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MINISTRY
OF FINANCE

SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom - Happiness

No. 122-2000-TT-BTC

Hanoi, 29 December 2000

CIRCULAR ON VALUE ADDED TAX

Providing guidelines for implementation of Decree 79-2000-ND-CP of the Government dated 29 December 2000 making detailed provisions for implementation of Law on Value Added Tax (VAT)

Pursuant to the *Law on Value Added Tax* 02-1997-QH9 dated 10 May 1997;

Pursuant to Decree 79-2000-ND-CP of the Government dated 29 December 2000 making detailed provisions for implementation of the *Law on VAT*; and Decree 73-CP of the Government dated 30 July 1994 making detailed provisions for implementation of the *Ordinance on Privileges and Immunities of Diplomatic Representative Offices, Foreign Consulates and Representative Offices of International Organizations in Vietnam*;

The Ministry of Finance provides the following implementing guidelines:

A. SCOPE OF APPLICATION OF VAT

I. Taxable Objects and VAT Payers

1. Taxable objects:

Pursuant to article 2 of the *Law on VAT* and article 2 of Decree 79-2000-ND-CP of the Government dated 29 December 2000, goods and services used for the purposes of production, trading and consumption in Vietnam shall be subject to VAT, except as provided for in Section II of Part A of this Circular.

2. VAT payers:

Pursuant to article 3 of the *Law on VAT* and article 3 of Decree 79-2000-ND-CP of the Government dated 29 December 2000 making detailed provisions for implementation of the *Law on VAT*, all organizations and individuals producing and trading VAT taxable goods and services in Vietnam, irrespective of the business line, form or organization (hereinafter collectively referred to as *business establishments*), and other organizations and individuals importing VAT taxable goods (hereinafter collectively referred to as *importers*) shall be liable to pay VAT.

Organizations and individuals producing and trading goods and services shall comprise:

- Business organizations established under and with 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 organizations, socio-political organizations, social organizations, socio-professional organizations, units of the people's armed forces and other professional organizations and units;
- Enterprises with foreign owned capital and foreign parties to business co-operation contracts under the *Law on Foreign Investment in Vietnam*; and foreign companies and organizations conducting business in Vietnam beyond the scope of the *Law on Foreign Investment in Vietnam*;
- Individuals and family households carrying on production or trading, independent groups of people conducting business, and other business objects.

II. Objects Not Subject to VAT

Pursuant to article 4 of the *Law on VAT* and article 4 of Decree 79-2000-ND-CP of the Government, the following goods and services shall not be subject to VAT:

1. Products of cultivation (including products of forestation), husbandry or aquaculture which have not yet been processed into other products or which have only been semi-processed by organizations or individuals producing or selling such products.

Semi-processing means processing attached to the process of production of products of cultivation, husbandry or aquaculture during which such products are subject to preliminary treatment but are not thereby converted into other products or goods.

For example: air-drying, machine-drying, shelling, seeding of agricultural products; freezing, salt-preserving, air-drying of prawns, fish and other aquaculture products.

2. Salt products, including sea salt, salt exploited from natural salt mines, table salt and iodine salt.
3. Goods and services which are subject to special sales tax shall not be subject to VAT at the stage of production, importation or provision of services for which special sales tax has been paid, except for goods subject to special sales tax on export for which the applicable VAT rate shall be zero (0) per cent as stipulated in clause 1 of Section II of Part B of this Circular.

Example 1: Company A manufactures cigarettes which are subject to special sales tax. Company A does not have to pay VAT on cigarettes at the production stage for which special sales tax has been paid, but business establishments purchasing and selling cigarettes shall pay VAT on tobacco goods. If manufacturing Company A or a cigarette trading establishment exports, then the VAT rate of zero (0) per cent shall apply to export cigarettes and there shall be a deduction or refund of input VAT on the raw materials used in the production or trading of export cigarettes.

Example 2: Business establishment B imports alcoholic drinks which are subject to special sales tax upon importation, and therefore it is not required to pay VAT at the importation stage; but when this establishment sells alcoholic drinks to other entities, it shall calculate and pay VAT on the alcoholic drinks sold.

4. The following imported goods shall not be subject to VAT:
 - Machinery, equipment or specialized means of transportation which form part of a technological line, and construction supplies which are not yet able to be produced domestically, and are required to be imported to form the fixed assets of enterprises;
 - Aircraft, drilling platforms and watercraft leased from foreign parties irrespective of the form of lease and used for production or business (in the category not yet able to be produced domestically);
 - Machinery, equipment, accessories, specialized means of transportation and materials required to carry out petroleum exploration and field development; aircraft parts and accessories, and specialized equipment for aircraft (in the category not yet able to be produced domestically).

In cases where a production or business establishment imports a complete production line of machinery and equipment which is not subject to VAT

but in the complete production line there is machinery or equipment which is able to be produced domestically, the complete production line of machinery and equipment shall not be subject to VAT.

For example: Textile Company A imports a number of textile machines in the category not yet able to be produced domestically, which contain a number of complete electrical motors in the category able to be produced domestically, then these imported complete motors shall not be subject to VAT.

Importers must present the following file to the customs office in order to determine whether VAT is payable upon import of machinery, equipment, specialized means of transportation and construction supplies imported to form the fixed assets of enterprises; accessories and materials required to carry out petroleum exploration and field development; aircraft parts and accessories and specialized equipment for aircraft in the category not yet able to be produced domestically:

- Contract for importation, and if import is through an authorized agent there must also be the contract authorizing the importation;
- Notice of successful tenderer and contract of sale to enterprise in accordance with the tender results (if the establishment is importing to supply to a project upon successful tender);
- Financial leasing contract (if a financial leasing company imports in order to lease to an enterprise);
- Certification that the machinery, equipment, specialized means of transportation or construction supplies are imported to form the fixed assets of an enterprise, from the director of the enterprise which will use the imported assets or construction supplies; or certification from the director of the enterprise (including cases of importation of accessories, components, specialized means of transportation and materials in order to carry out petroleum exploration and field development; and aircraft parts and accessories and specialized equipment for aircraft).

In particular, aircraft, drilling platforms and watercraft leased from foreign parties in the category not yet able to be produced domestically and used for production and business shall not be subject to VAT, and leasing establishments shall only be required to present to the customs office the lease signed with the foreign party.

Enterprises in these cases shall include legal entities being enterprises established under the *Law on State Owned Enterprises*, the *Law on Enterprises* and the *Law on Co-operatives*; enterprises with foreign owned capital and foreign parties to business co-operation contracts under the

Law on Foreign Investment in Vietnam; and foreign organizations and enterprises conducting business beyond the scope of the *Law on Foreign Investment in Vietnam*.

Whether the above types of import goods which are required to be imported are in the category not yet able to be produced domestically shall be determined on the basis of the list of machinery, equipment, specialized means of transportation, construction supplies, components and accessories which have been produced domestically as issued by the Ministry of Planning and Investment.

5. Transfer of land use rights subject to land use right transfer tax.
6. Sales of State owned residential houses by the State to existing tenants in accordance with the provisions of Decree 61-CP of the Government dated 5 July 1994 on Purchase, Sale and Trading of Residential Houses.
7. Credit services and investment fund services, including lending activities and financial leasing by banks, credit institutions, financial institutions and investment funds; assignment of capital in accordance with law; and securities trading activities.

Credit services not subject to VAT means lending activities on the principle that the whole of the loan is repayable in accordance with law.

In respect of bank guarantee services, if the guarantor discharges the obligation of loan repayment on behalf of its customer who failed to fulfil the committed obligation, and the customer is required to accept the debt and refund the credit institution the amount the latter paid out on behalf of the customer, then the revenue from guarantee services remains in the category subject to VAT but the revenue from the repayment by the customer to the credit institution shall not be subject to VAT.

Securities trading activities shall include activities such as broking, self-trading, managing investments, underwriting issues and securities investment consultancy.

8. Life insurance; student insurance; insurance services such as marine crew accident insurance; personal accident insurance (including accident insurance and combined cover of life insurance and hospitalization expenses), accident insurance covering customers, travellers, automobile drivers, driver assistants and passengers; insurance cover for emergency hospitalization and surgical expenses; vasectomy insurance; personal life insurance; electrical accident insurance and so forth; livestock insurance, industrial crop insurance and other types of agricultural insurance; and non-profit-making insurance services such as social insurance, health insurance and workers' compensation insurance.

9. Medical examination and treatment services, disease prevention, family planning services, convalescence and rehabilitation services, and veterinary services.
10. Products and services in the sectors of culture and the arts, physical training and sports, as follows:
- Public cultural, exhibition, physical training and sporting activities, and training sessions and competitions which are free of charge, or for which tickets are sold to audience or participants but on a non-profit-making basis. Other items of revenue shall be subject to VAT, such as from the sale of goods, from the lease of parking areas, and from stalls at fairs, exhibitions, and so forth.
 - Artistic performances, such as *tuong* opera, *cheo* opera, *cai luong* performances, singing, dancing, musical performances, dramas, and circuses; other types of artistic performance and services of organizing artistic performances.
 - Production of all types of films (other than film with images pre-recorded), irrespective of their theme and type.
 - The publication and screening of imported films (other than blank film):
 - For cinematographic films, irrespective of their theme and type;
 - For video films and disks, only documentaries, news features and science videos.

Determinations on the theme and type of a film shall be made in accordance with the regulations of the Ministry of Culture and Information.
11. Education and vocational training, including general education, foreign languages, informatics, training in dancing, singing, painting, music, drama, circus, sports and physical education, child care and other vocational training aimed at improving people's academic, professional and occupational knowledge.
12. Radio and television broadcasting according to programs funded by the State budget.
13. Printing, publication, importation and dissemination of newspapers, magazines, specialized newsletters, political books, textbooks (including in the form of visual video or aural disk), teaching materials and books of legislation (books of legal instruments and legal documents, resolutions and other legal instruments); books printed in languages of ethnic

minorities; propaganda pictures, photos and posters; printing of money and papers with monetary value (cheques, bonds, money orders, securities and so forth); cash from overseas transmitted to Vietnam.

- *Printing newspapers* includes activities of transmitting pages of newspapers, magazines and specialized newsletters;
- *Political books* means propaganda books about the political orientation of the Party and the State, which by virtue of their special subject-matter and themes serve political tasks, or which service anniversaries and traditional days of organizations and of all levels, branches and localities; all types of statistical books which disseminate information about good people and good deeds; and books which print the speeches and theoretical studies of the leaders of the Party and of the State;
- *Textbooks* means books used by teachers and used for study in all schools from pre-primary to secondary;
- *Teaching materials* means books used by teachers and used for study in all universities, colleges, vocational and specialist schools;
- *Books of legislation* means books printing the legal instruments of the State;
- *Books printed in languages of ethnic minorities* shall include bilingual books printed in commonly used languages as well as in languages of ethnic minorities;
- Pictures, photos, posters, leaflets and brochures for propaganda purposes; slogans and pictures of the leaders, the Party flag, the National flag, the flag of the Youth League and the flag of the Young Pioneers League;
- Visual and audio videos, disks and tapes with the contents of the above-mentioned books.

14. Public hygiene services and water drainage in urban areas and residential areas; maintenance of zoos, gardens, parks, urban trees and public lighting services; funeral services; and other public welfare goods and services.

- *Public hygiene services and water drainage in urban areas* shall include collecting, cleaning, transporting and dealing with garbage and waste; dredging sewerage, and dealing with waste water and flooding in urban areas and residential areas;

- *Maintenance of zoos* shall include the management, care and protection of birds and animals in parks, zoos and national parks; and planting of trees and flowers in parks and streets;

Where an admission fee is collected for any park, zoo, and so forth, in order to cover part of its administrative and operational expenses in accordance with State regulations, the amounts so collected shall not be subject to VAT.

- *Funeral services* shall include services relating to the renting of funeral homes and hearses offered by funeral service companies; cremation and burial.

Any items collected for activities for which fees are charged in accordance with State regulations shall not be subject to VAT.

15. Maintenance, repair, restoration and construction of cultural and artistic works, public works, infrastructure and welfare housing funded by public contribution and humanitarian aid, including cases in which the State funds thirty (30) per cent or less of the total capital actually expended.
16. Public passenger transportation by bus of bus companies established and operating under the regulations of the Ministry of Transport satisfying the transportation requirements of the people within cities, urban areas and industrial zones or between cities and neighbouring industrial zones, with the routes, stops, schedules and fares stipulated by the competent authority.
17. Geological surveys, exploration, measuring and formulation of maps, which can be characterized as basic surveys of the State funded by the State Budget.
18. Water supply and drainage serving agricultural production; clean water produced by organizations and individuals for consumption in rural, mountainous and island areas and remote and distant regions.
19. Specialized arms and weaponry required for national defence and security.
 - The list of specialized arms and weaponry required for national defence and security is specified in Appendix 3 to this Circular.

Such arms and weaponry shall include complete products, synchronous items or sections, component parts, and specialized packaging for assembly and preservation of complete products.

Repairs of specialized arms and weaponry required for national defence and security shall be carried out by enterprises under the Ministry of Defence and the Ministry of Police.

- Specialized arms and weaponry (including materials, machinery, equipment and replacement accessories) required for national defence and security, whether imported as import duty exempt under the *Law on Export and Import Duties* or whether imported under the annual quota approved by the Prime Minister of the Government, shall also be VAT exempt at the stage of importation.

Importers of specialized arms and weaponry required for national defence and security which are import duty exempt as mentioned above must forward to the customs office the following file:

- Certification from the Ministry of Defence or the Ministry of Police that the imported goods are required for national defence and security;
- List of imported goods on the import quota list approved by the Prime Minister of the Government (issued by the Ministry of Trade or by the General Department of Customs);
- Contract authorizing the importation (if import is via an authorized agent).

20. Imported goods in the following cases: humanitarian aid and non-refundable aid (including imported goods funded by non-refundable ODA aid); gifts to State bodies, socio-political organizations, socio-professional organizations and units of the people's armed forces; gifts to individuals in Vietnam; personal effects of foreign organizations and individuals under diplomatic immunity regulations; hand-luggage within duty-free limits; personal effects of Vietnamese residing overseas accompanying them upon returning to Vietnam.

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

The procedures for dealing with imported goods which are humanitarian aid or non-refundable aid and not subject to VAT at the stage of importation in these circumstances shall be carried out in accordance with the provisions in clause 3 of Section I and Section II of Part D of Circular 172-1998-TT-BTC of the Ministry of Finance dated 22 December 1998 on import duty exemption.

- Goods to be sold to international organizations and foreigners for humanitarian aid or non-refundable aid for Vietnam;

Procedures for international organizations and foreigners to purchase goods in Vietnam for humanitarian or non-refundable aid for Vietnam to be exempt from VAT: International organizations and foreigners must forward a letter to the seller stating clearly their name as purchaser of goods for humanitarian aid or non-refundable aid for Vietnam and the quantity or value and type of goods purchased; and include a certificate from the Department for Administration and Receipt of Humanitarian Aid (Ministry of Finance) regarding such item for humanitarian aid.

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

- Goods and services sold to those entitled to diplomatic immunity under the *Ordinance on Diplomatic Immunity*.

Those entitled to diplomatic immunity and exemption from VAT on goods and services shall comprise:

- Diplomatic representative offices, foreign consular offices and representative offices of international organizations of the United Nations opened in Vietnam (hereinafter referred to as *representative offices*) and the head of such representative offices shall be entitled to preferential exemption from VAT on goods and services imported or purchased in the Vietnamese market:
 - Services for leasing the head office of the representative office and the residence of the head of the representative office;
 - Power and water used for living conditions at the head office of the representative office and the residence of the head of the representative office;
 - Telephone and facsimile, and services for their installation (including mobile phones);
 - Petrol and diesel oil for the automobile of the representative office bearing the diplomatic number plate NG, up to 400 litres per month per one car;

- Goods and services used in the construction, upkeep, maintenance and repair of premises being the properties used as the head office of the representative office and the residence of the head of the representative office;
 - Facilities and equipment for the head office of the representative office or the residence of the head of the representative office;
 - Goods imported or purchased domestically in accordance with the provisions in Inter-ministerial Circular 04-TTLB dated 12 February 1996;
 - A number of other essential goods purchased at shops permitted to sell duty-free goods.
- Diplomatic officials, consular officials, officials of international organizations and administrative and technical staff of representative offices shall be entitled to preferential exemption from VAT on goods and services imported or purchased in the Vietnamese market:
- Goods imported or purchased domestically in the quantities stipulated in Inter-ministerial Circular 04-TTLB of the Ministry of Trade, the Ministry of Foreign Affairs, the Ministry of Finance and the General Department of Customs dated 12 February 1996;
 - Petrol and diesel oil for the automobile of the representative office bearing the diplomatic number plate NG, up to 300 litres per month per one car;
 - A number of other essential goods purchased at shops permitted to sell duty-free goods.
- Representative offices of Governmental international organizations outside the United Nations system and members of such offices and their accompanying families shall be entitled to preferential exemption from VAT in accordance with international treaties which Vietnam has signed with such international organizations.

Representative offices of non-Governmental organizations and members of such offices and their accompanying families shall be entitled to preferential exemption from VAT in accordance with agreements which the Government of Vietnam has signed with such organizations.

- Where it is permissible for a diplomatic representative office or consular office to assign residential housing, automobiles or motorbikes to members of a diplomatic representative office or consular office entitled to diplomatic immunity, such assignment shall not be subject to VAT.

When goods are imported, the customs office shall guide the procedures for determining which objects are not subject to VAT at the stage of importation as well as which objects are exempt from import duty.

When organizations and individuals entitled to diplomatic immunity purchase goods or services, they must provide the seller with their certificate of entitlement to preferential exemption from VAT on such goods or services issued by the Department of Protocol of the Ministry of Foreign Affairs (original, or a copy sealed and signed by the authorized person of the office entitled to diplomatic immunity). Where goods or services are VAT exempt up to a stipulated quantity, then the organizations and individuals entitled to diplomatic immunity must present their register of goods purchased issued by the Ministry of Foreign Affairs. A certificate of entitlement to preferential exemption from VAT shall contain the following:

- The holder's name and address in Vietnam;
- Name of the goods and services exempt from VAT;
- Name of the business organization or individual supplying the goods or services. If goods are imported this should be stated.
- Number and date of the contract for supply between the supplier and the organization or individual entitled to diplomatic immunity.

