merger, consolidation or conversion of enterprise form, except where fixed assets are re-valued on conversion by a State enterprise into a shareholding company.

In the case of fixed assets which are re-assessed on capital contribution, the difference [which shall constitute other income means] the difference between the re-assessment and the residual value of the fixed assets and allocated over the number of remaining years for which depreciation of the fixed assets is conducted at the enterprise receiving such capital contribution.

In the case of fixed assets which are transferred on a division, merger, de-merger, consolidation or conversion of enterprise form (except for conversion of a State enterprise into a shareholding

company), the difference between the re-assessed value and the residual value of the fixed assets recorded in the books of account.

In the case of assets other than fixed assets, the difference between the re-assessed value and the value recorded in the books of account.

13. Income being gifts or donations in cash or in kind; and other income receivable in cash or in kind from marketing and expenses assistance, payment discounts, promotional rewards and other assisting payments.
14. Compensation monies for fixed assets on land and assistance paid for relocation after deducting related expenses for the relocation such as transportation, assembly and installation, residual value of the fixed assets and any other expenses. Regarding money paid as compensation for fixed assets on land and money paid as assistance for relocation of an enterprise which relocates pursuant to State zoning, if there is a balance of such monies after deducting related expenses, the enterprise shall be entitled to use such balance in accordance with relevant regulations.
15. Income relating to the sale of goods or provision of services which is not included in turnover, such as despatch money, and service gratuities in catering and hotel services after all expenses for creating such income have been deducted.
16. Income from sales of waste materials and scrap after deduction of the costs for collection and of sales.
17. Income earned from capital contribution to a domestic economic partnership, joint venture or shareholding company, and distributed from income prior to paying CIT.
18. Income earned from production and trading of goods and services overseas.

Any Vietnamese enterprise which makes an offshore investment and derives income from production and business activities overseas must declare and pay CIT in accordance with the current *Law on CIT* of Vietnam, including when the enterprise is entitled to a tax reduction or exemption under the law of the foreign country. The rate of CIT shall be 25% without applying any incentive rate to which the Vietnamese enterprise which makes the offshore investment may be entitled pursuant to the current law on CIT.

If the enterprise breaches the regulations on CIT declaration and payment, then the tax office shall have the right to fix taxable income from production and business activities overseas of the Vietnamese enterprise conducting such investment.

If income from an investment project overseas has been subject to CIT (or any other type of tax which is basically similar to CIT) overseas, then when assessing CIT payable in Vietnam, the Vietnamese enterprise shall be entitled to deduct the amount of tax paid overseas or paid on its behalf by the foreign party accepting such investment (including tax payable on interest on shareholding), but the amount of tax deductible must not exceed the amount of tax payable pursuant to the *Law on CIT* of Vietnam. If the Vietnamese enterprise is entitled pursuant to the foreign law to a tax reduction or exemption on part of the profit earned from the offshore investment project, then the amount of such exemption or reduction shall also be deductible from the amount of CIT payable in Vietnam.

*Example 1:* Vietnamese enterprise A has 800 million dong income from an offshore investment project overseas, being income less 200 million dong payable in accordance with the law of the foreign country. 100 million dong is tax payable after a reduction of 50% pursuant to the law of the foreign country.

The amount of CIT in accordance with the law on CIT of Vietnam shall be  $(800 \text{ million dong} + 200 \text{ million dong}) \times 25\% = 250 \text{ million dong}$ . Since Enterprise A has 200 million dong income tax payable overseas, the remaining amount payable shall be  $250 - 200 = 50 \text{ million dong}$ .

*Example 2:* Vietnamese enterprise A has 660 million dong income from an offshore investment project, which is the remaining income after having paid 340 million dong income tax in accordance with the law of the foreign country. The income which must be declared and on which CIT is payable in accordance with the law of Vietnam on CIT shall be  $(660 + 340) \times 25\% = 250 \text{ million dong}$ . Enterprise A shall only be allowed to deduct the amount of CIT paid overseas which is equal to the amount of CIT calculated in accordance with the law on CIT of Vietnam, being 250 million dong. Tax paid in accordance with the law of the foreign country which exceeds tax payable in accordance with the law of Vietnam on CIT namely 90 million dong  $(340 - 250 \text{ million})$  is not deductible from tax to be declared and paid in accordance with the law of Vietnam on CIT.

A Vietnamese enterprise which declares and pays tax in Vietnam on income derived from an offshore investment project must have the following file of documents:

- Decision of the enterprise on distribution of profit from the offshore investment project;
- Financial statements of the enterprise certified by an independent auditor;
- Declaration of tax on income of the enterprise from the offshore investment project (a copy certified by the authorized representative of such project);
- Minutes of tax finalization conducted by the enterprise (if any);
- Certification or proof of the amount of tax already paid in the foreign country.

If no taxable income has arisen from the offshore investment project or if it is currently suffering a loss, then when the Vietnamese enterprise conducts annual finalization of CIT in Vietnam, it need only file financial statements which are independently audited or certified by a competent authority of the foreign country, together with the declaration made in the foreign country of CIT on the investment project (a copy certified by the authorized representative of the investment project overseas). Losses arising from the offshore investment project shall not be permitted to be deducted from the amount of income arising in Vietnam when the Vietnamese enterprise assesses its CIT.

Income from an offshore investment project shall be declared in the CIT finalization of the following year, or it may be declared and included in the finalization of the same financial year as the year in which the income arises if the Vietnamese enterprise has sufficient bases and evidence to fix the amount of income and the amount of tax already paid on such project.

*Example 3:* Vietnamese Enterprise A has income from an offshore investment project in the financial year 2009. Therefore Enterprise A must declare this item of income in its declaration of CIT finalization for financial year 2009 or 2010 in accordance with the law of Vietnam on CIT.

In a case of income derived from production and business activities of an investment project in a country which has a treaty on avoidance of double taxation to which Vietnam is a signatory, then the

Vietnamese enterprise making the offshore investment shall declare and pay tax in accordance with the provisions of such treaty.

19. Income receivable in cash or in kind from assistance, except for assistance stipulated in clause 7 of Section 6 of this Part.
20. Other items defined as income by the law.

## VI. Tax exempt income

[The following income shall be tax exempt:]

1. Income earned from products of cultivation, husbandry and aquaculture by organizations established pursuant to the *Law on Co-Operatives*.
2. Income earned from performance of technical services directly serving agricultural production comprising irrigation; ploughing and harrowing land; dredging canals and ditches within arable fields; pest and disease control for crop growers and animal breeders; and harvesting agricultural products.
3. Income earned from performance of contracts for scientific research and technological development, from sale of products during their test production, and from products made from new technology applied for the first time in Vietnam. In such cases, the duration of exemption shall not exceed one year as from the date of commencement of production pursuant to the contract for scientific research and technological development, or as from the date of commencement of test production, or as from the date of commencement of new technology applied for the first time in Vietnam in order to produce the products.
  - 3.1 In the case of income from performance of contracts for scientific research and technological development, in order to be tax exempt:
    - There must be proof that the scientific research activity was registered;
    - There must be certification from the State administrative body for science.
  - 3.2 Income from sales of products made from new technology applied for the first time in Vietnam must, in order to be tax exempt, have certification from the State administrative body for science that such technology was in fact applied for the first time in Vietnam.
4. Income earned from activities of production or business in goods or services by enterprises which have an average number in the year of fifty one (51) per cent or more employees who are disabled people, reformed drug addicts and/or people infected with HIV [shall be tax exempt].

### *Example:*

Enterprise A has 290 employees on its list of salaried staff for the month of January 2009; in April 2008 it recruited an additional 12 employees, in October two employees retired, and in December three employees retired.

Accordingly the average number of employees in year 2009 shall be:

$$290 + \frac{12 \times 9 - (2 \times 3) - (3 \times 1)}{12} = 290 + 8 = 298 \text{ employees.}$$

So Enterprise A has an average number of employees in year 2009 at 298, and if it employs 151 or more disabled employees (298 x 51%) then its income from production and business activities in goods and services shall be tax exempt.

