

MINISTRY OF FINANCE

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No. 120/2003/TT-BTC

Socialist Republic of Vietnam  
Independence - Freedom - Happiness

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Ha Noi, 12 December 2003

**CIRCULAR**

**Providing guidance on the implementation of Decree No. 158/2003/ND-CP dated 10 December 2003 of the Government, regulating in detail the implementation of the Law on Value Added Tax (VAT)**

Pursuant to the Law on Value Added Tax (VAT) No. 02/1997/QH9 dated 10 May 1997;

Pursuant to the Law No. 07/2003/QH11 dated 17 June 2003 on Amendment and Addition to a number of articles of the Law on VAT;

Pursuant to Decree No.158/2003/ND-CP dated 10 December 2003 of the Government regulating in detail the implementation of the Law on VAT and the Law on Amendment and Addition to a number of articles of the Law on VAT;

Pursuant to Decree No.77/2003/ND-CP dated 1 July 2003 of the Government, providing for functions, duties, powers and organizational structure of the Ministry of Finance.

The Ministry of Finance hereby provides guidance on the implementation as follows:

**A. SCOPE OF APPLICATION OF VAT**

**I. OBJECTS SUBJECT TO VAT; VAT PAYERS**

**1. Objects subject to VAT**

Objects subject to VAT are goods and services used for production, trading and consumption in Vietnam (including goods or services purchased from foreign organisations or individuals), except for those which are not subject to VAT as stipulated in section II, Part A of this Circular.

**2. VAT payers**

All organisations and individuals engaged in production and trading of taxable goods and/or services in Vietnam, regardless of their business lines, forms and organisation (hereinafter referred to as business establishments) and other organisations or individuals importing taxable goods or purchasing taxable services from abroad (hereinafter referred to as importers) are VAT payers.

Organisations and individuals producing and trading in goods and/or services shall include:

- Business organisations established and carrying out the business registration in accordance with the law on enterprises, the law on State owned enterprises and the law on co-operatives;
- Economic organizations of political organisations, scio-political organisations, social organisations, socio-occupational organisations, units of People's armed forces, administrative and non-business organisations and other organisations;
- Foreign invested enterprises and foreign parties to business co-operation contracts under the law on foreign investment in Vietnam; foreign organisations and individuals carrying out business activities in Vietnam in the forms which are not regulated by the law on foreign investment in Vietnam;
- Individuals, family households, groups of persons carrying out independent business activities and other business entities engaged in production, trading and import.

## **II. OBJECTS NOT SUBJECT TO VAT**

The following goods and services are not subject to VAT.

1. Products of cultivation (including products of afforestation) or husbandry, aquatic and marine products from aquaculture and catching, which have not yet been processed into other products or which have only been rudimentarily processed by organisations and individuals producing, catching or selling such goods;

Rudimentarily processed products stipulated in this point are those which are only dried in the sun, dried in other manners, frozen, cleaned or peeled, and which have not yet been processed at a higher level or processed to become other products or goods.

Example: Drying in the sun, drying in other manners, peeling, extracting cores from agricultural products; freezing by ice, salting, drying fish, shrimps and other aquatic culture products.

2. Products which are domestic animals or cultivated plants such as breeding eggs, breeding animals, seedlings, seeds, semen, embryos, genetic materials in stages such as culture, importation and commercial trading. Products being domestic animals and cultivated plants not subject to VAT are those imported and traded by establishments which have business registration certificates issued by State management agencies. Domestic animals or cultivated plants whose standards and quality are issued by the State must meet conditions stipulated by the State.

3. Salt products include salt produced from seawater or exploited from natural salt mines, purified salt and iodine salt.
4. The following imported goods shall not be subject to VAT:
  - Equipment, machinery, specialised means of transportation forming part of the technological process and construction materials which have not yet been domestically produced and which need to be imported to form fixed assets of the enterprise;
  - Equipment, machinery, materials and means of transportation which have not yet been domestically produced and which need to be imported for use in scientific research and technological development;
  - Aircraft, oilrigs, ships which have not yet been domestically produced and are hired from overseas to be used for production and business;
  - Equipment, machinery, spare parts, specialised means of transportation and necessary materials used for prospecting, exploration and development of oil and gas fields; spare parts, devices and specialised equipment for aircraft (which have not yet been domestically produced).

Where a business and production establishment imports a full set of equipment and machinery not subject to VAT, of which some components have been domestically produced, the VAT shall not apply to the whole set of equipment and machinery.

Enterprises in this case shall include those established under the law on State owned enterprises, the law on enterprises, the law on co-operatives; foreign invested enterprises and foreign parties to business cooperation contracts (BCC) in accordance with the Law on Foreign Investment in Vietnam; foreign organisations and individuals operating in Vietnam in forms not regulated in the Law on Foreign Investment in Vietnam.

Example: The textile company A imports a number of looms which have not yet been domestically produced, of which the electric motors have been domestically produced, the electric motors shall also not be subject to VAT.

In order to determine that goods are not subject to VAT at the import stage as stipulated in this point, the importers must present the following documents to the customs body:

- An import contract.

In case of import through an import agent, it is required to further present a contract for import through an import agent;

Where an establishment has won a tendering contract to provide goods to entities which use the goods for purposes stipulated in this point, the establishment must further present a tender winning notice and a contract for sale of goods to entities in accordance with the tendering results.

Where a financial leasing company imports machinery and equipment for financial leasing, a financial lease contract is required.

Where goods are imported for scientific research and technological development, it is required to further present a document of the competent agency assigning tasks to organisations which carry out scientific research and technological development programs, projects or subjects, or a scientific and technological contract between the party placing the order and the party performing the scientific and technological contract.

- Confirmation by the Director of the enterprise or the head of the scientific research body that goods are imported to form fixed assets, or to be directly used in scientific research and technological development activities, or to be used to conduct the prospecting, exploration and development of oil and gas fields; or that imported goods are specialized goods for aircraft.

In respect alone of aircraft, oilrigs, ships not yet domestically manufactured and hired from overseas for business production, which are not subject to VAT, the lessee shall only present to the customs body a lease contract signed with foreign country.

The above goods which have not yet been domestically produced and which need to be imported shall be determined based on the list of machinery, equipment, specialised means of transportation, construction materials, supplies and spare parts which have been domestically produced, issued by the Ministry of Planning and Investment.

5. State owned houses which the State sells to the tenants of these houses as stipulated in Government Decree No.61/CP dated 5 July 1994 on selling, buying and trading of houses.
6. Transfer of land use rights.
7. Credit services and investment funds including lending activities, guarantee of loans, discount of commercial bills and valuable papers, sale of loan assurance assets for the purpose of recovery of debts, financial leasing by financial and credit organizations in Vietnam; capital assignment activities in accordance with the laws, securities trading activities.

Securities trading activities stated in this point shall include such activities as brokerage, self-trading, management of portfolio, issuance guarantee, securities investment consultancy.

8. Life insurance, student insurance and services of human insurance such as accident insurance for sailors and crew-members, human accident insurance (including accident or life insurance in association with hospitalisation), accident insurance for passengers, tourist insurance, accident insurance for drivers, assistant drivers and people sitting on cars, insurance for sterilised persons, insurance on subsidy for hospitalisation and operation, individual life insurance, insurance for electricity users and other forms of insurance relating to humans; insurance on domestic animals and cultivated plants, other agricultural insurance and kinds of insurance for non-business purpose such as social insurance, medical insurance and labour insurance.
9. Services of medical check-ups, treatments, epidemic prevention, family planning, health care and rehabilitation for patients and veterinary service.
10. Products and services included in the cultural, artistic, gymnastic and sports areas set out below:
  - Cultural, exhibition and sport activities, drill and contest programs which are in the nature of mass movement, where no admission charge is collected or there is a sale of tickets but not for business purposes. Other revenues from sale of goods, renting of ground and stands at the fair, exhibition... must be subject to VAT.
  - Artistic performances such as traditional art performances, singing, dancing, music performance, plays, circus; other artistic performances and art showing services.
  - Production of various kinds of films (shot film) regardless of their theme and type.
  - Importation of shot films, distribution and showing of cinematographic films, documentary video films:
    - + For cinematographic films, regardless of their theme or type.
    - + Video movies are restricted to documentaries, reports or scientific movies.

The type and theme of films are determined in accordance with the provisions of the Ministry of Culture and Information.

11. Educational and vocational training services including curriculum education, foreign language teaching, computer training, training in dancing, singing, painting, music, taking part in plays, acting as acrobat, gymnastic and sport performance, acting as nursery teacher and training in other careers in order to raise cultural standards and expertise for people.

12. Radio and television broadcasting according to programs funded by the State Budget.
13. Publication, importation and distribution of newspapers, magazines, newsletters, political books, textbooks (including textbooks in the form of videos on which voices, images or electronic data are recorded), teaching materials, law books (books in which legal documents or instruments, resolutions and other juridical documents are printed); scientific and technical books, books printed in the language of ethnic minorities, pictures, photos, posters intended for propaganda, printing of money and certificates having value like money (cheques, bonds, drafts, bills...); cash remitted from overseas to Vietnam.
- Newspapers, magazines, newsletters including activities of publishing newspapers, magazines, newsletters on the Internet.
  - Political books are books for propaganda of political lines of the Party and State, for performing political tasks with specific topics and themes and for glorifying celebration days and traditional days of organisations, branches and localities; books for propaganda of good people and good deeds; books in which speeches, research or reasoning articles of the Party's and State's leaders are printed.
  - Textbooks are books used for teaching and learning at all levels from pre-schools to high schools (including reference books for teachers' and students' use in conformity with the school curriculum).
  - Teaching materials are books used for teaching and learning at universities, junior colleges, secondary vocational schools.
  - Law books are books in which juridical documents of the State are printed.
  - **Scientific and technical books are books used for introduction to and guidance on scientific and technical knowledge directly related to production and scientific and technical industries;**
  - Books printed in the language of ethnic minority including books printed in Vietnamese and ethnic minority languages.
  - Pictures, photos, posters, leaflets, pamphlets used for purposes of propaganda such as slogans, leader photos, party's flag, national flag, Communist Youth League's flag, Young Pioneer Detachment's flag;
  - Audio or video tapes and discs for recording the contents of the above books;
14. Public utility services relating to maintenance of public hygiene, water drainage systems in urban areas and residential areas; maintenance of zoos, flower gardens, parks, trees in streets, public lighting systems; funeral services. These services are irrespective of source of payments.

- Public utility services relating to the maintenance of public hygiene, water drainage systems in urban areas and residential areas include activities of collecting, transporting and disposing of garbage and waste, draining water from flooded areas, disposing of waste liquid.
- Maintenance of zoos and parks include activities of managing and planting trees, taking care of and protecting birds, animals and plants in parks, zoos, public areas, national gardens.
- Funeral services include activities of leasing houses and cars to serve funerals by organisations providing funeral, burial or cremation services;

In respect of activities for which fees or charges are collected in accordance with the policy on fee or charge collection of the State, the collected revenue shall not be subject to VAT.

15. Renovation, repair, restoration, construction of cultural and artistic works, public utility works, infrastructure facilities and welfare housing funded by public contribution or humanitarian aid, including cases where the State provides a subsidy of less than 30% of the total funds actually expended on such works.
16. Public passenger transport by buses, trams of Bus or Trams Transport Companies, established and operating in compliance with the regulations of the Ministry of Transport and Communications to serve the travelling needs of people within cities, urban areas and industrial zones or between cities and neighbouring industrial zones with routes, destinations, time schedules and fare rates provided for by the competent agency.
17. The State's basic surveys funded by the State Budget (including survey and prospecting of geological formation and minerals, water resources, hydro-meteorological phenomena and environment; measurement and mapping).
18. Irrigation serving agricultural production; clean water produced by organisations or individuals in mountainous, island, remote or distant areas for consumption in such areas.
19. Specialised arms and military devices required for national defense and security.

The list of specialized arms and military devices required for national defense and security is defined in Appendix 3 issued together with this Circular.

These arms and military devices include complete products or products constituting a full set; or parts, components and packages used for assembly and maintenance of complete products.

The activities of repairing specialised arms and military devices to serve national defense and security are conducted by enterprises of the Ministry of National Defense and the Ministry of Public Security.

Specialised arms and military devices (including supplies, machinery, equipment, spare parts) for national defense and security which are imported and exempted from import duty in accordance with the provisions of the Law on Export and Import Duties, or which are imported under the annual quota approved by the Prime Minister shall also not be subject to VAT.

The establishment importing the above specialised arms and military devices for national defense and security which are not subject to VAT must submit to the customs body the following documents:

- A confirmation letter stating that goods are imported to serve national defense or security, issued by the Ministry of National Defense or the Ministry of Public Security.
  - The list of goods imported under the import quota approved by the Prime Minister (issued by the Ministry of Trade or the General Department of Customs).
  - A contract for import through an import agent (in case of import through an import agent)
20. Goods imported in the following circumstances: humanitarian aid, non-refundable aid (including imported goods funded by non-refundable ODA capital); donations granted to Government agencies, political organizations; socio-political organisations, social organisations; socio-occupational organisations, units of people's armed forces; donations, gifts granted to individuals in Vietnam; belongings of foreign organisations or individuals who enjoy diplomatic immunity standard; belongings carried by people, included in the duty-free luggage standard; belongings of overseas Vietnamese carried by them when they return to the country.

The quantity of imported goods not subject to VAT at the import stage shall be the same as that exempted from import duty as stipulated in the Law on Export and Import Duties and other guidelines.

*Goods imported by organizations or individuals enjoying diplomatic immunity standards under the Ordinance on diplomatic immunity shall be exempted from VAT in accordance with the current regulations. Where goods or services purchased in Vietnam include VAT, such VAT shall be refunded in accordance with the guidelines in point 8, Section I, part D of this Circular. Entities and goods subject to, and documentation procedures for, VAT exemption as stated in this point shall be in compliance with the guidelines in Circular No.08/2003/TT-BTC, dated 15 January 2003, of the Ministry of Finance, providing guidelines for VAT refund to diplomatic representative agencies, consular bodies and representative offices of*



*international organizations in Vietnam.*

In respect of imported goods being humanitarian aid or non-refundable aid, a confirmation letter from Ministry of Finance must be obtained.

The General Department of Customs shall provide specific guidelines on documents and procedures for dealing with imported goods not subject to VAT at the import stage in these circumstances.

21. Goods sold to international organisations and foreigners for them to grant to Vietnam as humanitarian aid or non-refundable aid;

Procedures for international organisations and foreigners to purchase goods in Vietnam and grant them to Vietnam as humanitarian aid or non-refundable aid exempted from VAT: the international organisations and foreigners must send documents to the sellers, clearly stating names of the international organisations and foreigners who purchase goods to grant them to Vietnam as humanitarian aid or non-refundable aid; the quantity or value of purchased goods; a confirmation letter of the Ministry of Finance in respect of this aid.

When selling goods, the seller must issue invoices in accordance with point 5.1, Section IV, part B of this Circular. On the invoice, it is required to clearly state that goods are sold to international organisations and foreigners for them to grant to Vietnam as humanitarian aid or non-refundable aid not subject to VAT, and the seller shall keep documents of the international organisations or the representative agencies of Vietnam as a basis for VAT declaration and finalisation.

22. Goods transferred from this port of call to another, goods in transit, goods transported via Vietnam; goods temporarily imported for re-export; goods temporarily exported for re-import; materials imported for production and processing of goods for export in accordance with the production or processing contract signed with foreign party;

Goods not subject to VAT in these cases shall be solved by the customs body. The General Department of Customs shall provide guidance on the procedures for determination and non-collection of VAT in these cases.

23. Goods and services provided to the following entities and cases:

- Goods and services directly provided to international transport such as provision of fuel, materials, spare parts, water, various kinds of food, rations to passengers, hygiene services to ships, airplanes, international trains; stevedoring of exported goods.
- International transport of goods and passengers.

International transport includes transport of goods and passengers from Vietnam to foreign countries and vice versa, and transport of goods between foreign ports by foreign transport companies or domestic transport companies.

*Where a transport establishment signs a contract to transport goods and passengers abroad, its non-taxable revenues from transportation services shall be the revenues actually collected from customers. Where the transportation contract includes both domestic and international transportation, and the establishment cannot calculate separately revenues from domestic transportation and international transportation, the revenues not subject to VAT shall include revenues from domestic transportation.*

- Overseas reinsurance services.
- Duty-free goods sold at duty-free shops in airports, ports, international railroad stations and border gates.
- National reserves sold by the national reserve agency.
- Goods and services exported abroad by export processing enterprises; goods and services traded among export processing enterprises; goods and services supplied to export processing enterprises by foreign organisations and individuals.

24. Transfer of technology and computer software, except software for export.

Transfer of technology is determined in accordance with the provisions provided for in Chapter III - “technology transfer”- of the Civil Code of the Socialist Republic of Vietnam and in the implementing guidelines. In respect of technology transfer contracts where equipment and machinery are provided, the VAT exemption shall apply only to the value of the technology transferred.

Computer software (except computer software for export) includes software products and software services as provided for in Decision No.128/2000/QĐ-TTg dated 20 November 2000 of the Prime Minister on some policies and measures for encouragement of investment in and development of the software industry.

25. *Postal and telecommunication and popular Internet services in accordance with the Government’s program;*

26. Gold imported in the form of bullion, foil and gold which has not been created to become fine art products, jewelry or other products.

Gold bullion, foil and uncreated gold shall be determined in conformity with international regulations.

27. Exported products being exploited minerals which have not yet been processed to become other products, specifically:

- Crude oil;
  - Flagstone, sand, rare soil;
  - Gemstone
  - Manganese ores, tin ores, iron ores, chromic ores, emanate ores and apatite ores;
28. Products being artificial parts used to replace parts of diseased persons; crutches, wheelchairs and other specialized equipment used for the disabled;
29. Goods and services provided by individuals whose average monthly income is below the minimum salary of Government officials set by the Government. The income shall be determined by the revenue from business activities minus (-) all legitimate and proper expenses attributable to such activities.

In respect of households with low incomes which are not subject to VAT payment, the district tax branches shall co-ordinate with the Tax Consulting Council to inspect, determine, make out the list and notify the business households in writing.

During the VAT exemption period, if a business household has a change in its business activities and gets an income higher than the regulated level, it must be subject to VAT and the tax branch must notify the business household of VAT payment from the month when it gets income higher than the regulated level.

A business establishment shall not be entitled to a deduction or refund of input VAT on goods and services used for production or trading of goods and services not subject to VAT as stated in this article, and must charge the input VAT to the historical cost of fixed assets, value of raw materials or its expenses.

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

The basis for VAT calculation is taxable price and tax rate

### **I. TAXABLE PRICE**

The taxable price of goods and services for VAT calculation is determined specifically as follows:

1. For goods and services sold or provided by business establishments to consumers, the taxable price is the selling price excluding VAT. For goods and services subject to Special Sales Tax (SST), the taxable price is the price including SST and excluding VAT.

The taxable price of goods and services shall include the surcharge and extra fee in addition to the selling price of goods and services earned by the business establishment, except the surcharge and extra fee payable to the State Budget by the business establishment. *Where the business establishment applies the policy on selling price reduction, the taxable price shall be the reduced selling price recorded on the invoice.*

2. For imported goods, the taxable price is the import price at border gates plus (+) import duty plus (+) SST (if any). The import price at border gates serving as the basis for VAT calculation shall be determined in accordance with the provisions on price used for calculation of import duty.

Example: A business establishment imports automobiles of 4 seats in the complete form with an import dutiable price of VND 300,000,000/unit

Import duty rate is 100%, SST rate is 80% and VAT rate is 10%.

- Import duty payable:  
 $\text{VND } 300,000,000 \times 100\% = \text{VND } 300,000,000$
- SST payable:  
 $(\text{VND } 300,000,000 + \text{VND } 300,000,000) \times 80\% = \text{VND } 480,000,000.$
- Taxable price for VAT calculation:  
 $(\text{VND } 300,000,000 + \text{VND } 300,000,000 + \text{VND } 480,000,000) = \text{VND } 1,080,000,000.$
- VAT payable:  
 $\text{VND } 1,080,000,000 \times 10\% = \text{VND } 108,000,000.$

In cases where imported goods qualify for import duty exemptions or reductions, the taxable price is the import price plus (+) import duty payable after having been exempted or reduced.

3. Where products, goods and services are used for exchange, donation or payment in lieu of salary (except that products, goods used for sales promotion or advertisement in accordance with the provisions of Decree No.32/1999/ND-CP dated 5 May 1999 on sales promotion and commercial advertisement, trade fair and exhibition, shall not be subject to VAT), the taxable price shall be determined in accordance with the taxable prices of products, goods or services of the same or similar categories at the transaction date.

Example: Business establishment A manufacturing electric fans uses 50 fans in exchange for steel from business establishment B, the selling price (exclusive of VAT) is VND 400,000/ unit. VAT payable for the fans used for the exchange:

$\text{VND } 400,000/\text{ unit} \times 50 \text{ units} \times 10\% = \text{VND } 2,000,000$

4. For products, goods or services issued by the business establishment for consumption and not for production and trading, or for production and trading of goods and services not subject to VAT, the business establishment is required to calculate output VAT. The taxable price shall be calculated in accordance with the selling price of products, goods or services of the same categories.

For internal circulation of goods such as issuance of goods for transfer to internal warehouses, issuance of supplies and semi-finished products for continuation of the production process in a business production establishment, the business establishment shall not have to calculate and pay VAT.

5. For services supplied by a foreign party to consumers in Vietnam, the taxable price is the service price payable to the foreign party.