Upon sale of goods or services, a selling establishment must prepare an invoice strictly in accordance with the form stipulated in Section IV of Part B of this Circular, specifying the name of the purchasing organization or individual and stating that the goods or services are VAT exempt. The seller shall retain the certificate of preferential exemption from VAT from the international organization or Vietnamese representative office in order to provide the basis for tax declaration and finalization.

21. Goods in transit or trans-shipment or crossing Vietnamese borders; goods temporarily imported and re-exported and goods temporarily exported and re-imported; raw materials and supplies imported for production or processing of goods for export in accordance with production or processing contracts for export signed with foreign parties.

The customs office shall resolve which goods are not subject to VAT in these circumstances. The procedures for the non-collection of VAT shall be carried out in the same manner as the procedures for import duty exemption or for dealing with duty on goods imported for the production of goods for export under contracts signed with foreign parties.

22. Goods and services provided to the following subjects and circumstances:

- Goods and services provided directly to international transportation carriers, such as fuel, raw materials, accessories, water and foodstuffs including pre-packed meals for passengers on international ships, aircraft and trains; goods loaded for export.
- International transportation carriers of goods and passengers.

International transportation shall include transportation by foreign carriers or by domestic transportation business establishments participating in the transportation of goods and passengers departing from Vietnam to foreign countries or vice versa, and the transportation of goods between foreign ports.

- Services supplying consumers outside Vietnam and export processing enterprises, except for the repair of machinery, equipment and means of transportation for foreign parties or services of labour export.
- Operations of the construction and installation of works or items of works overseas for export processing enterprises.
- Duty-free goods sold at duty-free shops at international airports, seaports, international stations and bordergates.
- National reserves goods sold by the National Reserves Office.
- Goods and services of export processing enterprises which are exported overseas; goods and services purchased and sold as between export processing enterprises; goods and services supplied by foreign organizations and individuals to export processing enterprises.

23. Technology transfers and computer software, except for exported computer software.

- *Technology transfers* shall be determined in accordance with the provisions of Chapter III - "Transfer of Technology" of the *Civil Code* of the Socialist Republic of Vietnam and implementing legislation. In the case of technology transfer contracts accompanied

by machinery and equipment, only the value of the transferred technology shall not be subject to VAT.

- *Computer software* shall include software products and software services in accordance with the provisions of Decision 128-2000-QD-TTg of the Prime Minister of the Government dated 20 November 2000 on Policies and Measures for the Encouragement of Investment in and Development of the Software Industry.

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

Gold in bars and foils and unprocessed gold shall be determined in accordance with international provisions.

25. Exported minerals which are not yet processed into other products shall be specified as follows:

- Crude oil;
- Stone slabs, sand and rare earth;
- Precious stones;
- Manganese ores, tin ores, iron ores, chromic ores, emanate ores and apatite ores.

26. Goods and services of business individuals being people with average monthly income levels lower than the minimum wage applicable to State employees as provided for by the State from time to time. Such income shall be determined by the revenue earned from business activities less (-) the reasonable expenditure of such business activities.

Business households with a low income which are not required to pay VAT shall be determined after inspection by the tax division in co-ordination with the Tax Consultancy Board, and a list shall be compiled thereof and written notice shall be provided to such business households.

Business households shall not be required to pay VAT during the duration of the above notice, but if their situation changes so that their income exceeds the stipulated limit, the tax division must notify them and place them within the category of VAT payers as from the month their income exceeded the stipulated limit.

Any organization or individual producing, trading, importing or selling goods or supplying services which are not subject to VAT or which are VAT exempt as stated above shall not be entitled to a deduction or refund of input VAT on such goods and services at any stage not subject to VAT.

B. BASES FOR AND METHODS OF TAX CALCULATION

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

I. VAT Taxable Price

Prices used for calculation of VAT on goods and services shall be specifically determined in accordance with article 7 of the *Law on VAT* and article 6 of Decree 79-2000-ND-CP as follows:

1. In respect of goods and services sold or provided by production or business establishments to other subjects, the sale price excluding VAT.

Prices used for calculation of VAT on all types of goods and services shall also include additional levies and supplementary fees on top of the price of the goods and services which the business establishment is entitled to, except for additional levies and supplementary fees the latter must pay to the State Budget.

2. In respect of imported goods, the imported price at the bordergate plus (+) import duties. The imported price at the bordergate used to calculate VAT shall be determined in accordance with the provisions on import dutiable prices.

For example: An establishment imports complete television sets, with the dutiable price of VND 2,000,000 per set.

- The rates of import duty and VAT are 30% and 10% respectively;
- Import duty payable: VND 2,000,000 x 30% = VND 600,000;
- VAT taxable price: VND 2,000,000 + 600,000 = VND 2,600,000;
- VAT payable: VND 2,600,000 x 10% = VND 260,000

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

3. In respect of products, goods and services used for the purposes of exchange, gift or donation, or paid instead of wages (except for products and goods used in promotions and advertisements in accordance with the provisions of Decree 32-1999-ND-CP dated 5 May 1999 on Commercial Promotions and Advertisements, Trade Fairs and Exhibitions not subject to VAT), the VAT taxable price shall be the taxable price of products, goods and services of the same or equivalent category at the time of such use.

For example: Establishment A manufactures electrical fans and exchanges 50 fans for steel from Establishment B, and the sale price before VAT is VND 400,000 per fan. The VAT payable in respect of the exchanged fans shall be:

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

4. In respect of products, goods and services which a business establishment produces for its own use but not to service production or trading, or uses for production and trading of goods and services not subject to VAT, then VAT output must be calculated. The taxable price shall be the selling price of the equivalent products, goods or services.

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

5. In respect of services provided by foreign parties to consumers in Vietnam, the VAT taxable price shall be the service price payable to the foreign party.

For example: Company A in Vietnam engages a foreign company for construction design. If the price payable to the foreign company is VND 100 million, then the VAT taxable price calculated and paid by Company A shall be 10% of VND 100 million.

6. In respect of property leasing services, including houses, factories, warehouses, bus or landing stations, grounds, means of transportation, machinery and equipment, and so forth, the VAT taxable price shall be the rent excluding taxes. In the case of leases for which rent is received in instalments or received in advance for a period of the lease, VAT shall be calculated on the basis of the amount of rent received in each instalment or received in advance, including receipts in other forms such as receipts for renovation, repair or upgrading at the request of the lessee.

Rent for assets shall be agreed between the parties in a contract. Where the schedule of rents is stipulated by law, the rent shall be determined in accordance with such schedule.

In the case of a lease from an overseas party of drilling platforms, machinery, equipment or means of transportation in the category of not yet able to be produced domestically, for the purpose of sub-leasing, the VAT taxable price shall exclude rent payable to the overseas party.

7. In respect of goods sold by instalment payments, the VAT taxable price shall be the lump sum price of the goods excluding taxes on one occasion

(excluding interest on instalments), without taking into account the instalments paid each time.

For example: If a Honda dealer supplies 100cc Honda motorcycles at the one-off price of VND 25 million per bike, which can be paid in instalments over 6 months plus total interest of VND 0.3 million, the VAT taxable price shall be VND 25 million per bike.

8. In respect of goods processing, the VAT taxable price shall be the processing price excluding taxes, but including charges for labour, fuel, power, auxiliary materials and other expenses of processing.

9. In respect of construction and installation:

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

For example: Construction Company A is awarded a construction contract which includes the value of the construction materials, the total payment price without VAT being VND 1,500 million of which the value of construction materials is VND 1,100 million, then the VAT taxable price shall be VND 1,500 million.

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

For example: Construction Company X is awarded a construction contract for which the owner of the works supplies the materials, the value of the construction without materials being VND 600 million, then the VAT taxable price shall be VND 600 million.

- In the case of construction and installation projects for which payment is made on the basis of delivery of completed items or the value of a quantity of completed works, the VAT taxable price shall be based on the value of items completed and delivered or the value of the quantity of works completed and delivered.

For example: Textile Company X (Party A) engages Construction Company Y (Party B) to carry out expansion of a production workshop. The total cost of the project before VAT is VND 200 billion, comprising:

- Value of construction:	80 billion
- Value of equipment (category tax rate 5%) provided and installed by Party B:	120 billion
- In addition Party B charges 5% VAT	<u>10 billion</u>

- Total payable by Party A: 210 billion
- Party A:
- When the workshop is completed and delivered to Party A, Party A shall credit the value of fixed assets for depreciation purposes at 200 billion (value without VAT).
 - The amount of VAT actually paid at 10 billion may be deducted from output VAT on goods sold, or else a request for a refund may be made in accordance with the regulations.

If Party A agrees to pay Party B for each item of work completed (assuming that construction is completed first and paid for first), when Party A pays the construction costs of 80 billion, it must add 5% VAT to the payment to Party B; the payment to be made, inclusive of VAT, shall be 80 billion + 4 billion = 84 billion.

10. In respect of business establishments to which the State allocates land for the construction of housing or infrastructure for sale or for transfer together with land use rights, the VAT taxable price of the housing or infrastructure sold or transferred shall be the sale price or the price of transfer without VAT, minus the land use rent at the land prices stipulated as at the time of allocation of the land.

For example: The State allocates to Housing Investment and Development Company X 10,000m² of land for the construction of housing for sale, of which 3,000m² of land is to be used for internal roads under the zone planning and so land use rent is not paid for that 3,000m² of land. The rate of land use rent payable to the State budget is based on VND 200,000 per m². When *Company X* sells one house with a land area of 50m², the selling price of the house plus the price of land use right transfer without VAT shall be VND 300 million (in which the price of the house is 200 million and the price of land use right transfer is 100 million). The VAT taxable price of the above house shall be: VND 300 million - (50m² x 200,000 per m²) = VND 290 million. Output VAT shall be: VND 290 million x 5% = VND 14.5 million.

In respect of business establishments to which the State leases land for investment in leasing infrastructure facilities in an industrial zone, high-tech zone or other economic zone in accordance with Government regulations on sub-leasing, the VAT taxable price shall be the lease rent without VAT, less the land lease rent payable to the State Budget.

For example: The State leases to Industrial Zone Infrastructure Business Investment Company Y 500,000m² of land for 50 years to construct infrastructure facilities for lease. Land lease rent is VND 30,000 per m² per year. After investing in the infrastructure, Company Y leases to Company Z 5,000m² of land for 20 years to construct a production workshop, the land lease rent without VAT (without including the cost of public utilities) being VND 100,000 per m² per year. Company Z pays rent for the infrastructure facilities once per year. The VAT taxable price

on the income from leasing the infrastructure facilities per year shall be:
 $(5,000 \text{ m}^2 \times \text{VND } 100,000) - (5,000 \text{ m}^2 \times \text{VND } 30,000) \times 1 \text{ year} = \text{VND } 350,000,000$. VAT shall be: $\text{VND } 350,000,000 \times 5\% = \text{VND } 17,500,000$.

11. In respect of real estate business activities, the VAT taxable price shall exclude the value of the land subject to land use right transfer tax.
12. In respect of shipping agency services, broking services, import-export agency and other services for which wages or commission are received, the VAT taxable price shall be the wages or commission received without VAT.

In respect of transportation or cargo agents, the VAT taxable price shall be the total revenue including items collected on behalf of clients. The revenue for calculating tax shall exclude any money received to pay international transportation charges or other charges imposed outside Vietnam.

13. In respect of transportation, loading and unloading activities, the VAT taxable price shall be the transportation, loading and unloading charges before VAT, irrespective of whether the establishment directly carries out or sub-lets the transportation, loading and unloading.

Transportation shall include: transportation of passengers or cargo by rail, road, waterway or pipeline.

With respect to transportation by aircraft, ships, trains, and so forth, which include international transportation activities, the revenue from international transportation (revenue from overseas transportation and transportation from Vietnam to other countries) shall not be subject to VAT.

14. In respect of goods or services of a special nature which use source documents, such as postal stamps, transportation tickets, lottery tickets, and so forth, where the price is stated as VAT inclusive, the pre-VAT price shall be determined as follows:

$$\text{Pre-VAT price} = \frac{\text{Sale price (price of ticket, stamp and so forth)}}{1 + \% \text{ of applicable VAT rate for such goods or services}}$$

For example: In January 1999 a provincial post office sold 10,000 stamps at VND 400 each. The VAT exclusive price and the VAT on these stamps shall be calculated as follows:

- Sale price recorded on the stamp (tax inclusive):
 $10,000 \times 400 = \text{VND } 4,000,000$
- Sale price before VAT = $\frac{4,000,000}{1.05} = \text{VND } 3,636,363$

- $1 + 10\%$
- VAT payable at 10% = $\text{VND } 3,636,363 \times 10\% = \text{VND } 363,636$
Equivalent to: $\text{VND } 4,000,000 - 3,636,363 = \text{VND } 363,636$
 - In respect of tourism services in the form of travel or tour package contracts, the tax-inclusive price shall be determined as the package contract price for the purpose of calculation of VAT and turnover of the business establishment. Where the package contract price includes items not subject to VAT, such as airfares for tourists from other countries to Vietnam and from Vietnam to other countries, meals and accommodation costs and excursion costs in foreign countries (if there are legal source documents), such costs shall be deducted from the VAT taxable price (turnover).

Example 1: Ho Chi Minh Tourism Company performs a package tour contract with Thailand for 50 tourists for 5 days in Vietnam with the total payment of USD 32,000. The Vietnamese company pays for all airfares, meals, accommodation and excursion tickets in accordance with the agreed program, and the cost of the return airfares between Thailand and Vietnam is USD 10,000. The output VAT under this contract shall be determined as follows:

- VAT taxable turnover shall be $\text{USD } 32,000 - 10,000 = 22,000$
- Output VAT shall be:
$$\frac{\text{USD } 22,000}{1 + 10\%} \times 10\% = \text{USD } 2,000$$
- Turnover of the establishment determined for the purpose of calculating its business results shall be $\text{USD } 32,000 - 2,000 = \text{USD } 30,000$.
- Deductible input VAT shall be determined as stipulated to calculate the amount of VAT payable.

Example 2: Hanoi Tourism Company has a contract to take Vietnamese tourists to China at the package price of USD 400/per person for 5 days. If Hanoi Tourism Company pays the Chinese Tourism Company USD 300/per person, the taxable turnover of Hanoi Tourism Company shall be USD 100/per person (USD 400 - USD 300).

15. In respect of pawnbroking services, the taxable turnover shall be the amount receivable from this service, comprising the interest receivable from providing loans when pawning and the difference earned from selling pawned goods (turnover from the auction of realized goods less (-) the amount payable to customers (if any) less (-) amount loaned).

This turnover shall be determined as VAT-inclusive turnover for the purpose of calculation of the output VAT and turnover of the business establishment.

For example: A pawnbroking Company has turnover from pawnbroking of VND 110 million in the tax period.

- Output VAT shall be:

$$\frac{\text{VND 110 million}}{1 + 10\%} \times 10\% = \text{VND 10 million}$$
- Turnover from pawnbroking by the company determined for the purpose of calculating its business results shall be:

$$\text{VND 110 million} - \text{VND 10 million} = \text{VND 100 million}$$

16. In respect of books, newspapers and magazines sold at the published price (cover price) in accordance with the provisions of the *Law on Publication*, the sale price shall be considered to be the VAT-inclusive price for the purpose of calculation of VAT and turnover of the establishment (in the case of types subject to VAT). Where not sold at the cover price, VAT shall be calculated on the basis of the sale price.

Publishing means the process of publishing publications which is carried out from the stage of manuscript to the issue of the product to readers.

For example: Literature Publishing House sells a literary work to a company which distributes the book. The cover price (VAT-inclusive price) is VND 6,300/book. The distribution fee (25%) is VND 1,575/book. The VAT taxable price shall be determined as follows:

- In a case where the Publishing House issues the book through a distribution establishment, then the VAT taxable price of the publication shall be determined as follows:
 VAT taxable price at the publishing stage = (Cover price - Distribution costs) divided by (1 + tax rate).
 VAT taxable price at the publishing stage (Literature Publishing House) shall be equivalent to:

$$\frac{\text{VND 6,300} - \text{VND 1,575}}{1 + 5\%} = \text{VND 4,500/book}$$
 Output VAT at the publishing stage shall be VND 4,500 per book x 5% = VND 225/ book.
 Total amount paid shall be: VND 4,500/book + VND 225/book = VND 4,725/book.
 VAT taxable price at the distribution stage (at the company distributing the book) shall be:

$$\frac{\text{VND 6,300}}{1 + 5\%} = \text{VND 6,000/book.}$$
 Output VAT shall be: VND 6,000/book x 5% = VND 300/book.
 VAT payable at the stage of distributing the book shall be VND 300/book - VND 225/ book = VND 75/book (assuming that there is no other input VAT).

- In a case where the Publishing House provides the book direct to readers, the VAT taxable price on the publishing activity shall be determined as follows:
VAT taxable price at the publishing stage = (Price printed on cover) divided by (1 + tax rate).
In a case where the Publishing House consigns the sale of the publication at the correct price (agency), then the use of invoices and receipts and the declaration and payment of tax by the publishing house and consignee shall be implemented the same as for the case of the sale of goods via an agency selling at the correct price and receiving commission.

The cover price less (-) the costs of issuance may not be less than the price of producing standard pages. If it is and the publishing establishment generates input VAT higher than output VAT, it shall not be entitled to a refund.

17. In respect of printing services, the VAT taxable price shall be the printing wages but not including the costs of the paper used for printing.

If a printing establishment supplies paper to a customer, the printing establishment must account separately for the price of the paper and the printing wages in order to calculate tax on the separate services of printing and the revenue from the sale of paper at the respective tax rates for printing services and for paper products.

18. In respect of services of examination agency, agency of assessment for compensation, agency for third party claims with respect to insurance business services, the VAT taxable price shall be the wages or commission entitlement, including items of costs which the insurance business establishment receives.

II. VAT Rates

Pursuant to article 8 of the *Law on VAT* and article 7 of Decree 79-2000-ND-CP of the Government, VAT rates shall be applied as follows:

1. The rate of zero (0) per cent shall apply to:

1.1 Export goods, including goods processed for export, products subject to special sales tax on export, and exported computer software products.