Exempt income as defined in this clause does not include other income stipulated in section 5 of Part C.

Exempt income of an enterprise as stipulated in this clause must satisfy all the following conditions:

- 4.1 An enterprise employing disabled people (including war invalids and ill ex-soldiers) must have certification from the medical health authority about the number of such disabled employees.
- 4.2 An enterprise employing reformed drug addicts must have certificates from a drug reform centre or relevant authority about the reform of such ex-drug addicts.
- 4.3 An enterprise employing people infected with HIV must have certification from the medical health authority about the number of such employees.
5. Income from occupational training activities specially reserved for ethnic minority people, disabled people, children living in particularly difficult conditions and/or reformed offenders shall be tax exempt. If an occupational training establishment has other students, then the part of income exempt from tax shall be a ratio of the number of people in the categories described above over the total number of students of the establishment.

In order for such income to be tax exempt, it must satisfy the following two conditions:

- The occupational training establishment must be established and operate in accordance with relevant guidelines on occupational training.
  - There must be a list of all of the students who belong to an ethnic minority, are disabled, are children living in particularly difficult conditions, or are reformed offenders.
6. Income distributable from activities being capital contribution, purchase of shareholding, joint venture or economic association with a domestic enterprise after the party receiving such capital contribution, share issue, joint venture or association has already paid tax in accordance with the *Law on Corporate Income Tax*, including cases where such recipient is entitled to tax exemption or reduction.

*Example:*

Enterprise B receives a capital contribution from Enterprise A and pre-tax income corresponding to such capital contribution of Enterprise A in Enterprise B is 100 million dong.

In case one, assume Enterprise B is not entitled to CIT incentives and has fully paid CIT including on income received from Enterprise A; then the income receivable by Enterprise A from its capital contribution made to B is 75 million (100 – (100x25)), and Enterprise A shall be CIT exempt on such income item of 75 million dong.

In case two, assume Enterprise B is entitled to a 50% CIT reduction on the amount of tax payable by it, and it has fully paid CIT including on income received from Enterprise A at the reduced rate; then in this case the income receivable by Enterprise A from its capital contribution to B is 87.5 million [100 million – (100 million x 25% x 50%)], and Enterprise A shall be CIT exempt on such 87.5 million.

In case three, assume Enterprise B is CIT exempt; therefore the income receivable by Enterprise A from its capital contribution to B is 100 million dong and Enterprise A shall be CIT exempt on such sum 100 million.

7. Aid funds receivable for use in educational, scientific research, cultural, artistic, charitable, humanitarian and other social activities in Vietnam, shall be tax exempt.

An aid recipient which fails to use the aid for the correct purpose must pay CIT at the rate of 25%, assessed on the amount of aid received and not used for the correct purpose.

An aid recipient as prescribed in this clause must be an organization established and operating in accordance with law, and correctly implementing the law on accounting and statistics.

## **VII. Determination of losses and carrying forward losses**

1. Losses arising in any tax assessment period means a negative amount of taxable income.
2. Enterprises which suffer losses after tax finalization shall be entitled to carry forward those losses to taxable income of the following years. Losses may be carried forward for a maximum period of five years as from the year following the year in which the loss arose.

Enterprises shall self-determine losses to be carried forward for deduction from taxable income in accordance with the above-mentioned principles. If during the period in which losses are carried forward there are further losses arising (i.e. excluding losses from previous periods carried forward) then these losses may also be carried forward but not in excess of five years from the period in which they arose.

If during the course of a check or inspection or tax finalization, an authorized body concludes that the losses in fact carried forward were greater than the losses which the business itself determined, then the amount of losses entitled to be carried forward shall be determined in accordance with such conclusion but the period shall not exceed five years from the year in which the losses arose.

If at the expiry of five years from the year after losses arose, such losses have not been completely offset, then the enterprise shall not be permitted to continue to offset the losses against income of the following years.

3. An enterprise which converts its form or ownership (including assignment or sale of a State owned enterprise), merges, divides, dissolves or is declared bankrupt, must conduct tax finalization with the tax office up until the time of the decision on such conversion of form or so forth. Losses suffered by an enterprise prior to its conducting a merger or conversion of form or so forth, must be monitored in detail following the year in which they arose and were transferred to the taxable income of the merged enterprise or converted enterprise or so forth, ensuring the principle that losses may not be carried forward for a period in excess of five years as from the year following the year in which the loss arose.
4. If there is a decision on dissolution of an enterprise being a joint venture between a number of different enterprises, then losses must be allocated to each enterprise participating in the joint venture, and each such enterprise must collate the losses which have been allocated to it and include them in its business results when it conducts tax finalization, ensuring the principle that losses may not be carried forward for a period in excess of five years as from the year following the year in which the losses of the joint venture enterprise arose.

### VIII. Establishment of Science and Technology Development Fund of an enterprise

1. Enterprises established and operating pursuant to the law of Vietnam shall be entitled to appropriate a maximum of ten (10) per cent of their annual assessable income prior to assessing CIT in order to establish the Science and Technology Development Fund<sup>4</sup> of the enterprise. An enterprise shall make its own decision on the amount allocated to the R&D Fund prior to assessing CIT, and if it makes an annual allocation then it must report in its CIT tax finalization on establishment and use of the Fund and on the amount allocated.
2. If an R&D Fund, within a period of five (5) years from the date of its establishment, does not entirely use up seventy (70) per cent of its funds or uses funds for an incorrect purpose, then the enterprise must pay into the State Budget part of its CIT calculated on the income which was taken to establish the Fund and which was not entirely used up or which was used for the incorrect purpose, plus interest arising on such CIT arrears.

The amount used for the incorrect purpose may not be included in total monies used for purposes of science and technology development.

The CIT rate used to assess the amount of tax arrears recoverable shall be the tax rate which applied to the enterprise in the period when it established its R&D Fund.

The interest rate for calculating the amount of tax arrears on the part of the funds not entirely used up shall be the interest rate on State treasury bonds with a term of one year applicable at the time of recovery, and the period for calculating interest [payable on arrears] shall be two years.

*Example:*

In year 2009 Company A allocated 10% of its assessable income to establish its R&D Fund, and established the Fund from year 2009 until year 2013. When Company A prepared its tax finalization report for year 2013 at the beginning of year 2014, it's status report on use of the R&D Fund after 5 years included the following information:

The company established the Fund in year 2009 with 2 billion dong, but at the end of year 2013 it had only used 1.2 billion dong for scientific research. Therefore the company had only used 60% of the relevant funds, and must pay tax arrears and tax penalties as follows:

- + Tax arrears are payable because less than 70% of the funds were used (and suppose that the CIT rate at the time of establishing the R&D Fund was 25%):

$$\left[ 2 \text{ million} - 1.2 \text{ million} \right] \times \text{Twenty five per cent} = 200 \text{ million dong.}$$

- + The interest rate on the amount of CIT arrears for failure to use 70% of the Fund (here suppose that the State Treasury Bonds' interest rate for bonds with a term of one year is 12%):

$$200 \text{ million} \times \text{Twelve per cent} \times \text{Two years} = 48 \text{ million dong.}$$

Establishment and use of the Fund in years after 2009 must be based on the principle that previously allocated funds must be used first.

- The interest rate for calculating interest on arrears payable with respect to any part of the Fund used for an incorrect purpose shall be based on the interest rate for late payment pursuant to the *Law on Management of Tax*, and interest shall be payable for all of the period from the date of establishment of the Fund up until recovery of tax arrears. The date of recovery of arrears and the date of the administrative breach must be ascertained and recorded in minutes (unless the law stipulates minutes are not required to be made).

The above-mentioned principle that funds previously allocated must be used first shall also apply to the time for deciding when monies from the Fund were used for the wrong purpose.

*Example:*

Company B establishes an R&D Fund by allocating 200 million in tax assessment year 2009, 300 million in year 2010, 300 million year 2011, 500 million in year 2012, and 700 million in year 2013.

