

CIRCULAR NO. 177/2009/TT-BTC OF SEPTEMBER 10, 2009, GUIDING THE DETERMINATION OF TAXABLE INCOMES FROM EXCHANGE RATE DIFFERENCES OF FOREIGN-CURRENCY PAYABLE DEBTS

Pursuant to June 3, 2008 Law No. 14/2008/QH12 on Enterprise Income Tax;

Pursuant to the Government's Decree No. 124/2008/ND-CP of December 11, 2008, detailing and guiding a number of articles of the Enterprise Income Tax;

Pursuant to the Government's Decree No. 09/2009/ND-CP of February 5, 2009, promulgating the Regulation on financial management of state companies and management of state capital invested in other enterprises;

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

In furtherance of the Prime Minister's opinion in the Government Office's Official Letter No. 2225/VPCP-KTTH of April 9, 2009, on the handling of foreign exchange rate differences, the Ministry of Finance provides specific guidance on the determination of enterprise income tax-liable incomes from exchange rate differences of foreign-currency payable debts as follows:

Article 1. Subjects and scope of application

1. Subjects of application include goods producers and traders and service providers that earn taxable incomes under the Enterprise Income Tax Law (below referred to as enterprises).

2. The scope of application covers exchange rate differences of enterprises' payable debts of foreign-currency origin.

Article 2. Tax bases

An enterprise earning payable debts in foreign currencies may account losses or profits from exchange rate differences arising in a period and arising as a result of re-valuation of payable debts in foreign currencies at the end of a fiscal year as expenses or incomes upon determination of enterprise income tax-liable incomes in the period. In case an enterprise suffers losses because it accounts exchange rate differences arising as a result of re-valuation of payable debts in foreign currencies as expenses, it may allocate part of these differences to the subsequent year to prevent losses, provided that the exchange rate differences accounted as expenses in a year must at least be equal to exchange rate differences of foreign-currency amounts due to be paid in that year.

Article 3. Organization of implementation

1. This Circular takes effect 45 days from the date of its signing and applies from the 2009 tax period.

2. Matters which are neither guided in and nor contrary to this Circular comply with the Finance Ministry's Circular No. 130/2008/TT-BTC of December 26, 2008, guiding a number of articles of the Enterprise Income Tax Law and guiding the Government's Decree No. 124/2008/ND-CP of December 11, 2008, which details and guides a number of articles of the Enterprise Income Tax Law.

In case a treaty or international agreement to which the Socialist Republic of Vietnam is a contracting party contains provisions on the handling of exchange rate differences of foreign-currency payable debts different from this Circular, the provisions of that treaty or agreement prevail.

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

Ministry of Finance -Do Hoang Anh Tuan