Export shall include export to foreign countries, sale to export processing enterprises and other cases as stipulated by Government regulations.

Goods transported abroad for sale or product introduction at fairs and exhibitions shall, subject to sufficient evidence that they are exported goods, also be eligible for the zero (0) per cent rate.

For entitlement to the zero (0) per cent rate for export goods, there must be the following documents proving actual exportation:

- Contract for sale of goods or for processing or manufacturing goods for export signed with a foreign entity, and contract authorizing export in the case of authorized export;
- Added value invoice for the sale of goods or for export of processed goods to a foreign entity, to an export processing enterprise or to others deemed to be export in accordance with Government regulations;
- Payment slip or voucher certifying payment by the foreign client or by the export processing enterprise;
- Customs declaration with the certification by the customs office of actual export of the goods. If the goods are exported by an authorized dealer, there must be a customs declaration bearing the certification of the customs office of actual export of the goods provided to such dealer, and if it is a copy it must be signed and sealed by the dealer.

1.2 Repair of machinery, equipment, means of transportation; supply of software services to foreign parties or to export processing enterprises; labour export services.

For the above cases to be eligible for the VAT rate of zero (0) per cent, they must have the following file of documents:

- Contract signed with a foreign entity or with an export processing enterprise for the repair of machinery, equipment or means of transportation, for the labour export services, or for the supply of software services;
- Added value invoice for payment of the services subject to VAT rate of zero (0) per cent;
- Payment slip or voucher certifying payment by the foreign client or by the export processing enterprise.

1.3 A number of goods deemed to be exported to which the VAT rate of zero (0) per cent shall apply:

- (a) Transitional processed goods for export in accordance with the provisions in article 17 of Decree 57-1998-ND-CP of the Government dated 31 July 1998 making detailed provisions for implementation of the *Commercial Law* with respect to importation, exportation, processing and sale and purchase agency involving foreign parties.

This shall apply to processed goods exported by an establishment (referred to as the *deliverer*) processing directly pursuant to a processing contract which the establishment has signed with a foreign party, but the processed goods are not exported overseas but are transferred to another domestic establishment (referred to as the *receiver*) on instructions from the foreign party for further processing into the finished product pursuant to a processing contract signed with the foreign party and where the foreign party will directly make payment for the processing.

When transitional processed goods are delivered to another establishment on the instructions of a foreign party, the deliverer shall provide a value added invoice recording the rate of zero (0) per cent. Processed goods for export must have the following documents and vouchers:

- Contract for processing for export together with attached appendices (if any) signed with the foreign party, specifying the receiver in Vietnam;
- Added value invoice specifying the processing fees and the quantity of processed goods returned overseas (in accordance with the fees recorded in the contract signed

with the foreign party) and the name of the receiver in accordance with the instructions of the foreign party;

- Order form for delivery of transitional processed products (referred to as the *delivery form*) fully certified by the deliverer and the receiver in respect of transitional processed products, and certified by customs managing the processing contracts of the deliverer and of the receiver.

Procedures for the delivery and receipt of transitional processed products and delivery forms shall be implemented in accordance with the provisions of Circular 03-1998-TT-TCHQ of the General Department of Customs dated 29 August 1998 providing guidelines for the implementation of Chapter III of Decree 57-1998-ND-CP of the Government dated 31 July 1998.

For example: Company A signs a processing contract with a foreign party for 200,000 pairs of shoe soles for export, with processing fees at VND 800 million. The contract specifies the shoe soles are to be transferred to Company B to produce the finished shoe product. In this case, Company A falls within the category of a transitional processor of goods for export. When preparing the vouchers for transferring the shoe soles to Company B, Company A shall specify the quantity, type and specifications of the products for delivery, and the total revenue for processing the shoe soles at VND 800 million including VAT at 0%.

- (b) The VAT rate of zero (0) per cent shall apply to processed goods for export via the establishment directly signing the processing contract with the foreign party, and the conditions for such rate to apply shall be:
 - The processing fees in the processing contract signed with the foreign party must be equal to the price stipulated in the contract between the establishment directly processing and the establishment directly signing the processing contract with the foreign party¹.
 - The establishment directly signing the processing contract with the foreign party shall only be entitled to commission on the money paid for processing.

¹ The original later defines this establishment as "the authorized dealer", so this expression is used hereinafter.

- When exporting the processed goods to the establishment directly signing the processing contract with the foreign party, the establishment directly processing the export goods shall provide an added value invoice for the purpose of obtaining payment, and record the rate of zero (0) per cent.

In this case, the establishment processing the export goods must have all the following documents and vouchers as a basis for applying zero (0) per cent rate:

- Copy of the processing contract between the establishment directly signing the processing contract with the foreign party and the foreign party, signed and sealed by the former;
- Contract for processing goods for export signed with the establishment directly signing the processing contract with the foreign party;
- Copy of the declaration of export goods by the establishment directly signing the processing contract with the foreign party, with customs certification of the quantity and line of goods actually exported. Where customs certifies on the one document the exported goods of a number of processing establishments, the establishment directly signing the processing contract with the foreign party must forward a copy of its customs declaration together with a certified list detailing the quantity and type of processed goods for export as authorized dealer on behalf of the actual processor. The authorized dealer must sign and seal both its customs declaration and certified list, and shall be responsible for the data on the list.
- Minutes of liquidation of the contract authorizing processing for export (if the contract has expired); or periodical debt reconciliation statement specifying the quantity of processed products for export which were delivered, the quantity actually exported, and the processing fees to be paid or already paid.

If any document in the above file is a photocopy, it must be certified as a true copy, signed and sealed by the director of the enterprise which holds the original.

For example: Company X signs a processing contract with a foreign party to machine-make 100,000 shirts with processing

fees of VND 200 million, but Company X signs this contract via Import-Export Company Y which will deliver the processed goods for export overseas and receive commission of 5% of the processing fees. In this case, Company X falls within the category of subjects processing goods for export. When it prepares the invoice to deliver the goods to Company Y, it shall record the VAT rate of 0%, and its total revenue for processing goods for export is VND 200 million received including VAT at 0%. Company Y's commission on export must include VAT in accordance with the regulations.

- (c) Goods sold by enterprises with foreign owned capital to foreigners but delivered in Vietnam.

This shall apply to those goods directly produced by joint venture enterprises, enterprises with one hundred (100) per cent foreign owned capital, and foreign parties to business co-operation contracts under the *Law on Foreign Investment in Vietnam* (hereinafter referred to as *enterprises with foreign owned capital*) for sale to foreign customers pursuant to a contract but the goods are not actually exported from Vietnam to overseas but are delivered to an establishment in Vietnam on the instructions of the overseas purchaser. In this case, all of the following conditions must be satisfied:

- In respect of an enterprise with foreign owned capital which sells its products (hereinafter referred to as an *exporting enterprise*):
 - The goods produced by the exporting enterprise must comply with the provisions in its investment licence;
 - The goods must be within the category subject to VAT;
 - The exporting enterprise must have an export contract signed with a foreign business entity;
 - Payment must be made via a bank in freely convertible foreign currency.
- In respect of a domestic enterprise being an establishment which purchases goods (hereinafter referred to as an *importing enterprise*):
 - It must have signed an import contract with a foreign business entity;

- The imported goods must be raw materials for the purpose of continuing production by the enterprise in accordance with its approved annual import plan (for an enterprise with foreign owned capital); raw materials and semi-finished products for the purpose of continuing production and paying tax in accordance with the regulations on imported goods (for a Vietnamese enterprise).

Where a Vietnamese enterprise imports products to implement a processing contract for export to a foreign business entity, the processing must be implemented in accordance with the provisions of Decree 57-1998-ND-CP of the Government dated 31 July 1998 and Circular 18-1998-TT-BTM of the Ministry of Trade dated 28 August 1998.

When delivering the goods to a domestic enterprise upon the instructions of the foreign purchaser, the enterprise selling the goods must prepare an added value invoice and an export declaration in accordance with the guidelines in Official Letter 55-TCHQ-GSQL of the General Department of Customs dated 30 January 1999.

Goods in this category to which the VAT rate of 0% applies must have the documents and vouchers stipulated in clause 1.1 of this Section, including:

- Contract for export of goods and any appendices (if any) signed with the foreign purchaser, specifying the name of the recipient and the address for delivery of the goods;
- Added value invoice, specifying the names of the foreign purchaser and the recipient, and the address for receipt of the goods;
- Customs declaration of export goods with the certification of the customs office of actual export of the goods in accordance with customs regulations.

If an enterprise imports goods under an import contract signed with a foreign party but fails to satisfy the above conditions, it must pay VAT in accordance with regulations.

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

2.1 Black coal and coal dust, coke, peat, coal lumps and coal bricks.

- 2.2 Mechanical engineering products (except for mechanical engineering consumer goods), comprising:
- Machinery and equipment such as: diesel engines, mills, lathes, planers, rollers, piercing mills, stamping mills; all types of complete and separate equipment; electricity and water meters; bridge girder structures; warehouse frame structures and products of metal construction; all types of automobiles and other means of transportation (including ships and all types of boats); all types of spare parts and supplies for the above products, such as pistons, cylinders and all types of replacement accessories;
 - Production management tools, such as drills, small mechanical engineering machines for agriculture, all types of sawing machines, planers, harrows, water pumps; machinery and tools for ploughing and harvesting;
 - Products being small production tools, such as pliers, hammers, saws, chisels, shovels, hoes and sickles, tool sets which are mechanical engineering products, and nails;
 - Steel wire fencing from type B27 to B41, barbed wire, metal roofing, metal messenger cabling and metal conveyor belts.
- 2.3 Products from metallurgy, rolling and drawing of ferrous, non-ferrous or precious metals, except for imported gold as stipulated in clause 24 of Section II of Part A of this Circular.
- Products from metallurgy, rolling and drawing of ferrous, non-ferrous or precious metals* shall include metallurgical flat-rolled or drawn products used as raw materials or products, such as cast iron, steel or aluminium in the form of bars or bullion or flat-rolled or drawn into steel plate, steel bars, aluminium sheet or aluminium plate.
- Products which have been manufactured or processed from metallurgical flat-rolled or drawn products shall be subject to tax rates applicable to their particular line of goods.
- 2.4 Cast moulds of all types, including all types of moulds used as a tool for production of products or goods shaped by moulds, such as moulding casts for machine parts or for production of pipes.
- 2.5 Basic chemicals, comprising all types of chemicals listed in Appendix 1 attached to this Circular.
- 2.6 Computers and their electronic parts.

- 2.7 Explosives, including blasting agents, fuses, detonators and other types which have been manufactured into specialized explosive products without changing their character and effect as explosives.
- 2.8 Welding rods.
- 2.9 Automobile tyres and rubber tubing of size 900-20 and above.
- 2.10 Goods which are subject to special sales tax at the trading stage for which VAT is paid by the tax credit method.
- 2.11 Grindstone.
- 2.12 Paper for printing newspapers.
- 2.13 Insecticide spraying packs.
- 2.14 Soil, stone, sand and gravel (but excluding products made from soil, stone, sand and gravel, such as sawn stone, facing stone, granite tiles).
- 2.15 Power cabling for voltage of 600V or more.
- 2.16 Netting, cord and fibre used for weaving into all types of fishing nets; specialized fibre or cord used for weaving into fishing nets, whether raw materials or not.
- 2.17 Clean water used for production and living consumption, exploited by production-business establishments from natural water sources and sold to other users (except for clean water exploited by establishments in rural areas, mountainous areas, offshore islands and other remote and distant areas for local production or daily activities which is not subject to VAT and other types of beverages in the ten (10) per cent tax rate group).
- 2.18 Fertilizers, ores used for production of fertilizers; pesticides and growth stimulants for domestic animals and cultivated plants.
 - Fertilizers, including organic and non-organic fertilizers, such as potash fertilizer, nitrogenous fertilizer (urea), NPK fertilizer, phosphatized fertilizer, and so forth;
 - Ores used for production of fertilizer, such as apatite ores used to produce phosphatized fertilizers, and muddy soil used for the production of bacterial fertilizer, and so forth;

- All pesticides, vermicides, disinfectants, insecticides, anti-fungus chemicals, weed removers, growth stimulants for domestic animals and cultivated plants, and so forth.
- 2.19 Specialized medical equipment, apparatus and instruments, such as X-ray machines used for disease diagnosis and treatment, equipment and specialized apparatus for surgery and treatment of injuries; ambulances; equipment for measuring blood pressure, heart and pulse, and blood transfusion; injection syringes; contraceptive devices, and other specialized medical equipment; medical sanitary cotton and bandages, and sanitary tissue for women.
- 2.20 Artificial limbs, crutches, wheelchairs and other specialized apparatus used for disabled people.
- 2.21 Preventive and curative medicines for people and domestic animals (including vaccines, biological products, distilled water for the preparation of anaesthetic); pharmaceutical products and medical drugs which are the raw materials for producing preventive and curative medicines on the lists in Appendices 1 and 2 of this Circular.
- 2.22 Glass tubing (such as ampoules for the purpose of injecting medicines and test tubes).
- 2.23 Teaching and study aids, such as models, drawings, blackboards, chalk, rulers, compasses used for teaching and study, and specialized equipment and tools for teaching, research and experiments.
- 2.24 Children's toys.
- 2.25 All types of books, except for books which are not subject to VAT as provided for in clause 13 of Section II of Part A of this Circular.
- 2.26 Products of cultivation, husbandry and aquaculture which have not yet been processed or which have only been semi-processed for cleaning, freezing or drying, and all types of seeds for growing and seedling plants, except for products which organizations and individuals produce for direct sale which are not subject to VAT as provided for in clause 1 of Section II of Part A of this Circular.
- 2.27 Unprocessed forestry products (except wood and bamboo shoots), fresh foodstuffs and foods.
- *Unprocessed forestry products* means products exploited from natural forests, such as different species of bamboo, rattan,

mushrooms, Job's ear mushrooms, roots, leaves, flowers and plants used for production of medicines, resin and other forestry products;

- *Fresh foodstuffs* means all types of foodstuffs which have not yet been processed or which have only been semi-processed but still remain fresh foodstuffs, such as cattle and poultry meat, shrimp, crab and fish, including types which have been frozen or dried;
 - *Foods* shall include rice, unhusked rice, corn, potato, cassava, wheat and wheat flour.
- 2.28 Products made from jute, sedge, bamboo, rattan and thatch, being assorted products produced or processed from main materials of jute, sedge, bamboo and thatch, such as jute carpets, jute bags, jute strings, coconut fibre mats, jute or sedge mats, ropes made from bamboo or coconut fibre, conical hats, bamboo blinds, and so forth.
- 2.29 Artificial hardboards produced from raw materials, such as bamboo, thatch, wood flour, wood shavings, sawdust, sugar-cane dregs, rice husks, and so forth, which are pressed to form board, but not including plywood.
- 2.30 Semi-processed cotton made from domestically grown cotton, being cotton which is peeled, seeded and classified (imported cotton which has been semi-processed and classified shall not fall within this category).
- 2.31 Semi-processed latex in the form of crepe, sheets, rubber, nuggets or in frozen form.
- 2.32 Food for cattle and poultry and other domestic animals, including unprocessed or semi-processed types of food, such as bran, crushed and dried peanuts, fish powder, bone powder, and so forth.
- 2.33 Construction and installation; maintenance, repair and restoration of historical and cultural heritage sites and museums, except for the activities stipulated in clause 15 of Section II of Part A of this Circular.
- *Construction* shall include contracts irrespective of whether or not they include raw materials and supplies;
 - *Construction and installation activities* within this tax rate group means construction and installation activities attached to construction works, such as the construction and

installation of machinery and equipment, power, water, lifts and interior decorations attached to the construction works.

Where the seller of supplies and goods at the same time undertakes constructing and installing them into the works by way of a package deal for the sale price of the goods, the tax rate applicable to the goods sold shall apply.

- 2.34 Houses and infrastructure for sale or transfer, which houses and infrastructure were invested in and constructed by entities to which the State allocated land (except business activities of the purchase and sale of houses and land).
- 2.35 Leasing of technical infrastructure facilities by entities to which the State allocates land, or leasing of land for the purpose of investment in infrastructure facilities for lease in an industrial zone, high-tech zone, other economic zone in accordance with regulations of the Government.
- 2.36 Dredging for channelling rivulets, river ports or seaports; rescue and salvage activities.
- 2.37 Transportation, loading and unloading activities, including transportation of goods, luggage or passengers and loading and unloading of goods or luggage, irrespective of whether the establishment directly conducts the transportation or sub-lets it, except for broking and agency activities where only commission is earned.
- 2.38 Scientific and technical services including research activities, application, and guidance on science and technology, specifically as follows:
- Services requiring high technology, such as restoration, repair and correction of various types of machinery and equipment, namely laboratory equipment, facilities for measurement and examination, science and technology equipment with automatic controls, apparatus for experiments, apparatus for quality control measurement and for testing standards of materials and products;
 - Data processing, calculation and analysis used directly for research and development;
 - Preparation of feasibility studies and pre-feasibility studies, and environmental impact assessment reports;
 - Training and application of new techniques in production.

- 2.39 Services directly serving agricultural production, including ploughing, harrowing for agricultural land; digging, embanking, dredging of canals, ponds and lakes serving agricultural production; pest control, rearing, planting, cultivation and harvest of agricultural products.
- 2.40 Distribution and screening of video films.
- 2.41 Tapes and disks, irrespective of whether they have programs recorded on them or are blank.
- 3. The rate of ten (10) per cent shall apply to the following goods and services:
 - 3.1 Petroleum, gas; ore and other minerals.
 - 3.2 Commercial electricity sold by electricity generation and business establishments.
 - 3.3 Mechanical engineering consumer products.
 - 3.4 Electronic products.
 - 3.5 Chemical products (excluding basic chemicals) and cosmetics.
 - 3.6 Fibres, cloth, garments and embroidery products.
 - 3.7 Leather and imitation leather products.
 - 3.8 Paper (excluding newsprint) and paper products.
 - 3.9 Sugar, milk, cakes, candy, beverages and other processed foodstuffs.
 - 3.10 Porcelain and terracotta; glass, rubber, plastic, wood and wooden products; cement, bricks, tiles and other construction materials (except for products in the five per cent tax rate group).
 - 3.11 Postal and telecommunication services.
 - 3.12 Leasing houses, offices, warehouses, yards, factory buildings, machinery, equipment and means of transportation.
 - 3.13 Consultancy services; survey and design services; auditing and accountancy services; insurance, including insurance broking, except for the types of insurance not subject to VAT stipulated in clause 8 of Section II of Part A of this Circular.