In year 2010, Company B uses 200 million of the funds, which figure includes 40 million for an incorrect purpose. Each year the company prepares a report on allocation and use of the R&D Fund. On 5 May 2011, the tax office conducts an inspection and discovers that in year 2010 Company B used 40 million for an incorrect purpose, and the tax office prepares minutes of breach. Current regulations on interest on late payment pursuant to the *Law on Tax Management* provide for 0.05% per day.

Suppose in case one, in year 2009 Company B used 150 million for a correct science and technology development project, then the amount of 40 million used for the wrong purpose shall be deemed to be money used to establish the Fund in the 2009 tax assessment period.

The amount of tax arrears due to the incorrect use shall be:

$$40 \text{ million} \quad \times \quad 25 \text{ per cent} \quad = \quad \text{ten million dong.}$$

The number of days of late payment shall be from 1 April 2010 until the end of 5 May 2011, namely 400 days.

Interest on late payment shall be:

$$10 \text{ million} \quad \times \quad 0.05 \text{ per cent} \quad \times \quad 400 \text{ days} \quad = \quad 2 \text{ million dong.}$$

Suppose in case two, in year 2009 Company B used 200 million for a science and technology development project.

The amount of 40 million used for the incorrect purpose shall be deemed to be money used to establish the Fund in tax assessment period year 2010.

The amount of CIT which shall be collected as arrears due to use for the incorrect purpose shall be:

$$40 \text{ million} \quad \times \quad 25 \text{ per cent} \quad = \quad 10 \text{ million dong.}$$

The number of days of late payment shall be from 1 April 2011 until the end of 5 May 2011, namely 35 days.

Interest on late payment shall be:

$$10 \text{ million} \quad \times \quad 0.05 \text{ per cent} \quad \times \quad 35 \text{ days} \quad = \quad 175,000 \text{ dong.}$$

3. The R&D Fund of an enterprise may only be used for investment in science and technology in Vietnam, and all expenses and disbursements from the Fund must have complete invoices and source vouchers as required by law.
4. An enterprise shall not be permitted to account for disbursements from its R&D Fund in deductible expenses when determining taxable income in the tax assessment period.
5. If a currently operating enterprise changes its form of ownership or is consolidated with or merged into another enterprise, the newly established enterprise resulting from such change or consolidation or the enterprise receiving the merger shall inherit and be responsible for management and use of the R&D Fund of the [former] enterprise prior to such conversion, consolidation or merger.

If the [funds of the] R&D Fund of an enterprise which conducts a division or de-merger have not been entirely used up, the newly established enterprise resulting from such division or de-merger shall inherit and be responsible for management and use of the R&D Fund of the [former] enterprise prior to the division or de-merger. Distribution of funds from the R&D Fund shall be decided by the enterprise and registered with the tax office.

## **IX. Tax rates**

1. The rate of CIT shall be twenty five (25) per cent, except for the cases stipulated in clause 2 of this Part and except for application of incentive rates.
2. The rate of CIT applicable to activities of prospecting, exploration and mining of petroleum and gas and other rare and precious natural resources in Vietnam shall be from thirty two (32) per cent to fifty (50) per cent. Depending on the location, other mining conditions and deposits of the mine, any enterprise with an investment project for prospecting, exploration and mining of petroleum and gas or other rare and precious natural resources shall lodge an investment file with the Ministry of Finance for submission to the Prime Minister of the Government to decide the specific tax rate appropriate to each project and business establishment.

*Other rare and precious natural resources* as prescribed in this clause comprise platinum, gold, silver, tin, wolfram, antimoan, precious stones and rare earth.

## **PART D**

### **PAYMENT OF CORPORATE INCOME TAX**

1. Principles on payment

An enterprise shall pay tax in the locality where it has its main head office. If an enterprise has a dependently accounting production establishment in a province or city under central authority other than the locality where it [such enterprise] has its main head office, then amounts of CIT shall be assessed and payable where the enterprise has its main head office and where the enterprise has its production establishment.

Tax payment as stipulated in this clause shall not apply to dependently accounting project works, items of project works or construction establishments.

2. Determining amount of tax and procedures for declaration and payment of tax
  - 2.1 The amount of tax payable in the province where the enterprise has its dependant establishment shall equal the amount of CIT payable in the period multiplied by the ratio of expenses of the dependant establishment over the total expenses of the enterprise.

The ratio of expenses shall be calculated as follows:

$$\begin{array}{r} \text{Ratio of expenses} \\ \text{of the dependant} \\ \text{establishment} \end{array} \times \frac{\text{Total expenses of the} \\ \text{dependant establishment}}{\text{Total expenses of the} \\ \text{enterprise.}}$$

The data to be used for determining the ratio of expenses shall be the data used in the accounting finalization of the enterprise in the immediately proceeding year, which the enterprise shall itself prepare and use for declaring and paying CIT in following years.

If a currently operating enterprise has a number of dependant establishments in localities, then it shall use the data from its CIT finalization for year 2008 for fixing the ratio of expenses, and such ratio shall be used on a stable basis as from year 2009 onwards.

A newly established enterprise, or a currently operating enterprise which establishes additional dependant establishments in a number of localities or reduces the number of such establishments, must fix a ratio of expenses for the first tax assessment period. The ratio of expenses shall be fixed in accordance with the above-mentioned principle for subsequent tax assessment periods.

- 2.2 The enterprise at its headquarters shall be responsible to declare and pay CIT on tax arising at such headquarters and also on tax arising at dependant establishments in accordance with standard form 7 issued with this Circular. The enterprise determines the amount of CIT provisionally payable each quarter at its headquarters and at its dependant establishments, based on the amounts of CIT assessed for each quarter and the ratio of expenses of the dependently accounting establishments.

*Example:*

Enterprise A has its headquarters in Hanoi, and has three dependant establishments in Hai Duong, Hai Phong, and Bac Ninh. The ratio of expenses shall be based on the total expenses of the enterprise in year 2008 which were Hanoi 0.2, Hai Duong 0.3, Hai Phong 0.3 and Bac Ninh 0.2. Enterprise A must pay a total amount of CIT in the first quarter of 1 billion dong. As from year 2009, the ratio of expenses stipulated above shall be used on a stable basis until the enterprise establishes more, or reduces the number of its dependant establishments in various localities. The amount of CIT payable by the entities in the first quarter shall be Hanoi 200 million (1,000 x 0.2); Hai Duong 300 million; Hai Phong 300 million; and Bac Ninh 200 million.

3. Procedures for rotation of source vouchers as between the State Treasury and the tax office

An enterprise shall pay CIT arising in the locality where it has its headquarters to the State Treasury at the same level as the tax office where the enterprise had registered to declare tax, and at the same time shall pay tax on behalf of its dependant establishments at the amounts payable by them in their localities. Separate tax payment vouchers must be prepared for each State Treasury which collects State revenue in localities.

If an enterprise pays cash to the State Treasury where it has its headquarters, then such State Treasury must transfer the money and collection vouchers to the relevant [other branch or branches]

of the State Treasury to account for receipt of that part of tax [payable by] the dependant establishment or establishments.

4. Tax finalization

When the enterprise makes its tax finalization declaration at the place where it has its headquarters, the residual amount of CIT payable shall equal the amount payable in accordance with the tax finalization less amounts provisionally paid at the place where the enterprise has its headquarters and the amounts provisionally paid at the places where it has its dependant establishments. The amount of tax outstanding or refundable after tax finalization shall also be allocated at a correct ratio to the place where the establishment has its headquarters and to the place/s where it has its dependant establishment/s.

Delegation of authority to manage, and management and use of collected taxes shall be implemented in accordance with the *Law on State Budget*.

5. Dependently accounting units of enterprises which conduct accounting on an industry wide basis<sup>5</sup> and which have income in addition to income from their main business operation shall pay tax in the province or city under central authority where they conduct such business operation.

