



POCKET TAX BOOK 2018

TAX ADMINISTRATION

Audit / Tax / Advisory

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I. Tax administration

Legal Documents

- Law No. 78/2006/QH11 on tax administration.
- Decree No. 83/2013/ND-CP on elaboration of some articles of the Law on tax administration, and the Law on amendments to the Law on tax administration.
- Circular No. 156/2013/TT-BTC guidance on implementation for some articles of the Law on tax administration; the Law on amendments the Law on tax administration, and Decree No. 83/2013/ND-CP.
- Circular No. 95/2016/TT-BTC guidance on tax registration.

1. Tax registration

Taxpayers as individuals, enterprises and organizations, including foreign contractors, who are obliged to pay taxes, have to declare to the tax authorities or business registration office the basic information of the taxpayers.

- Taxpayers are enterprises that make tax registration under the Enterprise Law. Accordingly, the enterprise code is the business registration number and tax code of the enterprise.
- Each taxpayer will be given a unique tax code.

In dealing with tax authorities and other economic transactions related to the determination of tax obligations, taxpayers are obliged to write tax code on transaction documents.



Tax code registration Instructions

- Time limit for tax registration: 10 working days from:
 - Being granted business registration certificate or establishment and operation license or investment certificate;
 - Starting business with organizations that do not have to register for business or households and individuals that have to register for business but have not been granted business registration certificates yet;
 - Incurring the responsibility for tax deduction and tax payment on behalf;
 - Incurring obligation of personal income tax;
 - Incurring of request on tax refund.
- Tax registration documents: Detailed guidelines in Article 7 of Circular 95/2016/TT-BTC.
 - Declaration of tax registration.
 - A copy of the business registration certificate or establishment and operation license or investment certificate (for organizations and individuals doing business).
 - A copy of the decision on establishment or investment decision of the organization; Copy of identity card or passport for individuals (for organizations and individuals that do not have to register for business)
- Location for submission of tax registration documents: Detailed guidance in Article 8 of Circular 95/2016/TT-BTC.
 - Business organizations and individuals register tax at the tax authorities of the locality where such organizations or individuals are headquartered.
 - Organizations and individuals shall have to withhold and pay tax on behalf register tax at the tax authorities of the localities where such organizations or individuals are headquartered.
 - Individuals register tax at the tax authorities of the place where the taxable income is generated, place of permanent residence registration or temporary residence
 - Individuals paying personal income tax through income-paying entities, if authorizing the tax registration by the taxpayers themselves and their dependents to the income-paying entities, shall submit tax registration dossiers to the income-paying agencies. The income-paying entities shall sum up the tax registration declaration of each individual for submission to the tax authorities directly managing them.
- Types of submitting tax registration documents.
 - File for tax registration in hard copy.
 - Electronic tax registration documents.

2. Tax declaration

- Where tax must be declared monthly, quarterly or annually, despite that no tax is incurred during the period, or the taxpayer is eligible for tax exemption or reduction, the tax declaration is still required to be submitted on time.
- Where the information declared in the tax declaration dossier is inaccurate, incomplete or late, tax shall be imposed.
- **Tax declaration period:**
 - Tax declaration and calculation include monthly basis, quarterly basis, annually basis and each time of arising basis as well as changes in business structure such as division, separation, merger, dissolution, bankruptcy.
 - Declaration upon each time of arising basis: Declaration of import and export duties, temporary VAT calculated on each occasion for extra-provincial business activities, construction, installation and travelling sale of goods; VAT on each occasion of VAT according to direct method on the sales of irregular traders; special consumption tax on goods purchased for exporting but sold in the country; foreign contractor tax.
- **Deadlines for submitting tax declaration and finalization**
 - Monthly basis: no later than the date of 20th of the following month in which tax is incurred.
 - Quarterly basis and temporarily quarterly: no later than the date of 30th of the following quarter in which tax is incurred.
 - Annual basis: no later than the date of 30th of the first month of calendar year.
 - On each time of arising basis: no later than the 10th day from the day on which tax is incurred.
 - Annual tax finalization: within 90 days from the end of the calendar year or fiscal year.
 - Tax finalization in case of corporate division, separation, merger, transformation of corporate ownership, dissolution, termination of operation: within 45 days from the date of decision on corporate division, separation, merger, transformation of corporate ownership, dissolution, termination of operation.

3. Tax payment

- **Deadline for paying tax**

- Taxpayers, according to the tax declaration and calculation method, shall pay tax by the last day of the deadline for submission of tax declaration dossiers.
- Tax payment deadline is the basis for determining time for late payment of tax (from the date of tax payment deadline to the actual date of tax payment).