- 3.14 Taking, printing and enlarging photos; recording, duplicating and hiring out tapes; duplicating and recording videos.
- 3.15 Hairdressing, tailoring, dyeing, washing, ironing and bleaching.
- 3.16 Hotels, tourism and restaurants.
- Hotel and tourism services shall be determined on the basis of the standards set by the relevant line management body or in accordance with business licences.
 - There shall be no differentiation between ordinary and high-standard restaurants.
- 3.17 The tax rate of ten (10) per cent shall apply to other goods and services which are not provided for in the zero (0), five and twenty (20) per cent tax rate categories of Section II of Part B of this Circular.
4. The rate of twenty (20) per cent shall apply to the following goods and services:
- 4.1 Gold, silver and precious stones traded by business establishments.
- In respect of establishments dealing in gold, silver and precious stones which also process and refine these products, if they do not maintain a separate account for revenue and tax in respect of such activities, the general rate of twenty (20) per cent shall apply to processing and refining activities and tax shall be calculated directly on their added value.
- 4.2 Construction lottery and other types of lottery.
- 4.3 Maritime shipping agency.
- Maritime shipping agency means services of conducting procedures for ships to enter and leave port.
- 4.4 Brokerage services.
- Brokerage services means activities of business establishments acting as intermediaries for purchasers and sellers of goods, and supplying commercial services in negotiating and entering into contracts for the purchase and sale of goods and for the supply of commercial services, for which they are entitled to payment pursuant to a contract.

The above VAT rates shall apply uniformly to each type of goods and services; and shall apply to the particular type of goods irrespective of whether the goods are imported, produced, processed or commercially traded.

In respect of repairs to machinery, equipment and means of transportation being mechanical engineering products in the five per cent rate category, the rate of five per cent shall apply as for such products.

When scraps and sub-standard products are recovered for re-cycling and re-use and are sold, the VAT rate applicable to the particular line of goods shall apply.

Example 1: The VAT rate applicable to garments is 10%, such rate shall apply at all stages of import, production, processing or trading.

Example 2: The VAT rate applicable to the repair of ships shall be the VAT rate applicable to products being ships, namely 5%.

Example 3: The VAT rate applicable to steel and iron scrap recovered by establishments and sold is 5%; the VAT rate applicable to recycled plastic when sold shall be the VAT rate applicable to plastic products, namely 10%.

Goods in the category of the five per cent and ten (10) per cent rates shall be determined on the basis of the provisions in clauses 2 and 3 of Section II, and specific lines of goods are stipulated in Appendix 4 "List of VAT Rates on the List of Import Goods".

III. Methods of VAT Calculation

VAT payable by business establishments shall be calculated by the tax credit method or calculated directly on the basis of added value. Where a business establishment subject to VAT payment by the tax credit method deals in gold, silver, precious stones and foreign currencies, such establishment must maintain a separate account with respect to this activity for the purpose of calculation of VAT directly on the basis of added value.

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

1. Tax credit method:
 - 1.1 This method shall apply to business entities and organizations, enterprises established under the *Law on State Owned Enterprises*, the *Law on Enterprises* or the *Law on Co-operatives*, and enterprises with foreign owned capital and other business entities or organizations, with the exception of those applying the method of

calculation directly on the basis of added value as provided for in clause 2 below.

1.2 Determination of VAT payable:

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

In which:

- (a) Output VAT shall be equal to (=) taxable price of goods or service sold multiplied by (x) the VAT rate applicable to such goods or service.

Business establishments applying the tax credit method shall, upon selling or providing goods or services, calculate and collect VAT on the sold goods or services. When preparing sales invoices, business establishments shall specify the pre-tax sale price, VAT and total amount payable by the purchaser. Where an invoice only states the total payable amount and not the pre-tax price and VAT, VAT shall be calculated on the amount stated in the invoice. Pre-tax turnover shall be determined as equal to the sale price less (-) tax calculated on the sale price.

For example: An enterprise selling iron and steel sells 6mm steel rods at the pre-VAT price of VND 4,600,000/tonne. VAT at 5% is VND 230,000/tonne. However, some of the invoices issued by the enterprise only state the sale price of VND 4,800,000/tonne. The VAT calculated on the sales revenue shall be VND 4,800,000/tonne x 5% = VND 240,000/tonne instead of being calculated on the pre-tax price of VND 4,600,000/tonne, and revenue shall be re-calculated as VND 4,560,000 (= VND 4,800,000 - 240,000). The enterprise purchasing steel rods shall not be allowed to credit any input VAT in respect of the invoices which do not indicate VAT.

- (b) Input VAT shall be equal to (=) the aggregate amount of VAT as recorded in the added value invoices for the purchase of goods or services (including fixed assets used for production and trading of goods and services subject to VAT), the VAT amounts stated on receipts for payment of tax on imported goods (or paid on behalf of foreign parties as provided for in clause 9 of Section II of Part C below), and the amount of input VAT which is deductible in accordance with the ratios stated below:

- Three per cent of the purchase price on the invoice for:
 - Goods and services subject to VAT, businesses paying VAT calculated directly on the basis of added value with a sales invoice in the form of Form 02-GTTT-3LL or Form 02-GTGT-2LL issued with Decision 885-1998-QD-BTC of the Minister of Finance dated 16 July 1998 (hereinafter referred to as sales invoices);
 - Goods being unprocessed agricultural, forestry or aquaculture products purchased by a production establishment which are not VAT taxable at the production stage, using the added value invoice stipulated in clause 1 of Section IV of Part B below;
 - Goods subject to special sales tax purchased by business or commercial establishments for sale with a sales invoice (including purchases by sales agents subject to special sales tax for sale at the price fixed by the establishment or on commission);
 - Insurance business indemnity payments under insurance products subject to VAT (calculated on the value of the insurance indemnity) which the insurance business establishment is liable to pay.
- Two per cent of the value of goods purchased on the list of goods being unprocessed agricultural, forestry or aquaculture products; and soil, stone, sand, gravel, and scraps purchased from a seller without an invoice. In respect of establishments producing products being unprocessed agricultural, forestry or aquaculture products and not subject to VAT, if the establishment uses such products for the purpose of continuing production or processing other goods subject to VAT, the price for calculating the deduction in accordance with the stipulated ratio shall be the price of the resulting product of agricultural, forestry or aquaculture goods.

The above deductible rate (%) shall be uniformly applicable to cases of domestic trading and of export.

- In respect of purchased goods and services for which special vouchers stating the tax-inclusive price are used (including purchase invoices for national reserves goods by the National Reserves Office), establishments shall be permitted to rely on the tax-inclusive price and the

calculation method set out in clause 14 of Section I of Part B of this Circular in order to determine the pre-tax price and the deductible input VAT.

For example: During a tax period, Company A paid input VAT for a special service. The total payment was VND 110 million (VAT-inclusive). The service is subject to 10% VAT rate. The deductible input VAT shall be calculated as follows:

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

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

(c) Calculating deductible input VAT:

- *Deductible input VAT* means the VAT on goods and services used for the production or trading of goods and services which are subject to VAT.
- In respect of purchased goods which are damaged due to a natural calamity or fire or which are lost, and an organization or individual is found liable and must pay compensation, the input VAT of such goods shall be calculated on the value of the lost goods for which compensation is paid, not on the amount of deductible input VAT declared when VAT was paid.
- In respect of goods or services which are purchased for use both for VAT taxable and non-taxable production, trading or services, only the input VAT of goods and services used for the production or trading of taxable goods and services shall be deductible. The amount of non-deductible input VAT shall be included in expenses as costs of non-taxable goods and services. If goods or services are purchased and not used for production or trading, input VAT shall be included in the expenses of such activities.

In respect of fixed assets which are purchased specifically for use in production or trading of non-taxable goods and services, the VAT on such fixed assets shall be included in the original cost of the fixed assets.

- Business establishments must maintain separate accounts for input tax on goods and services used for the

production or trading of taxable goods and services, and of non-VAT taxable goods and services.

For example: Enterprise A consumes 5,000 Kwh of electricity in one month, of which 4,000 Kwh is used for the production of cement and 1,000 Kwh is used by its staff living in the residential quarter of the enterprise (the enterprise records separately the electricity consumed by the staff), deductible input VAT shall only apply to the electricity consumed for the production of cement as follows:

Deductible input VAT of electricity for the month shall be: $4000 \text{ Kwh} \times \text{VND } 700/\text{Kwh} \times 10\% = \text{VND } 280,000$

In respect of goods and services used generally in production or trading of both taxable and non-taxable goods and services, but the enterprise does not maintain separate accounts for deductible VAT, the input VAT shall only be deductible at a percentage (%) turnover of the taxable goods and services over the aggregate turnover of goods and services sold.

- Deductible input VAT at a percentage (%) turnover of taxable goods and services shall be provisionally declared every month. When tax is finalized for the year, the establishment must re-calculate the amount of deductible input VAT as a percentage of the turnover for the year of finalization. In respect of a business establishment which has a comparatively stable structure of turnover for both taxable and non-taxable goods and services, it may register with the tax office a provisional monthly percentage on the basis of the previous year's percentage turnovers, and then on tax finalization for the year it shall make finalization on the basis of the actual percentages.

For example: During a tax period, an enterprise which produces both beer (subject to special sales tax) and soft drinks (subject to VAT) incurs expenses relating to the purchase of raw materials and fuel which are used to produce both kinds of products, but fails to maintain separate accounts to ascertain the quantity of these materials used for each of the two types of product. The deductible input VAT of these materials shall be calculated as follows:

Total purchases of materials: VND 2,500 million (exclusive of VAT); total input VAT based on input added value invoices is VND 250 million, of which materials used in common and not accounted for separately is VND 500 million (exclusive of VAT), VAT being VND 50 million.

Sales revenue (before VAT) from products subject to VAT is VND 2,000 million; sales revenue from products not subject to VAT is VND 2,000 million.

Input VAT on the materials used for both types of product shall be calculated as deductible as follows:

- Fix the percentage of revenue from products subject to VAT over total revenue of products sold: $\text{VND } 2,000 \text{ million} / \text{VND } 4,000 \text{ million} = 50\%$
 - Deductible input VAT equivalent to this percentage shall be: $\text{VND } 50 \text{ million} \times 50\% = \text{VND } 25 \text{ million}$.
- Input VAT on goods and services which is deductible arising in whatever month shall be declared as deductible when the amount of tax payable for that month is determined, irrespective of whether goods have been put to use or kept in store. Where an added value invoice or a receipt for payment of input VAT for goods and services purchased arises in a month but is not declared within that month, the deductibility shall be declared in the following month, however, if there is an objective reason, it may be deductible within a maximum period of the following three months.

In the case of a corporation having offices which do not directly conduct business activities and administrative units under its control, such as hospitals, clinics, convalescent homes, training schools, and so forth, which are not required to pay VAT, claims for deductions or refunds of input VAT on goods and services purchased to service the activities of those subsidiaries shall not be permitted.

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

For example: An office of Corporation A does not directly engage in production or business but exists on the fees contributed to it by its subsidiaries. If the office of Corporation A leases out the unused part of its office as a residence, it must keep separate accounts and separately declare and pay tax for such leasing activity.

Input VAT on goods and services servicing the activities of the office of Corporation A shall not be deductible or refundable, and it must use the fees contributed as stated above in order to make payment.

- In the case of an establishment producing goods subject to special sales tax which directly exports, or does so via an authorized agent, input VAT on goods and services used for the production of export goods subject to special sales tax shall be calculated as deductible or shall be refundable in accordance with regulations.
- (d) In respect of business households which pay VAT directly on the basis of added value but change to paying VAT by the tax credit method, they shall deduct VAT paid on purchases of goods and services arising as from the month to which the method of paying VAT by the tax credit method applies; and input VAT on goods and services purchased before such month shall not be deductible.
- 1.3 The basis for determining the amount of deductible input VAT provided for above shall be the amount stated on the added value invoice of the goods and services purchased, the receipt for VAT payment at the import stage, or the receipt for VAT payment on behalf of a foreign party in accordance with the provisions in clause 11 of Section II of Part C below.

A business establishment shall not be permitted to include deductible input VAT when the added value invoice does not state the VAT (except for special cases where the VAT invoice states the payment price as VAT-inclusive and except for the cases stated in clause 2 of Section IV of this Part), or where it does not provide the name, address and tax code of the seller or does not state them correctly such that the seller cannot be identified.

- With respect to goods and services subject to VAT which are purchased with a sales invoice and the deductible input VAT is three per cent of the purchase price in accordance with the provisions in clause 1.2 of this Section: this shall only apply where lawful sales invoices for goods sold.
- With respect to goods being unprocessed agricultural, forestry or aquatic products, and soil, stone, sand, gravel or scraps purchased from a seller without an invoice and the deductible input VAT is two per cent of the purchase price in accordance with the provisions in clause 1.2 of this Section: the list of goods purchased (in the form provided in Form 04-GTGT issued with this Circular).

With respect to input goods and services which are deductible at a percentage of the purchase price, when business establishments are calculating the revenue of the enterprise they may only account in their expenses of business production for the purchase price less (-) the amount of input VAT deducted at the percentage (%) as stipulated on the purchase price.

For example: In a tax period enterprise B purchases input materials and goods at VND 100 million, and calculates their deductibility at 3% or VND 3 million. It may only account for expenses at VND 97 million (100 - 3 million), and the remaining VND 3 million shall be accounted for as deductible input VAT.

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

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

- Production and business individuals being Vietnamese;
- Foreign organizations and individuals conducting business activities in Vietnam beyond the scope of the *Law on Foreign Investment in Vietnam* and not maintaining adequate books of account, invoices and source documents to enable tax calculation by the tax credit method;
- Gold, silver, precious stones and foreign currency trading establishments.

2.2 Determination of VAT payable:

$$\text{VAT payable} = \frac{\text{Amount of Added value of goods or services}}{\text{VAT rate of goods or services}}$$

$$\text{Added value of goods or services} = \frac{\text{Turnover of goods or services sold} \times \text{Net sale price of goods or services}}{\text{Net sale price of goods or services}}$$

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

- With respect to production and sales trading activities:

The difference between the turnover of sales and the turnover of materials, goods and services purchased for production or trading. Where a business establishment is unable to identify the value of purchased materials, goods and services

corresponding to the turnover of sales of goods, it shall be determined as follows:

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

For example: Establishment A manufactures timber products. In a particular month it sells 150 products, its total sales turnover being VND 25 million. Total cost of raw materials and supplies purchased externally to produce these 150 products is VND 19 million, comprising:

- Main materials (timber): VND 14 million;
 - Other materials and services purchased: VND 5 million.
- At the applicable VAT rate of 10%, the VAT payable by establishment A shall be calculated as follows:
- Sale output VAT: VND 25 million - 19 million = VND 6 million;
 - VAT payable: VND 6 million x 10% = VND 0.6 million.

- With respect to construction or installation:

The difference between the revenue received from construction and installation of works or items of works less (-) costs of materials, power, transportation, services and other expenses of external goods or services attributable to the activities of construction and installation of works or items of works.

- With respect to transportation activities:

The difference between the revenue received from transportation, loading and unloading charges less (–) fuel costs, spare parts costs and other costs of external goods and services attributable to the transportation activities.

- With respect to catering activities:

The difference between the revenue received from selling food and drink, service fees and other revenue less (-) costs of input goods and services attributable to the provision of catering.

- With respect to activities of trading in gold, silver, precious stones and foreign currency:

The added value shall be the difference between the turnover on sales of gold, silver, precious stones and foreign currency, less (-) the net sale price of these goods.

Where business establishments in the category of those calculating tax by the tax credit method also trade in the purchase and sale of gold, silver, precious stones and foreign currency to which the method of tax calculation directly on the basis of added value applies, they must account separately for input VAT in order to declare the amount of VAT payable on goods and services for each kind of business activity and under each method of calculating VAT.

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

- With respect to other business activities:

The added value shall be the difference between the revenue from the business activities less (-) the net sale price of goods and services purchased externally to conduct those business activities.

Revenue from sale of goods and services stipulated above shall include all additional charges and fees to which business establishments are entitled in addition to the sale price, irrespective of whether or not they have been collected.

Input purchase price of goods and services stipulated above shall include all taxes and levies already paid and included in the payment price for purchased goods and services.

- Business establishments which belong to the category of those paying VAT by the method of tax calculation directly on the basis of added value shall not be entitled to include the value of assets purchased externally and investment and construction for forming fixed assets in their input purchase price of goods and services for the purpose of calculating added value.

2.3 The determination of added value as the basis for calculation of the VAT payable for each business establishment shall be as follows:

- In the case of business establishments which conduct purchases and sales with complete invoices, receipts and books of account relating to the sale and purchase of goods and services, the added value shall be determined on the basis of the sale price and the purchase price stated in such source documents.
- Where a business establishment carries out the sale of goods and services with adequate invoices or receipts and is able to determine correctly the revenue earned from the sale of goods and services in accordance with the invoices for selling goods and services, but maintains insufficient purchase invoices relating to such goods or services, the added value shall be calculated by multiplying the revenue by (x) the proportion (%) of added value levied on such turnover.
- Where a business individual (household) fails to carry out the purchase or sale of goods and services with adequate invoices or receipts or carries out the purchase or sale of goods or services with inadequate invoices or receipts, the tax office shall determine the taxable revenue on the basis of the business situation. The added value shall be calculated by multiplying the fixed turnover by (x) the proportion (%) of added value levied on such turnover.

The General Department of Taxation shall provide guidelines to Taxation Departments for the determination of the proportion (%) of added value over turnover for the purpose of forming a basis for calculating VAT which is reasonable and appropriate for each line of business and the conditions in each locality.