## PART E

### DETERMINATION OF ASSESSABLE INCOME AND CIT FROM CAPITAL ASSIGNMENTS AND FROM TRANSFERS OF SECURITIES

1. **What income is assessable income**

- 1.1 Income of an enterprise from a capital assignment means income receivable from an assignment of a part of or the enterprise's entire capital already invested in it to one or a number of other organizations or individuals (including a case of sale of the entire enterprise).
- 1.2 Income of an enterprise from transfers of securities means income receivable from a transfer of a part or all the securities of such enterprise which has participated in securities investment, to one or a number of other organizations or individuals, and shall include transfers of shares, bonds, fund certificates and other types of securities as defined by law.
- 1.3 Any enterprise with income from a capital assignment or transfer of securities must declare and pay CIT in accordance with the guidelines in this Part E.

2. **Basis for tax assessment**

2.1 Assessable income

- (a) Assessable income from a capital assignment shall be as follows:

Assessable income = Price of the assignment less Purchase price of assigned capital portion less assignment expenses, in which:

- *Price of the assignment* means the total actual value receivable by the assignor in accordance with the assignment contract.

If the assignment contract provides for payment by instalments or deferred payment, then turnover pursuant to such contract shall not include interest payable on such instalments or deferred payment for the term stipulated in the contract.

If the assignment contract does not stipulate the payment price, or if the tax office has grounds for considering that the payment price was not the market price, then the tax office has the right to conduct a check and fix the price of the assignment on the basis of prices of other capital assignments at the same time by the same economic organization or prices in similar assignment contracts.

- *Purchase price of assigned capital portion* shall be determined in each case as follows:
  - + If the capital assigned was a capital contribution to establish an enterprise, then the purchase price shall be the value of such capital contribution portion at the time it was contributed, and such price shall be established on the basis of the books of account, invoice and accounting source vouchers of the assignor at the time it made the capital contribution and must be certified by the parties involved in [establishment] of the enterprise or by the parties to the business co-operation contract.
  - + If the capital assigned was formed from a redemption, then the purchase price of such assigned capital portion shall be the value as of the date of the redemption, and must be confirmed with evidence being the redemption contract and payment vouchers.

If the enterprise conducts its cost accounting in foreign currency (with approval from the Ministry of Finance) and has a capital assignment in foreign currency, then the price of the assignment may be fixed in foreign currency; but if the enterprise conducts its cost accounting in VND and has a capital assignment in foreign currency, then such price must be fixed in VND at the exchange rate at the time of the assignment, and the purchase price of the assigned capital portion shall also be fixed in VND at the exchange rate as at the time of the capital contribution or as at the time of redemption which formed the portion which was later assigned.

- + *Assignment expenses* mean all actual costs directly related to the assignment for which there are valid source documents and invoices. If the expenses arise overseas, then all original accounting source documents must be notarized by an authorized body or independent auditor of the foreign country and they must be translated into Vietnamese (and certified by an authorized representative).
- + *Assignment expenses* mean expenses in order to conduct the necessary legal procedures for the assignment; fees and charges payable on the assignment procedures; expenses for trading, negotiating and signing the contract; and other expenses for which there is proper evidence.

*Example:* Company A contributes 400 billion dong (320 billion dong being the value of a factory plus 80 billion cash) in order to establish a joint venture enterprise manufacturing sanitary paper. Afterwards, Company A assigns its capital investment to Company B at a price of 550 billion dong. The capital contribution of Company A at the time of the assignment on the basis of the books of account is 400 billion dong

and the assignment expenses are 70 billion dong. Assessable income on the assignment in this case is 80 billion dong (550 - 400 - 70).

(b) Assessable income from a transfer of securities within the tax period shall be fixed as equal to the selling price less purchase price of the transferred securities, less expenses related to the transfer.

- The selling price of the securities shall be fixed as follows:
  - + The selling price of listed securities and of securities of an unlisted public company which has registered trading at a Securities Trading Centre, shall be the actual selling price (the matched price or agreed price) announced by the Stock Exchange or Securities Trading Centre.
  - + The selling price of securities of a company not covered by the above provision shall be the price recorded in the transfer contract.
- The purchase price of the securities shall be fixed as follows:
  - + The purchase price of listed securities and of securities of an unlisted public company which has registered trading at a Securities Trading Centre, shall be the actual purchase price (the matched price or agreed price) announced by the Stock Exchange or Securities Trading Centre.
  - + The purchase price of securities purchased at an auction shall be the winning bid price announced by the auctioneer in the results of winning bids and the payment vouchers.
  - + The purchase price of securities not covered by the above provisions shall be the price recorded in the transfer contract.
- Expenses of a transfer shall be all actual expenses directly related to the transfer and having valid invoices and source vouchers.

Such expenses shall comprise expenses for conducting the necessary legal procedures for the transfer; fees and charges payable on the transfer; fees for depositing securities as stipulated by the State Securities Commission and recorded in the receipt of the securities company; fees for entrusting the securities based on the receipt of the trustee; expenses for trading, negotiating and signing the transfer contract; and other expenses for which there is proper evidence.

## 2.2 CIT rate

The CIT rate applicable to income from a capital assignment and from transfers of securities is 25%.

## 2.3 Determining the amount of CIT payable

The amount of CIT payable shall equal assessable income multiplied by the CIT rate.

### 3. Declaration and payment of tax

#### 3.1 Applicable to a Vietnamese enterprise and to a foreign enterprise assigning capital or transferring securities:

The enterprise with such income shall classify it as other income and declare it as taxable income when assessing its CIT.

#### 3.2 Applicable to a foreign enterprise or foreign organization conducting production and business in Vietnam other than pursuant to the *Law on Investment* [or] *the Law on Enterprises* and with income from a capital assignment:

The assignee shall be responsible to determine, declare and pay CIT on behalf of such foreign individual or organization.

The time-limit for lodging a file declaring tax shall be the 10<sup>th</sup> day after the authorized body ratifies the assignment, or as from the date on which the parties reach agreement in the assignment contract if it is not necessary to obtain ratification of the assignment.

The file on CIT declaration on income from a capital assignment shall comprise:

- CIT declaration on standard form 8-TNDN issued with this Circular.
- Copy of the assignment contract and if in a foreign language then the main items of the contract must be translated into Vietnamese namely the names of the assignor and assignee, the period for the assignment, its contents, rights and obligations of each party, the value of the contract; and the time, method and currency for payment.
- Copy decision ratifying the assignment from the authorized body (if ratification is necessary).
- Copy document certifying the original capital contribution.
- Original vouchers proving expenses.

If it is necessary to add to the documents in the file on CIT declaration, then the tax office must notify the assignee on the same day that the tax office directly receives such file, or within a time-limit of three business days if the tax office receives the file via the post office or electronically.

The location for lodging the file on CIT declaration shall be the tax office in the locality where the foreign assignor has registered to pay tax.

The time-limit for paying tax shall be the same as the time-limit for lodging the file on CIT declaration.

## PART G

### DETERMINATION OF ASSESSABLE INCOME AND CIT FROM REAL PROPERTY TRANSFERS

#### I. What income is assessable income

1. Income from real property transfers shall comprise income from transfer of a right to use or lease land, and income from sub-leasing out land by enterprises conducting real property business as stipulated in the law on land, irrespective of whether or not the land has infrastructure, buildings or engineering works on it.

Income from real property transfers comprises the following forms:

- Income from transfer of a land use right, from transfer of a right to lease land, and from sub-leasing out land by enterprises conducting real property business.
- Income from transfer of a land use right, from transfer of a right to lease land, and from sub-leasing out land and assets attached to the land by enterprises conducting real property business, such assets attached to the land comprising:
  - + A residential house;
  - + Infrastructure;
  - + Buildings and engineering works attached to the land;
  - + Other assets attached to the land comprising assets being agricultural, forestry and fishery products (such as cultivated crops and reared animals);
- Income from transfer of ownership of or use right to a residential house.