- **Currency for paying tax**

The currency for paying tax is VND. If paying in foreign currencies, taxpayers may only pay tax in the convertible foreign currencies according to regulations of the State bank and can convert into VND according to the actual exchange rate.

- **Place for paying tax**

Taxpayers may pay tax by cash, bank transfer, or electronical method, at:

- Commercial banks, credit institutions, other services as prescribed;
- State Treasury;
- The tax authority managing the tax collection;
- Organizations authorized by tax authorities to collect taxes.

- **Tax payable and the order of tax payment, late payment and fine:**

- The tax payable amount is based on the accepted declaration, if it is subject to tax impose, the deadline for tax payment shall be the time written on the tax agency's notification.
- The order of payment of taxes and fines (first incurred, first paid): Tax debt, arrears collect of tax due in previous year, tax incurred, fines.

- **Overpaid tax**

Taxpayers are entitled to offset the tax obligation with other taxes payable or in the next tax period, or to be refunded.

II. Tax examination and inspection

- The tax authority shall conduct the examination at the taxpayer's office in cases where the taxpayer fails to explain or supplement the information and documents according to the tax authority's notice; in case of signs of tax law violation; checking before tax refund and checking after tax refund as prescribed; or selected according to the annual plan or thematic; the cases of enterprise restructuring or cases of abrupt examination which complying with the direction of competent authorities.
- Tax inspection at the taxpayer's office in the case of: inspection under annual plan; abrupt inspections when detecting signs of tax-law violation by entities, organizations or individuals; inspecting for the settlement of complaints and denunciations, division, separation, merger, consolidation, dissolution, bankruptcy and equitization; or according with the request of heads of tax administration authorities at all levels or the Minister of Finance.

Before conducting tax examination and inspection, tax authorities shall send to taxpayers written notices about time and scope of tax examination and inspection.

III. Handling of tax law violations

The Law on Tax Administration 2006 and amending documents, guideline documents stipulate specific treatment of tax violations:

- The level of penalizing tax violations:
 - Taxpayers with late tax payment over the prescribed deadline are required to fully pay tax and late payment at the rate of 0.03% per day calculated on the late paid tax amount.
 - False declarations leading to the shortfall of payable tax amounts or the increase of refundable tax amounts must fully pay tax amounts declared incomplete and return the excessive tax refund and be fined 10% on the shortfall of payable tax amounts, the excessive tax refund and late payment of tax on the shortfall of payable tax amounts, the excessive tax refund.
 - Taxpayers who commit acts of tax evasion or fraud shall pay in full the tax amount as prescribed and be fined from 1 to 3 times the evaded tax amount.
- The deadline for penalizing tax violations:
 - Acts of violation of tax procedures: 2 years as from the date of committing the violation to the date of releasing the penalty decision.
 - Acts of tax evasion and tax fraud that are not liable to criminal prosecution, and acts of wrong declaration leading to decrease in the tax payable or increase in the tax refund: 5 years as from the date of committing the violation to the date of releasing the penalty decision.
 - The deadline for arrears tax collection is 10 years from the date of detecting the violation.
 - In cases where taxpayers fail to make tax registration, they are required to fully pay tax shortfall, evaded tax amounts, fraudulent tax amounts or tax late payments for the entire retrospective period, from the date of detecting violations.

Appendix 1 - VAT non-taxable objects

1. Products from farming, breeding, and aquaculture that are produced, caught, sold, or imported and are not processed into other products or have only been ordinarily preprocessed which organizations or individuals self-produce to sell and at the import stage.
Enterprises, corporations who purchase products from farming, breeding, and aquaculture that are produced, caught, sold, or imported and are not processed into other products or have only been ordinarily preprocessed to sell for other enterprises or corporations, are not required to declare, calculate and pay VAT but can deduct input VAT.
2. Breeds of livestock, plant varieties, including eggs, breeds, seeds, stems, tubers, semen, embryos, genetic materials that are raised, imported, and traded.
3. Irrigation and drainage; soil ploughing and harrowing; dredging of intra-field canals and ditches for agricultural production; services of harvesting farm produce
Fertilizers; machinery and specialized equipment serving agricultural production; offshore fishing ships with capacity greater than or equal 90CV and engaged in fishing or logistics services serving fishing; feeds for livestock, poultry, fish, and other animals.
4. Salt derived from seawater, mine salt, pure salt, refined salt, iodized salt composed primarily of sodium chloride (NaCl).
5. State-owned houses sold to tenants.
6. Land use right transfer.
7. Life insurance, health insurance, learner's insurance, other insurance services related to humans; insurance for livestock, plants and other agriculture insurance services; insurance for ships and instruments for fishing; reinsurance.
8. The following finance, banking, securities services:
 - a) Credit extension includes: loan, discounted transfer of negotiable instruments and other valuable papers; bank guarantee; finance lease; issuance of credit cards; domestic and international factoring; other forms of credit extension prescribed by law;
 - b) Loaning services provided by taxpayers that are not credit institutions;
 - c) Securities services include: securities brokerage; proprietary trading of securities; guaranteeing securities issuance; consulting securities investment; securities depository; management of securities investment fund; management of securities investment portfolio; market organization services of Stock Exchanges or securities trading centers; other securities services according to the laws on securities;
 - d) Capital transfers include: transferring part or the whole invested capital, including selling an enterprise to another enterprise to perform production and business activities; transferring of securities; other forms of capital transfers according to law;
 - đ) Selling debts;
 - e) Trading in foreign currencies;
 - g) Derivative financial services include: swapping interest rates; forward contracts, futures contracts, foreign-exchange options; other derivative financial services according to law;