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

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

1. Business establishments paying VAT by the tax credit method, when selling VAT taxable goods and services must use added value invoices (except when using special invoices and receipts which state the VAT-inclusive payment price).
2. Business establishments paying VAT directly on the basis of added value, when selling taxable goods and services must use sales invoices.

3. When billing, business establishments must record fully and correctly all the stipulated items on the invoice. Added value invoices must specify the sale price excluding tax, any additional charges and fees, the VAT amount and the total payment price including tax. If the sale price excluding tax and the VAT are not specified separately, but only the payment price is specified, output VAT shall be calculated on the payment price.
4. Lawful invoices and receipts to be used shall be:
 - Invoices issued by the Ministry of Finance (General Department of Taxation) and supplied by the tax office to business establishments.
 - Self-printed invoices for use in accordance with the stipulated forms which the General Department of Taxation has agreed an establishment may use.
 - All types of other special invoices and receipts which are permitted to be used.
 - Lists of purchased goods and services, and lists of sold goods and services in accordance with the provisions in this Circular.
5. A number of specific cases for the use of, and recording on, invoices shall be provided for as follows:
 - 5.1 Production and business establishments paying tax by the tax credit method selling the following goods or services: non-VAT taxable goods or services; sale of goods or services to entities which are VAT exempt; sales of gold, silver, precious stones and foreign currency: they must use added value invoices but only write the VAT-exclusive price on the line for sale price, and cross out the line for tax rate and VAT amount. The invoice must specify that the goods are non-taxable or that they are being sold to an entity which is VAT exempt.

A sales invoice shall be used where a production establishment sells goods subject to special sales tax or business services subject to special sales tax.
 - 5.2 Business establishments paying tax by the tax credit method which are commission agents selling at the price fixed by the goods owner shall use added value invoices of the agency establishment on the sale of such goods. The invoice must specify that the goods are sold by an agent, the pre-tax price, the tax rate, the amount of VAT, and the total payment sum following the price fixed by the goods owner. For payment of commission, the agency establishment must provide an added value invoice, recording only the amount of

commission on the line for selling price, and cross out the line for tax rate and VAT amount.

In the case of business establishments paying tax by the tax credit method being commission agents selling goods subject to special sales tax at the price fixed by the production establishment, they shall use sales invoices and specify on them that the goods are sold by an agent.

- In the case of business establishments in the category paying VAT directly on the basis of added value which are commission agents selling at the price fixed by the goods owner, they shall use the sales invoices of the agency establishment on the sale of such goods. The selling price of the goods or services recorded on the invoice shall be the VAT-inclusive price following the price fixed by the goods owner. For payment of commission, the agency establishment must provide a sales invoice recording only the amount of commission. Where an agent sells goods subject to special sales tax consigned for sale by a production establishment, the invoice must specify that an agent sells the goods.
- In the case of an establishment acting as commission agent for the purchase of goods at the price fixed by the principal, the agent shall use the invoices, receipts and tax code of such establishment on purchase and payment.

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

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

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

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

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

- 5.4 In the case of a production and business establishment paying tax by the tax credit method which has goods for export (including an establishment processing goods for export and goods subject to special sales tax on export) which are subject to VAT, it shall use an added value invoice on export of the goods.

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

With respect to exportation of goods by an authorized dealer (including exportation of processed goods for other establishments), when moving the goods to the authorized dealer, the principal shall use an ex-warehouse order concurrently being an internal transportation order as published by the Ministry of Finance (General Department of Taxation) as well as an internal transfer order. After the customs office has certified the goods actually exported and their quantity and value based on a comparison of the source documents of the authorized dealer, the principal in the exportation of the goods shall provide an added value invoice to be given to the authorized dealer.

- 5.5 Use of invoices and receipts for goods for internal consumption, gifts, donations, or promotions:
- With respect to goods and products produced for internal consumption, for promotions or advertisement, or to service the production and trading of taxable goods and services, establishments may use either added value invoices or sales invoices, specifying that money is not receivable for the goods but that they are for internal consumption, to service production and trading, or for promotions or advertisement. Establishments shall record on an added value invoice only the payment price being the net or gross price of goods, and shall cross out the line for tax rate and VAT amount.
 - With respect to goods and products produced for exchange, gift or payment of workers instead of wages, for internal consumption not used for production and trading, or used for production and trading of goods and services which are not subject to VAT, the establishment must prepare added value invoice (or sales invoice) on which information is fully recorded and VAT is calculated as in the case of the invoice of selling goods to customers.

- 5.6 With respect to goods and services sold and for which a price reduction applies, the price as already reduced must be stated on the invoice.

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

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

- (a) Use an added value invoice as the basis for payment and for declaration and payment of VAT by each unit and at each stage independently;
- (b) Use an ex-warehouse order concurrently being an internal transportation order as published by the Ministry of Finance (General Department of Taxation) as well as an internal transfer order, in the case of goods being moved internally; or use a consignment order for the transportation of goods to an agent (in the Form attached to this Circular) as well as an internal transfer order.

When a dependent cost accounting establishment acts as agent on the sale of goods, it must provide an invoice as stipulated, and also provide a list of goods sold (in Form 02-GTGT attached to this Circular) and forward it to the establishment which provided it with the goods or to the consignor of the goods, in order that such establishments may prepare value added invoices for the goods actually sold. Where there is a large number and turnover of goods for sale, the list may be provided every five or ten (10) days. If different VAT rates apply to the goods sold, then a separate list must be provided for each different VAT tax rate group.

Production and business establishments may only implement one of these two methods of using invoices and receipts, and prior to doing so they must register with the tax office directly managing them.

- 5.8 In the case of a business establishment which purchases and takes possession of goods for which the seller provides an invoice, but because the goods fail to meet specifications or quality, a part or all of them are returned: The establishment must provide an invoice specifying that the goods are returned to the seller for failure to meet specifications or quality, or other, and this invoice shall be the basis for the seller and purchaser to amend the amount of VAT they declared.

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

If the purchaser returns only a part of the goods, the seller shall re-issue an invoice for the goods retained by the purchaser and shall

accept payment on the basis of the quantity, type and price as agreed by both parties.

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

- 5.9 In the case of a business establishment which has already delivered or supplied goods and services and provided an invoice, but because the goods or services fail to meet specifications or quality the selling price must be amended (reduced or increased), the seller and purchaser must prepare minutes or reach written agreement specifying the quantity of goods, their specifications, the amount of the price increase (or reduction) in accordance with which sales invoice (code number, date of the invoice and duration), and the reason for the price increase (or reduction). At the same time the seller shall prepare an invoice to reflect the amended price, specifying the amendment that has been made for the price of goods and services in accordance with the sales invoice with number and code, and so forth. The invoice amending the price shall provide the basis for the seller and purchaser to make amended declarations of output VAT and input VAT.
- 5.10 When a business establishment sends out goods for sale and circulation, it shall use an ex-warehouse order concurrently being an internal transportation order as published by the Ministry of Finance (General Department of Taxation) as well as an internal transfer order, and upon sale of the goods, it shall prepare an invoice as stipulated.
- 5.11 When a business establishment directly retails goods or provides services at a low price below the stipulated level, it shall only be required to prepare an invoice at the request of a purchaser, but if it does not prepare an invoice, it must prepare a list of retail goods sold (in Form 06-GTGT attached to this Circular) as the basis for tax calculation.
- 5.12 With respect to construction works over a long period for which payment is made in accordance with a schedule or depending on the quantity of works completed and handed over, when an establishment issues an invoice for payment for a quantity of works

constructed, installed and handed over, it must specify pre-tax revenue and VAT.

5.13 In the case of establishments to which the State allocates or leases land for investment in construction of housing for sale or for investment in infrastructure for lease, and in the case of establishments which provide transportation services with revenue from international transportation, such establishments shall prepare invoices as follows:

- In the line for sale price, they shall write the selling price of the house, the rent for the infrastructure facilities, the revenue from package tour services, or the revenue from transportation, pre-VAT.
- In the line for VAT taxable price, they shall write the selling price of the house or the rent for the infrastructure facilities less (-) the land use rent (or land rent) payable to the State Budget; or the revenue from package tour services less (-) the expenses arising overseas, such as food and accommodation and transportation fees; or the revenue from transportation less (-) the revenue from international transportation.
- In the line for tax rate, they shall write the amount of VAT and the payment price as stipulated.

(See the example in clause 10 of Section I of Part B of this Circular.)

5.14 Business establishments which purchase goods being agricultural, forestry or aquaculture products which have not yet been processed (goods which are not subject to VAT at the stage of production for sale), soil, stone, sand, gravel or scraps purchased from a seller without an invoice in accordance with the stipulated regime must prepare a list of input purchased goods (in Form 04-GTGT issued with this Circular).

This list shall be the source document for calculating input VAT based on receipts for the purchase of goods, specifying their quantity and value, the date of purchase, and the address of the seller with the signatures of the seller and purchaser.

If a business establishment declares on this list purchase prices of goods higher than their market price at the time of purchase, the tax office may fix a price based on the local market price at the time of purchase in order to calculate the amount of deductible input tax.

- 5.15 A list of insurance indemnity payments must be prepared following the vouchers for the actual payments.

In relation to insurance indemnity payments, business establishments must have the following documents:

- Added value invoice for the purchase of goods and services from the organization which received the indemnity payment, if it is a copy it must be confirmed with the seal of such organization;
- Minutes of resolution of the indemnity of the insurance business establishment, certified by the organization or individual which received the indemnity payment;
- Minutes of payment of the indemnity signed by the person receiving payment.

- 5.16 With respect to property and finance leasing services subject to VAT, the finance leasing establishment must prepare an invoice in Form 13-GTGT issued with this Circular. Finance leasing establishments shall print their own invoices and register their use with the Ministry of Finance (General Department of Taxation).

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

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

When VAT on finance leased assets has been fully credited and the assets have been transferred to the ownership of the lessee, the lessor shall transfer to the lessee the added value invoice or the purchase invoice for imported assets together with the receipt for payment of VAT on the finance leased assets.

- 5.17 With respect to activities of the purchase and sale of foreign currencies arising overseas, establishments shall prepare lists detailing turnover on the purchase and sale of each type of foreign currency. Establishments must retain all source documents of transactions with buyers and sellers overseas strictly in accordance with the *Ordinance on Accounting and Statistics*. Invoices in

accordance with regulations must be prepared for all activities of the purchase and sale of foreign currencies arising overseas.

- 5.18 Where business establishments purchase gold, silver, precious stones and foreign currency from non-trading individuals without an invoice, they shall prepare a list of input purchased goods (in accordance with Form 04-GTGT issued with this Circular).
- 5.19 When export processing enterprises sell goods or services, they shall use sales invoices (or invoices they themselves issue) in accordance with regulations of the Ministry of Finance.
6. Where an individual or administrative unit produces or trades in goods or services subject to VAT but this arises on an irregular basis and they require to use an invoice, the tax office shall provide a one-off invoice for use in each case. The person supplying the goods or services shall be responsible to forward one sheet of the invoice (the third sheet) to the tax office, which shall open a register to monitor the issuance and use of invoices in these cases and by these taxpayers.

C. REGISTRATION, DECLARATION, PAYMENT AND FINALIZATION OF TAX

I. Registration for Payment of Tax

1. Business establishments, including their affiliated establishments and branches, must register with the Department of Taxation, or with the tax division in the case of business individuals, their location of business, line of business, labour, capital, tax office where payments are to be made and other information in accordance with the form for registration for payment of tax and the guidelines provided by the tax office.

With respect to newly-established establishments, registration for payment of tax must be made within ten (10) days from the date of issuance of their business registration certificate. Where the establishment commences its business operations prior to issuance of a business registration certificate, registration for payment of tax must be made prior to commencement of its business operations.

Business establishments which have registered for payment of tax must make a declaration of any changes due to merger, consolidation, division, demerger, dissolution, bankruptcy or establishment of shops or branches, or change of business activities or change of line or location of business and so forth, and must notify the tax office thereof at least five days prior to the occurrence of such change.

2. Where an establishment carrying out production and business activities has its head office in a locality (province or city under central authority) but has a dependent cost accounting establishment including a head office or liaison office conducting procedures for sales in another locality, the business establishment must register for tax payment with the tax office where it has its head office, and the dependent cost accounting establishments must register for VAT payment with the local tax office where they have their head offices.

Organizations and providing consultancy services, survey and design services, or contracts for consultancy and services, must register, declare and pay tax at the local tax office where they have their head offices.

3. Construction and installation establishments must register and pay tax at the local tax office where they have their head offices. Where affiliated establishments without legal entity status, such as groups, teams or management boards, construct works and so forth in another locality (province or city under central authority), the construction establishment must at the same time register, declare and pay tax at the local tax office where the works are constructed.
4. In the case of establishments which sub-contract to business collectives or individuals undertaking responsibility for their own business results, the sub-contracting collectives or individuals shall register, declare and pay VAT directly at the tax office where their business is carried out.
5. If business establishments which are subject to payment of tax calculated directly on the basis of added value satisfy all conditions in respect of the sale and purchase of goods and services and fulfil all requirements in respect of invoices, source documents, books of account, declaration and payment of tax in accordance with applicable provisions and voluntarily register for application of the tax credit method, such business establishments shall be permitted to apply the tax credit method. Establishments shall prepare and submit the registration for tax payment (in accordance with Form 09-GTGT attached to this Circular) to the tax office where they register for tax payment. Upon receipt of the registration of an establishment, the tax office shall be responsible for examination thereof and for notifying the establishment in a timely manner as to whether it is permitted to apply the tax credit method (specifying the reason in the case of refusal of the application) within thirty (30) days from the date of receipt of the application of the establishment. Establishments may only pay tax by the tax credit method upon being notified by the tax office of the approval of the application.

Where business individuals (households) subject to payment of tax calculated directly on the basis of added value apply the tax credit method but in the course of such application they fail to fulfil the regulations, the

tax office may apply measures to fix the tax payable and shall issue a notice suspending the tax credit method.

6. Issuance of tax codes to taxpayers: The tax office shall be responsible for issuing tax codes and certificates of tax registration to establishments which have registered for tax payment with the tax office.

Foreign project owners (or their authorized representatives, such as works management boards) and main foreign contractors who are entitled to a refund of VAT, but do not yet have a tax code, must carry out the procedures with the Department of Taxation where they have their head office for the purpose of issuance of a tax code.

II. Declaration of VAT Payable to State Budget

Business and production establishments and importers shall be responsible for declaring VAT payable in accordance with the following provisions:

1. Business establishments dealing in goods or services subject to VAT must declare VAT on a monthly basis and submit tax declaration forms together with the list of goods or services purchased and sold in accordance with the prescribed forms (Forms 01-GTGT, 02-GTGT, 03-GTGT, 04-GTGT, 05-GTGT, 06-GTGT, 07A-GTGT, 07B-GTGT and 07C-GTGT attached to this Circular), at the latest by the tenth day of the following month.
2. In the case of business establishments paying tax by the tax credit method, declaration of tax payable for a number of specific cases shall be implemented as follows:
 - Where construction and installation establishments have affiliated establishments without legal entity status, such as building groups and teams or management boards, constructing works in other localities (provinces or cities under central authority) which do not make declaration for determination of input VAT, output VAT and tax payable in accordance with regulations at the place where the establishment has its head office, the construction and installation affiliate or the head establishment must declare revenue and VAT payable at the locality where the works or items of works are constructed, at one per cent of the pre-VAT payment price for the works or items of work. The construction and installation establishment shall be responsible to declare and make VAT tax finalization in accordance with regulations with the tax office where it has its head office. The amount of VAT paid at the locality where the works are constructed shall be included in the amount of VAT paid when the construction establishment declares and pays VAT at the tax office where it has its head office. Affiliated establishments constructing works or items of work in

another locality shall use the tax code and invoices of their higher level unit and shall use VAT Declaration Form 07C-GTGT attached to this Circular.

- If a business establishment is engaged in construction of works or items of work which involve a number of localities, such as construction of highways, power lines, pipelines for water, petroleum or gas, and so forth, and is unable to determine the revenue and expenses arising in each locality, the business establishment shall register, declare and pay VAT in the locality where it has its head office.
- Insurance business services shall not include VAT on the items collected from the following goods and services sold:
 - Receipts of indemnity payments received as re-insurers and other receipts regarding indemnity (if any);
 - Receipts from re-insuring and other receipts from selling re-insurance;
 - Premiums received as re-insurers and other receipts regarding re-insurance (including premiums for re-insurance received from insurers operating within and outside the territory of Vietnam);
 - Receipts collected from third parties.
- In the case of an establishment selling goods via an agent (a commission agent for the purchase of goods at the price fixed by the principal), the establishment shall declare and pay tax on such goods monthly using the invoices prepared for the goods sold via the agent as stipulated in clause 5.2 of Section IV of Part B of this Circular.

In the case of affiliated establishments, such as branches and sales outlets, and so forth, in localities other than the head office of the establishment, they shall declare and pay tax in the locality where the affiliated establishments have their head offices, based on input and output invoices for the goods that are delivered internally to them and for the goods they directly purchase.

An agency establishment selling goods at the price fixed by the goods owner and receiving commission shall not declare, calculate and pay VAT on goods sold as agent or on commission received from agency activities, but every month must prepare lists of input invoices and output invoices for the goods received to sell as agent in accordance with the provisions in clause 5.2 of Section IV of

Part B of this Circular in Form 02-GTGT and Form 03-GTGT attached to this Circular and forward them to the tax office directly managing the agency. If the agency may use sales invoices, column 6 of the list in Form 02-GTGT shall state the selling price as included VAT. The time-limit for preparation and submission of the declaration shall be in accordance with the regulations on tax declaration and payment.

Agency establishments which sell goods at the price fixed by the goods owner and which receive commission, and which are not subject to payment of VAT on goods sold and VAT on commission must satisfy the following conditions:

- Have a contract for agency sale, specifying the commission to be earned and the sale price fixed by the principal;
- Have invoices prepared for the goods sold as agent strictly in accordance with the provisions of this Circular;
- Conduct periodic payment for goods sold and for commission after the sale of a fixed amount of goods.

Agency establishments selling goods but not satisfying the above conditions shall declare, calculate and pay VAT on goods sold as agent as in the case of fixed purchase and sale of goods.