Example: Company A in Vietnam hires a foreign company to repair ocean ships, the contractual price payable to the foreign company is VND100,000,000. Company A shall calculate and pay VAT at 10% on the amount of VND100 million.

6. Property leasing services include the leasing of houses, factories, warehouses, docks, ground, means of transportation, machinery and equipment...

Taxable price for VAT calculation is the lease price excluding VAT. If the rent is settled by periodic payments or an up-front payment for a certain period of lease, VAT shall be calculated on periodic payments or up-front payment including payments in other forms such as amounts paid to the landlord for perfection, repair, upgrading of the leased house at the request of the lessee.

The property lease price agreed by relevant parties shall be determined by the lease contract. Where lease prices are established by laws, lease prices shall be determined within the legal price framework.

7. For goods sold by instalment payments, the taxable price is the total selling price of goods sold, exclusive of VAT (and exclusive of interest on instalment payments). Periodic instalments shall not be used for VAT calculation.

Example: A motorbike trading company sells 100cc Honda motorbike at VND 25.5 million excluding VAT on the basis of a lump sum payment (in which the interest on instalment payments is 0.5 million dong). In this regard, taxable price for VAT calculation shall be VND25 million/ unit.

8. In respect of processed goods, the taxable price shall be the processing cost exclusive of VAT including charges for labour, fuel, power, auxiliary materials and other expenses of processing incurred by the processor.
9. For construction and installation activities.

In respect of cases where the construction and installation include the provision of construction materials, the taxable price shall include the value of construction materials excluding VAT.

Example: Construction company A tenders for construction of a project with the supply of construction materials. The total payment value exclusive of VAT is VND 1,500 million, of which the value of construction materials is VND 1,100 million. The taxable price for VAT calculation in this case is VND 1,500 million.

In cases where the construction and installation do not include the supply of construction materials, the taxable price shall be the construction and installation value excluding the value of construction materials.

Example: Construction company X tenders for construction of a project, the construction materials of which are provided by the project owner. The construction value excluding the value of construction materials is VND 600 million. The taxable price for VAT calculation in this case is VND600 million.

In cases where payment for the construction and installation of works is made on the basis of the completed items or the volume of completed work handed over, the taxable price for VAT calculation shall be the value of the completed items or the volume of completed work exclusive of VAT.

Example 1: Textile company X (party A) enters into a contract with construction company Y (party B) for construction and installation of a factory expansion project.

The total value of the project exclusive of VAT is VND200 billion, of which:

- Construction value: VND80 billion
- Value of equipment provided and installed by party B: VND120 billion
- VAT charged by Party B at 10%: VND20 billion

Total payment amount to be paid by party A: VND 220 billion

When receiving the factory and put it into use, Party A shall account for the cost of the factory at VND 200 billion (the value excluding VAT).

The paid VAT of VND 20 billion shall be deducted from the output VAT of goods sold, or refunded as regulated.

In cases where party A agrees to pay party B when each item of works is completed and billed (supposing that the construction work of the factory is completed first and the payment for which is made first), when making payment for the construction work, party A must add 10% VAT to the construction value of VND 80 billion; the amount including VAT payable shall be: VND 80 billion + VND 8 billion = VND 88 billion.

10. In respect of business establishments which are allotted land by the State for construction of houses and infrastructure facilities for sale or assignment in association with transfer of the land use rights, the taxable price for calculation of VAT on houses and infrastructure facilities sold or assigned is the selling or assignment price exclusive of VAT minus (-) the land use fee calculated at the regulated price when the land is allotted.

Example: The housing development and investment company X is allotted 10,000 m<sup>2</sup> of land for construction of houses for sale, in which 3,000 m<sup>2</sup> of land are used for construction of internal road in the planned area, which are not subject to land use fee. The land use fee payable to the State Budget is calculated at VND 200,000/m<sup>2</sup>. The company sells a house with an area of 50m<sup>2</sup>, the price for sale of the house and transfer of the land use right excluding VAT is VND 300 million (of which the price of the house is VND 200 million, the price for transfer of the land use right is VND 100 million).

The taxable price for calculation of VAT on the above house is:

$$\text{VND}300 \text{ million} - (50\text{m}^2 \times \text{VND } 200,000/\text{m}^2) = \text{VND } 290 \text{ million}$$

The output VAT is: VND 290 million x 10% = VND 29 million

In respect of business establishments which lease land from the State to invest in infrastructure facilities in industrial zones, high tech zones and other economic zones in accordance with the provisions of the Government for sublease, the taxable price shall be the sublease price excluding VAT minus (-) the land rent payable to the State Budget.

Example: Company Y investing and trading in infrastructure facilities in industrial zones leases 500,000 m<sup>2</sup> of land from the State for a duration of 50 years to construct infrastructure facilities for sublease. The land rent is VND 30,000/m<sup>2</sup>/year. Having invested in infrastructure facilities, Company Y subleases 5000m<sup>2</sup> of land to company Z for a period of 20 years for construction of factory. The land rent exclusive of VAT (and exclusive of public utility fee) is VND 100,000/m<sup>2</sup>/year. Company Z pays the infrastructure rent once per year.

The taxable price for VAT calculation on revenue from sublease of infrastructure per year:

$$(5000\text{m}^2 \times \text{VND}100,000) - (5,000\text{m}^2 \times \text{VND}30,000) \times 1\text{year} = \text{VND}350,000,000$$

VAT payable: VND350,000 x 10% = VND35,000,000.

11. In respect of activities of trading in property, the taxable price is the selling price of property minus (-) the land value set by people's committees of provinces and central-governed cities at the time when such property is sold.
12. For shipping agents, brokerage services, export and import agents and other services for charges or commissions, the taxable price for VAT calculation is the charge or commission received from the services, exclusive of VAT.
13. For transportation or stevedoring activities of a company, the taxable price for VAT calculation is the transportation or stevedoring charges exclusive of VAT, regardless of whether the transportation or stevedoring is directly carried out by the company or by another unit hired by the company.
14. In respect of special categories of goods and services where vouchers such as postage stamps, freight tickets, lottery tickets are used, on which the payment price is the price inclusive of VAT, then the price excluding VAT shall be determined as follows:

$$\text{Selling price before VAT} = \frac{\text{Payment price (ticket price, stamp price)}}{1 + (\%) \text{ VAT rate of the goods or services}}$$

Example: A provincial post office sold 10,000 stamps, the price of each stamp is VND400, the price excluding VAT and the VAT liabilities of the stamps shall be calculated as follows:

- Price shown on stamps (inclusive of VAT) = 10,000 x VND400 = VND4,000,000
- Price excluding VAT =  $\frac{\text{VND4,000,000}}{1 + 10\%} = \text{VND3,636,363}$
- VAT payable (10%) = VND3,636,363 x 10% = VND363,636

In respect of travel agents, the package tour price (including expenses for meals, accommodation, travel) stated on a contract signed with customers is the price inclusive of VAT for VAT calculation and for revenue recognition of the business establishment. Where the package tour price includes items not subject to VAT such as air fares for transport of tourists from overseas to Vietnam and vice versa, expenses for meals, accommodation and sightseeing tour in foreign country (supported by proper documents), these expenses shall be deducted from the taxable price (revenue).

Example 1: The Ho Chi Minh City Tourist Company performs a tourism contract with Thailand, organising a package tour of 5 days to Vietnam for 50 tourists with the total amount of USD32,000. The Vietnamese party must make payment for air tickets, meals, accommodation and sight seeing according to an agreed program, in



which the air fares from Thailand to Vietnam and vice versa are USD10,000. The output VAT according to this contract shall be determined as follows:

+ The taxable revenue is:

$$\text{USD}32,000 - \text{USD}10,000 = \text{USD}22,000$$

+ The output VAT is:

USD22,000				
-----	x	10%	=	USD2,000
1+ 10%				

+ Revenue of the establishment, determined for calculation of business result:

$$\text{USD}32,000 - \text{USD}2,000 = \text{USD}30,000$$

+ Deductible input VAT shall be determined in accordance with the current provisions for calculation of the VAT payable.

Example 2:

The Ha Noi Tourist Company performs a tourism contract to organise a package tour of 5 days to China for tourists from Vietnam at the total payment of USD400/person. If the Ha Noi Tourist Company has to pay USD 300/person to the China Tourist Company, the taxable revenue for VAT calculation of the Ha Noi Tourist Company is USD100/person (USD400-USD 300)

15. For pawnbroking service, the taxable price for VAT calculation is the amount receivable from this service including the interest on pawn loans receivable and the difference derived from sale of pawned goods (revenue from sale of pawned goods minus (-) the amount payable to customer (if any), minus (-) loan).

The revenue from this service is determined as the price inclusive of VAT for calculation of output VAT and revenue of the business establishment.

Example:

A pawnshop has revenue of VND 110 million from pawnbroking service during the tax period.

+ Output VAT shall be equal to:

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

- + The revenue from pawnbroking service of the establishment, which is determined for calculation of business results:

$$\text{VND110 million} - \text{VND10 million} = \text{VND100million}$$

16. For books, newspapers, magazines sold at the issue prices (prices shown on covers) in accordance with the provisions of the Law on Publication, those prices shall be determined as the prices inclusive of VAT for calculation of VAT and revenue of the establishment (in respect of publications subject to VAT). Where publications are sold at prices other than prices shown on covers, VAT shall be calculated on the selling price.

Publication is the process of publishing publications from the stage of producing draft copies to the stage of publishing publications to consumers.

Example: The Literature Publishing House sells literature books to the Book Distribution Company. The price printed on the cover (price inclusive of VAT) is VND6,300/unit. The publishing fee (25%) is VND1,575/unit.

The taxable price for VAT calculation is determined as follows:

- Where the Publishing House publishes publications through the Distribution Company, the taxable price of publications shall be determined as follows:

$$\begin{array}{l} \text{Taxable price at} \\ \text{the publishing} \\ \text{stage} \end{array} = \frac{\text{Price printed on cover} - \text{Publishing fee}}{1 + \text{VAT rate}}$$

The taxable price for VAT calculation at the publishing stage (Literature Publishing House) shall be equal to:

$$\frac{\text{VND6,3000} - \text{VND1,575}}{1 + 5\%} = \text{VND 4,5000/unit}$$

Output VAT at the publishing stage:

$$\text{VND4,500/unit} \times 5\% = \text{VND225/unit}$$

Total payment is:

$$\text{VND4,500/unit} + \text{VND225/unit} = \text{VND4,725/unit}$$

The taxable price for VAT calculation at the distribution stage (Book Distribution Company) is:

$$\frac{\text{VND6,300}}{1 + 5\%} = \text{VND6,000/unit}$$

Output VAT: VND6,000/unit x 5% = VND300/unit

VAT payable at the distribution stage is:

$$\text{VND300/unit} - \text{VND225/unit} = \text{VND75/unit}$$

(Assuming that there is no other input VAT)

- Where the Publishing House directly distributes publications to users, the taxable price for VAT calculation on the publishing activity is determined as follows:

$$\text{Taxable price at the publishing stage} = \frac{\text{Price printed on cover}}{1 + \text{VAT rate}}$$

Where the Publishing House consigns its publications to agents for sale at the issue price on a consignment basis, the use of invoices and vouchers and VAT declaration and payment by the Publishing House and its agents shall be carried out in the same manner as sale of goods through commercial agents.

The selling price printed on the cover minus (-) the publishing fee shall not be allowed to be lower than the standard cost price. Where the selling price printed on the cover minus (-) the publishing fee is lower than the standard cost price, the Publishing House incurring an input VAT larger than output VAT shall not be entitled to VAT refund.

17. In respect of printing service, the taxable price for VAT calculation is the printer cost. Where a printing house performs printing contracts on which the payment price includes the printer cost and newsprint cost, the taxable price for VAT calculation shall be inclusive of the newsprint cost.
18. In respect of services of acting as inspection agent, agent conducting evaluation for compensation, agent claiming a third person in the insurance business activities, the taxable price for VAT calculation is the charge or commission earned by the agent, including the payments collected by the agent.

## II. VAT RATES

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

- 1. The 0% VAT rate** shall apply to exported goods and services. Exported goods and services shall include processed goods for export, goods or services not subject to VAT for export ( except for overseas travel tourism, overseas reinsurance services; overseas credit, financial investment and stock investment services, and goods and services stipulated in points 23 and 27, Section II, Part A of this Circular).
- Exported goods shall include goods exported abroad, goods sold to export processing enterprises and other cases where goods are considered to be exported in accordance with the provisions of the Government.
  - Intermediary processed goods for export in accordance with the provisions in Article 17 of Decree No.57/1998/ND-CP dated 31 July 1998 of the Government, detailing the implementation of the commercial law regarding the export, import and processing activities, and sale and purchase agent activities with foreign countries. In this case, processed goods of an establishment directly signing the processing contract with a foreign party (referred to as goods delivering establishment) have not yet been exported to the foreign party but are delivered to another establishment in Vietnam (referred to as goods receiving establishment) according to the foreign party's mandate for the latter to continually process goods to make them become perfect products in accordance with the processing contract signed with the foreign party. The processing fee shall be directly paid by the foreign party.
  - Goods processed for export in accordance with a mandate. In this case, an establishment directly signs a processing contract with a foreign party and then subcontracts the processing of goods to another enterprise. The establishment directly signs the processing contract with the foreign party shall only earn commission on the processing fee.
  - Goods which are produced by an enterprise in Vietnam and sold to a foreign party but delivered to another enterprise in Vietnam according to the foreign party's mandate (briefly called as in-country exported goods) to be used as materials for production and processing of goods for export.
  - Goods exported to be sold at foreign fairs and exhibitions.
  - Exported services are those directly provided to foreign organizations or individuals and consumed out of Vietnam.

Goods or services sold to export processing enterprises and export processing zones such as insurance; banking; postal and telecommunications; consultancy; auditing, accounting; transportation, stevedoring; leasing of houses, offices, warehouses and open ground; goods and services provided to meet the consumption needs of individual employees; petrol sold to means of transportation shall not be seen as exported goods or services for application of the 0% tax rate, but they must be subject to VAT rates applicable to consumer goods in Vietnam.

**2. Tax rate of 5% shall apply to the following goods and services:**

- 2.1 Clean water used for production and daily activities, exploited from natural water sources by water trading and production establishments to supply to water users (except for non-taxable clean water exploited by establishments in rural areas, mountainous areas, islands, remote areas to serve production and daily activities in those areas, and beverages of various kinds included in the 10% VAT rate group).
- 2.2 Fertilizers, natural ores used for production of fertilizers; pesticides and insecticides, stimulants to growth of domestic animals and cultivated plants.
- Fertilizers include organic fertilizers and inorganic fertilizers such as phosphorous fertilizer, nitrogenous fertilizer (urea), NPK fertilizer, mixed nitrogenous fertilizer, phosphate fertilizer, potassium fertilizer, bacterial fertilizer...
  - Natural ores used as materials for production of fertilizers such as apatite ores used for production of phosphorous fertilizer, muddy ground for production of bacterial fertilizer.
  - All pesticides and insecticides, cockroach killer, raticide, termite killer, woodworm killer, fungicide, weed killer, chemicals used for restricting or stimulating growth of domestic animals and cultivated plants.
- 2.3 Specialized medical equipment, machinery and instruments such as endoscopes, projectors, X-ray machines used for examination and treatment of diseases; specialized medical equipment and instruments used for operation and treatment of wounds, ambulance; devices for measuring blood pressure, heart beat, pulse; syringe and needle; devices for blood transfusion; contraceptive devices and other specialized medical equipment; medical cotton, bandage, medical sanitary towel.
- 2.4 Curative and preventive medicines for human beings and domestic animals (including vaccine, biological product, distilled water for preparation of injection medicines); pharmaco-chemical products, pharmaceutical materials used for production of curative and preventive medicines included in the list of goods items stipulated in Appendices 1 and 2 issued together with this Circular.
- 2.5 Teaching and learning aids including model, drawings, rulers, boards, chalks, compasses used for teaching and learning, and specialized equipment and tools used for teaching, research, experiment.
- 2.6 Printing of kinds of product not subject to VAT as stipulated in point 13, Section II, part A of this Circular (except for printing of money and valuable certificates like money).

- 2.7 Children's toys.
- 2.8 Books of various kinds (except for publications not subject to VAT specified in clause 13, section II, part A of this Circular).
- 2.9 Magnetic tapes or disks whether or not they are programmed.
- 2.10 Products of cultivation and husbandry, sea products, aquatic products, which have not yet been processed or which have only been processed rudimentarily by cleaning, freezing or drying at the commercial trading stage (except for products stipulated in point 2, Section II, Part A of this Circular).
- 2.11 Fresh foods and foodstuffs; unprocessed forestry products (except wood and bamboo shoots) at the commercial trading stage.
- Foods shall include rice, unhusked rice, corn, potato, cassava, wheat; rice flour, corn flour, sweet potato flour, manioc flour, wheat flour.
  - Fresh foodstuffs mean foodstuffs which have not been processed, or which have been rudimentarily processed by cleaning, peeling, slicing, freezing, drying and have remained as they are such as livestock meat, poultry and fowl, shrimps, crabs, fish and other sea products and aquatic products.
  - Unprocessed forestry products mean forestry products exploited from natural forests such as bamboo, rattan, Job's ear mushrooms, mushrooms, roots, leaves, flowers, medicinal plants, resin and other forestry products.
- 2.12 Sugar, by-products obtained from production of sugar including residual sugar deposits, sugar cane dregs.
- 2.13 Jute, rush, bamboo, rattan, leave products are products made of or processed from main materials being jute, rush, bamboo, rattan, leaves such as jute carpets, jute yarn, jute bags, coconut fiber carpets, mats made of jute, rush; rope made of bamboo, coconut fiber; blinds made of bamboo; bamboo brooms, conical hats...
- 2.14 Cotton rudimentarily processed from cotton domestically planted is the cotton which is husked, seeded and sorted (imported cotton which have undergone a rudimentary processing and have been sorted is not included in this group).
- 2.15 Feed for livestock, poultry and feed for other domestic animals, which have been processed or which are unprocessed such as bran, dry peanut dregs, fish powder, bone powder
- 2.16 Scientific and technical services including the following specific activities of scientific and technical application and guidance:

- Data processing, computation and analysis in service of scientific research and technological development;
- Drawing up pre-feasibility and feasibility research reports, report on environmental impact evaluation;
- Providing scientific and technological guidance and carrying out practical experiments in order to create new technologies and products.

2.17 Services directly serving agricultural production including land ploughing, harrowing, digging, banking, dredging of canals, pools or lakes for agricultural production; breeding, cultivation, taking care of, prevention of worms, insects and diseases for plants; harvesting agricultural products.

2.18 Coal, slack coal, coke, peat, clotted coal, cake coal.

2.19 Soil, stone, sand, gravel (exclusive of products made from soil, stone, sand, gravel such as sawn stone, flagstone, granite).

2.20 Basic chemicals including chemicals stated in the list of Appendix 1 issued together with this Circular.

2.21 Mechanical products (except mechanical consumer products), including:

- Machinery and equipment such as: diesel motors, milling machines, lathes, planers, rollers, punchers; synchronized equipment, detachable equipment, electricity meter and stabilizer of more than 50 KVA, water meter, girder structure, warehouse skeleton structure, metallic structures; automobiles of various kinds (except automobiles subject to Special Sales Tax), ships and boats of various kinds, other means of transportation; metallic spare parts and semi-finished products of the above products (including spare parts and semi-finished products of automobiles subject to SST).
- Implements of production such as drilling machines, small agricultural machinery, sawing machine of various kinds, planers, rice threshers, water pumps with capacity of more than 10 m<sup>3</sup> /hour, machinery and implements for ploughing, harrowing and harvesting.
- Products being small implements of production such as pliers, hammers, saws, chisels, shovels, hoes, sickles, set of tools being mechanical products, nails.
- Steel mesh from B27 to B41, barbed wires, metallic roof board, metallic bearer cable, metallic conveying belt.

- 2.22 Moulds of various kinds including moulds used for manufacture of shaped products such as moulds for casting detailed parts of machinery, moulds for manufacture of various pipes.
- 2.23 Explosive materials including explosives, delay fuses, detonators and materials processed to become specialized explosive products which retain the same properties and effects as explosive materials.
- 2.24 Grinding stone.
- 2.25 Newsprint.
- 2.26 Insecticide –spray guns.
- 2.27 Rudimentarily processed rubber like crepe rubber, rubber in the form of cubic or oblong pile weighing 100kg or 33 kg, clotted rubber latex.
- 2.28 Pine resin in semi-processed form.
- 2.29 Artificial plywood made from materials such as bamboo, wood powder, wood chips, wood fiber, sawdust, sugar cane dregs, chaff which are pressed together to become boards, exclusive of laminated wood products.
- 2.30 Industrial concrete products including concrete bridge girders, concrete beams and skeletons, concrete piles, concrete electric wire poles, concrete drain pipes and concrete boxes of various types, panels and non-standard ferro-concrete prefabricated structures (except concrete bricks), commercial concrete (concrete grout).
- 2.31 Tyres and inner tubes with size of 900.20 or more
- 2.32 Neutral glass tubes for medical purpose (tubes and shaped tubes like syringes, test tubes).
- 2.33 Nets, net ropes and monofilaments for weaving fishing nets regardless of materials used for making them.
- 2.34 Product from refinery, rolling and manufacture of metal, non-ferrous metal and precious metal, except for imported gold as stipulated in point 26, section II, Part A of this Circular.

Product from refinery, rolling and manufacture of metal, non-ferrous metal and precious metal including products directly produced from the refining, rolling and manufacturing industry, which are in the form of materials or products such as: metallic products in the form of bars, plates, strings.