Income from sub-leasing out land by enterprises conducting real property business does not comprise a case where an enterprise only sub-leases out housing, infrastructure, or buildings and engineering works on the land.

2. Any enterprise with income from real property transfers must declare and pay CIT in accordance with the guidelines in this Part G.

#### II. Basis for tax assessment

The basis for tax assessment on income from real property transfers shall be assessable income multiplied by the tax rate.

Assessable income equals taxable income less losses carried forward (if any) from real property transfer activities of previous years.

##### 1. Taxable income

Taxable income from a real property transfer equals turnover receivable from the real property transfer activity less prime cost of the real property and less deductible expenses related to such activity.

## 1.1 Turnover from real property transfer activities

- (a) Turnover equals the actual price of the transfer (including any additional fees and charges receivable as at the time of the transfer of the real property).

If the price of a land use right transfer is less than the land price stipulated by the provincial people's committee, then the price shall be such price stipulated by the provincial people's committee as at the date of the transfer.

The point of time for calculating tax assessable turnover shall be the time when the seller delivers the real property to the purchaser, irrespective of when the purchaser registers ownership of assets or right to use the land, or when the land use right is certified by the relevant State authority.

However the time for determining assessable turnover for which the enterprise must pay provisional tax shall be the time when it receives advance payment from clients in a case where the enterprise received land allocated or leased to it by the State in order to perform an investment project for infrastructure or housing for on-transfer or leasing out, and the enterprise receives advance payments from clients pursuant to the schedule for completion of such works.

- If in this case the enterprise receives money from clients and is able to fix its expenses corresponding to such turnover, then the enterprise shall declare and pay provisional CIT on such turnover less expenses.
- But if the enterprise receives money from clients but is not yet able to fix its expenses corresponding to such turnover, then the enterprise shall declare and provisionally pay tax at the rate of two per cent over such receivable turnover which need not then be included in annual assessable income of the enterprise.

If an enterprise received such money from clients pursuant to a schedule for completion of construction works before year 2009 but has not yet declared and paid CIT on it, then such receipt from clients must be declared in year 2009 in order to fix the amount of CIT provisionally payable in accordance with the above principles. When an enterprise delivers the real property, it must re-conduct tax finalization of the amount of CIT payable, and if the amount payable is more than the amount provisionally paid, the enterprise must pay the balance, but if the enterprise has in fact paid an excess amount then it may deduct such excess from the amount of CIT payable in the following period or it shall be entitled to a refund for such excess amount paid.

- (b) Turnover for assessing taxable income in a number of specific cases shall be regulated as follows:

- If the State leased land to the enterprise with collection of annual land rental and thereafter the enterprise sub-leases the land whether or not the land has infrastructure or buildings or engineering works on it, then the turnover for assessing taxable income shall be the amount of money which the lessee pays for each term under the lease contract. If the lessee pays a lump sum for a number of years, then such sum shall be allocated over the number of years for which it was paid in advance.
- In the case of a credit institution which receives the value of a land use right as security for a loan and realizes such security in lieu of secured obligations which were not discharged, then the turnover of the credit institution from realization of the security

property for the purposes of assessing its taxable income shall be the value of the land use right assignment as agreed by the [contracting] parties.

- If assets seized to enforce secured rights are a land use right which is then assigned [after realization], then turnover for the purposes of assessing taxable income shall also be the price of assigning the land use right as agreed by the [contracting] parties or as set by an evaluation council. Determination of turnover in the cases stipulated in this sub-clause (b) must also ensure the principles in sub-clause (a) above.

## 1.2 Expenses of a transfer of real property

(a) Principles for deciding which expenses are deductible:

- Items included in reasonable expenses for assessing taxable income must correspond with the turnover for assessing the taxable income.
- In the case of an investment project which is completed in sections and there are gradually a number of assignments according to the completion schedule, then the general expenses of the project and the direct expenses for each completed section of the project shall be allocated in accordance with the square metre area of land assigned in order to determine taxable income of each land area assigned: these expenses shall include costs of the internal road system, of landscaping, of investing in construction of water supply and water discharge systems and of an electricity transmission station; costs being compensation paid for assets on the land; costs being payment of compensation, assistance and relocation expenses including costs of organizing such payments which have not yet been deducted from land use fees or land rent payable to the State budget; and expenses shall also include land use fees payable to the State budget and other costs of land investment related to the assignment of the land use or land lease right. These expenses shall be allocated in accordance with the following formula:

Expenses allocated to each land area assigned shall equal (Total expenses of investment in infrastructure) divided by (Total land area allocated for the project less any area used for public purposes in accordance with the law on land), multiplied by Land area assigned.

If a part of the project land area which is not assigned is used for other business activities, then the above-mentioned general expenses shall still be allocated for such area of land in order to monitor, account for, declare and pay CIT on such other business activities.

If an enterprise invests in construction of infrastructure which extends over one to five years and it only conducts finalization for the value of the infrastructure when the whole of the works are completed, then when collating expenses of assignment of real property for the land area actually assigned, the enterprise shall be permitted to provisionally allocate expenses actually arising at a ratio of the land area assigned in accordance with the above formula. After the total process of investment and construction has been completed, the enterprise may adjust the allocation of expenses for consistency with the total value of the infrastructure and if after such adjustment it transpires that the amount of tax paid was more than the amount payable on the assignment of the real property, then the enterprise shall be permitted to deduct such excess from the amount payable in the next tax assessment period or it shall be refunded the excess in accordance with current regulations; but if the amount of tax paid

was less than the amount payable, it must pay the balance in accordance with regulations.

(b) Expenses on an assignment of real property which shall be permitted to be included in reasonable expenses in order to calculate taxable income shall comprise:

- Prime cost of the assigned land consistent with the source of the land use right, to be determined specifically as follows:
  - + With respect to land assigned by the State with collection of land use fees or land rent, prime cost shall be the amount of land use fees or land rent actually paid to the State budget.
  - + With respect to land for which the land use or land lease right was received from another entity [other than the State], prime cost shall be based on the contract and payment vouchers on receipt of such right, or if there are no such valid documents then prime cost shall be based on the price stipulated by the provincial people's committee at the date of the transfer.
  - + With respect to land received as a capital contribution, prime cost shall be based on the value of the land right specified in the minutes of valuation at the time of capital contribution and if such value is higher than market price at the time of capital contribution, then the tax office may rely on the market price at such time to re-fix the price for CIT purposes.
  - + With respect to the exchange of a building by an enterprise to receive land from the State, prime cost shall be the value of the exchanged building, unless the exchange was implemented pursuant to discrete regulations of a State authority.
  - .
  - + With respect to an auction of a land use or land lease right, prime cost shall be the winning bid.
  - + With respect to land of an enterprise which was received as an inheritance in accordance with civil law; or received it by way of donation without a prime cost being fixed, prime cost shall be fixed on the basis of the prices for various types of land stipulated by the provincial people's committee and based on the Government's general land price framework, as at the time of the inheritance or donation.

If land of an enterprise was received as an inheritance or donation before 1994, prime cost shall be fixed on the basis of the prices for various types of land stipulated by the provincial people's committee in 1994 as based on the Government's general land price framework in Decree 87-CP of the Government dated 17 August 1994.
  - + With respect to land mortgaged as loan security or attached to secure execution of a judgment, prime cost shall be fixed in each specific case on the basis of the above-mentioned guidelines.
- Costs being compensation for loss and damage to land.
- Costs being compensation for loss of crops.
- Costs being compensation and assistance to relocate to new housing and costs for organizing payment of such compensation and assistance in accordance with law.

If the above-mentioned costs being compensation and assistance to relocate to new housing and costs for organizing payment of same are not supported by invoices, then they shall be enumerated in a List specifying the name and address of the recipient and the amount of money paid, and shall be signed by the recipient and verified by the ward or commune authorities in the locality of the land in accordance with the law on compensation and assistance to relocate to new housing when the State recovers land.