Agency establishments selling goods other than at the price fixed by the goods owner shall declare, calculate and pay VAT on goods sold as agent. If an agency establishment selling goods has input VAT higher than output VAT due to the fact it sold at a lower price than the price fixed by the goods owner, it shall not be entitled to a VAT refund.

Establishments acting as purchase agents at the price fixed by the goods owner and receiving commission shall declare and pay VAT on goods purchased as agent. Such establishments shall be entitled to a credit for input VAT in accordance with the provisions in clause 1.2(b) of Section III of Part B of this Circular. Upon payment of commission earned, establishments acting as purchase agents must prepare invoices; VAT shall not be charged on the commission.

- With respect to fixed assets used for the production or trading of VAT taxable goods and services for which input VAT has been credited, which are transferred to be used in activities producing or trading non-VAT taxable goods and services, or used for another purpose, the establishment must calculate output VAT on the value

of the assets transferred for such use purpose. The value of the assets shall be determined as equivalent to their sale price.

- In the case of establishments using goods and services for internal consumption not to service production and business, such as transportation, airlines, railways and post offices, which do not calculate output VAT, they must have regulations on the subjects and the restraining limits of internal consumption of goods and services, and a competent body must have provided written approval of the regulations.
- In the case of agents selling public lotteries for commission, they shall not declare and pay VAT; VAT shall be declared and paid by the lottery companies.
- In respect of corporations and companies with subsidiary units, declaration of VAT payable shall be made as follows:
 - Independent cost accounting units and dependent cost accounting units which can identify their input and output VAT shall declare and pay VAT in the locality of their business establishments.
 - In respect of dependent cost accounting units with their office in the same locality (province or city under central authority) as that of their higher level unit, such as the corporation or company, then such corporation or company shall declare and pay VAT on behalf of its dependent cost accounting unit.
 - In respect of dependent accounting units being production units with their office in a different locality (province or city under central authority) from the company, if they do not directly sell goods and generate turnover and the unit cannot carry out full cost accounting for input VAT, then the head office of the company shall declare and pay VAT.
 - In respect of dependent accounting units being production and trading units with their office in a different locality from the company, and they directly sell goods and generate turnover, then they shall declare and pay VAT in the locality where such dependent accounting units have their head office; if such goods were transferred internally by the company for sale, then they must have the invoices stipulated in clause 5.7 of Section IV of Part B of this Circular.

Corporations and companies shall, on the basis of their organizational structure and business activities, determine and register establishments which are subject to tax declaration and

payment at the tax office where such establishments are conducting business. Where it is necessary to declare and pay VAT other than in accordance with the above guidelines, corporations or companies must refer to the Ministry of Finance for specific guidelines.

- Business establishments providing financial leasing services shall not declare and pay VAT on such services. They shall declare and calculate VAT on assets which they provide to other units on hire-purchase being VAT-taxable in accordance with invoices prepared under the provisions in clause 5.16 of Section IV of Part B of this Circular.

Establishments shall only declare VAT on financial leasing services in accordance with the provisions in this Circular by using the list in Form 02-GTGT and the list in Form 03-GTGT for leased assets which are VAT taxable, only recording in "column 7: input VAT" of Form 03-GTGT the amount of VAT on leased assets apportioned consistently with the added value invoices prepared for financial leasing services in the period of the declaration.

Where a lessee does not implement a contract resulting in the lessor recovering the leased assets, the lessor must notify the lessee and calculate accurately the amount of VAT paid and the amount of VAT unpaid. If the lessor then leases to another party, it must calculate the amount of uncollected VAT in order to collect it under the new contract.

If assets are leased for a period and then sold by the lessor to the lessee or another party, the lessor must calculate VAT on the assets sold and issue an added value invoice, and shall only be entitled to a credit for input VAT on assets not collected in full.

If both the lessor and lessee together pool capital to purchase the asset, the lessor shall only collect rent (capital and interest) corresponding to the amount of capital paid and the invoice for the purchase of the leased asset shall be managed by the lessor establishment up until ownership is transferred to the lessee. The amount of VAT corresponding to the amount of capital the lessee paid shall be calculated on the initial invoice for the collection of money.

Where a financial leasing contract is fulfilled and the lessee has paid all VAT and the two parties agree to continue the lease, the invoice prepared for the next lease term shall not include VAT.

- In the case of business establishments which pay VAT by the tax credit method and which have trading activities of purchase and sale of gold, silver, precious stones and foreign currency paying tax directly on added value, they shall declare and pay VAT as follows:
 - In respect of goods and services on which VAT is calculated by the tax credit method, it shall prepare a detailed declaration (in Form 01-GTGT attached to this Circular) and not record items 1, 7, 8 and 9.
 - It shall prepare a separate detailed declaration for the business activities of the purchase and sale of gold, silver and precious stones and for the foreign currency business activities (in Form 07A-GTGT attached to this Circular) and not record the corresponding details of the goods and of the foreign currencies.
 - On the basis of all of the above declarations, it shall prepare an overall VAT declaration (in Form 01-GTGT attached to this Circular) and only record items 1, 6, 8, 9 and 10.

Every month, it must submit to the tax office the overall VAT declaration and the detailed VAT declarations with a list of the source documents for the goods and services purchased and sold (in Forms 02-GTGT, 03-GTGT, 04-GTGT, 05-GTGT and 06-GTGT attached to this Circular).

In the case of business establishments, such as banks, with dependent accounting units in the same locality, such affiliated units must prepare lists of goods and services purchased and sold for filing at the head establishment. When preparing a list of goods and services purchased and sold, the head establishment shall only collate an overall report from these lists.

- Aircraft transportation companies shall declare and pay VAT on their aircraft transportation activities in the locality where the company has its head office.
- Where a business establishment sells VAT taxable goods to a purchaser and for a price stipulated by State regulations with State assistance for the price and transportation charges, output VAT must be calculated for the purpose of declaration and payment of VAT on the goods at the sale price stipulated by the State. VAT shall not be calculated on the price and transportation charge provided from the State Budget, and the establishment shall account for it in income for the purpose of calculating corporate income tax.

- An office of a corporation which does not directly trade shall not be within the category of VAT taxpayers if it sells its assets, including taxable assets, and shall not calculate, declare and pay VAT on the assets sold. Upon sale of assets, the unit must prepare an invoice in the form HD-TS-TL-3L in Decision 55-2000-QD-BTC of the Minister of Finance dated 19 April 2000 issuing *Regulations on Management of and Dealing with Assets of Administrative Offices* (the invoice is issued by the Department of Finance and Pricing of provinces and cities under central authority). Production and business establishments which purchase liquidated assets shall not be entitled to a credit on input VAT.
- When a business establishment merges or dissolves (including sales of mortgaged goods to recover debts by commercial banks or credit institutions in accordance with law), and there is a sale of assets being VAT taxable goods, VAT must be calculated, declared and paid on the goods sold. A business establishment or an organization conducting a liquidation sale of the goods of a business establishment upon merger or dissolution must prepare invoices in accordance with the provisions on declaration and payment of VAT.

In the case of a sale of the assets of an enterprise in accordance with Decree 103-1999-ND-CP of the Government dated 10 September 1999 on Transfer, Sale, Contractual Management or Lease of State Owned Enterprises, or the sale of assets of a bankrupt enterprise in accordance with the law on business bankruptcy, VAT shall not be calculated, declared and paid on such assets.

3. Where foreign individuals or economic organizations having no offices or managing offices in Vietnam supply taxable goods or services which are subject to VAT to Vietnamese entities, the Vietnamese individuals or organizations directly entering into contracts with such foreign individuals or organizations for the purpose of consuming the goods or services shall declare and pay VAT on behalf of such foreign individuals or organizations prior to making any payment to them.

Example 1: Company A in Vietnam acting as sales agent for an overseas company shall be required to declare and pay VAT in respect of the goods subject to VAT upon importation and sale in the domestic market as if the goods were imported by the Company for domestic sale.

Example 2: Company B in Vietnam engages a foreign company to provide a construction design for a contract value of USD100,000. Company B shall pay VAT on the payment for this service. The VAT paid by Company B shall be deemed as input tax to be credited in accordance with the provisions on tax credit.

4. Business establishments and importers of goods subject to VAT must declare and submit VAT declaration forms on each occasion when goods are imported at the same time as making import duty declarations to the customs office collecting import duties.
5. Declaration of VAT by import-export business establishments importing VAT-taxable goods via authorized agents (including principal and agent):

An authorized agent shall not declare and pay VAT on goods it imports as authorized agent, but must declare the added value invoices for such imported goods it has paid for the principal with the tax office on list 03-GTGT together with the invoices and receipts for any other goods and services purchased. The invoices for the goods imported as authorized agent shall be listed separately on the list.
6. Business establishments trading in lots must declare and pay tax in respect of each lot of goods to the Department of Taxation where the goods are purchased prior to dispatch of such goods (except in cases of VAT exemption under Government regulations). The VAT payable in respect of goods traded in lots shall be calculated directly on the basis of added value.
7. Where a business establishment deals in different items of goods and services subject to different rates of VAT, it must declare VAT for each individual item of goods or services at the applicable tax rates. Where it is unable to determine individual applicable tax rates, payment of tax shall be at the highest tax rate applicable to the goods produced or services provided.
8. Where turnover of sales of goods or services is not generated or there is no input or output tax, business establishments must still make and lodge declarations with the tax office. Establishments must make full declarations strictly in accordance with the forms for tax declaration and shall be responsible for the accuracy of their declarations. If after submission of a declaration to the tax office, a business establishment discovers there was an error in the data on that declaration, the business establishment must notify the tax office and at the same time prepare a replacement declaration, or record an amendment on the declaration for the next month (where the error is discovered after the tax office has already issued a tax notice).
9. In respect of business establishments which engage in the purchase and sale of gold, silver, precious stones and foreign currency, pay tax directly on added value, and fully implement a system of purchasing and selling goods and services with proper invoices, receipts and accounting entries: if in one month their declaration of VAT payable is a negative (-) amount, they shall not pay VAT but the negative amount of VAT shall be carried

forward to deduct from the amount payable in the following month and upon tax finalization for the whole year, but a negative amount of VAT may not be carried forward from one finalized year to the next year.

10. In respect of administrative units and other organizations which are engaged in production or business of goods and services subject to VAT, these units shall register, declare and pay VAT and corporate income tax as stipulated by law. Where a unit does not carry out cost accounting and is unable to separate costs and input VAT of taxable goods and services, amounts of VAT and corporate income tax payable shall be determined on the basis of turnover and percentage (%) of added value and percentage (%) of corporate income on turnover as calculated by the tax office for the purpose of tax declaration and payment.
11. Foreign organizations and individuals which are engaged in production or business in Vietnam not in the forms of investment under the *Law on Foreign Investment in Vietnam* (hereinafter referred to as *foreign contractors*) shall declare and pay VAT under separate regulations of the Ministry of Finance.

Where a business establishment in Vietnam enters into a contract with a foreign contractor who does not implement the Vietnamese accounting system, and the business establishment in Vietnam declares and pays tax calculated directly on the basis of added value on behalf of the foreign contractor, such business establishment in Vietnam shall be entitled to a credit of input VAT being the amount it paid on behalf of the foreign contractor.

12. VAT shall not be payable on goods which establishments being winning tenderers directly import (including import through an authorized agent), the goods being goods covered by the provisions in clause 4 of Section II of Part A of this Circular, for the purpose of sale to an enterprise to form fixed assets for an approved investment project.

When transmitting goods imported by an authorized agent, an establishment must issue an invoice in accordance with the provisions in clause 1 of Section IV of part B of this Circular.

13. Business establishments submitting monthly tax declaration forms together with the list of goods or services purchased and sold shall make declarations in a number of cases as follows:
 - In respect of goods and services directly retailed to consumers, such as electricity, water, petrol and oil, postal services, hotel or food and beverage services, passenger transportation and other retailing of consumer goods and services, declaration may be made for the total turnover from such retail sales and it shall not be necessary to declare each invoice.

- In respect of goods and services purchased from retailers of goods and services, a general list may be made for these purchased goods and services and it shall not be necessary to make a detailed list of each invoice.

III. Payment of VAT

Business establishments and importers required to declare VAT in accordance with the provisions of Section II above, and small business households and individuals subject to payment of VAT on the basis of fixed turnover for the purpose of determining added value and tax payable, shall be responsible for paying VAT in full and in a timely manner to the State Budget in accordance with the tax payment notice issued by the tax office.

The order and procedures for the payment of VAT shall be as follows:

1. In the case of business establishments which pay tax monthly in accordance with the tax payment notice issued by the tax office (in Forms 08A-GTGT and 08B-GTGT attached to this Circular), the time-limit for tax payment for the month stated in the notice shall be no later than the twenty fifth day of the following month.

Upon receipt of a tax payment notice, an establishment shall, based on the amount of tax payable stated in the notice, pay tax directly to the State Budget (at the State Treasury). Any establishment which has a bank account may carry out procedures to request its bank to transfer the amount of tax payable from its account to the State Budget; the date of payment shall be the date on which the transfer from the account of the business establishment to the State Treasury is made. Where an establishment has not received a tax notice from the tax office by the due date, the establishment shall pay tax to the State Budget in accordance with its declaration.

Establishments with a substantial monthly tax liability may provisionally pay tax every ten (10) or fifteen (15) days; upon declaring the tax payable for the month, the tax provisionally paid shall be credited and the establishment shall pay any outstanding amount. The tax payment period shall be determined and notified by the tax office to the establishment for implementation.

In respect of business individuals (households) which pay tax on fixed turnover, the tax office shall issue a tax payment notice based on the fixed amount of tax. The time-limit for notice of tax payment in respect of business households shall be determined by the tax office in accordance with each line of business and each location but shall not be later than the

twenty fifth day of the following month. The time-limit for payment of tax shall be the date fixed in the tax notice.

In respect of households and individuals doing business (except for taxpayers who pay tax based on a declaration) in locations which are far from the State Treasury or doing itinerant or irregular business, the tax office shall collect tax and pay it to the State Budget. The time-limit for the tax office to pay the collected tax to the State Budget shall not exceed three days, and in the case of mountainous areas, islands or areas where transportation is difficult shall not exceed six days, from the date of collection of tax.

2. Business establishments and importers of goods shall be liable to pay VAT upon each occasion of importation of goods. The time-limit for notices and payments of VAT in respect of imported goods shall be the same as the time-limit applicable to notices and payments of import duties.

With respect to goods which are not subject to import duties, or where the import duty rate is zero (0) per cent, the time-limit for declaration and payment of VAT shall be within the time-limit applicable to goods subject to import duties.

With respect to imported goods which are non-commercial or small volume border imports, they shall not be subject to tax notices for declaration and payment immediately upon import.

Where imported goods (including materials, machinery, equipment, and so forth) which are not subject to VAT upon importation, such as raw materials imported for production or processing of export goods, gifts, donations, humanitarian aid or non-refundable aid, and so forth, are sold or used for other purposes, the establishments must declare and pay VAT to the tax office directly managing the establishment as in the case of goods traded by such establishment.

3. Stable business establishments which purchase raw materials or goods, transport their goods for sale or for exchange with other establishments, or transport goods internally must have sufficient invoices and receipts in accordance with the regulations on invoices and receipts in respect of goods circulated in the market. In the absence of the stipulated vouchers, such establishments shall be dealt with for a breach of the regulations on invoices and receipts, or for a breach of the tax regulations, or (in respect of goods imported without invoices and receipts) shall have the goods confiscated in accordance with law.

When tax is collected, the tax office or the State Treasury office shall issue to business establishments tax collection receipts or vouchers confirming the tax collected in the form of receipts or vouchers issued uniformly by the Ministry of Finance. The tax office shall be responsible for guiding

and examining business establishments in maintaining recording and accounting regimes and in clearly stating the amounts of VAT in receipts and vouchers as the basis for calculation of the amount of VAT payable and amount of VAT to be credited.

4. Any excessive amount of VAT which a business establishment has paid in a previous tax period shall be credited against the VAT payable in the following tax period. Any shortfall in the previous tax period shall be paid in the following tax period.

Where a business establishment transfers to another locality (another district in the case of a taxpayer directly managed by a tax division; or another province or city under central authority in the case of a taxpayer directly managed by a Department of Taxation), it must pay the full amount of any shortfall and have such payment verified by the tax office directly managing it, prior to transferring its head office.

In the case of establishments paying tax on the tax credit method which transfer their head office, if they have input VAT not fully credited or have paid an excess amount, then when they declare and pay tax at the tax office directly managing them in the new locality, they shall be entitled to a credit or deduction. Such business establishments must prepare a report on the totals of tax generated and totals of amounts paid and excess payments, and forward it to the Department of Taxation for verification as the basis for declaring, calculating and paying tax at the tax office directly managing them in their new locality.

If during any tax period a business establishment subject to VAT by the tax credit method has input tax exceeding output tax payable, the excess amount of tax shall be carried forward to the following tax period. Where a business establishment invests in new fixed assets and is entitled to a large credit of input tax, a gradual credit or refund shall be carried out in accordance with the provisions stipulated in Part D of this Circular.

5. VAT shall be paid to the State Budget in Vietnamese dong. Where a business establishment has turnover or purchases goods or services in foreign currency, there must be a conversion of such foreign currency into Vietnamese dong at the actual average selling and buying exchange rates in the inter-bank market as published by the State Bank of Vietnam at the time when the sale or purchase of goods and services in foreign currency arises, for the purpose of determining the amount of VAT payable.

IV. Finalization of VAT

In accordance with article 14 of Decree 79-2000-ND-CP, business establishments in all economic sectors, except for medium and small business households which pay VAT on fixed turnover, must finalize VAT with the tax office.

The year for the purpose of tax finalization shall be the Gregorian calendar year. Within sixty (60) days from 31 December of a tax finalization year, business establishments must submit tax finalization reports to the tax office.

In the case of merger, consolidation, division, demerger, dissolution or bankruptcy, business establishments must finalize their taxes with the tax office within forty five (45) days from the date of issuance of the decision on merger, consolidation, division, demerger, dissolution or bankruptcy.

Business establishments shall carry out financial finalization in accordance with State regulations; based on such finalization, business establishments shall be responsible for declaring all amounts of tax payable, amounts already paid, amounts to be paid or excess amounts already paid within the time-limit for tax finalization. Business establishments must declare in full and correctly the data and figures in accordance with tax finalization forms and send them (in accordance with Form 11-GTGT attached to this Circular) to the local tax office at which they register for tax payment within the above time-limit.