In respect of products from refinery, rolling and manufacture of metal, non-ferrous metal and precious metal which have been processed to become other products, VAT rates shall be determined depending on the goods items.

- 2.35 Automatic data processor and its parts and accessories (including computers and components of computers, specialised printers), except for electrical charging devices.
- 2.36 Renovation, repair and restoration of historical and cultural relics and museums, except for cases stipulated in point 15, section II, part A of this Circular.
- 2.37 Transportation and stevedoring including activities of transporting cargoes, luggage and passengers and stevedoring cargoes and luggage, regardless of whether the transportation establishment directly transports or hires another unit to do this, except for brokerage or agent activities for commission.
- 2.38 Dredging fairways, canals, river ports, seaports; activities of recovery of sunken property and salvage.
- 2.39 Distribution and screening of video films.

**3. Tax rate of 10% shall apply to the following goods and services:**

- 3.1 Oil and gas, ores and other mining products.
- 3.2 Commercial electricity sold by their producers
- 3.3 Electronic products.
- 3.4 Chemical consumer products.
- 3.5 Electric consumer appliances.
- 3.6 Chemical products (except for basic chemicals as guided in point 2.20, section II, part B of this Circular), cosmetics.
- 3.7 Electricity conducting line, telephone line, other kinds of conducting line, except for lines stipulated in point 2.33 and kinds of line which have just undergone the rolling process as stipulated in point 2.34, section II, part B of this Circular.
- 3.8 Welding rods.
- 3.9 Fibers, fabrics, garments, embroidered products; nappies; sanitary towels for women.

- 3.10 Paper and paper products (except for newsprint as guided in point 2.25, section II, part B of this Circular);
- 3.11 Leather and imitation leather products.
- 3.12 Milk, confectionery, beverages and other processed food, except for foodstuffs subject to the tax rate of 5%.
- 3.13 Ceramic, porcelain, glass, rubber, plastic, wood and wooden products; cement, brick, tiles and other construction materials (except for products included in the 5 % tax rate group).
- 3.14 Construction and installation.
- 3.15 Houses, infrastructure facilities sold or assigned by construction & trading establishments to which the State allots land or leases land.
- 3.16 Leasing of technical infrastructure facilities in industrial zones, high tech zones and in other economic zones by construction & trading establishments to which the State allots land or leases land, in accordance with the regulations of the Government.
- 3.17 Postal, telecommunications and Internet services (except for postal, telecommunication and popular Internet services according to the Government's program as guided in point 25, section II, part A of this Circular).
- 3.18 Leasing houses, offices, warehouses, open grounds, factories, machinery, equipment, and means of transportation.
- 3.19 Legal consultancy service and other consultancy services.
- 3.20 Auditing, accounting, survey and designing services; insurance service including insurance brokerage service (except for insurance services not subject to VAT as stipulated in point 8, section II, part A of this Circular).
- 3.21 Taking, printing, enlarging photos; recording, duplicating and hiring tapes; recording, duplicating videos.
- 3.22 Hotel, tourism or catering service.
- 3.23 Goods or services subject to Special Sales Tax.
- 3.24 Gold, silver and gemstones (except for imported gold referred to in point 26, section II, part A of this Circular).
- 3.25 Shipping agents.

3.26 Brokerage services.

3.27 Other goods and services not regulated in section II, part A and section II, part B of this Circular.

The above VAT rates shall be uniformly applied to each kind of goods or service at the import, production, processing or commercial trading stage. In respect of goods not regulated in section II, Part A; points 1 and 2, section II, Part B of this Circular, the 10% VAT rate shall apply.

Example 1: If the 10% VAT rate applies to garments, then the garments shall be subject to 10% VAT rate at any stage whether it is the import stage, production stage, processing stage or commercial trading stage.

Repair and maintenance services shall be subject to the 10% VAT rate. In respect alone of services of repairing machinery, equipment, means of transport which are mechanical products, the 5% VAT rate shall apply.

Example 2: Repair of ocean vessels shall be subject to the 5% VAT rate applicable to ocean vessels.

In respect of scraps or discarded products recovered for recycling or reuse, when sold they shall be subject to the VAT rate of the previous products which have turned into them.

Example 3: Scrap iron and steel recovered and then sold by establishments shall be subject to the 5% VAT rate. Scrap plastics recovered and then sold by establishments shall be subject to the 10% VAT rate applicable to plastic products.

### **III. METHOD OF VAT CALCULATION**

The VAT payable by business enterprises is calculated by either one of two methods: deduction method and direct method. Where a business establishment paying VAT under deduction method is engaged in business activities of purchase and sale of gold, silver, gemstones and foreign currency, the business establishment must maintain a separate recording system for this business for calculating VAT directly on the value added.

Scope of application and assessment of VAT payable in accordance with each method are as follow:

#### **1. Tax Deduction Method**

1.1. Objects of the application are business entities and organisations including enterprises established under the Law on State – Owned Enterprises, the Law on Enterprises, the Law on Co-operatives; foreign invested enterprises and other

business entities and organisations; except for those paying VAT under direct method as stated in point 2 of this section.

## 1.2 Determination of VAT payable

$$\text{VAT payable} = \text{output VAT} - \text{deductible input VAT}$$

Of which:

- a. Output VAT equals (=) the taxable price of goods, services subject to VAT multiplied by (x) the VAT rates applicable to those goods or services.

When selling goods or providing services, business establishments subject to the deduction method have to calculate and collect VAT on goods sold or services provided. When making out invoices for goods sold or services provided, business enterprises must clearly state the selling price exclusive of VAT, the VAT and the total amount payable by the purchaser. In the event that only the payment price is shown on the invoice, and the selling price exclusive of VAT and the VAT are not shown on the invoice, then the VAT on goods sold or services provided must be computed on the payment price shown on the invoice.

*Example:* A steel trading company which sells Φ 6 steel at the net price of VND 4,600,000/ton; 5% VAT payable is VND 230,000/ton. However, its sale invoice shows only the gross amount of VND 4,800,000/ton. Then the VAT payable shall be calculated on the amount received, which equals VND 4,800,000/ ton x 5% = VND 240,000/ton, instead of on the net selling price of VND 4,600,000/ton. The revenue of the enterprise shall be equal to VND 4,560,000 (= VND 4,800,000 – VND 240,000). The buyer shall not be allowed to deduct the input VAT of this invoice, which shows no separate VAT.

- b. Input VAT equals [1] the total amount of VAT stated on VAT invoices for goods or services (including fixed assets) purchased for production or trading of taxable goods or services, [2] the VAT amount stated on VAT payment receipts for goods imported, or receipts for VAT payment on behalf of the foreign party in accordance with the provisions of the Ministry of Finance applicable to foreign organizations and individuals operating in Vietnam in forms not regulated in the Law on Foreign Investment in Vietnam.

Where the purchased goods or services are supported with customized invoices on which the payment price is the price inclusive of VAT, the establishment shall be allowed to base on the price inclusive of VAT and the calculation method stated in point 14, section I, part B of this Circular to determine the price exclusive of VAT and the deductible input VAT:

*Example:* During the period, company A has been provided with customised invoices when purchasing services.

The total payment price is USD 110 million (price inclusive of VAT). The service is subject to VAT rate of 10%. The deductible input VAT is calculated as follows:

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

The price exclusive of VAT is VND 100 million, the VAT is VND 10 million

c. Determination of deductible input VAT

- The deductible input VAT is the VAT of goods and services used for production and trading of goods and services subject to VAT.
- Where purchased goods and services are used for production or trading of both taxable and non-taxable goods and services, only the input VAT of goods and services used for production or trading of taxable goods and services is deducted, the non-deductible input VAT shall be charged to the expenses of non-taxable goods and services.

For purchased fixed assets which are used only for production or trading of non-taxable goods and services, the VAT of fixed assets shall be charged to the historical cost of fixed assets.

The business establishment must maintain a separate recording system for input VAT of goods and services used for production and trading of taxable goods and services and non-taxable goods and services. Where goods and services are used for production or trading of both taxable and non-taxable goods and services but the establishment fails to keep separate records for deductible input VAT, the input VAT shall be deducted in accordance with the proportion of the turnover of goods and services subject to VAT to the total turnover of goods and services sold.

Example 1: Company A has used an electrical power of 5,000 KWh during the month, in which the electrical power used for cement production is 4,000 KWh and for the tenement of staff is 1,000 KWh (the company keeps separate records for the electrical power used for the tenement of staff), the company is only allowed to deduct the input VAT of the electrical power used for cement production, concretely as follows:

$$\begin{aligned} &\text{The deductible input VAT of the electrical power used during the month:} \\ &4,000 \text{ KWh} \times \text{VND } 700 \text{KWh} \times 10\% = \text{VND } 280,000 \end{aligned}$$

If purchased goods and services are used for activities other than production and business activities, the input VAT shall be charged to expenses of those activities.

Example 2: During a tax period, an enterprise producing bullets for national defense units (goods not subject to VAT) and fireworks (goods subject to VAT) has expended an amount of expenses on materials and fuel used for the production of these two kinds of product, however the business establishment fails to maintain a separate record of materials and fuel used for the production of each kind of product, the input VAT on the materials and fuel shall be deducted as follows:

The total value of purchased supplies is 2,500 million dong (exclusive of VAT), the amount of input VAT shown on VAT invoices is 250 million dong. The value of materials and fuel used for production of bullets and fireworks, which can not be separately calculated is 500 million dong (exclusive of VAT), VAT is 50 million dong.

Turnover from sale of taxable goods is 800 million dong.

Turnover from sale of goods not subject to VAT is 3,200 million dong.

The deductible input VAT on materials and fuel used for production of the above two kinds of product shall be calculated as follows:

Determining the proportion of the turnover of taxable goods to the total turnover of goods sold:

$$800 \text{ million dong} / 4,000 \text{ million dong} = 20\%$$

The deductible input VAT corresponding with this proportion is:

$$50 \text{ million} \times 20\% = 10 \text{ million dong.}$$

- An establishment engaged in activities of agricultural, forestry, fishery production (culture, cultivation, catching) which directly exports its products shall only be entitled to an input VAT deduction on goods and services directly used for the production stage after capital construction. The input VAT on goods and services used for capital construction by the production establishment shall not be deducted and must be charged to the historical cost of such goods and services. Where the establishment both sells its products domestically and exports its products, it must allocate the input VAT in accordance with the above provision.
- Where purchased goods are damaged by natural calamity or fire, or lost, and such fire or loss is determined as caused by organizations or individuals who must make compensatory payments, the input VAT of those goods shall be charged to the value of damaged goods which must be compensated, and shall not be allowed to be charged to the deductible input VAT when declaring the VAT payable.
- The deductible input VAT of goods and services arising in a month shall be declared and deducted when determining the VAT payable for that month, regardless of

whether goods are issued for use or are still kept in warehouse. When input VAT of goods and services purchased in a month, which is shown on VAT invoices or VAT payment receipts, has not yet been declared timely in that month, it shall be declared and deducted within a maximum period of 3 following months from the time when such input VAT arises.

Offices of corporations without doing business and non-business administrative entities such as hospitals, dispensaries, rehabilitation centers, institutes, training centers... which are not subject to VAT shall not be entitled to VAT deduction or refund for goods and services purchased to serve the operations of those entities.

Where the entities carry out business in goods and services subject to VAT, they have to register, declare and pay VAT for these activities.

Example: The office of corporation A does not directly carry out business production activities and uses the budget contributed by its affiliates for its operation. However, the office of the corporation leases part of the area which it does not use up, then the office of corporation A must declare and pay VAT for the activity of leasing the area. The input VAT of goods or services in service of the operation of the corporation's office shall not be deducted or refunded. The corporation's office must use the budget payable to its superior agency for VAT payment.

- d. Exported goods and services must fully meet the following conditions and procedures to be eligible for VAT deduction and refund:
  - d.1 A contract for sale of goods to, or processing of goods for (in case of processing of goods), or provision of services to, foreign organisations or individuals. In case of export of goods through an export agent, a contract for export of goods through an export agent and a minutes on finalization of the contract (in case of termination of such contract), or a minutes on reconciliation of periodical liabilities between the goods owner (the establishment having no function to export goods and therefore must export goods through an export agent) and the export agent (the establishment having the function to export goods and acting as an export agent), clearly stating: quantity and kinds of products, value of goods exported through an export agent; number and date of the export contract signed between the export agent and the foreign party; number, date, amount of money recorded on the receipt for payment through bank by the foreign party to the export agent; number, date, amount of money recorded on the receipt for payment by the export agent to the goods owner; number, date of the customs declaration of goods exported by the export agent.
  - d.2 The customs declaration of exported goods, certified by the customs body carrying out the export formalities.

In case of export of goods through an export agent, it is required to have a minutes on finalization of the contract for export of goods through an export agent, or a

minutes on reconciliation of periodical liabilities between the goods owner and the export agent as stated in point d.1 above.

d.3 Exported goods and services shall be paid for in accordance with the following regulations:

- Exported goods and services must be paid for through banks.

Payment through banks means the transfer of money from the importer's bank to the exporter's bank for payment for goods and services of the exporter in accordance with modes of payment consistent with the agreements stated in the contract and regulations of the bank. In case of deferred payment, it is required to specify this in the export contract, and when the payment falls due, the business establishment must have a receipt for payment through the bank. In case of export of goods through an export agent, the export agent must carry out the settlement with the foreign party through the bank.

- The following cases of payment are also regarded as payment through the bank:
  - + Where exported goods and services are paid for in the mode of offsetting against the foreign loan, the business establishment must meet the following conditions and documentation procedures:
    - ❖ A contract of loan (in respect of financial loans with the term of less than 1 year); or a confirmation letter of the State Bank of Vietnam regarding the registration of the loan (in respect of loans with the term of more than 1 year).
    - ❖ A receipt for remittance of money through the bank by the foreign party into Vietnam.

The mode of payment for exported goods and services by offsetting against the foreign loan must be specified in the export contract.

- ❖ A confirmation letter of the foreign party regarding the offsetting against the foreign loan.
- ❖ After offsetting the value of exported goods and services against the foreign loan, if there is any difference, the differential amount must be settled through the bank. The receipt for payment through the bank shall be the same as guided in this point.
- + Where the exporter of goods and services carries out a settlement through the bank but the foreign party authorizes a third party being a foreign organization or individual to make payment, the payment according to the authorization must be specified in the export contract (or the appendix of the contract, if any).



- + Where the foreign party makes payment from its current account in Vietnam, the payment must be made through the bank. The payment receipt is the credit note of the exporter's bank regarding the amount of money received from the current account of the foreign purchaser.
- Other cases of payment in accordance with the regulations of the Government:
  - + In case of labour export where payment is directly made in cash by employees, a receipt for payment in cash by the employees is required.
  - + Where the business establishment exports goods for sale at overseas fairs or exhibitions, and then collects and remits foreign currency to Vietnam, the business establishment must make out a declaration with the customs body of the amount of foreign currency collected from sale of goods and remitted to Vietnam and obtain a receipt for payment into the bank of Vietnam.
  - + Where goods and services are exported for payment of the Government's foreign debts, it is required to obtain a document issued by the Bank for Foreign Trade, certifying that lot of exported goods has been accepted by the foreign party for offsetting against the debts, or that the set of documents has been sent to the foreign party for offsetting against the debts. The payment documents shall be made out in accordance with separate guidelines of the Ministry of Finance.
  - + Exported goods and services are settled by commodities when goods (including processed goods for export) and services are exported to foreign organizations or individuals (briefly called as the foreign party) and the payment between the Vietnamese enterprise and the foreign party is made in the form in which the value of exported goods and services and the processing fees are offset against the value of commodities and services purchased from the foreign party.

The following additional documentation procedures must be carried out in cases where exported goods and services are settled by commodities:

- ❖ The mode of payment under which exported goods are settled by commodities must be specified in the export contract.
- ❖ A contract for purchase of goods and services from the foreign party.
- ❖ After offsetting the value of exported goods and services against the value of imported goods and services, if there is any difference, the differential amount must be paid through banks. The documents for payment through banks shall be as guided in this point.
- + Other modes of payment in accordance with the regulations of the Government.

- d.4 VAT invoices for sale of goods and services, or return of processed goods to the foreign party or the export processing enterprise.
- e. Conditions, procedures, documents for input VAT deduction in respect of a number of cases where goods are regarded as being exported:
- e.1 Intermediary processed goods for export in accordance with the provisions in article 17 of Decree No.57/1998/ND-CP dated 31 July 1998 of the Government, detailing the implementation of the Commercial Law regarding activities of exporting, importing or processing, and acting as sale and purchase agents for foreign parties:
- A contract for processing of goods for export and annexes to the contract (if any) signed with a foreign party, clearly stating the goods receiving establishment in Vietnam.
  - VAT invoices, clearly stating the processing price and the quantity of processed goods to be returned to the foreign party (in accordance with the price stipulated in the contract signed with the foreign party) and the name of the goods receiving establishment according to the foreign party's mandate.
  - Note for transfer of intermediary processed goods (briefly called as intermediary note) certified by the delivering establishment and the receiving establishment of intermediary processed goods, and by the customs body in charge of management of the processing contract between the delivering party and the receiving party.
  - Goods processed for the foreign party must be settled through the bank as guided in point d.3 of this section.

Procedures for delivery and reception of the intermediary processed products and intermediary notes shall be in accordance with the guidelines of the General Department of Customs.

Example: Company A signs a processing contract with a foreign party to process 200,000 pairs of soles for export. The processing price is 800 million dong. The contract clearly states that soles are delivered to Company B in Vietnam for the latter to produce finished shoes.

In this case, Company A is an entity which processes intermediary processed goods. When preparing documents for transfer of soles to Company B, Company A clearly states the quantity, types, specifications of products already delivered. The total revenue of 800 million dong derived from the processing of soles is subject to the 0% VAT rate.

- e.2 Goods processed for export in accordance with a mandate:

- A processing subcontract signed with the establishment directly signing the processing contract with a foreign party. The establishment directly signing the

processing contract with the foreign party shall only earn commission on the processing fees.

- The minutes on finalization of the processing subcontract (where the subcontract is terminated) or the minutes on reconciliation of periodical liabilities between the establishment directly signing the processing contract with the foreign party and the establishment directly processing goods for export, clearly stating number and date of the processing contract signed with the foreign party, quantity and kinds of products processed for export, processing fees to be paid or already paid; number, date and sum recorded on the receipt for payment through the bank by the foreign party to the establishment directly signing the processing contract with the foreign party; number, date and sum recorded on the receipt for payment by the establishment signing the processing contract with the foreign party to the establishment directly processing goods for export.
- Goods processed for the foreign party must be paid through the bank in accordance with the guidelines in point d.3 of this Section.
- VAT invoices for processed goods for export, prepared by the establishment directly processing goods for export.

Example: Company X performs a processing contract to provide 100,000 sets of garments to a foreign party, with charges of 200 million dong. But this processing contract is directly signed by the export-import Company Y with the foreign party, and Company Y earns a commission of 5% on the charges.

In this case, Company X is an entity which processes goods for export under a subcontract with Company Y. When making out invoices for delivery of goods to Company Y, Company X is allowed to record the 0% VAT rate. The total revenue of 200 million dong from processing of goods for export is subject to 0% VAT rate. In respect of the commission derived from export, Company Y must calculate VAT as regulated.

- e.3 Goods which are produced and sold by an enterprise in Vietnam to a foreign party but delivered to another enterprise in Vietnam according to the foreign party's mandate (briefly called as in-country exported goods) to be used as materials for production and processing of goods for export.
- A sale contract signed with the foreign party, clearly stating the goods, quantity and value of goods, name and address of the goods receiving establishment in Vietnam.
  - A customs declaration of in-country exported-imported goods, certified by the customs body that goods have been delivered to the enterprise in Vietnam in accordance with the foreign party's mandate.

- Goods sold to a foreign dealer but delivered in Vietnam must be paid for through the bank in a free convertible foreign currency. The documents for payment through the bank shall be prepared in accordance with the guidelines in point d.3 of this Section.
- VAT invoices for in-country exported goods, clearly stating the name of the foreign purchaser, the name of the goods receiving establishment and the place of goods delivery in Vietnam.
- In-country exported goods of foreign invested enterprises must be consistent with the regulations of the investment licence.

In cases where an enterprise has exports or has goods considered to be exports as regulated in this point, if it has obtained a certification from the customs body (in respect of exports) but fails to have the remaining documents mentioned above, the business establishment must not calculate the output VAT, therefore it shall not be entitled to an input VAT credit and shall charge the input VAT to expenses. In respect of exported services, if there is not one of the above procedures, the business establishment must not calculate output VAT and therefore shall not be entitled to an input VAT credit. In particular, in respect of goods stipulated in points e.1 and e.3, if there is not one of the procedures and documents stipulated in these points, the establishment must calculate and pay VAT for these goods as for domestically consumed goods.

- f. Business establishments which pay VAT under the method of direct calculation on value added and which now switch to payment of VAT under the deduction method shall be entitled to a deduction of VAT on goods and services arising from the month where they are allowed to pay VAT under the deduction method. In respect of goods and services purchased in months before the month where business establishments are allowed to pay VAT under the deduction method, their input VAT shall not be deducted.

- 1.3 The basis for determination of the deductible input VAT as stipulated above is the VAT amount recorded on VAT invoices for goods and services purchased; VAT payment receipts at the importation stage; receipts for VAT payment on behalf of the foreign party in accordance with the guidelines of the Ministry of Finance applicable to foreign organizations and individuals operating in Vietnam in forms not regulated in the Law on Foreign Investment in Vietnam.