- Costs being fees and charges in accordance with the law relating to issuance of land use rights.
- Costs being expenses of land improvement and of levelling the site.
- Costs being expenses of investment and construction of infrastructure such as roads, power, water supply and water discharge systems, posts and telecommunications and so forth.
- Costs being other expenses directly relating to the assignment of the real property.

Where an enterprise conducts business in a number of industries, these expenses must be accounted for separately, otherwise general expenses shall be allocated at the ratio being turnover from assignment of real property over total turnover of such enterprise.

Costs already paid by the State by some other funding source shall not be permitted to be included in expenses of an assignment of real property.

## **2. Income tax rates on assignment of real property**

The rate of income tax applicable to assignment of real property shall be twenty five (25) per cent.

## **3. Determining amount of CIT payable**

The amount of CIT payable in any one tax assessment period on activities of assignment of real property shall equal assessable income from such activities multiplied by the tax rate of 25%.

Income from an assignment of real property must be calculated separately in order to declare and pay tax, and the incentive tax rates and incentives on exemption and reduction of tax in Part H shall not apply. Losses from activities of real property assignments may not be deducted from income from activities of production and business or from other income, but these losses may be carried forward to taxable income from the real property assignment activities in following years. Losses may be carried forward for a maximum period of five consecutive years as from the year following the year in which the loss arose.

## **III. Declaration, payment and tax finalization**

1. An enterprise shall lodge its file declaring tax and pay CIT on income from a real property assignment with the local tax office where the property was assigned.

Such file and the tax payment vouchers arising within such locality shall be the basis for conducting tax finalization in the place where the enterprise has its headquarters.

2. If an enterprise does not regularly conduct real property assignments, then it shall pay CIT provisionally on each occasion of an assignment.

The declaration and payment of CIT on each such occasion shall be made on the standard form in Appendix 9-TNDN.

Based on the declaration of CIT from an assignment of real property, the tax office shall record the amount of tax payable on the declaration, or shall adjust the amount payable, and directly notify the taxpayer within three business days from the date of receipt of the file.

At the end of a tax assessment year, an enterprise must conduct separate tax finalization for the amount of CIT payable on an assignment of real property. If the amount of tax payable in accordance with the tax finalization declaration is more than the amount paid in accordance with the notice on conducting procedures for issuance of the land use right certificate, then the enterprise must pay the balance; but if the amount already paid is more than the amount payable pursuant to tax finalization, then the enterprise may deduct the excess amount from the amount of CIT owing on other business activities or it may deduct it from the amount of CIT payable in the following tax assessment period.

Losses from real property assignment activities must be monitored separately and may be carried forward to taxable income from similar activities in following years in accordance with regulations.

3. Applicable to enterprises which have regular activities of real property assignments

In this case, declaration, payment and tax finalization must be conducted in accordance with the guidelines in Circular 60-2007-TT-BTC of the Ministry of Finance dated 14 June 2007. However if an enterprise in this category so requests, it may pay tax on each occasion of a real property assignment.

At the end of a tax assessment period, the enterprise shall conduct tax finalization procedures for all of its real property assignment activities which have been declared on each occasion and pursuant to the quarterly declaration of provisional CIT paid. If there is a shortfall on tax finalization, the enterprise must pay such balance; but if the amounts provisionally paid are more than the amount owing pursuant to the tax finalization, the enterprise may deduct such excess amount from the amount of CIT payable in the following period. Losses from this particular activity of real property assignments may be carried forward to taxable income from similar activities of following years in accordance with regulations.

4. Enterprises shall declare CIT on real property assignment activities on the standard form in Appendix 9-TNDN, and CIT provisionally payable on monies advanced by clients pursuant to a schedule [for completion of construction works] shall be paid at the local tax office where the real property was assigned and shall be declared on part 2 of the standard form in Appendix 9. On delivery of the real property, the enterprise must conduct official tax finalization in accordance with part one of the declaration in Appendix 9.
5. In the case of a credit institution which receives the value of a land use right as security for a loan and realizes such security in lieu of the secured obligation which was not discharged, then the credit institution must declare and pay CIT on the assignment. In the case of an auction of real property being security for a loan, the proceeds receivable shall be paid in accordance with Government regulations on loan security assets and CIT must be declared and paid in accordance with regulations. Any balance after such payment shall be paid to the economic organization which mortgaged the real property as security for its loan. The credit institution, or its agent which auctioned the land use right, must declare and withhold CIT from the assignment of the real property

and pay it into the State budget using the name, address, and tax code of such taxpayer. Vouchers must record that tax has been paid in respect of the sale of security assets.

6. If a judgement enforcement body auctions real property which is security to enforce a judgement, then the proceeds must be paid in accordance with the Decree of the Government on seizing and auctioning land use rights which are security for enforcement of a judgement. The organization authorized to auction the real property shall declare and withhold CIT, and pay it into the State budget in accordance using its own name, address, tax code number and invoice. Vouchers must record that tax has been declared and paid on realization of security assets for enforcement of a judgment.

## **PART H**

### **CORPORATE INCOME TAX INCENTIVES**

#### **I. Conditions and principles for application of CIT incentives**

1. Conditions for application of CIT incentives: The enterprise must implement the regime on accounting, invoices and source vouchers; and it must have registered to declare and pay CIT in accordance with its declarations.
2. Principles for application of CIT incentives
  - 2.1 If the enterprise conducts a number of types of business operations during its period of entitlement to CIT exemption or reduction, it must conduct separate accounting for the business operations entitled to tax exemption or reduction (including the applicable incentive tax rates).

If it fails to do so, the part of its income entitled to tax exemption or reduction shall be fixed as equal to total taxable turnover from production and business excluding other income, multiplied by the percentage of turnover from business operation/s entitled to tax incentives over total aggregate turnover in the tax period.

- 2.2 A newly established enterprise from an investment project entitled to CIT incentives means an enterprise which conducts business registration on the first occasion, except for the following cases:
  - (a) An enterprise established in a case of division, de-merger, merger or consolidation in accordance with law.
  - (b) An enterprise established as a result of conversion of enterprise form or ownership, except in the case of allocation, leasing out or contractual management of a State owned enterprise.
  - (c) A newly established private enterprise or single member limited liability company of which the owner is a business household or individual not changing the previous business line.
  - (d) A newly established private enterprise, partnership, limited liability company or co-operative of which the legal representative (except for a legal representative who is not a capital contributing member), a partner or the person with the highest capital contribution portion previously conducted business as the legal representative, partner or person with the highest capital contribution portion in an enterprise which was operating or dissolved, and a twelve month period since dissolution has not expired as at the date of establishment of the new enterprise.

An investment project being a collection of proposals to conduct general and long term investment of capital in order to conduct investment activities in accordance with the Law on Investment.

- 2.3 An enterprise may choose the most favourable CIT incentives if within the same one tax assessment period it has a number of items of income eligible for CIT incentive rates and periods of tax exemption or reduction pursuant to different sets of circumstances.
- 2.4 If during the period of entitlement to a CIT incentive the enterprise within the tax assessment year fails to satisfy one of the conditions stipulated in this Circular, then the enterprise shall not be entitled to incentives in such year and must pay CIT at the rate of 25%.
- 2.5 If within the one tax assessment period an enterprise has both business activities entitled to tax incentives and business activities not so entitled, it must conduct separate accounting for income from each activity in order to declare and pay tax separately.

If business activities subject to tax incentives suffer losses, and other business activities not so entitled (except for real property assignment activities) have income (or vice versa), then the enterprise may choose to deduct such losses from taxable income of the activities with income. With regard to the remaining income after such deduction, the applicable tax rate shall be the tax rate applicable to the business activity which still has income.