Business establishments shall be responsible for paying any outstanding amount of tax to the State Budget within ten (10) days from the date of submission of the finalization reports. Any excess amount paid shall be credited against the tax amount payable for the following period or refunded where establishments are entitled to tax refund.

Projects owners (who are not VAT taxpayers) and main contractors entitled to VAT refunds must finalize VAT with the Department of Taxation when their projects are completed. Foreign contractors entitled to VAT refunds must finalize VAT prior to termination of their contracts, unless they have authorized a Vietnamese organization to carry out tax finalization on their behalf.

Establishments shall be responsible for the accuracy of the information declared in their tax finalization forms; any deliberate false declaration aimed at tax evasion shall be penalized in accordance with law.

D. REFUND OF VAT

I. Subjects and Cases of Entitlement to VAT Refund

1. Business establishments paying tax by the tax credit method shall be considered for tax refund in the following cases:

- (a) Where there is cumulative deductible input tax of three or more consecutive months (irrespective of the accounting period) exceeding output tax, a business establishment shall be entitled to a tax refund. The refunded tax amount is input tax which has not yet been fully credited of the tax refunding period.

For example: Enterprise A declares VAT tax with input VAT and output VAT as follows:

(Unit: VND million)

<i>Month of tax declaration</i>	<i>Deductible input VAT in the month</i>	<i>Output VAT arising in the month</i>	<i>Tax payable</i>	<i>Accumulated amount of input VAT not yet credited</i>
December 2000	200	100	- 100	- 100
January 2001	300	350	+ 50	- 50
February 2001	300	200	- 100	- 150

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

- (b) A business establishment exporting goods in a month with input VAT not yet credited of VND 200 million or more shall be considered for refund of VAT for the month or for a consignment of goods (if the specific input VAT for the particular consignment is able to be determined).

In respect of goods exported by an authorized agent or processed for export through another establishment which signs the contract for export processing or export transitional processing, the subject eligible for the VAT refund shall be the principal authorizing the export or the establishment directly processing the export goods.

2. Where a newly-established establishment invests in new assets and has registered to pay tax by the tax credit method, but has not yet generated any revenue from the sale of goods to be able to calculate output VAT: if the period of investment is one year or more, it shall be considered for refund of input tax on an annual basis. If the amount of input VAT on invested assets to be refunded is higher than VND 200 million, it shall be considered for a quarterly refund.

Example 1: A new business establishment is established in 1999; it invests VND 6 billion in construction and installation and VND 2 billion in machinery and equipment during the year.

- The input VAT in respect of materials used for construction and installation is VND 400 million;
- VAT in respect of machinery and equipment is VND 200 million.

At the end of 1999, the project has not commenced operations and has no turnover and therefore no VAT liability. Following the VAT finalization report for 1999, input VAT is fixed at VND 600 million, and so the establishment shall prepare an application file to the tax office for refund of VND 600 million VAT.

If input VAT of the enterprise overall for each quarter is greater than VND 200 million, the enterprise may request a tax refund each quarter.

If the investment is new but no enterprise has been established, or if an enterprise has been established but has not yet registered for tax payment, it shall not be entitled to VAT refund under this provision.

3. Business establishments which have paid an excessive amount of tax shall, when finalizing tax upon merger, consolidation, division, dissolution or bankruptcy, have the right to request the tax office to refund the amount of excess VAT.
4. Tax refunds shall be made to business establishments in accordance with a decision of a competent tax authority in accordance with law.
5. Refund of VAT paid by ODA funded projects shall be provided for as follows:
 - The owner of a project funded by non-refundable ODA purchases goods and services with VAT from a domestic supplier for use in these projects;
 - A main contractor paying VAT by the tax credit method and using non-refundable ODA to supply goods and services to projects funded by non-refundable ODA shall not calculate output VAT but shall calculate deductible output VAT or be entitled to a refund of output VAT on goods and services with VAT purchased domestically.

For example: Construction company A undertakes the construction of the works of Project B funded by non-refundable aid at the price in the contract signed with the project owner, and the value of the construction and installation without VAT is VND 4 billion. Project B owner directly purchases plant domestically to deliver to

Company A to construct and install, the price of the plant without VAT is VND 1 billion and VAT is VND 100 million.

If Company A is paid at the contract price without VAT of VND 4 billion, Company A shall be credited with input VAT on the goods and supplies purchased to service the construction of the Project B works.

Project B owner shall be entitled to a refund of input VAT on the plant purchased domestically namely VND 100 million.

- Owners of projects funded by ODA loans or mixed ODA in the category of State Budget investment not wholly or partly refundable shall be entitled to a credit of input VAT or a VAT refund on goods and services purchased from suppliers with VAT or on imported goods on which VAT has been paid.
- Where a project owner awards a contract to main contractors in the category of taxpayers by the tax credit method to supply goods and services at a price not including VAT to such project, the main contractors shall not calculate output VAT but shall be entitled to a credit or refund of input VAT on goods and services used for such project.

For example: Construction company M undertakes the construction and installation of the works of Project C funded by an ODA loan, and the project is in the category of a State Budget investment on a non-refundable basis. The value of the construction and installation without VAT is VND 5 billion, VAT at 5% is VND 250 million. Project B (*sic*) owner imports plant to deliver to Company M to construct and install, the price of the imported plant without VAT is VND 2 billion and VAT is VND 200 million. Project B (*sic*) owner shall be entitled to a refund of input VAT namely VND 450 million.

With respect to projects funded by mixed ODA to which the State contributes investment on a non-refundable basis, when receiving a decision on tax refund from a tax authority, the financial authority in charge of the project shall make an entry for increase of capital allocated to the project owner. When preparing an annual plan for the share of capital of the other party, project owners shall not be required to prepare a plan for capital of the Vietnamese party for payment of VAT.

6. Organizations in Vietnam using humanitarian or non-refundable aid from foreign organizations or individuals to purchase goods in Vietnam shall be entitled to a refund of VAT already paid as recorded on the added value invoice for purchase of the goods.

For example: The Red Cross receives VND 200 million aid money from an international organization to purchase humanitarian aid goods for the citizens in a province affected by a natural disaster. The VAT-exclusive price of the goods is VND 200 million and VAT is VND 10 million. The Red Cross shall be entitled to a refund of VAT namely VND 10 million.

All business establishments and organizations which are entitled to a refund of VAT in accordance with the provisions in Section I must maintain accounting books and accounting source documents and must have a deposit account at a bank.

Once an establishment has prepared its application for a VAT refund, it may not thereafter calculate any set-off of input VAT the subject of the application against shortfalls of tax in the previous month or against tax arising in the next month.

If in the month prior to the application for a VAT refund the establishment has an excess amount of VAT paid, it shall additionally include the excess VAT in the refund request amount for the next period of a request for refund.

If a business establishment generates a cumulative amount of deductible input tax greater than output tax for three or more consecutive months but does not apply for a VAT refund, it may calculate a credit for the following months and if such input VAT is still not fully credited it may apply for a VAT refund.

II. Application File for VAT Refund

1. File for VAT refunds in the cases falling within clauses 1 and 2 of Section I of this Part shall comprise:

- Application for refund of VAT already paid, specifying the grounds for the application, the amount requested to be refunded, and the refund period (in Form 10-GTGT attached to this Circular);

For cases falling within clause 1(b) of Section I of this Part, the application must specify the numbers of the goods import and export declarations and of the export contract (for direct export) or

the number of the contract for authorized export (for export via authorized agents).

- List of totals of output VAT, deductible input VAT, VAT already paid, and the excess amount of input VAT over output VAT requested to be refunded;
- Statement of goods and services purchased and sold in the period relating to the calculation of input VAT and output VAT (in Forms 02-GTGT, 03-GTGT and 04-GTGT attached to this Circular).

If monthly tax declarations are sufficient and accurate and match lists of totals, establishments need not submit statements of goods and services purchased and sold in the months for which refunds are requested. Where there is an amendment to deductible input VAT or output VAT in the months for which a refund is requested, the establishment shall declare the amount of deductible input VAT and the amount of output VAT arising in each month of the period for which the refund is requested, and the amount of the amendment must be clearly explained.

2. File for VAT refunds in the cases of business establishments upon merger, consolidation, division, dissolution or bankruptcy shall comprise:
 - Official letter requesting refund of VAT paid in excess to the State Budget;
 - Decision on merger, consolidation, division, dissolution or bankruptcy issued by the competent authority;
 - Finalization of VAT up until time of merger or dissolution.
3. File for VAT refunds in the cases falling within clause 5 of Section I of this Part shall include the file as stipulated in clause 1 (for owners of investment projects entitled to a tax refund, a list of totals of amounts of input VAT to be refunded, and a statement of goods and services purchased in Form 03-GTGT) and send it as an addition to the tax office (initial application):
 - Investment decision by the competent authority (a copy verified by the establishment);
 - Confirmation by the competent authority that the project is funded by non-refundable ODA (or by ODA loans to which the State contributes investment on a non-refundable basis) and entitled to a VAT refund (a copy verified by the establishment).

In the case of a refund to a main contractor, the main contractor shall send in addition (initial application) confirmation from the project owner that in the payment sum under the contract awarded there was no VAT and requesting a refund to the main contractor.

4. File for VAT refunds in the cases falling within clause 6 of Section I of this Part shall include the file as stipulated in clause 1 (including a list of total amounts of deductible input VAT, and a statement of goods and services purchased in Form 03-GTGT), and in addition:
 - A copy of the approval decision for the aid item by the competent authority (Prime Minister of the Government, minister, chairman of a people's committee, head of a ministerial equivalent body or Government office, head of other organization or group) in accordance with article 5 of Decision 28-1999-QD-TTg of the Prime Minister of the Government (a copy verified by the establishment);
 - Confirmation from the committee administering aid received at the Ministry of Finance regarding any item of aid received from a non-Government foreign organization, specifying the name of the donor organization, the amount, the body which received it, the body administering it (a copy verified by the establishment).

III. Responsibilities of Subjects Entitled to VAT Refund

1. To create an application file requesting a tax refund and to submit it to the tax office. The file appropriate to each case shall be as stipulated in Section II of this Part.
2. Where the file is unclear or incomplete, the tax office shall request additions to the file or supplementary explanations, and the establishment making the application must fulfil such requests.
3. In addition to the files which must be submitted to the tax office as stipulated in Section II of this Part, subjects entitled to a VAT refund must retain at their establishments other complete files relevant to VAT refunds and VAT credits. When the tax office conducts checks or inspections on VAT refunds at an establishment, the establishment shall be responsible to provide complete invoices, source documents and relevant files as the basis for ascertaining the amounts of VAT payable or refundable.
4. Subjects entitled to a VAT refund, when creating and submitting a tax refund file to the tax office, must provide correct and truthful data in their declarations and shall be responsible before the law for such data. Every case of incorrect declaration, when discovered on inspection, shall be dealt with by collection of tax arrears. Depending on the reasons for and the

seriousness of any false declaration, it may also be dealt with by imposition of a fine or criminal prosecution in accordance with law.

IV. Authority and Order for Resolution of VAT Refund

1. Authority for approval of VAT refund:
 - (a) Directors of Departments Taxation shall consider and issue decisions for VAT refunds to subjects entitled to refunds in accordance with Section I of this Part;
 - (b) The Minister of Finance or the General Director of the General Department of Taxation on authority from the Minister of Finance shall issue decisions for VAT refunds to other subjects and in special cases.
2. Responsibilities of tax authorities for tax refunds:
 - (a) To receive applications for tax refund from taxpayers. The section receiving the applications shall clearly record the date of receipt and promptly transfer the applications to the sections which inspect and deal with them.
 - (b) To inspect the applications and to determine the amount of the tax refund:
 - The section inspecting the applications shall be responsible to inspect: the declaration list of the total output VAT, total input VAT arising which is deductible; and to compare them with the detailed lists;
 - To determine the amount refundable.

Upon inspection of the applications, if they are insufficient, incorrect, or unclear, the establishment must explain and submit an addition to the applications.

Taxation authorities shall be responsible to consider applications and resolve tax refunds for establishments within fifteen (15) days (within three days in the cases provided for in clauses 5 and 6 of Section I of this Part), as from the date of receipt of complete applications sent in by establishments. In cases requiring an inspection or a verification, or an addition to the application, the time-limit shall be a maximum thirty (30) days. If the procedures and conditions for a tax refund have not been fulfilled, taxation authorities must notify establishments within seven days from the

date of receipt of the applications (within two days for the subjects provided for in clauses 5 and 6 of Section I of this Part).

- (c) To make decisions for tax refund: If upon inspection the procedures and conditions have been satisfied as provided for in Sections I and II of this Part, the amount of the tax refund shall be determined and a Director of a Taxation Department shall issue a decision on tax refund for the establishment entitled in Form 14-GTGT attached to this Circular.

If any questions arise after a tax refund, or if it is necessary to organize a check or inspection at an establishment regarding the tax refund, the taxation authority shall issue a decision on a check or inspection. Any check or inspection, or resolution of any breach regarding the tax refund, shall be implemented strictly in accordance with regulations already issued.

3. Responsibilities of the State Treasury:

A municipal or provincial State Treasury shall pay the tax refund to the taxpayer within a maximum of three days from the date of receipt of the decision on tax refund of the taxation authority. In the case of refunds under clause 1(b) of Section IV of this Part, the Central State Treasury shall pay the tax refund on the basis of the decision of the Minister of Finance or of the General Director of the General Department of Taxation on authority from the Minister.

4. Money to pay tax refunds shall come from the Fund for VAT Refunds. The administration and use of the Fund for VAT Refunds shall be provided for in separate regulations by the Ministry of Finance.

The number of days for the consideration and resolution of tax refund claims in the above cases shall be calculated according to the number of working days.

DD. DUTIES, POWER AND RESPONSIBILITIES OF TAXATION AUTHORITIES

1. To provide business establishments which have registered their businesses with guidelines for registration, declaration and payment of VAT in accordance with the *Law on VAT*.

Tax offices shall impose administrative penalties for tax offences in accordance with law in cases where business establishments fail to comply with the provisions on registration, declaration and payment of tax.

2. To issue tax notices to business establishments of the amounts of tax payable and the time-limits for tax payment in accordance with applicable regulations. Tax notices must be sent to taxpayers no later than three days prior to the date on which tax must be paid as stated in the tax notices and the time-limit for tax payment every month shall be no later than the twenty fifth day of the following month (in accordance with the forms for tax notice payment 08A-GTGT and 08A-GTGT attached to this Circular).

To continue to issue notices where a business establishment fails to pay tax within the time-limit for tax payment stated in the notice; to issue additional notices of the amounts of tax and fines payable for delayed payment in accordance with article 19.2 of the *Law on VAT* where a business establishment fails to pay tax within the time-limit for tax payment in accordance with applicable regulations. The duration used to calculate the fines payable for delayed payment shall commence on the twenty sixth day of the following month. With respect to imported goods and other cases, the duration shall commence on the day following the date on which payment must be made as stipulated in applicable regulations.

Where the establishment fails to pay the tax and fines stated in such notice, the tax office shall have the right to take, or to request the competent body to take, measures for imposing administrative penalties as provided for in article 19.4 of the *Law on VAT* in order to recover the tax and fines in full.

Where the business establishment continues to fail to pay in full the tax and fines after such administrative measures have been taken, the tax office shall forward the relevant documents to the competent bodies for resolution in accordance with law.

3. To examine and inspect declarations, payments and finalizations of tax by business establishments in order to ensure strict compliance with law.
4. To impose administrative tax penalties and to deal with tax complaints in accordance with provisions of the law.
5. To request taxpayers to provide books of account, receipts, 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.
6. To maintain and use data and documents provided by business establishments and others in accordance with applicable regulations.
7. The tax office shall have the right to determine the amount of VAT payable by taxpayers in the following cases:

- (a) Failure to maintain, or maintain adequately, books of account, receipts and source documents as required by regulations.

Where a business establishment paying VAT calculated directly on the basis of added value or a business establishment trading in lots fails to carry out, or carry out adequately, the purchase or sale of goods with invoices or source documents, the tax office shall determine the added value and amount of tax payable calculated directly on the basis of added value provided for in clause 2 of Section III of Part B of this Circular.

With respect to small or medium business individuals and households (hereinafter referred to as *business households*), the fixed amount of tax payable each time may be used as the basis for collection of tax within a period of six or twelve (12) months, depending on each trade or industry, price fluctuations and the business situation of the taxpayer. The tax office shall be responsible for notifying publicly such taxpayers of the fixed amounts of tax.

Where a small or medium business household paying a fixed amount of tax over a period changes or suspends its business activities during such period, the household must notify the tax office of such change or suspension for consideration and adjustment of the fixed amount of tax; where the household suspends business activities for fifteen (15) or more days in one month, it shall be considered for a reduction of fifty (50) per cent of the amount of tax payable for such month. If the household suspends business activities for a whole month, it shall be exempted from payment of the amount of tax payable for such month.

Where a small or medium business household paying a fixed amount of tax over a period suspends business activities for the number of days of entitlement to tax reduction or exemption, it shall prepare an application (in the form issued by and in accordance with the guidelines of the tax office) which specifies the number of days for which business is suspended and the reasons therefor and submit same to the district tax office. The tax office shall verify and carry out the tax reduction or exemption as stipulated where the household actually suspends business.

What constitutes a small or medium business household shall be determined in accordance with the trade or industry and the specific conditions in each locality and shall be stipulated in detail by the Ministry of Finance. Departments of Taxation shall, based on the business situations of households, provide guidelines for

classification of households and specification of medium and small households within their respective localities for the purpose of application of stipulated tax collection and management methods.

- (b) Failure to declare tax or failure to comply with the time-limit for submission of declaration forms despite delivery to a taxpayer of a reminder notice of such declaration; failure, upon submission of tax declaration form, to declare correctly the basis for calculation of VAT.