Business establishments shall not be entitled to a deduction of input VAT in cases: VAT invoices are not made out properly in accordance with the law, for example, VAT invoices having no VAT (except for special cases where the establishment is permitted to use VAT invoices on which the payment price is the price inclusive of VAT); VAT invoices having no or having wrong name, address, tax code of the seller, therefore the seller is unidentified; fake invoices or VAT payment receipts; erased invoices; false invoices (no goods or services are sold); invoices on which the value is higher than the actual value of goods or services.

## 2. Direct calculation method

2.1 The following entities shall apply the method of direct calculation on value added

- Vietnamese individuals engaged in business and production.
- Foreign organisations and individuals that do business in Vietnam in forms not regulated by the Law on Foreign Investment in Vietnam, and that have not maintained full accounting books and records for application of the tax deduction method.
- Business establishments engaged in purchase and sale of gold, silver, gemstones, foreign currency.

2.2 Determination of VAT payable

VAT payable = Value added of taxable goods and services \* VAT rate of goods and services

Value added of goods and services = Revenues from goods and services sold - Cost prices of goods and services

The value added of a number of business lines is determined as follows:

- For production and trading activities, the value added is the difference between the sale turnover and the payment for purchased goods and services which are used for business and production purposes. In the event that the business establishment can not calculate separately the payment for purchases and the turnover from goods sold, the cost of sales shall be determined as follows:

Cost of sales = Opening stock + purchases - closing stock

Example: Enterprise A manufacturing wood products, sold 150 products in a month with total revenue of VND 25 million

The total cost of main materials and other materials used for manufacture of 150 products is VND 19 million of which:

Main materials (wood): VND 14 million

Other materials and services: VND 5 million

The VAT rate is 10%, the VAT payable by the enterprise A is calculated as follows:

Value added of products sold:

VND 25 million - VND 19 million = VND 6 million

VAT payable:

VND 6 million x 10% = VND 0.6 million

- For construction and installation activities, the value added is the difference between the value of construction or installation of a project or project item and the cost of materials, power, transportation, services and other costs used for construction and installation of the project or project item.
- For transportation activities, the value added is the difference between the freight charges (transportation charges and stevedoring charges) and the costs of fuel, substitutive spare parts and other costs for transportation activities
- For catering activities, the value added is the difference between the revenues from sales of food and beverages, service charges plus other revenues and the cost of supplies and services used for catering activities.
- For activities of trading in gold, silver, gemstones and foreign currency, the value added is the difference between the revenues from sales of gold, silver, gemstones and foreign currency and the cost prices of gold, silver, gemstones and foreign currency sold.
- For business establishments paying VAT under the deduction method which are engaged in purchase and sale of gold, silver, gemstones and foreign currency to which the method of direct calculation on value added is applied, the establishments must account separately for the deductible input VAT of goods and services subject to VAT payment under the deduction method.

Where the separate accounting can not be performed, the deductible input VAT shall be allocated based on the proportion of revenues from sale of goods and services subject to VAT payment under the deduction method to the total revenues of goods sold.

- For other business activities, the value added is the difference between the revenues from these activities and the costs of supplies and services used for such business activities.
- Revenues from sales shall include all surcharges earned by the business establishment regardless of whether payment is made or not.

Revenues from purchases include all taxes and fees included in the payment prices for purchases.

- Business establishments paying VAT under the direct method shall not be allowed to charge the value of assets which are purchased, invested or constructed as fixed assets to the value of purchases for VAT calculation.

### 2.3 Method of determining the value added for calculation of VAT payable by each business establishment:

- For business establishments which completely satisfy the requirements for obtaining invoices, receipts, vouchers and maintaining books of account, the value added shall be determined based on the selling prices and purchasing prices shown on invoices and vouchers.
- For business establishments which partially satisfy requirements for obtaining invoices, receipts, vouchers and maintaining books of account, i.e. sale invoices are available but purchase invoices are not sufficiently provided, the value added shall be determined by multiplying the total revenues by the percentage of value added on revenues.
- For business individuals or households that have not yet satisfied or have satisfied insufficiently the requirements for obtaining sale or purchase invoices, the tax authorities shall base on the business situation of each household to determine taxable revenue; the value added shall be determined by multiplying the determined revenue by the percentage (%) of value added on revenue.

Invoices used as the basis for VAT assessment under this method are invoices permitted to be used in accordance with law. Invoices which are not properly made out in accordance with law as stated in point 1.3, section III, part B of this Circular shall not be used as the basis for VAT calculation.

The General Department of Taxation shall provide the local tax offices with guidelines for determination of the percentage (%) of value added on revenue, which serves as the basis for VAT assessment in a reasonable manner, in accordance with different industries and localities.

## **IV. INVOICING REGULATIONS**

Business establishments should carry out their sales or purchases of goods and services with invoices or receipts in accordance with legal regulations.

1. When selling goods or providing services subject to VAT, business establishments paying VAT under the deduction method must use VAT invoices (except cases where business establishments are allowed to use customised invoices or receipts on which the payment price is the price inclusive of VAT.)
2. When selling goods or services, business establishments paying VAT under the direct method must use sale invoices.

3. When making out invoices, business establishments are required to state adequately and properly all necessary details on the invoices. For VAT invoices, it is required to clearly state the selling price exclusive of VAT, surcharge and extra fee (if any), the VAT, the total payment price inclusive of VAT; if the business establishment does not state separately the selling price exclusive of VAT and the VAT and only states the payment price, the output VAT must be calculated on the payment price.
4. Official invoices and receipts which are allowed to be used are:
  - Invoices issued by the Ministry of Finance (the General Department of Taxation) and provided to business establishments by the tax offices.
  - Customised invoices printed by business establishments for their use, which follow the regulated standard form and are approved by the tax offices.
  - Other kinds of customised invoices and receipts which are allowed to be used.
5. Invoicing in a number of specific cases is regulated as follows:
  - 5.1 A business and production establishment paying VAT under the deduction method must use VAT invoices upon sale of the following goods and services: goods and services not subject to VAT; sale of goods and services to entities exempted from VAT, sale of gold, silver, gemstones and foreign currency. On the VAT invoices, the establishment shall record the price excluding VAT on the selling price line. The VAT rate and VAT lines are not filled out and are crossed out. On the VAT invoices, it is required to clearly state that goods are not subject to VAT or goods sold to entities exempted from VAT.
  - 5.2 Where an export/import establishment paying VAT under the deduction method acts as an import agent to import goods for other establishments, when delivering over goods to other establishments, the import agent shall prepare the documents as follows:
    - If the import agent has paid VAT at the import stage, it shall issue a VAT invoice to the establishment as a basis for declaration and deduction of input VAT of the imported goods. Where the import agent has not yet paid VAT at the import stage, it shall make out a goods dispatched note-cum-internal transport note issued by the Ministry of Finance (the General Department of Taxation) and an internal transfer note, which are used as documents for circulation of goods in the market. After paying VAT at the import stage for the imported goods, the import agent shall make out VAT invoices as regulated above.
    - The following details shall be filled out on the VAT invoice for delivering over the imported goods:



- a. The selling price exclusive of VAT, including: the value of actually imported goods based on the CIF price, the import duty, the special sales tax and the amounts payable at the import stage (if any) in accordance with the regulated policy.
- b. The VAT rate and the VAT based on the tax assessment notice of the customs body.
- c. The total payment price (= a + b)

The import agent shall make out a separate VAT invoice for its commission.

- 5.3 Business establishments paying VAT under the deduction method, which have goods for export (including establishments processing goods for export) subject to VAT shall use VAT invoices when exporting goods.

When transporting goods to the border gate or to the place where export formalities are carried out, if the establishment has not yet had the basis for preparation of VAT invoice, it shall use a goods dispatched note - cum - internal transport note issued by the Ministry of Finance (the General Department of Taxation) and an internal transfer note, which are used as documents for circulation of goods in the market. Having carried out the export formalities for goods, the establishment shall make out VAT invoice for the exported goods.

Where the establishment exports goods through an export agent (including cases of exporting processed goods through an export agent), when delivering goods to the export agent, the establishment shall use a goods dispatched note-cum-internal transport note issued by the Ministry of Finance (the General Department of Taxation) and an internal transfer note. When goods have actually been exported with a confirmation of the customs body, the establishment shall base on the documents regarding the quantity and value of actually exported goods provided by the export agent, make out VAT invoice for VAT declaration, payment and refund. In this case the export business establishment must keep the 2<sup>nd</sup> copy at the enterprise. Where the export business establishment registers with the tax authorities to print and issue its customized invoices used for goods exported to foreign customers, the export business establishment shall use its customized invoices for tax declaration, payment and refund.

- 5.4 Use of invoices and receipts regarding goods used for internal consumption, donation, sales promotion.

- In respect of products, goods used for internal consumption, sales promotion, advertisement in service of production and trading of goods and services subject to VAT, the establishment shall use VAT invoices. It is required to record on the invoices that goods are used for internal consumption in service of production, trading, sales promotion or advertisement for which no payment is made. The

business establishment shall use invoices as documents for accounting for the products or goods.

- In respect of products, goods used for exchange, reward or payment in lieu of salaries of labourers, for internal consumption which are not in support of production and trading, or which are in support of production and trading of goods and services not subject to VAT, the establishment must make out VAT invoices (or sale invoices). On the invoices, it is required to fill out all necessary details and calculate VAT in the same manner as making out VAT invoices for customers.

5.5 If goods and services are sold in the form of reduced price, it is required to clearly state on the invoice: the percentage or level of price reduction, the selling price exclusive of VAT (the reduced price), VAT, the total payment price inclusive of VAT.

If the price reduction is based on the quantity and value of goods or services sold, the reduced amount of goods sold shall be adjusted on the invoice made out for the final time of purchase or the following time of purchase. It is required to clearly state on the invoice that the rebate is given to goods of which invoices.

5.6 Business establishments which transfer goods to their dependent subsidiaries and shops in other localities (provinces and central-governed cities) for sale, or transfer goods among their dependent subsidiaries, or transfer goods from the dependent subsidiaries to the business establishments, or consign goods to the agents which sell goods at the price set by the business establishments for commission, may select either one of the ways of using invoices and receipts as follows:

- a. Using VAT invoices as a basis for settlement and for declaration and payment of VAT at each subsidiary and at each independent stage.
- b. Using the goods dispatched note-cum-internal transport note issued by the Ministry of Finance (General Department of Taxation) and the internal transfer note in respect of internally transferred goods; using the goods dispatched note for goods consigned to the agents issued by the Ministry of Finance (the General Department of Taxation) and the internal transfer note in respect of goods consigned to the agents.

When selling goods, the dependent subsidiaries or the establishments acting as agents must make out invoices as regulated, concurrently prepare the schedules of goods sold (in accordance with the standard form No. 02/GTGT issued together with this Circular) and send them to the business establishment which transfers goods or which consigns goods for the business establishment to make out VAT invoices for goods actually consumed. Where the quantity and turnover of goods sold by an agent is large, the agent may, on the basis of every 5 days or 10 days, prepare the

schedule of goods sold. Where goods are sold with different VAT rates, the agent must prepare separate schedules for goods with different VAT rates.

The business establishments shall only carry out either one of the ways of using invoices and receipts stated in this point. Prior to the carrying out, the business establishments must register with the relevant tax offices.

- 5.7 When delivering over goods to their principals, business establishments authorized to act as purchase agents must make out invoices for goods purchased and their commission (if any).
- 5.8 Where a business establishment purchases goods, the seller has issued invoices and the purchaser has received goods but due to the improper specification and quality of goods, the whole or part of goods is returned; when returning goods to the seller, the purchaser must make out invoice. On the invoice, it is required to record the VAT and to clearly state that goods are returned to the seller due to improper specification and quality. This invoice shall be the basis for the seller and the purchaser to adjust the declared VAT.

Where the purchaser has no invoice, when returning goods, the purchaser and the seller must draw up a minutes or a written agreement, clearly stating the kind, quantity, value excluding VAT, and the VAT of goods to be returned in relation to the sale invoice (with serial number, date...), the reason for return of goods. The minutes together with the sale invoice shall be sent to the seller and shall be kept as a basis for adjustment of the sale turnover and VAT declared by the seller.

Where part of the goods is returned, the seller shall issue another invoice for the goods received by the purchaser and accept the payment based on the quantity, kind, price of goods agreed by two parties.

Where the seller has issued goods and made out invoice, the purchaser has not yet received goods but discovers that the specification and quality of goods are improper and the whole or part of goods must be returned, when returning goods, the purchaser and the seller must draw up a minutes, clearly stating the kind, quantity, value excluding VAT, and the VAT of goods to be returned (in relation to the sale invoice with serial number, date...), the reason for return of goods. The minutes together with the sale invoice shall be sent to the seller for the latter to make out again VAT invoice for the goods received and to adjust its sale turnover and output VAT.

- 5.9 Where a business establishment has sold or provided goods or services and made out invoice but the quality and specification of goods or services are not ensured, and the business establishment is required to make an adjustment (increase, decrease) of the selling price, the seller and the purchaser must draw up a minutes or a written agreement, clearly stating the quantity, specification of goods, the increased or decreased price in relation to the sale invoice (serial number, date...), the reason for

increase or decrease in the price, concurrently the seller shall make out invoice for adjustment of the selling price. On the invoice, it is required to clearly state that the selling price is adjusted for goods or services of the invoice No... Based on the invoice for adjustment of the selling price, the seller and the purchaser shall declare and adjust their turnover, output VAT and input VAT.

- 5.10 When a business establishment issues goods to itinerant sellers, these sellers shall use the goods dispatched note-cum-internal transport note issued by the Ministry of Finance (the General Department of Taxation) and the internal transfer note. When selling goods, the establishment shall make out invoices as regulated.
- 5.11 Retailers who supply goods or services of value below the regulated level shall not have to issue invoices. Where a customer requires an invoice, the retailer must issue an invoice in accordance with the regulations. Where the retailer does not make out invoice, he must prepare a list of retailed goods (following the standard form No. 06/GTGT issued together with this Circular) to serve as a basis for VAT calculation.
- 5.12 In respect of a construction or installation project which requires a long period of construction, for which the payment is made based on the schedule of construction or the volume of work completed and handed over, when making out invoices for the work completed and handed over, the establishment must determine the revenue exclusive of VAT and the VAT. Where the construction project was completed and the invoice for the value of the project was made, however, upon approval of the finalization statement of the project's value, there is a decrease in the value payable for the volume of construction work, the establishment is required to make out an invoice or receipt for adjustment of the value payable for the project in the same manner as regulated in point 5.9 of this Section.
- 5.13 In respect of establishments which are allotted land by the State or which lease land from the State for construction of houses for sale, or for investment in infrastructure facilities for lease, and in respect of establishments which provide transportation service including international transport service, and international travel service, the VAT invoice shall be made out as follows:
- On the line for the selling price, the establishment shall record the selling price of house, the leasing price of infrastructure facilities, the revenue from transport service, the revenue from the package tour exclusive of VAT.
  - On the line for the taxable price, the establishment shall record the selling price of house (or the leasing price of infrastructure facilities) from which the land used fee (or the land rent) payable to the State budget has been deducted; the revenue from package tour from which the expenses for meals and accommodation, transport charges have been deducted; the revenue from transport from which the revenue from international transport service has been deducted.

- On the lines for VAT rate, VAT, payment price, the establishment shall record as regulated (following the example in point 10, section I , part B of this Circular)

5.14 In respect of the financial leasing service, if the leased assets are subject to VAT, the financial leasing company must make out invoice in accordance with the regulations.

When delivering the leased assets subject to VAT, the financial leasing companies must have VAT invoices (in case of assets domestically purchased) or receipts for VAT payment at the import stage (in case of imported assets); the total VAT shown on the financial leasing invoice must tally with the VAT shown on the VAT invoice (or the receipt for VAT payment at the import stage).

Where the assets purchased for leasing are not subject to VAT and are not supported with VAT invoices or receipts for VAT payment at the import stage, the VAT shall not be recorded on the invoice.

When the VAT of the financially leased assets has been fully depreciated and the assets ownership right has been transferred to the lessee, the lessor shall transfer to the lessee the VAT invoices or purchase invoices for imported assets together with the receipts for VAT payment for the financially leased assets.

5.15 For activities of purchasing and selling foreign currencies abroad, business establishments must prepare a detailed list of purchases and sales for each kind of foreign currency. Business establishments must keep the transaction documents with foreign purchasers and sellers in accordance with the ordinance on accounting and statistics. In respect of activities of purchasing and selling foreign currencies in Vietnam, business establishments must make out invoices as regulated.

5.16 With respect to activities of trading in gold, silver and precious stones, if business establishments purchase gold, silver, gemstones from individuals who do not carry out business and have no invoices, the business establishments shall prepare the list of goods purchased (following the standard form No. 04/GTGT issued together with this Circular).

5.17 When selling goods or services, export processing enterprises shall use sale invoices (or invoices issued by the enterprises themselves) in accordance with the provisions of the Ministry of Finance.

6. In respect of individuals and administrative organisations engaged in production and trading of goods and services subject to VAT on an irregular basis, if they have the needs to use invoices, they shall be provided with retail invoices by the tax offices to use for each case.

## **C. TAX REGISTRATION, DECLARATION, PAYMENT, FINALISATION**

### **I. VAT registration**

1. A business establishment and its affiliated companies, factories, enterprises, branches and stores shall be required to register their tax payment with the Tax Department, or the district tax branch in case of an individual, and provide the tax authorities with all details such as place of business, line of business, employees, capital, location of tax payment and other relevant information in accordance with the standard registration form for tax payment and the guidance of the tax authorities.

In respect of newly-incorporated business establishments, the registration must be completed within 10 days following the date of issuance of the investment licence or business registration certificate and the seal; where a business establishment has commenced its operation but has not been issued with a business registration certificate, the registration must be completed prior to operation.

In respect of a business establishment which has registered with the tax authorities, if there is a change in its line of business or a relocation of its business office to another location due to merger, dissolution, bankruptcy, amalgamation, division or separation, or establishment of new companies, factories, enterprises, branches or stores..., the business establishment must additionally register with the tax authority within 5 days prior to such change.

- 2 A business or production establishment with its head office located in a locality (province or central-governed city) and its dependent units such as companies, factories, enterprises, branches and stores located in other localities shall register for VAT payment with the tax office of the locality where its head office is located; the dependent units must also register for VAT payment with the tax authorities of the localities where they are located.

In particular, organisations and individuals providing consultancy, survey, design services or performing consultancy contracts or service contracts shall register, declare and pay VAT with the tax authority of the locality where their offices are located.

- 3 A construction and installation establishment must register and pay VAT with the tax authority of the locality where its office is located. Where the construction and installation are carried out in another locality (province or central-governed city) by the construction establishment's dependent unit which has no legal status, such as construction group or team, management board of the project, the construction establishment shall have to register, declare and pay VAT with the tax authority of the locality where the project is constructed.
- 4 In respect of a business establishment where the collective and individuals carry out business on the basis of piecework and are responsible for their business results, the collective and individuals receiving piecework must directly register, declare and pay VAT with the local tax authority where they carry out the piecework.

- 5 A business establishment paying VAT under the direct calculation method, if it carries out sale and purchase transactions with adequate documents and bills, maintains its books of account fully, declares and pays VAT in accordance with the regimes and voluntarily registers for VAT payment under the tax deduction method, the business establishment shall be accepted to pay VAT under the tax deduction method. The business establishment must prepare and submit a registration form for VAT payment (following the standard form No. 09/GTGT issued together with this Circular) to the tax authority where it registers to pay tax. The tax authority shall be responsible for promptly checking and informing the establishment of whether it is permitted to pay VAT under the tax deduction method (or otherwise clearly stating the reasons why it is not permitted) within 30 days from the date of receipt of the registration form. The business establishment is only permitted to pay VAT under the tax deduction method when its registration form is approved by the tax authority.

In respect of business households which have previously paid VAT under the direct calculation method and which are now permitted to pay VAT under the tax deduction method, if they fail to implement properly the required regulations during the course of tax payment under the deduction method, the tax authority shall take measures to assess the tax amount payable and notify of the suspension of VAT payment under the tax deduction method.

- 6 Granting tax codes to tax payers: In respect of business establishments which have registered for VAT payment with the tax authority, the tax authority shall be responsible for granting tax codes and tax registration certificates to business establishments.

In respect of the project owners (or their authorised representatives such as the management boards of the projects) and foreign main contractors who are entitled to VAT refund, if they have not yet had tax codes, they must effect formalities with the tax authorities of the localities where their offices are located for being granted tax codes.

## **II. DECLARATION OF VAT PAYABLE TO THE STATE BUDGET**

Business production establishments and goods importers shall be responsible for declaration of VAT payable in accordance with the regulations as follows:

1. Business establishments trading in goods and services subject to VAT must prepare and submit to the tax authorities the monthly VAT returns together with the schedules of goods or services purchased or sold in accordance with the standard forms (Forms 01/GTGT, 02/GTGT, 03/GTGT, 04/GTGT, 05/GTGT, 06/GTGT, 07A/GTGT, 07B/GTGT and 07C/GTGT issued together with this Circular). The time limit for submitting the monthly VAT returns to the tax authorities is within the first ten days of the following month.

Business establishments must declare tax in full and in accordance with the tax return

form and shall be responsible for the accuracy of their declaration. In case where a business establishment has submitted the tax return to the tax office and then discovered mistakes regarding the declared figures before the deadline for tax payment, the business establishment must notify them to the tax office and prepare another tax return to replace the improper tax declaration. In case of discovering the mistakes after the deadline for tax payment, the business establishment shall make an adjustment on the tax return for the following month.

The point in time to determine the taxable revenues shall be the time when the business establishment has transferred the ownership right, the use right (where goods are sold by instalments) to goods or provided services to the purchaser irrespective of whether payment has been made by the purchaser or not.