- 2.6 CIT incentives shall not apply to the following:
- (a) Other items of income stipulated in section 5 of Part C.
  - (b) Income from activities of prospecting, exploration and mining of petroleum and gas and other rare and precious natural resources.
  - (c) Income from games with prizes and other betting businesses as defined by law.
  - (d) Income from mining minerals.
- 2.7 An enterprise established as the result of consolidation, division, merger, de-merger or conversion of enterprise form or ownership shall be responsible for the CIT tax debts including fines of the enterprise prior to such consolidation or so forth, and shall inherit the CIT incentives of the former enterprise for the residual period if the new enterprise continues to satisfy the relevant conditions.
- 2.8 If during a tax inspection the tax office discovers that an enterprise entitled to a tax exemption or reduction has increased the amount of CIT payable during such period of entitlement to the incentive, then the tax office may, depending on the fault of the enterprise concerned, impose a fine in accordance with the law on tax.

If during a check of tax finalization the tax office discovers that an enterprise within a period of tax exemption or reduction has increased the amount of CIT for which it is entitled to an exemption or reduction, then tax shall only be exempt or reduced with respect to the amount so ascertained by the tax office, and depending on the fault of the enterprise concerned, the authorized body which conducted the check may impose a fine in accordance with the law on tax.

## II. Preferential Tax Rates

1. The tax rate of ten (10) per cent shall apply for fifteen (15) years to:
  - 1.1 Newly established enterprises from investment projects in areas with specially difficult socio-economic conditions as listed in the Appendix issued with Decree 124.
  - 1.2 Newly established enterprises from investment projects in economic zones and high-tech zones established pursuant to decisions of the Prime Minister of the Government.
  - 1.3 Newly established enterprises from investment projects in the sectors of:
    - High-tech as stipulated by law; scientific research and technological development;
    - Investment in development of water plants, power plants and water supply systems; in bridges, roads and railways; in airports, seaports and river-ports; in air fields, stations and other specially important infrastructure works as decided by the Prime Minister of the Government.
    - Computer software products.
2. In the case of newly established enterprises from investment projects in the sectors prescribed in clause 1.3 above which are on a large scale, with high-tech or new tech and which have a special need to attract investment, the duration of applicability of the preferential tax rate of 10% may be extended but the total duration shall not exceed thirty (30) years pursuant to a decision of the Prime Minister on the proposal of the Minister of Finance.
3. The tax rate of ten (10) per cent shall apply during the whole operational period to that part of income of any enterprise operating in the sectors of education and training, occupational or vocational training, medical health care, culture, sport and the environment (hereinafter all referred to as *the socialization sector*).

The Prime Minister of the Government shall issue a decision with a list of activities or operations in the socialization sector.
4. The preferential tax rate of twenty (20) per cent shall apply for ten (10) years to newly established enterprises from investment projects in areas with difficult socio-economic conditions as listed in the Appendix issued with Decree 124.
5. The preferential tax rate of twenty (20) per cent shall apply throughout the whole operational period to co-operatives providing agricultural services and to People's Credit Funds.

After expiry of the duration of applicability of the ten (10) per cent tax rate stipulated in clause 1.1 above, the tax rate of twenty (20) per cent shall apply to co-operatives providing agricultural services and to People's Credit Funds newly established in areas with difficult socio-economic conditions as listed in the Appendix issued with Decree 124.
6. The duration of applicability of the preferential tax rates prescribed in this article shall be calculated consecutively from the first year in which the enterprise has turnover from the activity or operation entitled to the preferential tax rate.
7. Upon expiry of the duration stipulated in clauses 1, 2 and 4 above, the enterprise must pay CIT at the rate of 25 per cent.

### III. Levels and duration of exemption from and reduction of CIT

1. The following enterprises shall be exempted from CIT for a period of four (4) years and entitled to a fifty (50) per cent reduction of the amount of CIT payable for a period of nine (9) subsequent years:
  - 1.1 Newly established enterprises from investment projects in areas with specially difficult socio-economic conditions as listed in the Appendix issued with Decree 124.
  - 1.2 Newly established enterprises from investment projects in economic zones and high-tech zones established pursuant to decisions of the Prime Minister of the Government.
  - 1.3 Newly established enterprises from investment projects in the sectors of:
    - High-tech as stipulated by law; scientific research and technological development;
    - Investment in development of water plants, power plants and water supply systems; in bridges, roads and railways; in airports, seaports and river-ports; in air fields, stations and other specially important infrastructure works as decided by the Prime Minister of the Government.
    - Computersoftware products.
  - 1.4 Newly established enterprises in the socialization sector operating in areas with difficult or specially difficult socio-economic conditions as listed in the Appendix issued with Decree 124.
2. Newly established enterprises in the socialization sector operating in areas other than those with difficult or specially difficult socio-economic conditions as listed in the such Appendix shall be exempted from CIT for a period of four (4) years and entitled to a fifty (50) per cent reduction of the amount of CIT payable for a period of five (5) subsequent years.
3. Newly established enterprises from investment projects in areas with difficult socio-economic conditions as listed in such Appendix shall be exempted from CIT for a period of two (2) years and entitled to a fifty (50) per cent reduction of the amount of CIT payable for a period of four (4) subsequent years.
4. The duration of tax exemption and reduction stipulated in this Part shall be calculated consecutively from the first year in which the enterprise has taxable income from an investment project; if an enterprise does not have taxable income in the first three years as from the first year in which it has turnover from an investment project, then the duration of tax exemption and reduction shall be calculated from the fourth year.

*Example:*

In year 2009, Enterprise A was newly established from an investment project for manufacture of software products, and if in year 2009 Enterprise A has taxable income from such project then the period of its tax exemption and reduction shall be calculated consecutively as from year 2009. If such project generates turnover as from year 2009, but up until year 2012 the enterprise does still not have taxable income, then the period of its exemption and reduction from tax shall be calculated consecutively as from year 2012.

5. A year of tax exemption and reduction must be determined consistently with the tax assessment period. The time for commencing to calculate the period of tax exemption and reduction shall run consecutively as from the first tax assessment period in which the enterprise commences to have taxable income (excluding any losses from previous tax periods which are carried forward). If in the

first tax assessment period the enterprise has taxable income but the time for which it has been engaged in production or business activities in goods and services is less than twelve months, then the enterprise shall have the right to register with the tax office to calculate its period of tax exemption and reduction either immediately from such first tax assessment period or from the following tax assessment period. If the enterprise chooses to register the second-mentioned period (the subsequent tax assessment period), then it must still calculate the amount of tax payable for the first period and pay it into the State budget. The tax assessment period as guided in clause 3 of Part B shall not apply to calculating 7m CIT incentives being tax exemption and reduction as prescribed in this clause.

#### **IV. Other cases of tax reduction**

1. Enterprises engaged in the sectors of production, construction or transportation which employ many female employees shall be entitled to a reduction of CIT equal to the additional amount of expenses incurred for female employees in accordance with the guidelines in clause 2.10 (a) of Part C, if they conduct separate accounting.

Professional entities and offices of Corporations not directly engaged in production and business shall not be entitled to a reduction pursuant to this clause.

2. Enterprises employing many ethnic minority people shall be entitled to a reduction of CIT equal to the additional amount of expenses incurred for employees being ethnic minority people in accordance with the guidelines in clause 2.10 (b) of Part C, if they conduct separate accounting.

#### **V. Procedures for implementing corporate income tax incentives**

Enterprises shall self-determine their conditions for entitlement to tax incentives, the tax rates, the duration of tax exemption and tax reduction, and the amount of losses deductible from assessable income in order to declare and conduct tax finalization.

The tax office must check the conditions which a business establishment actually satisfies for entitlement to tax incentives and the levels and duration of tax exemption and tax reduction, and the amount of losses deductible from assessable income. If any enterprise in fact fails to satisfy the conditions for entitlement to tax incentives, it must pay tax on amended figures and shall also be subject to payment of tax arrears and penalties in accordance with the law on administrative breaches in the tax sector.

## **PART I**

### **ORGANIZATION OF IMPLEMENTATION**

1. This Circular shall be of full force and effect after fifteen (15) days from the date of its publication in the Official Gazette and shall apply to tax assessment periods as from year 2009 onwards.

In the case of enterprises applying a financial year other than the Gregorian calendar year and not eligible for CIT incentive rates, the CIT rate of 25% shall apply as from the year 2009 tax assessment period.