Where a business establishment or an importer fails to forward declarations of tax, or fails to declare adequately or at all as required by the regulations, the taxation authority shall make a decision, based on the business situation of the establishment and data from an investigation, to fix revenue and VAT payable, and shall issue a notice for the establishment to implement. Where a business establishment is not satisfied with the amount of tax fixed to be paid, it may lodge a complaint with the tax office which determined the amount of tax payable or with the immediately superior tax office, but pending resolution of the complaint it must pay the amount of tax fixed by the tax office.

- (c) Refusal to provide books of account, receipts, source documents and other necessary documents relating to the calculation of VAT.
- (d) Business activities conducted without certificates of business registration; failure to register, declare and pay tax as identified after inspection.

The tax office shall determine the amount of tax payable by each business establishment in the above cases, taking into account the results of a survey of the business situation of the establishment, or according to the amount of tax payable by other business establishments of similar size operating in the same line of business.

E. DEALING WITH BREACHES

I. Dealing with Tax Offences

A taxpayer in breach of the *Law on VAT* shall be dealt with as follows:

1. For failure to comply with stipulations on business registration; on tax registration, declaration, payment, or finalization; on declaration of the establishment and maintenance of books of account, invoices and source

documents relating to tax calculation or tax payment: a warning or a fine shall be imposed, depending on the seriousness of the offence.

2. For late payment of tax or fine stated in a tax notice, tax collection order or penalty decision, in addition to payment of the tax or fine, a fine equal to one tenth of one (0.1) per cent of the late payment shall be applied for each day of delay.
3. For fraudulent declaration and tax evasion, in addition to payment of tax in full in accordance with the *Law on VAT*, subject to the nature and seriousness of the offence, a fine of between one and five times the amount of tax evaded shall apply. Tax evasion involving a substantial amount, or where an administrative penalty was imposed for a tax offence but the breach continues, or any other serious breach shall be subject to criminal prosecution in accordance with law.
4. Failure to pay tax or fines shall be subject to the following measures:
 - (a) Appropriation of funds deposited by taxpayers at banks, the State Treasury or credit institutions for payment of taxes and fines;

Banks, the State Treasury and credit institutions shall be responsible for appropriating funds deposited by taxpayers to pay taxes and fines to the State Budget, in accordance with decisions of the tax office or competent authority prior to the recovery of any debts;
 - (b) Seizure of goods or material evidence to ensure the collection of taxes and fines in full;
 - (c) Confiscation of assets in accordance with law to ensure the collection of outstanding taxes and fines.

The above VAT offences shall be dealt with in accordance with procedures stipulated in legal instruments relating to tax offences.

II. Authority to Deal With Tax Offences

Tax offices at all levels shall, upon discovery of offences by business establishments under the *Law on VAT*, investigate and clearly identify the nature, seriousness and causes of offences as well as the responsibilities of the organizations or individuals concerned in respect of such offences and shall prepare relevant files as stipulated. Based on the relevant regulations and administrative tax penalties, tax offices shall, within the scope of their respective powers to deal with offences, issue penalty decisions or refer offences to a superior tax office or judicial body for resolution in accordance with stipulated authority as follows:

1. The head of the tax office directly managing tax collection shall have the right to deal with offences of taxpayers stipulated in clauses 1 and 2 and impose tax administrative penalties as stipulated in clause 3 of Section I of Part E of this Circular.
2. Directors of Departments of Taxation or heads of district tax offices shall be entitled to apply the measures specified in clause 4 of Section I of Part E of this Circular in accordance with provisions of the law, and to refer the offences stipulated in clause 3 of Section I of Part E to the relevant competent authority for resolution in accordance with law.

G. COMPLAINTS AND TIME-LIMITS FOR RESOLUTION

1. Taxpayers shall have the following rights and responsibilities with respect to tax complaints:

Pursuant to article 23 of the *Law on VAT*, organizations and individuals shall have the right to complain about the failure of a tax officer or tax office to apply correctly the *Law on VAT* in their cases. A letter of complaint must be lodged with the tax office which issued the tax notice, tax payment order or penalty decision within thirty (30) days of receipt of such notice, order or decision. Pending resolution of the complaint, the complainant shall pay in full the tax or fine stated in the notice. Where a complainant disagrees with the decision on resolution of the complaint by the tax office, or in the absence of a response after thirty (30) days of lodging the letter of complaint, the complainant shall have the right to appeal to a superior tax office or to take legal action at a court in accordance with law. Where a complainant lodges a complaint with a superior tax office, any decision of the Minister of Finance resolving the matter shall be a final decision.

The procedures for complaints or legal action and the consideration and resolution thereof shall be carried out strictly in accordance with applicable provisions of the law.

2. Responsibilities and powers of tax offices with respect to resolution of tax complaints:

Pursuant to article 24 of the *Law on VAT*, tax offices at all levels shall consider and resolve any tax complaint from taxpayers within fifteen (15) days of receipt of the letter of complaint. In complicated cases which require long periods of investigation or verification, the parties concerned must be notified and the time-limit for resolution shall not exceed thirty (30) days from receipt of the letter of complaint; where a case is beyond the authority for resolution of a tax office, the tax office shall refer the file

or report to the competent body for resolution and notify the parties concerned thereof within ten (10) days from receipt of the letter of complaint. Where an investigating tax office discovers a fraudulent declaration, tax evasion, or a tax mistake or a mistake about a penalty imposed and there is a finding to that effect, it shall be responsible for the collection or refund of the incorrectly calculated tax or fine within five preceding years from the date of discovery of such fraudulent declaration, tax evasion or tax mistake. Where a business establishment does not register for tax declaration and tax payment, the time-limit for collection of unpaid tax and fines shall be calculated as from the commencement of operation of the business establishment.

H. ORGANIZATION OF IMPLEMENTATION

I. Organization of Collection of VAT

1. The General Department of Taxation shall be responsible to organize the implementation of collection of VAT from, and VAT refunds to, business establishments.
2. The General Department of Customs shall be responsible to organize the implementation of collection of VAT on imported goods.

II. VAT Exemption and Reduction

Pursuant to article 28 of the *Law on VAT* and the provisions in article 20 of Decree 79-2000-ND-CP of the Government, the Ministry of Finance provides the following provisions on the order and authority for the consideration of tax exemption and reduction:

1. Where a production or business establishment in the category of paying VAT by the tax credit method incurs losses during the first years of application of VAT due to the fact that the amount of VAT payable exceeds the amount otherwise payable at the previous turnover tax rate, it shall be considered for reduction of the amount of VAT payable.

The establishments which shall be considered for a reduction of VAT in this case shall be business establishments which maintain cost accounting and can determine their business results, being taxpayers of corporate income tax.

The level of tax on turnover for the purpose of comparison shall be a % level calculated on revenue. Where an enterprise is within the category of entitlement to exemption from tax on revenue, the amount of turnover tax for the purpose of the comparison shall be zero (0).

2. The level of VAT for consideration of reduction for each establishment shall be proportionate to the amount of loss but not in excess of the difference between VAT payable and the amount of tax calculated at the previous level of turnover tax in the year for which the reduction is considered. The amount of tax payable shall be determined in accordance with the provisions in clause 1.2 of Section III of Part B of this Circular, not including the amount of VAT paid at the import stage.

Example 1: Commercial establishment A in the year 2000 generates output VAT of VND 4.5 billion, deductible input VAT is VND 2.3 billion (which includes VAT paid at the import stage of VND 1.5 billion), and VAT payable is VND 2.2 billion. The business results for 2000 were a loss of VND 800 million, and the amount of tax payable previously at the turnover tax rate was VND 1.5 billion.

VAT payable is greater than turnover tax namely VND 700 million. Therefore, establishment A shall be considered for a VAT reduction proportionate to the amount of loss but the maximum shall not exceed the amount of VAT payable higher than the amount of tax calculated at the previous turnover tax rate namely VND 700 million.

Example 2: Commercial establishment B in the year 2000 generates output VAT of VND 2.5 billion, deductible input VAT is VND 1.1 billion (which includes VAT paid at the import stage of VND 0.6 billion), and VAT payable is VND 1.4 billion. The business results for 2000 were a loss of VND 400 million, and the amount of tax payable previously at the turnover tax rate was VND 0.5 billion.

VAT payable is greater than turnover tax namely VND 0.9 million. Therefore, establishment B shall be considered for a VAT reduction proportionate to the amount of loss but the maximum shall not exceed the amount of VAT payable higher than the amount of tax calculated at the previous turnover tax rate namely VND 400 million.

3. The duration for which a tax reduction shall be considered in accordance with the above provisions shall only be on an annual basis and shall be granted in accordance with the Gregorian calendar year within a period of the first three years, commencing from 1999 until the end of 2001.
4. An establishment eligible for consideration for a reduction of VAT must prepare an application file for VAT reduction and submit it to the tax office, comprising:
 - Official letter from the establishment requesting a VAT reduction, specifying the reasons why the amount of VAT payable exceeds

the amount otherwise payable at the previous turnover tax rate, the amount of loss due to the effect of the tax, and the suggested duration and amount of reduction.

- Finalized business results report for the year for which the reduction is requested (in accordance with the Gregorian calendar year).
- Report of tax finalization for the year for which the reduction is requested.

Where an establishment forecasts that in the planned year it will incur a loss due to the fact that the amount of VAT payable exceeds the amount otherwise payable at the previous turnover tax rate, and the tax office managing it has already agreed a provisional reduction, the official letter from the tax office agreeing such provisional reduction must also be enclosed, and the finalized financial results report and the tax finalization must also reflect the amount of tax payable in accordance with law and the amount of tax actually paid.

Business establishments must prepare complete and accurate files and shall be responsible before the law for their files requesting tax reductions.

5. Authority and the order for consideration of tax reductions:

- (a) Directors of tax divisions shall co-ordinate with the bodies concerned to determine business individuals with low incomes who do not have to pay tax and shall issue tax notices for the information of the business individuals, and shall consider and make decisions on tax exemption and reductions for small or medium business households paying VAT calculated directly on the basis of added value, which suspend their business operation.
- (b) Directors of Departments of Taxation shall consider and make decisions on tax reductions for business establishments registering to pay corporate income tax in their localities, which business establishments are eligible for tax reductions in accordance with the provisions in clause 1 of Section II of this Part.

Directors of Departments of Taxation shall consider and notify temporary tax reductions in the case of establishments eligible for tax reductions where the forecast of the year and actual business of the establishment is subject to loss due to above objective reason; the maximum temporary tax reduction rate shall not exceed seventy (70) per cent of the estimate eligible for reduction under law.

- (c) The Minister of Finance shall consider and make decisions on tax reductions in special cases.

In every case of a request for tax exemption or reduction, a business establishment must forward the file to the tax office directly managing it, which upon receipt of an application file for a tax reduction must check the file and confirm whether or not the establishment is eligible and the circumstances which qualify the establishment for a tax reduction in accordance with law, and whether or not the file is complete, complies with the regulations and is accurate. If any error or omission is discovered, the tax office shall be responsible to notify the establishment to supplement and correct the file in a timely manner.

Where a tax division directly manages an applicant for a tax reduction, after the tax division has checked that the establishment is eligible and that its application file is complete and complies with the regulations, it shall forward an official letter of request with the file to the Department of Taxation for its consideration and decision on tax reduction for the establishment.

If an establishment is not eligible for a tax reduction in accordance with law, the tax office must notify it in writing and specify the reasons.

Pursuant to their authority as stipulated, tax offices shall give consideration and issue decisions on tax reductions (in Form 12-GTGT attached to this Circular) and send them to the applicant establishment, to the Department of Taxation, and to the tax division (in cases where the applicant establishment is directly managed by a tax division). Where the authority on a tax reduction belongs to a higher level tax office or to the Minister of Finance, after checking the file the tax office shall on-forward the complete file together with its written opinion and also notify the establishment where the file has been sent to. Based on any decision for tax exemption or reduction, the tax office shall conduct tax finalization with the establishment of the amount of VAT payable, and confirm the profit and loss statement and any other items payable to the State Budget.

Tax offices which give consideration to and issue decisions on tax reductions shall be responsible to retain, archive and administer application files in accordance with the regulations.

The above guidelines on the resolution of VAT reductions shall apply to tax reductions for the years 2000 and 2001.

- (d) The Government or the Minister of Finance shall make decisions on tax exemption or reduction for cases where international treaties to which Vietnam is a signatory or participant and undertakings of the Government provide for exemption from or reduction of tax.

III. Effectiveness

1. This Circular shall be of full force and effect as of 1 January 2001 and shall replace the following Circulars of the Ministry of Finance providing guidelines on VAT:
- Circular 89-1998-TT-BTC dated 27 June 1998 providing guidelines for implementation of Decree 28-1998-ND-CP of the Government dated 11 May 1998 making detailed provisions for implementation of the *Law on VAT*;
 - Circular 157-1998-TT-BTC dated 12 December 1998 providing guidelines for implementation of the *Law on VAT* with respect to banking services;
 - Circular 163-1998-TT-BTC dated 17 December 1998 providing guidelines for implementation of the *Law on VAT* with respect to airline transportation and flying services;
 - Circular 173-1998-TT-BTC dated 22 December 1998 providing guidelines for implementation of tax collection from individuals engaged in the production and trading in goods and services and paying VAT calculated directly on the basis of added value;
 - Circular 174-1998-TT-BTC dated 24 December 1998 providing guidelines for implementation of the *Law on VAT* and the *Law on Corporate Income Tax* with respect to insurance business activities;
 - Circular 175-1998-TT-BTC dated 24 December 1998 providing guidelines for implementation of Decree 102-1998-ND-CP of the Government dated 21 December 1998 amending and adding to a number of articles of Decree 28-1998-ND-CP of the Government dated 11 May 1998;
 - Circular 187-1998-TT-BTC dated 29 December 1998 providing additional guidelines for implementation of the *Law on VAT* with respect to capital construction activities and activities of production and processing of agricultural, forestry and aquaculture products;
 - Circular 18-1999-TT-BTC dated 6 February 1999 providing guidelines on calculations for additional collection of tax where the

Construction Lotteries Company paid VAT lower than it would have at the previous turnover tax rate;

- Circular 20-1999-TT-BTC dated 10 February 1999 amending and adding to Circular 175-1998-TT-BTC dated 24 December 1998;
- Circular 25-1999-TT-BTC dated 8 March 1999 providing guidelines on tax resolution for capital construction products, new shipbuilding and major ship repairs which were completed in 1998 but for which payment procedures are not carried out prior to 31 December 1999;
- Circular 34-1999-TT-BTC dated 1 April 1999 providing guidelines for implementation of the *Law on VAT* with respect to processing enterprises;
- Circular 49-1999-TT-BTC dated 6 May 1999 providing guidelines for implementation of the *Law on VAT* with respect to financial leasing services;
- Circular 72-1999-TT-BTC dated 12 June 1999 providing guidelines for implementation of the *Law on VAT* with respect to the marine cargo industry;
- Circular 91-1999-TT-BTC dated 23 July 1999 providing guidelines for implementation of the *Law on VAT* with respect to export processed goods;
- Circular 93-1999-TT-BTC dated 28 July 1999 providing guidelines on VAT refunds;
- Circular 101-1999-TT-BTC dated 20 August 1999 providing guidelines for implementation of the *Law on VAT* with respect to the road transportation industry;
- Joint Circular 2395-1999-TT-LT-BQP-BTC dated 21 August 1999 of the Ministry of Defence and the Ministry of Finance providing guidelines on the list of weapons and specialized equipment servicing national defence which are not subject to VAT;
- Circular 106-1999-TT-BTC dated 30 August 1999 providing guidelines for implementation of Decree 78-1999-ND-CP of the Government dated 20 August 1999 amending and adding to a number of articles of Decree 102-1998-ND-CP of the Government dated 21 December 1998;
- Circular 112-1999-TT-BTC dated 21 September 1999 providing guidelines on VAT applicable to goods sold by enterprises with foreign owned capital to foreign purchasers but delivered in Vietnam;

- Circular 118-1999-TT-BTC dated 30 September 1999 providing guidelines on VAT applicable to State owned enterprises conducting activities in the public interest;
- Circular 119-1999-TT-BTC dated 5 October 1999 providing guidelines for implementation of the *Law on VAT* with respect to diplomatic representative bodies, consulates and representative offices of international organizations in Vietnam;
- Circular 142-1999-TT-BTC dated 10 December 1999 providing guidelines on VAT applicable to projects funded by official development aid (ODA);
- Circular 02-2000-TT-BTC dated 5 January 2000;
- Circular 10-2000-TT-BTC dated 1 February 2001 providing guidelines on declaration of VAT payable on goods sold by business establishments to dependent accounting units in different provinces and cities, and sold through agents selling at the correct price and obtaining commission;
- Circular 26-2000-TT-BTC dated 31 March 2000 providing guidelines for implementation of the *Law on VAT* with respect to publishing and printing activities and distribution of publications;
- Joint Circular 07-2000-TTLT-BCA-BTC dated 10 April 2000 of the Ministry of Police and the Ministry of Finance providing guidelines on the list of weapons and specialized equipment servicing security which are not subject to VAT;
- Circular 49-2000-TT-BTC dated 31 May 2000 providing guidelines for implementation of Decree 15-2000-ND-CP of the Government dated 9 May 2000 guiding implementation of Resolution 90-NQ-UBTVQH10 dated 3 September 1999 of the Standing Committee of the National Assembly amending and adding to the list of goods and services not subject to VAT, the VAT tax rate applicable to a number of goods and services, and amending and adding to a number of other VAT regulations.

Any provision in other guidelines on VAT which is inconsistent with the provisions in this Circular is hereby repealed.

2. The collection of additional items from State owned enterprises engaged in the production and business of cement, power, soft drinks, beverages, post and telecommunications, lottery, advertisement and shipping agency having a high income due to the fact that their payment of VAT is lower than the previous turnover tax rate shall apply for the year 2000 in

accordance with the guidelines in Section VIII of Circular 175-1998-TT-BTC of the Ministry of Finance dated 24 December 1998 and the current guidelines of the Ministry of Finance. From 2001, additional collection shall not apply in accordance with those regulations, but the collection of additional corporate income tax shall apply to enterprises with high income in accordance with the *Law on Corporate Income Tax*.

Any problems which arise during implementation should be reported by units and by business establishments to the Ministry of Finance for its consideration and resolution.

For the Minister of Finance
Deputy Minister

VU VAN NINH