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- h) Selling collateral for loans taken by organizations of which 100% of charter capital is possessed by the State, which are established by the Government to settle bad debts of Vietnamese credit institutions.
9. Health services, veterinary medicine services including medical examination and treatment services for human and animals; care services for elderly people and disabled people.
 10. Public post and telecommunications and universal Internet services under the Governments programs.
 11. Maintenance of zoos, parks, urban trees, public lighting; funeral services.
 12. Renovation, repair and construction of cultural, artistic, public service and infrastructure works and residential houses for social policy beneficiaries, which are funded with people's contributions or humanitarian aid.
 13. Teaching and vocational training as provided for by law.
 14. State budget-funded radio and television broadcasting.
 15. Publishing, importing, issuing newspapers, magazines, academic journals, political books, text books, law books, science – technology books, books in ethnic languages, printing propagating pictures and banners, including audio, video tapes, discs, or computer files; money, money printing.
 16. Mass transit by bus and tramcar.
 17. Machinery, equipment, parts, and materials that cannot be produced domestically and need to be imported to serve scientific research, technological development; machinery, equipment, parts, specialized vehicles, and materials that cannot be produced domestically and need to be imported to serve petroleum exploration; airplanes, oil rigs, and ships that cannot be produced domestically and must be imported to form fixed assets, or need to be hired from foreign partners to serve production, business, or to lease back.
 18. Weapons and military equipment for security and defense purposes.
 19. Goods imported as humanitarian aid or non-refundable aid; gifts for state agencies, political organizations, socio-political organizations, socio-political-professional organizations, social organizations, socio-professional organizations or peoples armed forces units; donations or gifts for Vietnam-based individuals within the Government-prescribed quotas; belongings of foreign organizations and individuals within diplomatic immunity quotas; and personal effects within duty-free luggage quotas.
Goods and services sold to foreign organizations or individuals or international organizations for use as humanitarian aid, and non-refundable aid to Vietnam
 20. Goods transferred out of border gate or transited via the Vietnamese territory; goods temporarily imported for re-export; goods temporarily exported for re-import; raw materials imported for the production or processing of goods for export under contracts signed with foreign parties; goods and services traded between foreign countries and non-tariff zones and between non-tariff zones.
 21. Technology transfer under the Law on Technology Transfer; transfer of intellectual property rights under the Law on Intellectual Property; computer software.
 22. Gold imported in the form of bars or ingots which have not yet been processed into fine-art articles, jewelries or other products.

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23. Exports that are raw natural resources or minerals which have not been processed into other products; exports that are goods processed from natural resources or minerals where the total value of natural resources or minerals plus energy costs makes up at least 51% of the product price.
 24. Artificial products used for the substitution of diseased people's organs; crutches, wheelchairs and other tools used exclusively for the disabled.
 25. Goods and services provided by business households and individuals that earn annual revenue of less than VND 100 million.

Appendix 2- Objects subject to VAT rate of 0% (stipulated at Article 9 Circular No. 219/2013/TT-BTC)

- Exported goods and services; construction and installation overseas and in tariff-free zones; international transport; exported goods and services that are not subject to VAT, except for the cases in Clause 3 of Article 9 Circular No. 219/2013/TT-BTC, in which 0% VAT is not applied.
- Exported goods and services are those that are sold to overseas organizations and individuals and are consumed outside Vietnam, sold to the entities in tariff-free zones, or sold to foreign customers as prescribed by law.