2. Any enterprise currently enjoying CIT incentives (comprising incentive rates, reduction or exemption) pursuant to previously issued legal instruments on CIT or pursuant to issued investment licences or investment certificates, shall continue to enjoy such CIT incentives for the residual duration of

entitlement. If the CIT incentives comprise incentive rates and duration of tax reduction or exemption less than the incentive rate in accordance with this Circular, then the enterprise shall be entitled to the CIT incentives in accordance with this Circular for the residual duration of entitlement as from the year 2009 tax assessment period.

The residual duration of entitlement to CIT incentives shall be calculated consecutively from when the enterprise [first] implemented the provisions on incentives in previously issued legal instruments on CIT or in its issued investment licence or investment certificate.

The residual incentive period shall be equal to the number of years for which the enterprise is still entitled to CIT incentives (comprising incentive rates, reduction or exemption) in accordance with this Circular less the number of years it has enjoyed such CIT incentives (comprising incentive rates, reduction or exemption) pursuant to previously issued legal instruments on CIT or in its issued investment licence or investment certificate up until the end of 2008. A determination of the residual incentive period as mentioned above must ensure the following principles:

- At the expiry of year 2008 tax assessment period, any enterprise for which the duration of its tax exemption pursuant to previously issued legal instruments on CIT or in its issued investment licence or investment certificate has expired, shall not be entitled to change to application of CIT incentives (incentive rates, reduction or exemption) for the residual period pursuant to this Circular.
  - At the expiry of year 2008 tax assessment period, any enterprise currently within the duration of its tax exemption period pursuant to previously issued legal instruments on CIT or in its issued investment licence or investment certificate, shall continue to be entitled to the number of years of residual entitlement to CIT rates and incentive rates, and period of reduction or exemption of CIT in accordance with this Circular.
  - At the expiry of year 2008 tax assessment period, any enterprise currently entitled to CIT incentive rate but the period of tax exemption pursuant to previously issued legal instruments on CIT or in its issued investment licence or investment certificate has expired, shall not be entitled to the incentive rate but shall be entitled to the total number of years of tax reduction in accordance with this Circular and shall continue to be entitled to the number of residual years of CIT incentive rate in accordance with this Circular.
  - At the expiry of year 2008 tax assessment period, any enterprise currently entitled to CIT incentive rate and within the period of tax reduction pursuant to previously issued legal instruments on CIT or in its issued investment licence or investment certificate, shall have a total number of years of residual entitlement to tax reduction equal to the total number of years of tax reduction in accordance with this Circular less the number of years for which tax was already reduced up to the end of year 2008 tax assessment period, and shall continue to be entitled to the number of years of residual entitlement to CIT rates and incentive rates in accordance with this Circular.
  - At the expiry of year 2008 tax assessment period, any enterprise for which the duration of entitlement to tax exemption and reduction pursuant to previously issued legal instruments on CIT or in its issued investment licence or investment certificate has expired, shall not be entitled to CIT incentives (incentive rates, reduction or exemption) in accordance with this Circular.
3. Any enterprise currently enjoying CIT reduction or exemption pursuant to previously issued legal instruments on CIT or pursuant to issued investment licences or investment certificates but not

entitled to an incentive rate shall continue to enjoy CIT reduction or exemption for the residual duration, and as from the year 2009 tax assessment period shall change to the tax rate of 25%.

4. Any enterprise in the category of entitlement to a term of CIT reduction or exemption pursuant to previously issued legal instruments on CIT or pursuant to its issued investment licence or investment certificate, and if by the end of the year 2008 tax assessment period:

4.1 If the enterprise did not yet have turnover, then the period of its tax exemption and reduction shall be calculated from the first year in which it has taxable income; and if it does not have taxable income in the first three years from the first year in which it has turnover, then the period of such exemption and reduction shall be calculated as from the fourth year.

4.2 If it had turnover but not for a full three years, then as from the time when it had turnover the period of tax exemption and reduction shall be calculated from the first year in which it had taxable income; if it did not have taxable income in the first three years from the first year in which it had turnover, then such period of exemption and reduction shall be calculated from the fourth year, and specifically as follows:

In the case of an enterprise with its first tax assessment year falling in year 2007 or later and which had turnover, then the period of exemption and reduction shall be calculated consecutively from the first year in which it had taxable income. If by the end of year 2009 the enterprise still does not have taxable income, then the period of its entitlement to tax exemption and reduction shall be calculated as from year 2010.

4.3 In the case of an enterprise with turnover for three or more years, then the period of its entitlement to tax exemption and reduction shall be calculated from the 2009 tax assessment year, and specifically as follows:

In the case of an enterprise which had its first tax assessment year prior to year 2007 and which had turnover but does not yet have taxable income and has not yet included a period of entitlement to tax exemption and reduction, the period for its entitlement shall be calculated as from the 2009 tax assessment year.

5. Any enterprise which had activities in the socialization sector prior to 1 January 2009 and which is currently applying a tax rate higher than 10% shall transfer to application of the 10% tax rate applicable to its activities as from 1 January 2009.

6. Any currently operating enterprise as from year 2009 with a project for investment and construction of a new production line, for expansion of scale, for renovation of technology, for improving the ecological environment or for increasing its manufacturing capacity, shall not be entitled to CIT incentives for that part of its income derived from such investment project. Investment projects prior to year 2009 which are currently enjoying CIT incentives (because they fall within the category of incentives granted to investment in expansion) shall continue to enjoy such incentives for the residual period, and that part of their increased income due to the investment project in expansion which is currently subject to the 28% tax rate shall transfer to application of the 25% rate.

Any enterprise with an investment project in expansion of its production up until 31 December 2008 which was unfinished and which is then finished in year 2009 and which commences production and business, shall continue to enjoy the period of CIT exemption and reduction applicable to the additional income resulting from such project in accordance with Circular 134; that part of additional income resulting from such project shall be subject to the tax rate of 25% and the period of CIT exemption and reduction shall apply to such income portion calculated from year 2009 when the project went into production and business.

Any enterprise with an investment project for expansion of production which is unfinished, must so notify the tax office when it lodges its tax finalization for the 2008 tax assessment period.

7. Any enterprise issued with an investment licence, business registration certificate or investment certificate prior to the date on which the Socialist Republic of Vietnam officially became a member of the World Trade Organization (namely 11 January 2007) and which has income from business activities (excluding textiles and knitwear) and is currently enjoying CIT incentives because it satisfies the conditions on export ratios set out in legal instruments on foreign investment in Vietnam, on promotion of domestic investment and on CIT, it shall continue to enjoy CIT incentives in accordance with the above-mentioned legal instruments but the duration of entitlement shall not exceed year 2011.
8. This Circular shall replace the following Circulars:
  - Circular 134-2007-TT-BTC of the Ministry of Finance dated 23 November 2007 providing guidelines for implementation of Decree 24-2007-ND-CP of the Government dated 14 February 2007 making detailed provisions for implementation of the *Law on Corporate Income Tax*.
  - The CIT declaration used for income from assignment of land use or land lease rights being Form 2-TNDN issued with Circular 60-2007-TT-BTC of the Ministry of Finance.
9. Any items in guidelines on CIT issued by the Ministry of Finance or by other branches which are inconsistent with this Circular are hereby repealed.
10. Resolution of any issues on tax, tax finalization, tax exemption and reduction, and administrative offences in the field of CIT which existed prior to the year 2009 tax period shall be implemented in accordance with the corresponding CIT guidelines issued prior to the year 2009 tax period.
11. If Vietnam has acceded to an International Agreement or International Treaty which contains provisions on payment of CIT which are different from the guidelines in this Circular, then the provisions of such International Treaty or Agreement shall apply.  
Any difficulties arising during implementation of this Circular should be promptly reported to the Ministry of Finance for additional guidelines.

For the Minister of Finance  
Deputy Minister  
DO HOANG ANH TUAN