2. In respect of business establishments paying tax under the deduction method, the declaration of tax payable in a number of cases shall be as follows:
  - Where a business establishment carrying out activities of production and trading of goods and services both subject to VAT and not subject to VAT fails to calculate separately the deductible input VAT, the deductible input VAT shall be calculated based on the percentage of turnover from sale of goods and services subject to VAT over the total turnover from sale of goods and services during the period. On a monthly basis, the business establishment shall temporarily calculate the deductible input VAT based on the percentage arising in that month. Upon the annual tax finalization, the business establishment shall adjust the deductible input VAT based on the actual percentage arising in the finalization year.
  - Where construction and installation establishments organise dependent units having no legal status such as construction groups or teams, management boards of the projects which carry out the construction and installation of projects in other localities (provinces or central-governed cities), the main construction and installation establishments must declare the revenues and the VAT payable at the localities where the projects or project items are constructed at the ratio equal to 3% on the payment price exclusive of VAT paid for the projects or projects items. The construction and installation establishments shall be responsible for declaring and finalising VAT in accordance with the regulated policy with the tax authorities where the main offices are located. The VAT amount paid at the localities where the projects are constructed shall be charged to the VAT already paid when the construction establishments declare and pay VAT to the tax authorities where the main offices are located. The dependent units which carry out the construction of projects or project items in other localities shall use the tax codes and invoices of the main construction establishments, and use the VAT returns (following the standard form No. 07C/GTGT issued together with this Circular).

Where a construction and installation establishment (the contractor) signs a construction and installation contract and then subcontracts part of work or project



to other establishments (the subcontractors), the contractor must register and declare the construction and installation contract and the subcontracts with the tax office of the locality where the construction and installation project is located so that the subcontractors declare and pay VAT on the value of their work or project to the tax office of the locality. If the subcontractors do not register, declare and pay VAT, the contractor must declare and pay VAT on the total value of the project stated in the contract.

- Where the business establishment carries out the construction and installation of the project or project items relating to many localities such as construction of road, electricity transmission line, water, oil or gas pipelines... and can not determine the revenues and costs of the project in each locality, the business establishment shall register, declare and pay VAT with the tax authority of the locality where the office of the business establishment is located.
- Insurance services shall be exempted from VAT for the following revenues:
  - Revenue from compensation for acceptance of reinsurance and other revenues from compensation (if any); commission from assignment of reinsurance and other revenues from assignment of reinsurance; fees for acceptance of reinsurance and other revenues from acceptance of reinsurance (including fees for acceptance of reinsurance from insurance companies operating inside and outside Vietnam); revenue from claiming a third party.

Insurance companies shall only be entitled to an input VAT credit in respect of insurance compensatory payments supported by VAT invoices.

- Establishments which sell goods through agents (agents sell goods at the price set by goods owners for commissions) shall base on invoices prepared for goods sold through agents as stipulated in point 5.6, section IV, part B of this Circular to declare and pay monthly VAT for goods sold through agents in accordance with the provisions of this Circular.

Dependent units such as branches, shops which are located in localities different from the locality of the main establishment shall base on the input and output invoices for goods transferred and goods directly purchased by the dependent units to declare and pay VAT at the localities where the dependent units are located.

Agents which sell goods in all forms must declare, calculate and pay VAT for goods sold and commissions earned from agent activity.

Sale agents which sell goods at a price lower than the price regulated by the goods owner must declare and pay tax based on the price regulated by the goods owner.

Agents which purchase goods in all forms must declare and pay VAT for the goods purchased and commissions earned from agent activity (if any).

- Where fixed assets have been used for production and trading of goods and services subject to VAT, of which the input VAT has been deducted, if the fixed assets are now used for production and trading of goods and services not subject to VAT or for other purposes (including cases where an establishment uses fixed assets, materials and goods as mortgages, and now these mortgages are sold to recover debts for financial or credit organizations), the establishment must refund the deducted VAT of fixed assets. The VAT to be refunded shall be calculated on the remaining value (exclusive of VAT) of fixed assets. In respect of materials and goods, the establishment must refund the whole deducted VAT.
- Establishments such as transportation companies, airline companies, railway companies, post offices which use goods and services for internal consumption, not for production and trading, of which the output VAT is not calculated, the establishments must issue regulations, clearly stating that who are provided with such goods and services and the limited quantity of goods and services used for internal consumption, approved in writing by the competent agency.
- Agents selling lotteries for commissions shall not declare and pay VAT, the VAT shall be declared and paid by the lottery companies.
- In respect of corporations or companies which have affiliated units, the declaration and payment of VAT shall be carried out as follows:
  - Independent subsidiaries and dependent branches such as companies, enterprises, factories, branches, stores with an insufficient legal status, which have their seal and account at the bank and which directly sell goods, services and have revenues must declare and pay VAT in the localities where they are located.
  - Where the dependent subsidiaries are located in a locality different from that of the company or corporation, if the dependent subsidiaries have no legal status, seal and account at the bank but directly sell goods and services and have revenues, they must declare and pay VAT to the tax office of the locality where such revenues are generated. The VAT shall be paid at 2% of the revenues excluding VAT in respect of goods or services subject to the 5% VAT rate and at 3% of the revenues excluding VAT in respect of goods and services subject to the 10% VAT rate. Corporations or companies shall be responsible for declaring and finalizing VAT with the tax office of the locality where their main office is located. The VAT paid by the dependent subsidiaries shall be charged to the VAT already paid when the company or corporation declares and pays VAT at its main office. The company or corporation shall be responsible for applying for issuance of the tax code to its dependent subsidiaries. The dependent subsidiaries shall use invoices of the

company or corporation and use the VAT return (in accordance with the standard form 07C/GTGT issued together with this Circular).

- Dependent branches which are located in the same locality (province or central-governed city) as that of the company or corporation, the company or corporation shall declare and pay VAT on behalf of its dependent branches. If dependent branches with insufficient legal status which have their seal and account at the bank and directly sell goods or services and fully declare input VAT and output VAT want to declare and pay VAT separately, they have to register for tax payment and apply for dependent tax codes, and use separate invoices.
- Where the dependent branches are located in a locality (province or central-governed city) different from that of the company, if these dependent branches do not directly sell goods, have no revenue and can not account adequately for input VAT, the declaration and payment of VAT shall be carried out at the head office of the company.

The corporation or company shall base on the organisation and operation of its subsidiaries and branches to determine and register specifically the entities which have to declare and pay VAT with the tax authorities of the localities where the subsidiaries and branches are located. Where the corporation or company wants to declare and pay VAT in a manner other than the above guidelines, the corporation or company must report to the Ministry of Finance for obtaining separate guidance.

- Financial leasing establishments shall not declare and pay VAT for the financial leasing service. The establishments are required to declare and pay VAT for assets subject to VAT leased to other entities, based on invoices which are made out as regulated in point 5.14, section IV, part B of this Circular.

The financial leasing establishment shall only declare VAT for leased assets subject to VAT in accordance with the provisions of this Circular, based on the standard schedules No. 02/GTGT and 03/GTGT. On the schedule No. 03/GTGT, the establishment shall fill in “column 9- input VAT” with the VAT of leased assets, which is allocated in conformity with the VAT invoice made out for the revenue of the financial leasing service during the declaration period.

Where the lessee does not perform the contract which forces the lessor to recover his assets, the lessor must inform the lessee and determine clearly the VAT already paid and the unpaid VAT. When the lessor continually leases the assets to another entity, he shall calculate the unpaid VAT and collect it from the new contract.

Where after a period of leasing assets, the lessor sells the assets to the lessee or to another entity, the lessor must calculate VAT for the assets sold and make out

VAT invoice. The lessor shall only be entitled to an input VAT deduction in respect of the VAT which has not yet been depreciated.

Where the lessor and the lessee together contribute capital for purchase of assets, the lessor only collects the rent (principal and interest) corresponding with the contributed capital, then the purchase invoice for leased assets shall be managed by the lessor until the asset ownership right is transferred to the lessee. The VAT corresponding with the capital contributed by the lessor shall be charged to the invoice for the first rent collection.

Where the financial leasing contract has been fulfilled, the VAT has been paid away by the lessee, if the two parties agree to sign a continued lease contract, the VAT shall not be calculated on the invoice made out for the following revenue.

- Establishment paying VAT under the deduction method which are engaged in activities of purchasing and selling gold, silver, precious stone, foreign currency to which the method of direct calculation on the value added is applied shall declare and pay VAT as follows:
  - In respect of goods and services to which the tax deduction method is applied, the establishment shall prepare a detailed schedule (following the standard form No. 01/GTGT issued together with this Circular), the item 18 shall not be recorded on the schedule.
  - The establishment prepares separate detailed schedules for activities of purchasing and selling gold, silver, gemstones and for activities of trading in foreign currency (following the standard form No 07A/GTGT issued together with this Circular) and record the corresponding items of goods, foreign currency.
  - On the basis of the above detailed schedules, the establishment shall summarize and prepare the VAT return (following the standard form No. 01/GTGT issued together with this Circular). On the VAT return, it is required to record only the items 18, 38, 39, 40 and 41.

On a monthly basis, the business establishment shall submit to the tax authorities the summarised VAT return and the detailed VAT return together with the schedule of receipts for goods and services purchased and sold, made out in accordance with the standard forms No. 02/GTGT, 03/GTGT, 04/GTGT (in respect of gold, silver, foreign currency purchased from sellers without invoices).

For a business establishment such as bank which has dependent branches in the same locality, the dependent branches are required to prepare the schedules of goods or services purchased and sold for filing at the head office. When summarizing and preparing the schedule of goods or services purchased

and sold, the head office of the bank shall only base on the summarised figures stated on the schedules of its dependent branches.

- Airway transportation companies shall declare and pay VAT for airway transportation activities at the locality where their head office is located.
- Business establishments which sell goods subject to VAT to entities at the price set by the State and are supported by the State in goods price and freight charges, when selling goods the establishments must calculate the output VAT for declaration and payment of VAT for goods sold at the price set by the State.

The subsidies on goods price and freight charges funded by the State budget shall not be subject to VAT. The establishments shall charge them to their incomes for calculation of business income tax.

- In respect of corporations' offices which do not directly carry out business and are not VAT payers, if they sell assets including those subject to VAT, they shall not be required to calculate, declare and pay VAT for the assets sold. When selling assets, the corporation's offices must prepare invoices in accordance with the standard form HD/TL/TL-3L issued together with Decision No. 55/2000/QD-BTC dated 19 April 2000 of the Minister of Finance on issuance of the statute on management and dealing with State assets at non-business administrative agencies (the invoices are issued by the Finance Departments of provinces or central-governed cities). Business establishments which purchase liquidated assets shall not be entitled to input VAT deduction.

Upon division, demerger, dissolution, bankruptcy or conversion of ownership form, business establishments selling assets subject to VAT must calculate, declare and pay VAT for goods sold. When selling goods, the business establishments must prepare invoices in accordance with the provisions and declare and pay VAT.

In case of selling assets of enterprises in accordance with the provisions in Decree No.103/1999/ND-CP dated 10 September 1999 of the Government on "transfer, sale of State owned enterprises, making an output-based contract with State - owned enterprises, lease of State owned enterprises", when assets of bankrupt enterprises are sold in accordance with the provisions of the law on business bankruptcy, the VAT for these assets shall not be calculated, declared, paid.

3. Business establishments and importers who import goods subject to VAT shall declare and submit the VAT returns together with the import duty declarations to the customs body on each occasion of importation.
4. An import agent importing goods subject to VAT for another company must declare VAT as follows:

The import agent shall not be required to declare and pay VAT for goods imported but it must declare VAT invoices, which have been made out for imported goods and delivered over to the company, on the schedule No. 02/GTGT as well as other invoices and receipts for goods and services sold. The invoices for imported goods shall be listed separately on the schedule.

5. Establishments trading in lots must declare and pay VAT on each lot with the tax offices of localities where they purchase goods before goods are transported (excepted cases where VAT is exempted in accordance with the provisions of the Government). The VAT payable for goods traded in lots shall be calculated under the method of direct calculation on the value added.
6. Establishments trading in many kinds of goods and services with different VAT rates must declare VAT based on each VAT rate regulated for each kind of goods and service; if the business establishments can not determine each VAT, they have to calculate and pay VAT based on the highest VAT rate of those goods or services.
7. Where a business establishment has no turnover from sale of goods or services, has no input VAT, output VAT, it must still declare and submit the VAT return to the tax authority.
8. Business establishments engaged in purchase of gold, silver, foreign currency, gemstones and business establishments paying VAT under the method of direct calculation on the value added which meet all requirements concerning invoices, receipts, accounting books, if during the month of VAT declaration the establishments have negative (-) values added, they shall not have to pay VAT. The negative value added shall be carried forward to offset against the value added arising in the following month for calculation of the VAT payable and finalisation of the annual VAT, but the establishments are not allowed to carry forward the negative value added of the tax finalisation year to the following year.
9. Administrative organisations and other organisations carrying out the production and trading of goods and services subject to VAT shall register, declare, pay VAT and business income tax (BIT) in accordance with law. Where the organisations do not account for and can not determine expenses and input VAT of goods and services subject to VAT, the VAT and BIT payable shall be determined based on the turnover, the percentage (%) of value added and the percentage (%) of business income calculated on turnover, which are determined by the tax authority for declaration and payment of tax.
10. Foreign organisations and individuals carrying out production and trading in Vietnam in forms not regulated by the law on foreign investment in Vietnam (collectively referred to as foreign contractors) shall declare and pay VAT in accordance with separate provisions of the Ministry of Finance.

Where Vietnamese organizations or individuals act as agents to sell goods and services to foreign organizations or individuals, the Vietnamese organizations or individuals must declare and pay VAT for goods and services on behalf of foreign parties.

11. Establishments winning the bidding contracts which directly import goods (including the import of goods through import agents) stipulated in point 4, section II, part A of this Circular to sell them to enterprises as fixed assets of the approved investment projects shall not have to pay VAT for these goods.

When selling or delivering over goods imported through import agents, the establishments shall prepare invoices in accordance with the provisions in point 5.1, section IV, part B of this Circular

12. When preparing the schedules of goods and services purchased or sold and the monthly VAT returns to submit them to the tax authorities, in some cases, business establishments are allowed to declare as follows:
  - For goods and services directly sold to consumers such as electricity, water, petrol, postal services, hotel and catering services, passenger transport service, gold, silver, gemstones and foreign currency, and other consumer goods and services sold at retail, business establishments are allowed to declare the summarised retail turnover and are not required to declare the turnover shown on each invoice.
  - For goods and services purchased from retailers, business establishments are allowed to prepare a general schedule of purchased goods and services based on each category of goods or services with the same tax rate, and are not required to prepare detailed schedules based on each invoice.

### **III. VAT PAYMENT**

VAT payers shall be responsible for making sufficient VAT payments in a timely manner to the State Budget.

Tax payment procedures will be as follows:

1. Business establishments paying tax under the deduction method shall, after having submitted the VAT return to the tax office, pay VAT to the State Budget. The time limit for monthly tax payment shall be no later than the 25<sup>th</sup> day of the following month.

Business establishments with bank account may transfer payment from their bank account to the State Budget, the time limit for tax payment to the State Budget shall be calculated as from the date the bank transfers payment from the business establishment's account to the State Budget. This date is recorded by the bank on the

paying-in slip for payment to the State Budget. With respect to business establishments paying tax in cash, the time of tax payment to the State Budget is the day when the Treasury or the tax office receives the tax payment.

Where business establishments have a large and stable VAT of 200 million dong or more /month, they shall pay VAT on a periodical basis of every 5 days or 10 days a month. When declaring the tax amount payable for the whole month, if there is a shortfall in the temporarily paid tax amount, the business establishment shall continually pay the outstanding tax liabilities to the State Budget. The time limit for payment of the outstanding tax liabilities shall be no later than the 25<sup>th</sup> day of the following month. The tax payment period shall be determined and notified by the tax office to the business establishment.

Business establishments shall be responsible for paying the outstanding VAT to the State Budget within 10 days from the date of submission of their tax finalization report, if there is an excessive payment, the excessive amount shall be offset against the amount payable for the following period, or shall be refunded if the business establishments are qualified for a tax refund.

2. In respect of organizations or business individuals (households) paying VAT under the direct calculation method that declare and pay tax in accordance with the tax notices issued by the tax office, the time limit for tax payment shall not be later than the 25<sup>th</sup> date of the following month. In respect of business individuals (households) paying monthly tax on the basis of a deemed amount, the time of tax payment shall be no later than the last day of the month.

In respect of business individuals or households (except tax payers who pay tax as per declaration) who live far away from a State Treasury Office or operate without a fixed or regular base, the tax authority shall arrange the VAT collection and pay them to the State Treasury. The deadline for the tax authority to pay the VAT collected to the State Treasury is within 3 days (from the day when tax is collected). In mountainous regions, islands and regions where transport is difficult, the deadline for payment is 6 days from the day when tax is collected.

3. Business establishments and importers of goods must pay VAT for imported goods on each occasion of importation. The time limit for assessment and payment of VAT in respect of the imported goods shall be the same as that for assessment and payment of import duty.

In respect of goods which are not subject to import duty or subject to import duty rate of 0%, the time limit for declaration and payment of VAT shall be the same as that applicable to goods subject to import duty.

In respect of imported goods not for trade or goods imported under sub-quotas, the tax assessment notice shall not be issued. VAT must be declared and paid at the time of import.



In respect of imports which are not subject to VAT at the import stage such as materials imported for production or processing of goods for export, gifts and donations, humanitarian aids, non-refundable aids..., if these goods are sold or used for other purposes, VAT must be declared and paid to the tax office directly managing the establishment as regulated for goods traded by the establishment.

4. Fixed business establishments which trade in or transport imported goods must meet all requirements regarding invoices and documents. If the establishments do not have enough documents as required, they shall be penalised for violation of the regulations on invoices and supporting documents or for tax offences, or their goods shall be confiscated (in respect of imports without legal invoices and supporting documents) in accordance with law.

Upon tax payment, the tax office or the State Treasury must issue taxpayers with tax payment receipts or any other documents proving their tax payment, using the standard receipts and forms issued by the Ministry of Finance. The tax office shall be responsible for guiding and inspecting business establishments to ensure that they strictly implement the requirements concerning accounting books, invoices and vouchers which serve as a basis for calculation of the VAT amount payable and the deductible input VAT.

5. During a tax period, business establishments which have tax credit from the preceding period shall be allowed to offset such credit against the tax liability of the following period and any tax liability unpaid during the previous period must be fully settled.

Business establishments which move to other localities (districts in respect of taxpayers managed by the district tax branches; provinces or central-governed cities in respect of tax payers managed by the Tax Departments) are required to make full payment of the outstanding VAT liabilities and obtain a confirmation of the relevant tax authorities prior to the move.

In respect of establishments paying VAT under the deduction method which move to other locality, if they have input VAT incompletely deducted or tax credit, such input VAT or tax credit shall be deducted or offset when the establishments declare and pay VAT with the tax authority of the locality where they move to. The business establishment must prepare a summarised schedule of the tax liability, tax amount already paid and tax credit and submit it to the tax office for confirmation, which serves as a basis for declaration, calculation and payment of tax with the tax authority of the locality where the establishment moves to.

During the tax period, if a business establishment paying VAT under the deduction method has the deductible input VAT larger than the output VAT payable, it shall be allowed to carry forward the incompletely deducted input VAT to the following tax period. Where a business establishment makes new investment in fixed assets which

results in a substantial deductible input VAT, the input VAT shall be deducted gradually or refunded in accordance with the provisions in part D of this Circular.

6. All VAT payment to the State Budget shall be in Vietnamese Dong. Where a business establishment has turnover from sale or purchase of goods and services in foreign currency, the foreign currency must be converted to Vietnamese Dong in accordance with the average exchange rate of the actual buying and selling in the inter – bank foreign currency market, announced by the State Bank of Vietnam at the transaction time for assessment of VAT liability.

#### **IV. VAT FINALISATION**

Business establishments (excluding small and medium size business establishments paying fixed VAT) must make out and submit their annual VAT finalisation returns to the tax authorities. The establishments must declare information and data in full and in a proper manner on their tax finalization returns, based on forms No.11/GTGT, 12A/GTGT, 12B/GTGT issued together with this Circular, and submit them to the tax authorities of the locality where the business establishments register their tax payment.

The tax finalisation year is calculated in accordance with the calendar year. Where a business establishment is allowed to make its financial finalization in a year other than the calendar year, it is still required to finalise its VAT liabilities in accordance with the calendar year. The deadline for business establishments to lodge their tax finalisation return with the tax authorities is within 60 days from 31 December of the tax finalisation year.

In the event of merger, amalgamation, division, demerger, dissolution, bankruptcy, conversion of ownership form; transfer or sale of State owned enterprises requiring State-owned enterprises to make an output-based contract, or leasing of State-owned enterprises, the business establishments shall still be required to finalise their VAT liabilities with the tax authorities within 45 days from the date on which the decision on merger, amalgamation, division, demerger, dissolution, bankruptcy, conversion of ownership form; transfer or sale of State owned enterprises, making an output-based contract with State-owned enterprises, or leasing of State-owned enterprises is issued.

The business establishment must be responsible for the accuracy of the figures finalized. If the business establishment makes a false report in order to evade the amount of tax payable, it shall be penalised in accordance with the provisions of the law.

#### **D. VAT REFUND**

##### **I. Entities and cases where VAT shall be refunded to:**

1. Business establishments paying VAT under the deduction method shall be considered

for VAT refund in the following cases:

- a. Business establishments operating for 3 consecutive months or more (regardless of fiscal year) which have an accrued deductible input VAT larger than output VAT incurred.