Appendix 3- Objects subject to VAT rate of 5% (stipulated at Article 10 Circular No. 219/2013/TT-BTC)

1. Clean water serving manufacture and routine life, except for bottled water and other soft drinks subject to 10% tax.
2. Ores used for fertilizer manufacture; pesticides and growth stimulants for plants and animals.
3. Digging and dredging channels, canals, ponds, and lakes serving agriculture; plant cultivation; preprocessing and preservation of agricultural products (except for dredging in-field trenches mentioned in Clause 3 Article 4 Circular No. 219).
4. The farming, breeding, aquaculture products that are unprocessed or preprocessed and in business trading (defined in Clause 1 Article 4 of Circular No. 219), except for the cases in Clause 5 Article 5 of Circular No.219).
5. Latex and resin that have undergone insufficient processing; fishing nets and fibers for making fishing nets regardless of materials.
6. Fresh foods for business, unprocessed forestry products for business, except for wood, bamboo sprouts, and the products enumerated in Clause 1 Article 4 of Circular No. 219.
7. Sugar; by-products during the sugar manufacture process including molasses, bagasse.
8. Products made of jute, rattan, bamboo, leaves, straws, coconut shells, hyacinth, and other handicrafts made of recycled materials from agriculture; preprocessed cotton; newspaper printing paper.
9. Medical equipment includes machinery and instruments serving healthcare such as: radiographic equipment serving medical examination and treatment, equipment and instruments for surgery and injury treatment; ambulances; instruments for blood pressure measurement, cardiography, blood infusion, syringes; birth control equipment, and other medical equipment certified by the Ministry of Health.

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10. Teaching aids include models, pictures, boards, chalks, rulers, compasses, other equipment and instruments for teaching, research, and scientific experimentation.
 11. Artistic activities, exhibitions, sports; art performances; cinematography; importing, distributing, and showing films.
 12. Children's toys; books other than those that are not subject to VAT mentioned in Clause 15 Article 4 of Circular No. 219.
 13. Scientific and technological services, which mean the activities that serve or assist in scientific research and technology development; the activities related to intellectual property; transfer of technologies, technical regulations and standards related to measurement, product quality, goods, nuclear and radiation safety, and atomic energy; consultancy, training, dissemination, and application of scientific and technological achievements to socio-economic fields under contracts for scientific and technological services defined in the Law on Science and technology, not including online games and Internet-based entertainments.
 14. Sale, lease, and lease-option of social housing according to the Law on Housing. Social housing means the housing invested by the state or the organizations and individuals from various economic sectors, which satisfy the criteria for housing in terms of selling prices, rents, and eligible buyers according to housing laws.

Appendix 4- Non-deductible expenses for determining CIT taxable income (stipulated at Section 2 Article 9 Circular 78/2014/TT-BTC and other amended documents)

1. Expenses fail to satisfy conditions of deductible expenses for determining CIT taxable
2. Depreciation of fixed assets which is not in accordance with current stipulations, the exceed depreciation in compare with current stipulations.
3. Expenses for raw materials, materials, fuel, energy and goods in excess of reasonable consumption norms.
4. Expenses for the purchase of goods and services without invoices, enterprises may make a list of purchased goods and services according to form No. 01/TNDN enclosed with this Circular, but they may not make a list attached with payment documents for goods sellers and service providers in the certain cases.
5. Salaries, wages and other amounts payable to employees that enterprises have accounted as production and business expenses in the period but have not been paid or have no payment documents as required by law; are not specified in labor contracts or collective labor agreement; financial regulations of the company.
6. Expenses for rewarding innovations and improvements for which enterprises have no specific regulations on rewarding innovations and improvements and have no council for test and acceptance of innovations and improvements.
7. Travel allowances for annual leaves not in accordance with the Labor Code.
8. Deductions for compulsory insurance funds for laborers in excess of the prescribed level; deductions for payment of trade union dues for laborers in excess of the prescribed level.
9. The amount in excess of VND 3 million a month a person which is paid to voluntary pension fund, purchase of voluntary pension insurance and life insurance for employees; the amount in excess of the limits prescribed by the law on social insurance and health insurance which is paid to social insurance funds (social insurance, compulsory additional pension insurance), health insurance fund, and unemployment insurance fund for employees.
10. Expenses for payment of unemployment allowances for laborers not in accordance with current regulations.
11. Expense for fixed asset leasing in excess of the rate of allocation by the number of years that the lessee has paid in advance the rental.
12. Creating and use of provisions for inventory price decrease, losses in financial investments, bad receivables and warranty of products, goods, construction and installation works.
13. Accrued expenses according to terms or periods but by the end of the term, the period have not been paid, such as major fixed asset repairs, accrued advance for activities that have already calculated revenue but still continue to perform their obligations under the contract
14. Losses due to exchange rate differences resulted from re-valuation of monetary items of foreign currency origin at the end of the tax period.
15. Expenses for educational fund, health fund, funding for remedying consequences of natural disasters, financing for building houses for the poor which are not in accordance with regulations.