The refundable VAT amount is the input VAT which has not yet been deducted completely during the period of application for VAT refund. The VAT refund in this case shall also apply to business establishments making new or intensive investment.

Example: On the VAT return of enterprises A, the input VAT and output VAT are as follows:

Unit: million dong

Month	Deductible input VAT during the month	Output VAT during the month	VAT payable	Accrued input VAT yet to be deducted
December 2000	200	100	-100	-100
January 2001	300	350	+50	-50
February 2001	300	200	-100	-150

According to the above example, for 3 consecutive months, the enterprise A has an accrued input VAT larger than output VAT. Enterprise A is entitled to a VAT refund of VND150 million.

- b. During a month, if the business establishment exporting goods or services has an input VAT of VND200 million or more yet to be deducted, the establishment shall be considered for VAT refund on the monthly basis. Where, during a month, the incompletely deducted input VAT includes the input VAT of goods and services sold domestically, it shall be added to the VAT refunded in that month.

For goods exported through an export agent, goods undergoing an intermediary processing for export, the entity to which VAT is refunded is the establishment which has goods exported through an export agent, the establishment which carries out the intermediary processing of goods for export. In respect of the case where goods are processed according to the mandate of another enterprise, the entity to which VAT is refunded is the establishment which directly processes goods for export.

2. With respect to a newly-incorporated establishment which has registered for doing business and paying VAT under the deduction method, but is still in the investment stage and has no output VAT arising, if the duration of investment is from 1 year or more, the establishment shall be considered for an input VAT refund on an annual basis. If the refundable input VAT of the invested assets has a value of VND200 million or more, the establishment shall be considered for VAT refund on a quarterly basis.

Example:

The business establishment was incorporated in 2003. In 2003, the establishment invested VND6 billion in construction and installation, in which the value of machinery and equipment is VND2 billion.

Input VAT of materials used for construction and installation is VND400 million.

Input VAT of machinery and equipment is VND200 million.

At the end of 2003, the establishment did not come into operation and did not have revenue, so it did not incur VAT. After preparing the 2003 tax finalisation report and determining that the input VAT was VND600 million, the establishment shall submit an application file for VAT refund of VND600 million.

Where the accrued input VAT of the establishment in a quarter is more than VND200 million, the establishment may apply for VAT refund on a quarterly basis.

3. Where a business establishment paying VAT under the deduction method is investing in a new production project, the registration for operation of and tax payment by this new production project has not been made, however, if the VAT amount on goods and services used for the new production project is 200 million dong or more, the business establishment shall be considered for a VAT refund on a quarterly basis. The business establishment must declare the VAT and set up a separate file of VAT to be refunded for the investment project.
4. Upon merger, amalgamation, division, demerger, dissolution, bankruptcy, conversion of ownership form; transfer or sale of State –owned enterprises, making an output-based contract with State-owned enterprises, or leasing State owned enterprises, business establishments are required to finalise their tax if they have an input VAT yet to be credited or an incompletely deducted VAT amount.
5. The business establishment is entitled to a VAT refund in accordance with a decision of the competent agency as regulated by the law.
6. The refund of the paid VAT for ODA funded projects shall be as follows:
  - The project owner uses non-refundable ODA capital, loaned ODA capital or mixed ODA capital funded by the State Budget on a wholly non-refundable basis or partly non-refundable basis shall be entitled to a refund of input VAT on goods and services used for the projects. The refundable VAT is the VAT shown on

VAT invoices for goods or services purchased.

- Where the project owner mentioned above is not provided with counterpart capital from the State Budget to pay for VAT on goods and services purchased and used for the project; the project owner organizes a tendering for the main contractor paying VAT under the deduction method to provide goods and services at the price excluding VAT, then the contractor shall be entitled to a deduction or refund of input VAT on goods and services sold to the projects.

Example 1: Construction company A uses the non-refundable aid capital to construct the works for the project owner B at the bidding price signed with the project owner. The construction price excluding VAT is 4 billion dong. The project owner B is not provided with counterpart capital from the State Budget to make payment at the price including VAT. The project owner B directly purchases domestic equipment and provides them to company A for installation. The purchase price excluding VAT of equipment is VND1 billion, the VAT is VND100 million.

If the payment to company A is made according to the bidding price of 4 billion dong exclusive of VAT, company A shall be entitled to a deduction of input VAT on goods and materials purchased for construction of the works of the project owner B.

The project owner B is entitled to an input VAT refund of VND100 million for equipment domestically purchased.

Example 2: Construction company M uses the loaned ODA capital to construct the works for the project owner C. The project is funded by the State Budget on a non-refundable basis, the construction price excluding VAT is 5 billion dong, the 10% VAT is 500 million dong. The project owner C imports equipment and provides them to the company M for installation, the import price excluding VAT of equipment is 2 billion dong, the VAT is 200 million dong. The project owner C is entitled to a refund of input VAT of 700 million dong.

Project owners who use ODA capital and are entitled to tax refund must record the refunded VAT as an increase in the budget capital granted to the projects. When making out the annual counterpart capital plan for the project, the project owner shall not have to make out the counterpart capital plan for VAT payment.

Where project owners are provided with counterpart capital from the State Budget to make payment to the contractor at the price inclusive of VAT, when selling goods or services to the project, the contractor must calculate, declare and pay VAT as regulated.

7. Vietnamese organisations using humanitarian aid or non-refundable aid of foreign organisations or individuals to purchase goods in Vietnam shall be entitled to a refund

of the paid VAT shown on the purchase VAT invoice.

Example: The Red Cross Society is provided with an aid of VND200 million by an international organisation to purchase humanitarian aid goods for people in natural disaster – stricken provinces. The value excluding VAT of purchased goods is VND200 million, the VAT is VND10 million. The Red Cross Society shall be entitled to a VAT refund of VND10 million as regulated.

Business establishments and organisations entitled to VAT refund in accordance with the provisions in this Section I must be the entities which are granted business registration certificate (investment licence), have a seal, maintain accounting books and records in accordance with the regulations and have bank accounts.

Where an establishment has submitted an application file for VAT refund, it shall not be allowed to offset the input VAT applied for refund against the VAT of the month following the time of application for VAT refund.

Where in the month preceding the time of application for VAT refund the establishment has a VAT credit, the establishment is allowed to add the VAT credit to the VAT applied for refund; in case of having a shortfall in VAT payment, the establishment must pay the outstanding VAT to the State Budget prior to being entitled to a tax refund.

8. Entities that enjoy diplomatic immunity standards in accordance with the ordinance on diplomatic immunity standards and that purchase goods or services in Vietnam shall be entitled to a refund of the paid VAT shown on VAT invoices. Upon preparation of VAT invoices, business establishments in Vietnam which sell goods or services to these entities shall still be required to calculate VAT. Entities, goods and services subject to, and documentation procedures for, VAT refund in this case shall be as guided in Circular No. 08/2003/TT-BTC dated 15 January 2003.

## **II. Application file for VAT refund**

1. The application file for VAT refund in cases stated in points 1a, 2 and 3, section I of Part D of this Circular shall include:
  - An application letter for VAT refund, clearly stating the reasons for VAT refund, the VAT amount requested to be refunded, the period of refund (following Form No. 10/GTGT issued together with this Circular).
  - A summarized return of output VAT, deductible input VAT, VAT already paid (if any), VAT applied for refund.
  - A schedule of goods and services purchased or sold during the period relating to the determination of input VAT, output VAT (Forms 02/GTGT and 03/GTGT issued together with this Circular). In respect alone of goods and services purchased with

customized vouchers on which the payment price is the price inclusive of VAT, the establishment shall use the schedule Form No.05/GTGT issued together with this Circular.

Where the monthly tax declaration is adequate, accurate, consistent with the summarised schedule, the establishment shall not have to submit the schedule of goods and services purchased and sold during the period. Where there is an adjustment of the deductible input VAT and output VAT of the months included in the VAT refund period, the establishment must declare the deductible input VAT and the output VAT arising in each month in the VAT refund period, the reason for adjustment of input and output VAT must be clearly explained.

2. The application file for VAT refund in respect of cases stipulated in point 1.b, section I, part D of this Circular:
  - a) In cases of exporting goods and services; exporting goods through an export agent; processing goods for export according to the mandate of another establishment; intermediary processing of goods for export, the application file for VAT refund shall include:
    - Documents stated in point 1 of this Section.
    - A minutes on finalization of the contract for exporting goods through an export agent or the contract for processing of goods for export according to the mandate of another establishment (in cases where the contract has been terminated), or a minutes on reconciliation of periodical liabilities between the party exporting goods through an export agent and the export agent (in cases where goods are exported through an export agent or processed for export according to the mandate of another establishment).
    - A schedule of files, signed and sealed by the establishment. The schedule clearly states:
      - + Number, date of the declaration of exports (in case of exporting goods through an export agent, it is required to state the number, date of the export declaration of the export agent);
      - + Number and date of the export contract, or the contract for exporting goods through an export agent, or the contract for processing goods according to the mandate of another establishment in cases where goods are exported through an export agent, or goods are processed for export according to the mandate of another enterprise.
      - + Mode of payment, number, date and sum of the receipt for payment for exported goods and services.

b) The application file for VAT refund in cases where exported goods and services are paid for by commodities shall include:

- Documents stated in point 1 of this Section.
- A schedule of files, signed and sealed by the establishment:
  - + Number, date of the contract for export of goods and services, signed with the foreign party.
  - + Number, date of the contract for import of goods and services from the foreign party (briefly called as the import contract) in order to offset against the exported goods and services.
  - + Number, date of the declaration of exports.
  - + Number, date of the declaration of goods imported from the foreign party to offset against the exported goods and services.
  - + Number, date of the letter of confirmation with the foreign party about the offsetting of exported goods and services against goods and services imported from the foreign party.

Where there is a difference after offsetting the value of exported goods and services against the value of imported goods and services, the differential amount must be paid through the bank. The business establishment must state in the schedule the number and date of the receipt for payment through the bank, the payment amount.

The contract for export of goods and services and the contract for import of goods and services from the foreign party must be made out in accordance with the provisions of the commercial law, clearly stating: quantity, type, value of goods and services, selling (buying) price, processing price (in case of processing of goods), mode of offsetting the value of exported goods and services against the value of goods and services imported from the foreign party.

In cases where an establishment producing or processing goods for export makes settlement in the form of offsetting against goods imported from the foreign party under a long-term contract, the establishment must register with the tax office about its export contract, import contract, plan for settlement with the foreign party; on a periodical basis, the establishment must submit to the tax office a confirmation letter of the goods' quantity and value which have been offset against goods imported from the foreign party.

c) The application file for VAT refund in cases where goods are exported "in country" shall include:



- Documents stated in point 1 of this Section.
  - A schedule of files, signed and sealed by the establishment:
    - + Number, date of the ‘in country’ export contract signed with the foreign party.
    - + Number and date of the customs declaration of goods exported-imported “in country” .
    - + Number, date and sum of the receipt for payment for “in country” exported goods through the bank.
3. The application file for VAT refund to business establishments with an excessive VAT payment upon their merger, amalgamation, division, demerger, dissolution, bankruptcy, conversion of ownership form; transfer or sale of State owned enterprises, making an output-based contract with State owned enterprises, leasing of State owned enterprises shall include:
- An application letter for refund of the overpaid VAT to the State Budget.
  - A decision on merger, amalgamation, division, demerger, dissolution, bankruptcy, conversion of ownership form; transfer or sale of State owned enterprises, making an output-based contract with State-owned enterprises, leasing of State owned enterprises, issued by the competent agency.
  - The VAT finalization statement as at the time of merger, dissolution, bankruptcy, conversion of ownership form; transfer or sale of State owned enterprises, making an output-based contract with State owned enterprises, leasing of State-owned enterprises.
4. The application file for VAT refund in respect of cases stated in point 6, section I of this Part shall include:
- Documents stated in point 1 of this Section [(in respect alone of project owners entitled to VAT refund, the summarized schedule shall only summarise the refundable input VAT, the schedule of goods and services purchased shall be in accordance with *Form No.03/GTGT and Form No.05/GTGT* (in respect of goods and services purchased with customized vouchers on which the payment price is the price inclusive of VAT)], and the following documents shall be additionally submitted to the tax office (for the first time of submission):
    - An investment decision issued by the competent agency (a copy certified by the establishment).
    - A written confirmation by the competent agency regarding the project using non-refundable ODA capital (or using the ODA loan supported by the State Budget on a

non-refundable basis) which is subject to VAT refund (a copy certified by the establishment).

Where VAT is refunded to the contractor, the contractor must additionally submit (for the first time) the project owner's document which confirms that the project is not provided with counterpart capital for payment to the contractor at the price inclusive of VAT and that the payment price is the bidding price exclusive of VAT, and which proposes a VAT refund to the contractor.

5. The application file for VAT refund in respect of cases stated in point 7, section I of this Part shall include:
  - Documents stated in point 1 of this Section in which the summarized schedule shall summarise only the refundable input VAT; the schedule of invoices for goods and services purchased shall be in accordance with Form No.03/GTGT, Form No.05/GTGT (in respect of goods or services purchased with customized vouchers on which the payment price is the price inclusive of VAT) issued together with this Circular.
  - A copy of the aid approval decision issued by the competent authority (the Prime Minister, Minister, Chairman of People's Committee, head of ministerial equivalent agency, head of government body, heads of associations) in accordance with the provisions in Article 5 of Decision No.28/1999/QD-TTg of the Prime Minister (a copy certified by the establishment).
  - A written confirmation by the Ministry of Finance's Aid Management Board regarding the aid granted by the foreign non-governmental organization, clearly stating the name of the aid organization, value of the aid, the agency receiving and managing the aid (a copy certified by the establishment).

### **III. Entities entitled to VAT refund shall have responsibilities:**

1. To prepare an application file for VAT refund in accordance with the provisions in Section II of this Part and submit it to the tax authorities. On the application file for VAT refund, the entities entitled to VAT refund must declare accurately and honestly the figures and be responsible before the law for the declared figures.
2. Providing additional file or explanation at the request of the tax authorities where the application file is unclear or inadequate.
3. Submitting the application file for VAT refund in accordance with the provisions in Section II of this Part to the tax authorities; keeping adequately other documents relating to VAT refund or deduction at their establishments; providing full invoices, receipts and relevant documents which serve as a basis for determination of the VAT to be refunded when the tax authorities conduct an inspection of the VAT refund at the establishments.

## **IV. AUTHORITY TO DEAL WITH, PROCEDURES FOR SETTLEMENT OF, VAT REFUNDS**

### **1. Authority to deal with VAT refunds**

- a. The Director of the Tax Department shall consider and issue VAT refund decisions to entities entitled to VAT refund in accordance with the provisions in section I of this Part.
- b. The Minister of Finance or the General Director of Taxation authorised by the Minister of Finance shall issue VAT refund decisions to special entities and other special cases.

### **2. Responsibilities of the tax authorities in VAT refunds**

- Receiving the application file for VAT refund from VAT payers.
- Conducting the inspection of the file at the tax office, classifying the entities entitled to VAT refund in order to apply the VAT refund process and ensure the tight management of the VAT refund.
- Giving a written notification and returning the file to the business establishment which is not entitled to tax refund. Where the business establishment is entitled to VAT refund but the application file for VAT refund is incomplete and improper, within 7 days (from the time of receipt of the file) the tax office must give a written notification, requesting the establishment to provide additional documents, or prepare the file again and submit it to the tax office.
- Inspecting the figures, determining the VAT amount refundable to the entities entitled to VAT refund.
- Issuing decisions on VAT refund to entities entitled to VAT refund, following form No.13/GTGT issued together with this Circular.
- Conducting the examination and inspection of VAT refund at the establishment in cases where the entity entitled to VAT refund is suspected of breaching the provisions of the tax law.

### **3. The time limit for VAT refund:**

- In respect of entities entitled to VAT refund first and examination later: The maximum time limit for VAT refund is 15 days (3 days in respect of cases of VAT refund in accordance with the provisions in point 6, Section I, Part D of this Circular) from the time of receipt of full file as regulated.

- In respect of entities subject to an inspection at their establishment prior to VAT refund: The maximum time limit for VAT refund is 60 days from the time of receipt of full file as regulated.

#### 4. Responsibility of the State Treasury

The State Treasury of province or central-governed city shall refund VAT to the entities within a maximum period of 3 days from the date of receipt of the VAT refund decision from the tax authority; in case of VAT refund in accordance with the provisions in point 1.b, section IV of this Part, the Central State Treasury shall base on the VAT refund decision of the Minister of Finance, the payment order of the General Director of Taxation to carry out the VAT refund.

5. VAT refunds shall be taken from the VAT refund fund. The management and use of VAT refund fund shall be in compliance with separate provisions of the Ministry of Finance.
6. The number of days for consideration and settlement of VAT refund in the above cases shall be calculated according to the working day.

#### **E. DUTIES, POWERS AND RESPONSIBILITIES OF THE TAX AUTHORITIES.**

1. To guide business establishments which have registered their business activities to declare and pay VAT in accordance with the provisions of the Law on VAT.

To issue reminders to business establishments which do not comply strictly with the provisions on registration, declaration and payment of tax; and if business establishments persist in failure to comply with such provisions, the tax office shall have the right to impose an administrative penalty for tax offence on those business establishments.

2. To notify business establishments of the request for explanation, adjustment, addition or re-declaration where the VAT return is not declared fully and correctly. The notice of the tax office must be sent to the taxpayer at least 3 days prior to the date of tax payment.

To send tax notices to business organisations or individuals (households) paying tax under the direct calculation method, notifying them of the tax amount payable and the deadline for VAT payment, using the tax notice form No.08A/GTGT, 08B/GTGT issued together with this Circular. Tax notices must be sent to taxpayers at least 3 days prior to the date on which tax must be paid as stated in the tax notices.

3. To issue an additional notice of the tax amount and fine for delayed payment of tax in accordance with the provisions in clause 2, Article 19 of the VAT Law where a business establishment fails to pay tax within the time limit stated in the tax notice.

The point in time used to calculate the fine for delayed payment of monthly tax shall be as follows:

- From the 26<sup>th</sup> day of the following month for entities paying tax under the deduction method, and entities which pay tax under the direct calculation method and submit their tax declaration.
  - From the 1<sup>st</sup> day of the following month for entities paying tax on the basis of a fixed amount.
  - From the day after the date on which tax must be paid for imported goods in accordance with the provisions of the law on export duties and import duties.
4. To take action to deal with administrative offences relating to taxation, or to propose the competent agency to take action as specified in clause 4 of Article 19 of the VAT law in respect of cases where taxpayers fail to pay tax and fines stated in the tax notices.

Where the business establishment persists in its failure to pay in full the tax and fines after such action has been taken, the tax office shall forward the relevant documents to the competent bodies for resolution.

5. To examine and inspect the declaration, payment, finalisation of VAT by the business establishments to ensure their compliance with the provisions of law.
6. To deal with complaints about taxation in accordance with the provisions of the law.
7. To request taxpayers to provide books of account, invoices, source documents and other documents relating to the calculation and payment of tax; to request credit organizations, banks and other relevant organizations and individuals to provide documents relating to the calculation and payment of tax.
8. To maintain and use data and documents provided by business establishments and other taxpayers in accordance with applicable regulations.
9. The tax authority shall have the right to impose the VAT payable on tax payers in the following cases:
- a. The business establishment does not implement or implements improperly the requirements concerning accounting system, invoices, receipts.

In respect of business establishments which apply the direct calculation on value added method and traders in lots, who do not comply or fail to comply fully with the regulations on issuing invoices for sales and obtaining invoices for purchases, the tax authorities shall, based on their business activities, determine the value

added and tax payable in accordance with the method of direct calculation on value added as stated in point 2.3, Section III, part B of this Circular.

For individuals or small and medium size business establishments (hereinafter referred to as business establishments), the tax authorities may determine the tax payable based on a deemed amount, which serve as a basis for collection of VAT for a period of 6 months or 12 months. The tax authorities shall have responsible to notify publicly these entities of their revenues and their deemed tax amounts.

Small and medium size business establishments which pay VAT based on a deemed amount for a period of time must, if during that period there are changes in their business lines or scales, declare with the tax authorities for consideration and adjustment of the deemed VAT amount. Where the business establishments fail to declare, or declare untruthfully, the tax authorities shall have the right to fix a deemed amount payable in conformity with their business situation. If during a month a business establishment suspends its business activity for 15 days or more, it shall be considered for a 50% reduction of the tax payable, if the business establishment suspends its business activity for a whole month, it shall be exempted from tax payable for that month.

Small and medium size business establishments paying VAT based on a deemed amount for a period of time, if they have the days of not doing business amounting to a number which is eligible for VAT exemption or reduction, the business establishments must submit to the district tax office an application (in accordance with the standard form and guidelines of the tax authorities) specifically declaring the number of days of not doing business and the reason for not doing business. Through the inspection, if the tax office considers that the business establishments actually suspend their business activities, it shall settle the VAT exemption or reduction in accordance with the policy.

Small and medium size business establishments shall be determined by the Tax Departments based on their business lines in each locality. The Tax Departments shall base on business activities of business establishments to manage and collect VAT in accordance with the general provisions.

- b. A business establishment does not declare VAT, or when the deadline for submission of the VAT declaration is over and the reminder has been issued to the business establishment but it still fails to submit the VAT declaration, or a declaration is submitted but the business establishment fails to provide the tax authority with the adequate basis for calculating VAT.

Where the business establishment does not submit the VAT return, or declares inadequately and improperly the bases for determination of the VAT payable such as output VAT (the selling price, tax rate), deductible input VAT, the tax authorities shall have the right to base on business activities of the business establishment and the investigated figures to fix the selling price, revenue and

VAT payable, and notify the business establishment of this for implementation. If the business establishment disagrees on the tax amount imposed by the tax authorities, it may lodge an appeal with the superior tax authority or the competent agency but pending the resolution, it still has to pay VAT at the amount imposed by the tax authority.

- c. Failure to provide the required books of accounts, invoices, receipts and other information relating to an assessment of VAT.
- d. Operating without business registration, tax registration, declaration and payment, and this event is detected through investigation.

Based on the documents of investigation into business activities of the establishment or by comparison with the tax amount payable by other business establishments of the same size in the same business line, the tax authority shall determine the VAT payable by each business establishment in each of the above circumstances.

## **F. DEALING WITH BREACHES**

### **I. DEALING WITH TAX BREACHES**

Taxpayers who breach the VAT law shall be dealt with as follows:

1. Non compliance with the regulations on business registration; on tax registration, declaration, payment and finalisation; on opening accounting books and maintaining supporting documents and invoices relating to tax calculation and payment shall, depending on the seriousness of the breach, be subject to a warning or a fine.
2. Late payment of VAT or fines stated in the tax assessment notice, tax payment order or penalty decision shall, in addition to payment of full tax amount or fine as regulated by law, each day of late payment shall still be subject to a penalty equal to 0.1% (nought point one per cent) of the deferred payment.
3. False declaration and evasion of tax and frauds in tax refund shall, in addition to payment of full tax amount as regulated by the VAT law, depending on the nature and degree of the breach, be subject to a fine equal to 1 to 5 times of the fraudulent tax amount; the establishment which evades tax or commits fraud in VAT refund with large amount or which has been subject to administrative penalty for tax breaches but continues to have other serious breaches shall be subject to prosecution for criminal liability in accordance with the provisions of law.

Business establishments which commit frauds in tax declaration, deduction or refund shall not be entitled to a tax deduction or refund in respect of the fraudulently declared VAT. Where VAT has been refunded to these establishments, the tax authorities must recover it. After the fraudulently declared VAT is excluded from the

VAT included in the application file for tax refund, the business establishment shall carry forward the remaining VAT amount to the following tax period in order to offset it against the VAY payable for that period.

4. Failure to pay tax and fine shall be dealt with as follows:
  - a. Taking deposits of the tax payer from the bank, treasury, credit institution to pay tax, fine;

The bank, treasury, credit institution shall be responsible for taking deposits from the deposit account of the tax payer to pay tax and fine to the State Budget in accordance with the tax settlement decision of the tax office or the competent agency prior to collection of debts.

- b. Holding goods and exhibits to ensure the collection of full tax and fine.
  - c. Sequestering assets in accordance with the provisions of law to ensure the full collection of the outstanding tax and fine.

The treatment of VAT offenses mentioned above shall be carried out in accordance with the procedures stipulated in legal documents on dealing with tax breaches.

## **II. AUTHORITY TO DEAL WITH TAX BREACHES**

When detecting that business establishments breach the VAT law, the tax authorities of all levels must inspect and clearly define the acts of breaching; degree, cause of the breach; responsibilities of organisation and individuals for the acts of breaching; and prepare the file in accordance with the provisions. Based on the regulations on and the degrees of administrative penalty for tax breaches, the tax authorities shall, within the powers of each level, issue the penalty decision or petition the superior tax authority or the law enforcing body for handling, concretely as follows:

1. The head of the tax office directly managing the tax collection shall be allowed to deal with breaches of the tax payers stipulated in points 1 and 2, and impose a penalty for administrative tax breaches stipulated in point 3, section I, part E of this Circular.
2. The Director of the Tax Department or the district tax office directly managing the tax collection shall be allowed to take measures specified in point 4, Section I, part E of this Circular in accordance with the provisions of law and pass the file to the competent agency for handling in case of breaches stipulated in point 3, Section I, part E of this Circular.

## **G. COMPLAINTS AND IMPLEMENTING LIMITATION**



## **1. Rights and responsibilities of the tax payers in lodging a complaint about tax**

According to the provisions of Article 23 of the VAT law, organisations and individuals have the right to lodge a complaint against tax officials or tax offices that improperly apply the VAT law to the establishment. The complaint must be forwarded to the tax office which issues the tax assessment notice, tax collection order or settlement decision within 30 days from the date of receipt of the tax collection order or settlement decision. Pending resolution, the complainant shall still pay in full and in time the amount of tax and fine notified. If the complainant disagrees with the decision of the tax office which settles the complaint, or if more than 30 days from the date of lodging the complaint but no resolution is made, organisations and individuals shall have the right to lodge an appeal with the superior tax office or to take a legal action at the court in accordance with the provisions of law. Where the business establishment lodges an appeal with the superior tax agency, the treatment decision by the Minister of Finance is the final decision.

The procedures for lodging an appeal or taking a legal action and the consideration and treatment of the appeal must be carried out in accordance with the current regulations of law.

## **2. Responsibilities and powers of the tax authorities in the process of resolving tax appeals**

According to the provisions in Article 24 of the VAT law, when receiving appeal letters from tax payers, the tax authorities of various levels shall review and resolve within 15 days from the date of receipt of the application. In respect of complicated cases which require time for investigation and verification, the tax authorities must notify the tax payers of the delay, but still must resolve the appeal within 30 days; if the appeal is beyond their authority, the tax authorities shall forward the appeal to higher authorities and notify the tax payers of the delay within 10 days from the date of forwarding the appeal. Where through an inspection, the tax office discovers and concludes that there are false declaration and evasion of tax or errors in tax computation, the tax office shall have responsibility to reclaim or refund the amount of tax and fine miscalculated within a retrospective period of five years from the date of discovering such false declarations, tax evasion or errors in tax computation. Where the business establishments have not registered, declared and paid tax, the time limit for reclamation of tax and fine shall be from the time when the business establishments began their operations.

## **H. ORGANISATION OF THE IMPLEMENTATION**

### **I. Organisation of VAT collection**

1. The tax offices shall be responsible for organising and implementing the VAT collection from and VAT refund to business establishments.

2. The customs bodies shall be responsible for organising and implementing the collection of VAT on imported goods.

## **II. Implementing effect**

- This Circular shall have full force and effect as from 1 January 2004 and replace Circular No.122/2000/TT-BTC dated 29 December 2000 of the Ministry of Finance , providing guidelines on Decree No.79/2000/ND-CP dated 29 December 2000 of the Government, stipulating in detail the implementation of the VAT law; Circular No.82/2002/TT-BTC dated 18 September 2002 of the Ministry of Finance , providing guidelines on amendments and additions to Circular 122/2000/TT-BTC (mentioned above); Circular No.116/2002/TT-BTC dated 25 December 2002 of the Ministry of Finance, providing guidelines on Government Decree No.108/2002/ND-CP dated 25 December 2002, regarding cancellation of the provisions on input VAT credit on a deemed percentage basis in respect of a number of goods and services; Circular No.84/2003/TT-BTC dated 28 August 2003 of the Ministry of Finance, providing guidelines on the application of VAT rates based on the list of imported goods; Circular No.164/1998/TT-BTC dated 17 December 1998 of the Ministry of Finance, providing guidelines on VAT applicable to postal and telecommunications services.

- The application of VAT rates in a number of specific cases shall be as follows:
  - + Where a construction and installation establishment has construction and installation contracts signed prior to 1 January 2003 at the price inclusive of VAT with the VAT rate of 5%, however, as at 31 December 2003 the construction and installation projects are in progress, the construction and installation establishment shall be allowed to continue applying the 5% tax rate to the remaining part of work or project items which must be completed.
  - + Where a business establishment investing in construction of houses for sale has signed contracts for sale of houses at the price inclusive of VAT with the VAT rate of 5%, if the business establishment has collected money from purchasers with an amount equal to at least 30% of the value of each contract prior to 1 January 2004, the business establishment shall be allowed to apply the 5% tax rate to these contracts.

In January 2004, construction and installation establishments which construct houses for sale must notify the tax office directly managing them of the list of contracts for construction and installation of and trade in houses to which the VAT 5% is applied.

- As from 1 January 2004, establishments engaged in production and trading of goods and services subject to Special Sales Tax (SST) shall be entitled to a deduction of the input VAT shown on VAT invoices for materials which are used for production and trading of goods subject to SST and purchased prior to 1 January 2004. The time limit for declaration and deduction of VAT shown on these invoices shall be no later than 3 months from the month in which such VAT arises.

During the course of implementation, if there is any difficulties, it is proposed that the business establishments timely report to the Ministry of Finance for study and provision of additional guidance.

For Minister of Finance  
Deputy Minister

Truong Chi Trung

## **GUIDELINES ON PREPARATION OF THE VALUE ADDED TAX (VAT) RETURN**

### **A. A number of regulations required to be known when making out the VAT return:**

1. Abbreviation: “VAT” means Value Added Tax.
2. The amount recorded on the VAT return shall be rounded up to the unit of Vietnamese dong. No decimal number is recorded on the VAT return.
3. Figures recorded on the VAT return shall not be negative numbers (having no subtraction sign (-) preceding the number).

### **B. Guidelines on preparation of the VAT return:**

1. **From item [01] to item [09]:** The business establishment shall record the tax period and information registered with the tax office. If there is any change in information included in item [02] to item [09], the business establishment must make an additional tax registration with the tax office in accordance with the current regulations.
2. **Item [10] – There is no sale or purchase of goods or services during the period –** If there is no sale or purchase of goods or services during the period, the business establishment shall mark an “X” in the box number 10, concurrently shall not fill out the items [12], [13], [14], [15], [16], [17], [18], [19], [20], [21], [22], [23], [24], [29], [30], [31].
3. **Item [11] – Deductible VAT carried forward from the previous period –** The value in this item is equal to the value in box number [38] on the VAT return of the previous period.
4. **Item [12] – goods and services purchased during the period –** means the value excluding VAT of goods and services purchased during the period, and the corresponding box [21] –VAT of goods and services purchased during the period (including deductible VAT and non-deductible VAT).
5. **Item [13] – Imported goods - , [14] – fixed assets:** detailed declaration of the value (excluding VAT) of goods imported and fixed assets (including fixed assets imported); and items [22], [23] – VAT of goods imported and fixed assets. The business establishment shall leave these items blank if there is no goods or services purchased during the period,
6. **Item [15] – Purchased goods and services subject to VAT –** means the value (excluding VAT) of goods and services subject to VAT purchased during the period,

and the corresponding box [24] – VAT of purchased goods and services subject to VAT (including deductible VAT and non-deductible VAT).

**7. Item [25] : “Deductible VAT of goods and services purchased during the period”:**

Where the business establishment is engaged in production and trading of both goods subject to VAT and goods not subject to VAT, it must keep separate records for VAT of goods and services purchased and used for production and trading of goods subject to VAT and not subject to VAT. Where the establishment fails to keep separate records, the VAT shall be allocated based on the proportion of turnover of goods and services subject to VAT to the total turnover of goods and services sold.

**8. Item [26] “Making an increase in deductible VAT of previous period” and item [27] “Making a decrease in deductible VAT of previous periods”:** these items are used to make an increase or a decrease in deductible VAT miscalculated in previous declarations. If the business establishment makes an adjustment to these boxes, it is required to make out an explanatory statement of VAT adjustments and submit it together with the VAT return to the tax office.

**9. Item [28] “Total deductible VAT”:**  $[28] = [11] + [25] + [26] - [27]$

**10. Item [16] “Goods and services sold during the period”:**  $[16] = [17] + [18] + [19] + [20]$ ; and item [29] – VAT of goods and services sold during the period - is calculated by the formula:  $[29] = [30] + [31]$ .

**11. Item [17] “Goods and services not subject to VAT sold”:** the value of goods and services not subject to VAT sold during the period.

**12. Item [18], [19], [20]: “Value excluding VAT of goods and services sold during the period”, and items [30], [31]:** VAT of goods and services sold, calculated according to each VAT rate group.

**13. Item [32]: “Making an increase in VAT of goods and services sold in previous period” and item [33]: “Making a decrease in VAT of goods and services sold in previous periods”:** These items are used to make an increase or a decrease in VAT of goods and services sold in previous periods, which is miscalculated. If the business establishment makes an adjustment to these boxes, it is required to make out an explanatory statement of VAT adjustments and submit it together with the VAT return to the tax office.

**Notes:**

- Items [12], [13], [14], [15], [21], [22], [23], [24], [16], [17], [18], [19], [20],[28], [29], [30], [31] shall be supported by invoices and receipts of which deductible VAT is

allowed to be declared late within 3 months in accordance with the provisions of the tax law, and invoices and receipts for returned goods and for sale price reduction.

**14. Item [34]: “Total VAT of goods and services sold” [34] = [29] + [32] – [33]**

**Calculation of VAT results during the period:**

**15. Item [35] VAT payable to the State Budget during the period:**

$$[35] = [34] - [28] > 0$$

**16. Item [36] Incompletely deducted VAT in this period: [36] = [34] – [28] < 0**

**17. Item [37] VAT requested to be refunded in this period:** means the VAT stated by the business establishment in the application file for VAT refund where the business establishment is entitled to a consideration for VAT refund.

The business establishment shall not be allowed to charge the VAT requested to be refunded to the deductible VAT of the following period. *If the business establishment declares the VAT requested to be refunded in this box, it must submit an application file for VAT refund to the tax office for consideration of VAT refund in accordance with the regulations.*

**18. Item [38] “Deductible VAT carried forward to the following period”**

$$[38] = [36] - [37]$$

SOCIALIST REPUBLIC OF VIETNAM  
Independence – Freedom – Happiness

Date of submission of  
the tax return:  
...../...../.....

**VALUE ADDED TAX RETURN**

[01] Period: .....(month) ..... (year).

[02] Tax code .....	Unit: VN Dong	
[03] Name of business establishment:.....		
[04] Address of the office:.....	[05] District .....	[06] Province/City.....
[07] Telephone.....	[08] Fax.....	[09] E-mail.....
No sales or purchases arise in the period (mark "X") [10]		
Deductible VAT carried forward from previous period		[11]
	Value of goods and services (excluding VAT)	VAT
Goods and service purchased in the period	[12]	[21]
In which: + Import:	[13]	[22]
+ Fixed asset:	[14]	[23]
Purchased goods and services subject to VAT during the period:	[15]	[24]
Deductible VAT of goods and services purchased during the period:		[25]
An increase in VAT deducted in previous periods		[26]
A decrease in VAT deducted in previous periods:		[27]
Total VAT to be deducted: [28] = [11] + [25] + [26] - [27]		[28]
Goods and services sold during the period: [16] = [17] + [18] + [19] + [20]; [29] = [30] + [31]	[16]	[29]
Goods and services sold not subject to VAT	[17]	
Exported goods and services subject to tax rate of 0%	[18]	
Exported and services subject to tax rate of 5%	[19]	[30]
Goods and services sold subject to tax rate of 10%	[20]	[31]
Increase in VAT of goods and services sold during previous periods	[32]	
Decrease in VAT of goods and services sold during previous years	[33]	
Total VAT of goods and services sold [34] = [29] + [32] - [33]		[34]
VAT payable to the State budget during the period ([35] = [34] - [28] > 0)		[35]
VAT not fully deducted in this period ([36] = [[34] - [28] < 0)		[36]
VAT requested to be deducted in this period		[37]
Deductible VAT carried forward to the following period [38] = [36] - [37]		[38]

Space provided for

I guarantee that the above figures are correct and

the tax office

shall be entirely responsible before the law for the  
declared figures.

Day... month... 200...

Signature and seal (full name and position)



**LIST OF INVOICES AND RECEIPTS FOR GOODS AND SERVICES SOLD  
(enclosed with VAT return)**

(applicable to establishments calculating monthly VAT under the deduction method)

-----  
(Month..... 200....)

Name of business establishment:.....

Address:.....

Code:
-------

Invoices and receipts for goods sold			Name of purchaser	Tax code of purchaser	Goods	Sale turnover excluding tax	Tax rate	VAT	Remark
Serial number of invoice	Invoice number	Date of issuance of invoice							
1	2	3	4	5	6	7	8	9	10
	Total								

Prepared by  
(Signature, full name)

Day...month...year....  
Chief accountant  
(Signature, full name)



**LIST OF GOODS PURCHASED WITHOUT INVOICES**

Name of business establishment:..... Tax code:.....  
 Address:.....  
 Place where goods are purchased:.....  
 Purchaser:.....

Date of purchase	Seller		Goods purchased				Remark
	Name of seller	Address	Name of goods	Quantity	Unit price	Payment price	
1	2	3	4	5	6	7	8

Total value of goods purchased:.....

*Day...month... year*  
 Prepared by  
 (Signature, full name)

*Date ...month... year...*  
 Director of the establishment  
 (Signature, seal)

**LIST OF AGRICULTURAL, FORESTRY, AQUATIC PRODUCTS  
PURCHASED WITH INVOICES**

Name of business establishment:..... Tax code:.....  
Address:.....

Invoices for goods purchased			Name of seller	Tax code of seller	Name of goods	Purchase price of goods shown on invoice	Remark
Serial number of invoice	Invoice number	Date of issuance of invoice					
1	2	3	4	5	6	7	8

Total value of goods purchased:.....

Prepared by  
(Signature, full name)

*Date ...month... year...*  
Chief accountant  
(Signature, full name)

**LIST OF GOODS AND SERVICES RETAILED**

Name of business establishment:..... Tax code:.....

Address:.....

Name of the seller:.....

Place where goods are retailed:.....

No.	Name of goods and services	Unit	Quantity	Unit price	Turnover including VAT	VAT rate
A	B	C	1	2	3	4
Total payment:.....						

Total amount (in words).....  
 .....

**Seller**  
 (Signature, full name)

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**VALUE ADDED TAX RETURN**

month..... year.....

(applicable to establishments paying tax under the method of direct calculation  
on the value added and establishments trading in gold, silver, gemstones  
and foreign currencies)

Name of the establishment:.....Tax code:.....

Address:.....

No.	Description	Amount (VND)
1	Opening goods in stock	
2	Goods and services purchased during the period	
3	Historical costs of goods and services purchased from outside to be used for production and trading of taxable goods and services sold	
4	Total turnover from sale of taxable goods and services	
5	Value added arising during the period (5 = 4 – 3)	
6	VAT payable (6 = 5 x tax rate (%))	

The above figures are guaranteed correct. If they are incorrect, I will be responsible before the law.

Day...month...year...  
Declarant

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**VALUE ADDED TAX (VAT) AND BUSINESS INCOME TAX (BIT) RETURN**  
month....year....

(applicable to establishments paying tax under the method of direct calculation on the value added; the value added is determined in accordance with the percentage over turnover)

Name of the establishment:..... Tax code:.....  
Address:.....

No.	Description	Amount (VND)
<b>I</b>	<b>VALUE ADDED TAX (VAT)</b>	
1	Opening goods in stock	
2	Goods and services purchased during the period	
3	Goods and services purchased from outside, which are included in the value of taxable goods and services sold	
4	Total turnover from sale of taxable goods and services	
5	Proportion of VAT to turnover	
6	Value added arising in the period (6 = 4 * 5)	
7	VAT amount payable (7 = 6 x tax rate (%))	
<b>II</b>	<b>BUSINESS INCOME TAX (BIT)</b>	
1	Taxable turnover	
2	Percentage of taxable income over turnover	
3	Taxable income (3 = 1 * 2)	
4	BIT rate (%)	
5	BIT amount payable (5 = 3 * 4)	

The above figures are guaranteed correct. If they are incorrect, I will be responsible before the law.

Day...month...year...  
Declarant

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**VALUE ADDED TAX RETURN**

month ..... year.....

(applicable to establishments engaged in production, business, construction and installation activities which declare and temporarily pay tax on a deemed percentage)

Name of the establishment:..... Tax code:.....

Address:.....

No	Description	Amount (VND)
1	Total turnover from sale of goods and services or the value of the project constructed or installed	
2	Tax amount payable ( = 1 x 3%)	

The above figures are guaranteed correct. If they are incorrect, I will be responsible before the law.

Day...month... year...  
Declarant



General Department of Taxation  
Tax Department:.....

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**VAT ASSESSMENT NOTICE**

month.... year....  
(Notice for ..... time)

Name of the establishment:..... Tax code:.....  
Address:.....  
Level..... Chapter..... Category..... Item.....

*Pursuant to the establishment’s VAT return for month... year..., the tax office notifies of the VAT amount payable by the establishment as follows:*

Unit: VND

No	Description	VAT
1	Tax amount carried forward from previous period	
a	Shortfall	
b	Excessive payment	
2	Tax amount arising in this month	
3	Total amount of tax payable for this month	
4	Tax amount paid during the month	
5	Tax amount to be refunded	
6	Fine for late payment of tax (if any)	
7	Total tax amount and fine payable	

The establishment is required to pay the sum stated in the above notice to the State Treasury....., account number.....

The deadline for tax payment is prior to day... month... year 200...

*Day...month... year...*  
Director of Tax Department  
(Signature, seal)

Tax Department.....  
 District tax branch:.....

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**VALUE ADDED TAX (VAT) AND BUSINESS INCOME TAX (BIT)  
 ASSESSMENT NOTICE**

tax period .... year....  
 (Notice for ..... time)

Name of the establishment:..... Tax code:.....  
 Address:.....  
 Level..... Chapter..... Category..... Item.....