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16. Expenses for financing scientific research not in accordance with regulations.
 17. Business management expenses allocated by overseas companies to their permanent establishments in Vietnam in excess of allocated expenses on revenue incurring in the tax period.
 18. Expenses which are offset by other funding sources; expenses which have been paid from the science and technology development funds of enterprises; expenses for buying golf membership cards and for golf playing.
 19. Expenses not corresponding to revenue for tax calculation, excluding the specific expenses in according to guidance of Minister of Finance.
 20. Expenses for investment in basic construction in the stage of investment to form fixed assets.
 21. Expenses directly related to the issuance of shares (excluding shares being payable debts) and payment of dividends (excluding dividends of shares being payable debts), and purchase and sale of treasury shares, and other expenses directly related to the increase and decrease of equity of enterprises
 22. Fines paid for administrative violations.
 23. Input VAT which are deducted or refunded, personal income tax, corporate income tax.
 24. Expenses for insurance business, lottery business, securities business and a number of other specific business activities which do not comply with separate written guidelines of the Ministry of Finance
 25. Provision fund for adding to wage fund of the following year which fails to satisfy one of two following conditions:
 - The annual level of provision is decided by enterprises but must not exceed 17% of the implemented wage fund.
 - Using such provision fund within 6 months from the fiscal year end.
 26. Loan interests are not deducted in the following cases:
 - Interests paid for production and business loans borrowed from subjects other than credit institutions or economic organizations in excess of 150% of the basic interest rate announced by the State Bank of Vietnam at the time of borrowing.
 - Interests paid for loans corresponding to the deficit of registered charter capital (or investment capital for private enterprises) according to the capital contribution schedule specified in the charter of the enterprise.
 - Interest expenses are not available for production and business activities, insufficient invoices / vouchers.
 - Total interest expenses in the period exceeded 20% EBITDA (regulated in Decree 20 & Circular 41).
 - In cases where the EBITDA is negative, all interest expenses in the tax period shall not be deducted when determining taxable income.

Appendix 5- SCT taxable objects

1. Goods:

- a) Cigarettes, cigars and other tobacco products used for smoking, inhaling, chewing, sniffing or keeping in mouth;
- b) Liquor;
- c) Beer;
- d) Under-24 seat cars, including cars for both passenger and cargo transportation with two or more rows of seats and fixed partitions between passenger holds and cargo holds;
- đ) Two- and three-wheeled motorcycles of a cylinder capacity of over 125 cm³;
- e) Aircraft and yachts;
- g) Gasoline of all kind;
- h) Air-conditioners with capacity of 90,000 BTU or less;
- i) Playing cards;
- k) Votive papers and votive objects.

2. Services:

- a) Dance halls;
- b) Massage parlors and karaoke bars;
- c) Casinos; prize-winning video games, including jackpot and slot games and games on similar machines;
- d) Betting;
- đ) Golf business, including the sale of membership cards and golf playing tickets;
- e) Lottery business.

Appendix 6- SCT non-taxable objects

1. Goods which are directly exported by producers or processors, or which are sold or entrusted by these producers or processors to other business establishments for export;
2. Imported goods, including:
 - a) Goods as humanitarian aid or non-refundable aid; gifts for state agencies, political organizations, socio-political organizations, socio-political-professional organizations, social organizations, socio-professional organizations or people's armed forces units; and donations or gifts for individuals in Vietnam within the quotas prescribed by the Government;
 - b) Goods transited or transported via Vietnamese border checkpoints or borders, and goods transported to and from border checkpoints under the Government's regulations;
 - c) Goods temporarily imported for re-export and temporarily exported for re-import which are not subject to import duty or export duty within the time limit specified in the law on import duty and export duty;
 - d) Belongings of foreign organizations and individuals within diplomatic immunity quotas; personal belongings within duty-free luggage quotas; and goods imported for duty-free sale under law;
3. Aircraft, yachts used for transport of goods, passengers, tourists, and aircraft used for national defense and security purposes;
4. Ambulances; prison vans; hearses; cars designed with both seats and standing places for transporting 24 or more people; cars running in recreation, entertainment and sport areas which neither are registered for circulation nor traffic;
5. Goods imported from abroad into non-tariff areas, goods sold from the inland into non-tariff zones for use only in non-tariff zones, and goods traded between non-tariff zones, except under-24 seat cars.



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