*Pursuant to the establishment’s revenue and the percentage of value added and income calculated on the company’s revenue, the district tax branch notifies the VAT amount and BIT amount payable by the establishment for month... year... as follows:*

No.	Description	VAT	BIT	Total
1	Outstanding tax liabilities of the previous period			
2	Tax amount arising during the month			
3	Tax amount payable for this month (1 + 2)			
4	Fine for late payment			
5	Total tax amount and fine payable (3 + 4)			
6	Total			

The establishment is required to pay the sum stated in the above notice to the State Treasury....., account number.....

The deadline for tax payment is prior to day... month... year 200...

*Day...month... year...*  
 Head of the district tax branch  
 (Signature, seal)

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**REGISTRATION FOR VAT DECLARATION  
UNDER THE DEDUCTION METHOD**

\*\*\*\*\*

To: Tax Department (district tax branch):.....  
- Name of the business establishment:.....Tax code.....  
- Address.....  
- Main line of business.....

We are paying monthly VAT under the method of direct calculation on the value added; after considering the conditions for VAT calculation under the deduction method, we would like to apply to the tax office for permitting us to calculate tax under the deduction method as from month... year...

We commit to:

- 1. opening and recording books of account in accordance with the regulations.
- 2. purchasing and selling goods and services with invoices and receipts in accordance with the regulations.
- 3. declaring and paying tax in accordance with the law and regulations.

In case of breaching the tax law and other regulations, we will be treated in accordance with the law.

Day...month... year...  
Head of the business establishment

**Comments of the tax office:**

Based on the VAT law and the guidelines for implementing it; through the inspection of the business establishment's conditions for calculation of VAT, the Tax Department (the district tax branch) permits the business establishment to make VAT declaration and payment under the deduction method as from month... year...

Day...month... year...  
On behalf of the tax office  
(Signature, seal)

**(Having entered in the book on day...month...year...  
and sent a copy to the business establishment)**

Establishment:.....  
.....  
Number: .....

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**APPLICATION FOR VAT REFUND**  
\*\*\*\*\*

To the Tax Department: .....

Name of the business establishment:..... Tax code:.....  
Address:.....  
Main line of business:.....  
Account number:..... at bank (treasury).....

We suggest that the Tax Department consider and refund the VAT amount of VND..... to us in respect of the following cases (the business establishment gives specific explanation for each case):

Example:

- + Deductible input VAT of months ..... year..... are larger than output VAT.  
(Specifically explaining the reasons, for instance, export of a large quantity of goods or trade in goods and services with low tax rate,.....)
- + Input VAT of invested machinery and equipment are large, specifically:
  1. Value of invested machinery and equipment:.....
  2. VAT paid:.....
  3. Average monthly VAT payable for goods and services sold:.....
- + Other cases and reasons:.....

We enclose this application file with the following documents:

- .....
- .....
- .....

(listing the attached documents)

Day .....month.... year....  
Director or representative  
(Signature, seal)

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**VALUE ADDED TAX FINALISATION**

Year 200.....

(applicable to establishments paying VAT under the method of direct calculation on the value added and establishments trading in gold, silver, gemstones and foreign currencies)

Name of the establishment:..... Tax code:.....

Address:.....

No.	Description	Amount (VND)
1	Opening goods in stock	
2	Goods and services purchased during the year	
3	Historical cost of goods and services purchased from outside and used for production and trading of taxable goods and services	
4	Total turnover from sale of taxable goods and services	
5	Value added arising in the year (5 = 4 – 3)	
6	VAT payable (6 = 5 x tax rate (%))	

Day... month... 200....

Prepared by  
 (Signature, full name)

Chief accountant  
 (Signature, full name)

Director  
 (Signature, full name, seal)

(In case of a business household, only the household owner is required to sign and record his full name on the VAT finalization statement)

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 -----

**VALUE ADDED TAX FINALISATION**

Year 200.....

(applicable to establishments paying VAT under the method of direct calculation on the value added, and the value added is determined in accordance with a deemed percentage on the revenue)

Name of the establishment:..... Tax code:.....

Address:.....

No.	Description	Amount (VND)
<b>I</b>	<b>VALUE ADDED TAX (VAT)</b>	
1	Opening goods in stock	
2	Goods and services purchased during the period	
3	Goods and services purchased from outside, calculated in the value of taxable goods and services sold.	
4	Total turnover from sale of taxable goods and services	
5	Ratio of value added on the turnover	
6	Value added arising in the period (6 = 4 * 5)	
7	VAT payable (7 = 6 x tax rate (%))	
<b>II</b>	<b>BUSINESS INCOME TAX (BIT)</b>	
1	Taxable revenue	
2	Percentage of taxable income on revenue	
3	Taxable income (3 = 1 * 2)	
4	BIT rate (%)	
5	BIT payable (5 = 3 * 4)	

Day... month... 200....

Prepared by  
 (Signature, full name)

Chief accountant  
 (Signature, full name)

Director  
 (Signature, full name, seal)

(In case of a business household, only the household owner is required to sign and record his full name on the VAT finalization statement)

General Department of Taxation  
Tax Department.....

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No:...../200.../QD-CT

Day.....month.... 200....

**DECISION OF THE DIRECTOR OF THE TAX DEPARTMENT  
on VAT refund**

THE DIRECTOR OF THE TAX DEPARTMENT

- Pursuant to Article 16 of the VAT law; Article 15 of Government Decree No.79/2000/ND-CP dated 29 December 2000, making detailed regulations on the implementation of the VAT law;
- Pursuant to guidelines in Part D of Circular No.125/2003/TT-BTC dated 12 December 2003 of the Ministry of Finance, providing guidance on the implementation of Government Decree No.158/2003/ND-CP dated 10 December 2003 (mentioned above);
- Pursuant to Decision No.1362/1998/QD-BTC dated 17 November 1998 of the Minister of Finance on issuance of the Regulations on establishment, management and use of VAT refund fund;
- Pursuant to Official Letter No..... dated...../...../200... together with the application file for VAT refund of .....(enterprise);
- Following the proposal of the Head of the .....Division;

**DECIDES**

**Article 1:** To refund the VAT amount of ..... (in words.....) to the .....(entity)..... with its tax code.....

(reasons for VAT refund.....)

**Article 2:** The State treasury of .....province (city) shall be responsible for VAT refund to the entity in accordance with the provisions of Article 1 of this Decision. The refunded VAT shall be paid into the entity’s account number ..... at bank (or treasury).....

**Article 3:** This Decision shall have full force and effect as from the date of signing it. The Director of the enterprise (or entity).....; the Head of the Technical Division; the Head of the Planning – Accounting – Statistical – Computer Division and the Head of the Administrative Division shall be responsible for implementation of this Decision.

Director of the Tax Department

**APPENDIX No.1**

**LIST OF BASIC CHEMICALS SUBJECT TO 5% VAT RATE**

(issued together with Circular No.120/2003/TT-BTC dated 12 December 2003 of the Ministry of Finance)

-----

Name of chemicals	Chemical formula or symbol
<b>A – INDUSTRIAL CHEMICALS</b>	
<b>I – Kinds of acid</b>	
1. Chlorine acid 2. Nitric acid 3. Flosilicic acid 4. Floric acid 5. Phosphoric acid 6. Sulfuric acid and .....	
<b>II – Kinds of oxides</b>	
7. Chrome oxide & anhydric criomic 8. Lead oxide 9. Copper oxide 1 and 2 10. Zinc oxide 11. Magie oxide 12. Aluminum oxide 13. Nickel oxide 14. Iron oxide 15. Titan dioxide 16. Manganese dioxide	
<b>III – Kinds of hydroxides</b>	
17. .... and liquid ammoniac 18. Aluminum hydroxide 19. Sodium hydroxide	
<b>IV – Kinds of chemical salt</b>	
20. .... 21. .... 22. Barium chloride 23. Barium carbonate 24. Silver nitrate	



<p>25. Calcium carbonate  26. Calcium chloride  27. Calcium carbide  28. Calcium mono-acid phosphate  29. Calcium phosphate  30. Calcium fluoride  31. ....  32. ....  33. Cobalt chloride  34. Cobalt sulfate  35. Lead chromate  36. Lead nitrate  37. Copper chloride  38. Copper sulfate  39. Zinc chloride  40. Zinc sulfate  41. Zinc chromate and dichromate  42. Kalium chlorate  43. Kalium lychromate  44. Kalium nitrate  45. Kalium mono-acid phosphate  46. Kalium phosphate  47. Magnesium chloride  48. Magnesium carbonate  49. Magnesium sulfate  50. Natrium carbonate (soda)  51. Natrium bicarbonate  52. Natrium sulfate  53. Natrium sulfite  54. Natrium bi-sulfite  55. Natrium thiosulfate  56. Natrium bichromate  57. Natrium dichromate  58. Natrium hypochlorite  59. Natrium fluoride  60. natrium flosilicate  61. Natrium mono-acid phosphate  62. Natrium phosphate  63. Natrium tripolyphosphate  64. natrium silicate  65. Natrium sulphur  66. Natrium borax  67. Natrium aluminum chloride  68. Aluminum chloride  69. Aluminum sulfate  70. Aluminum kalium sulfate</p>	
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71. Iron chloride
72. Iron sulfate
73. Iron ammonium sulfate
74. ....
75. Carbon sulphur

**Industrial gases and metalloid**

76. Chlorine liquid and gas
77. Carbonic (solid, liquid and gas)
78. Nitrogen liquid and gas
80. Sulphur
81. Graphit .....
82. Yellow and red phosphorous

**Some organic products**

83. Acetylene
84. Naphtalen
85. Benzene
86. Xylen
87. Etyl Alcol CN
88. Glyxexin
89. Phenol
90. Teppineol
91. Tecpinhydrat
92. Fermalin
93. Axotie acid
94. Hymic acid
95. Stearic acid
96. Tezphatalic acid
97. Xalic acid
98. Meniobenzen chloride
99. Bari stearat
100. Magie stearat

**B – PHARMACOCHEMISTRY AND PURE CHEMICALS**

**I – Pure acid**

101. Boric acid
102. Chloride acid
103. Nitric acid
104. Sulfuric acid
105. Phosphoric acid

**II – Pure oxide**

- 106. Calcium oxide
- 107. Copper oxide 1 and 2
- 108. Zinc oxide

**Pure hydroxide**

- 109. Amon hydroxide
- 110. Berihydroxide
- 111. Calcium hydroxide
- 112. Aluminum hydroxide

**Pure chemical salt**

- 113.
- 114.
- 115.
- 116.
- 117.
- 118. Barium chloride
- 119. Aluminum hydroxide
- 120. Barium sulfate
- 121. Silver nitrate
- 122. Calcium carbonate
- 123. Calcium chloride
- 124. Calcium nitrate
- 125. Copper chloride
- 126. Copper carbonate
- 127. Copper sulfate
- 128. Kalium chloride
- 129. Kalium bicromate
- 130. Kalium mono-acid phosphate
- 131. Kalium nitrate
- 132. Kalium phemongant
- 133. Kali Fericyanide
- 134. Kalium ferocyanide
- 135. Kalium sulfate
- 136. Zinc chloride
- 137. Zinc sulfate
- 138. Magie chloride
- 139. Magie sulfate
- 140. Magie carbonate
- 141. Natrium borax
- 142. Natrium hycarbonate
- 143. Natrium kalium carbonate

- |  |  |
|--|--|
| <p>144. Natrium chloride<br/>145. Natrium kalium carbonate<br/>146. Natrium fluoride<br/>147. Natrium flosilicat<br/>148. Natrium mono-acid phosphate<br/>149. Natrium phosphate<br/>150. Natrium tripohyphosphate<br/>151. Natrium leysumfit<br/>152. Natrium sulfite<br/>153. Natrium thiosulfate<br/>154. Natrium sulfate<br/>155. Aluminum chloride<br/>156. Aluminum sulfate<br/>157. Aluminum kalisulfate<br/>158.<br/>159.<br/>160.<br/>161.</p> <p><b>Some organic products</b></p> <p>162. Acetone<br/>163. Benzene<br/>164. Toluen<br/>165. Xylen<br/>166. Methanol<br/>167. Ethanol.<br/>168. Butanol<br/>169. Glycerine<br/>170. Phenlo<br/>171. Tocpynell<br/>172. Tecpenhdtrat<br/>173. Formalin<br/>174. Acetic acid<br/>175. Salicylic acid<br/>176. Butyl acetate<br/>177. Tota chloride carbon<br/>178. Oxlic acid<br/>179. Monceloacelic acid<br/>180. Stearic acid<br/>181. Amon acetate<br/>182. Amon axatate<br/>183. Kalium oxalate<br/>184. Natrium acetate<br/>185. Natrium axialat<br/>186. Magie starat</p> |  |
|--|--|

**Some organic products**

162. Acetone  
163. Benzene  
164. Toluen  
165. Xylen  
166. Methanol  
167. Ethanol.  
168. Butanol  
169. Glycerine  
170. Phenlo  
171. Tocpynell  
172. Tecpenhdtrat  
173. Formalin  
174. Acetic acid  
175. Salicylic acid  
176. Butyl acetate  
177. Tota chloride carbon  
178. Oxlic acid  
179. Monceloacelic acid  
180. Stearic acid  
181. Amon acetate  
182. Amon axatate  
183. Kalium oxalate  
184. Natrium acetate  
185. Natrium axialat  
186. Magie starat

- |   |  |
|---|--|
| <p>187. Dioctyl Phthalate (DOP)<br/>188. 2-Ethyl Hexanol (2-EH)<br/>189. Tetra Isopropyl Titanat (TPT)</p> <p>C – INORGANIC CHEMICALS</p> <p>190.<br/>191. Antimony trioxide<br/>192. Asen trioxide<br/>193. Orthoboric acid<br/>194. Barium sulfate<br/>195. Cadimi sulphur<br/>196. calcium sulfate<br/>197. Calcium sulfate<br/>198. Lead (II) sulfate<br/>199. Cobalt oxide<br/>200. Kalium carbonate<br/>201. Kalium chloride<br/>202. Kalium chromate<br/>203. Kalium dihydro phosphate<br/>204. Kalium hydroxide<br/>205. Kalium iodat<br/>206. Kalium pemanganat<br/>207. Zinc carbonate<br/>208. Zinc nitrate<br/>209.<br/>210 Magnesium nitrate<br/>211<br/>212. Natri dihydro phosphate<br/>213. Natri hyposulfate<br/>214. Natri nitrit<br/>215. Natrium phosphate<br/>216. Natrium pyrosulfit<br/>217. Natrium tetraborat<br/>218. Aluminum amoni sulfate<br/>219. Nickel chloride<br/>220. Nickel sulfate<br/>221. Poly alumin chloride</p> <p>D – ORGANIC CHEMICALS</p> <p>222. Andydric phtalic (AP)<br/>223. Citric acid<br/>224. Synthetic fatty acid from petroleum<br/>225. Glutamic acid<br/>226. Oleic acid</p> |  |
|---|--|

227. Oxalic acid 228. Butyl acetate 229. Lead (II) acetate 230. Ethyl benzene 231. Kalium acetate 232. Kalium natrium tartrat 233. Linear Alkylbenzene (LAB) 234. Linear Alkylbenzene sulfonate (LAS) 235. Naphthalene 236. Naphtol 237. Natrium salicylate 238. Trinatri citrate 239. Vinyl chloride (monome) VCM	
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## APPENDIX No.2

### LIST OF PHARMACEUTICAL MATERIALS USED FOR PRODUCTION OF CURATIVE AND PREVENTIVE MEDICINES SUBJECT TO 5% VAT RATE

(issued together with Circular No.120/2003/TT-BTC dated 12 December 2003 of the Ministry of Finance)

-----

- Analgin
- Anhydride Phthalic
- Aspirine (Acetyl Salicylate)
- Astemizole
- Atropin Sulphate
- Codein
- Caffeine Anhydrous
- Chlopromazin HCL
- Chloroquin Phosphat
- Cinarizine (Cinnarizin)
- D(-)P-Hydroxy Phenylglycine Dane Salt
- Dextrose (Glucose)
- Dimenhydrinate
- Diphenylhydantoin Sodium (Phenytoin Sodium)
- Ibuprofen
- Indometacin
- Isoniazid (Isoniazide, Rimifon)
- Ketoconazole
- Lactose
- Lnolin anhydrous
- Manitol (mannitol)
- Methylene blue
- Metronidazol
- Naphazolinnitrat
- Papaverine HCL
- Paracetamol (Acetaminophen)
- Petroleum Jelly (Vaselin)
- Piperazin citrate
- Piroxicam
- Procain HCL (Novocain HCL)
- Promethazine HCL
- Phenobarbital
- Quinine
- Sodium Salicylate
- Sparteine Sulphate
- Sucralfate
- Sulfadoxine
- Sulfaguanidin

- Sulfamethoxazole (Sulphamethoxazole)
- Theophyllin
- Trimethoprim (TMT)



**APPENDIX No. 3**

**LIST OF SPECIALISED ARMS AND DEVICES NOT SUBJECT TO VAT, USED  
IN THE DOMAIN OF NATIONAL DEFENSE AND SECURITY,  
DOMESTICALLY PRODUCED AND ASSEMBLED BY THE UNITS  
BELONGING TO THE MINISTRY OF NATIONAL DEFENSE AND THE  
MINISTRY OF PUBLIC SECURITY**

(issued together with Circular No.120/2003/TT-BTC dated 12 December 2003 of the  
Ministry of Finance)

-----

No.	LIST OF ARMS AND DEVICES
1	Guns of various kinds; firecrackers; accessories and auxiliary parts of guns and firecrackers
2	Bullets, grenades, bombs, mines, torpedoes, hand grenades, missiles, rockets, detonators, fuse, explosives,
3	Bayonets, daggers and similar rudimentary weapons; various kinds of tear gas spray guns,
4	Bludgeons, electric sticks and accessories
5	Handcuffs and tools in support of the task of arrest, escorting, detention
6	Shields, armours, life jackets, diving suits, specialized protective helmets, gas masks and other kinds of protective tools
7	Equipment used for observation, battery loud-speakers, headlamps, barbed wire and other supporting tools
8	The task force's equipment used for surprise attack, intrusion or raid such as: sets of instruments for breaking doors and walls of various kinds; sets of instruments for breaking vehicles, ships and airplanes of various kinds; ladders of various kinds; set of tools for climbing and rescuing; rope ladders of helicopters; clothes used for intrusion, raid, rescuing; accessories and auxiliary parts
9	Automobiles of various kinds (including two- wheeled or three- wheeled vehicles), tanks, armoured cars, vehicles for specific purposes; vehicles for commanders; specialized military vehicles and their accessories, used by national defense and security bodies
10	Ships: men-of-war, landing craft, military cargo ships, mine sweepers, other military ships, patrol boats, high speed boats, motor boats, bullet-proof high speed boat, salvage ships, equipment and military devices used to equip these ships and boats
11	Aircraft and accessories used in the domain of national defense and security
12	Machinery, equipment and traffic control system; communication machinery, technical materials and synchronous components used in the communication control system; power station and system of machines for commanding, used in the domain of national defense and security
13	Devices and system of devices for receiving, transmitting, recording secretly, and for detecting the secret recording; specialized devices and system of devices for recording, used in the domain of national defense and security

14	Devices and system of devices used for supervising postal-telecommunication services such as fax, telephone, mobile phones, telex, correspondence . . . ., and components, spare parts. Products used for taking aerial photographs, measuring and surveying terrain, drawing marine charts, aerial charts and maps used in the domain of national defense and security
15	Devices and system of devices for supervising the Internet, used in the domain of national defense and security
16	Equipment for observing at night and machines creating interference; radars and specialized measuring apparatuses for air defense forces. Machines for Signal measuring and analyzing machines, receivers of radiation from the screen
17	Optical machines and devices; chemical devices; army engineering devices and accessories
18	Special equipment used for disguise, specialized ink and paper used in the domain of national defense and security
19	Equipment and system of equipment used to supplement and replace systems of positioning and monitoring frequency of counter-espionage transmitters; equipment and system of equipment of coding and decoding; equipment, machinery and accessories serving major tasks
20	Equipment, machinery and chemicals used for inspection, detection, survey and testing weapons, materials, explosives, drugs, radiation, counterfeit money, gemstones, precious metal, genes, fingerprints and chemicals and so forth; machines for measuring concentration of alcohol and chemicals, machines for inspecting letter bomb
21	Models and teaching instruments used for training in flight, and devices used for disguise
22	Equipment and system of equipment used for production of passports, identity cards and PVC cards
23	Equipment use for breaking in targets to take materials: devices for unlocking, other similar devices
24	Equipment for protecting materials (stamps, metallic strings) or fighting against the forging of passports, visas and other materials
25	Equipment for maintenance of materials and dangerous exhibits (toxic chemicals, radioactive elements, explosive materials), and other special exhibits
26	Specific filing cabinets and shelves,
27	Communication, wireless, wire devices and auxiliary devices
28	Computers, network devices and peripheral devices; software in service of national defense and security tasks
29	Optical devices, binoculars, periscopes; camera, movie camera, projectors, machinery and equipment used in studio; photocopiers and auxiliary parts used in the domain of national defense and security
30	Magnetic cards, bar codes, IT cards of various kinds; sound recorders; camera , accessories and auxiliary parts used in the domain of national defense and security
31	Alarming devices, fire alarm, theft fighting devices, fire-fighting equipment, electronic fences and similar equipment; accessories and auxiliary parts

32	Means of extinguishing fire: fire airplanes, fire engines; fire ships; other means of extinguishing fire and accessories; materials used for extinguishing fire: fire-fighting chemicals, fire extinguishers and other fire fighting materials; fire fighting clothes, gloves and boots
33	Models and teaching instruments used for training in reconnaissance, arrest and examination
34	Publication, printing, release of dossiers, documents and specialized books used in the domain of national defense and security.