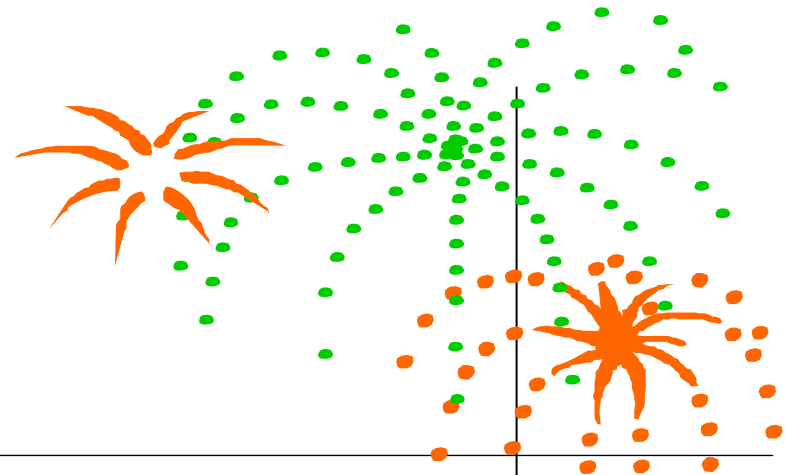
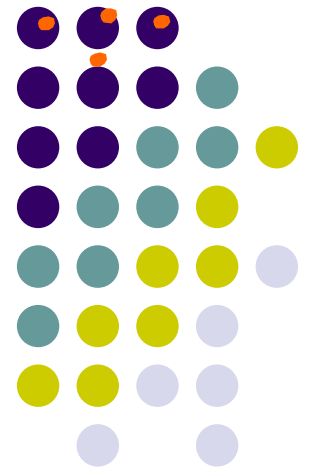


Welcome to



***Sun & Shield Audit's
Tax Updates***
14 July 2007





Key Points

- ☑ New Regulations on Value Added Tax (VAT)
- ☑ New Regulations on Corporate Income Tax (CIT)
- ☑ Personal Income Tax (PIT) Treatment of Shares Awarded to Employees
- ☑ New Regulations on Tax Administration
- ☑ Questions & Answers

VAT Update



CIRCULAR No. 32 DATED 9 APRIL 2007

- ⊞ Issued by the MOF to replace VAT Circular 120
- ⊞ Providing detailed guidance on the implementation of the Law on VAT
- ⊞ Effective from 1 July 2007
- ⊞ Key changes are as follows:

VAT Update



CIRCULAR No. 32 DATED 9 APRIL 2007

1. **Taxable price for VAT calculation** (value on which VAT is calculated)
 - ☒ **Goods and services used for A & P purposes**
 - a) Prior to 1 July 2007: VAT exempt
 - b) From 1 July 2007: Subject to VAT – VAT invoice must be issued – Taxable price is the selling price of the same goods and services at the same time

VAT Update



CIRCULAR No. 32 DATED 9 APRIL 2007

2. Time when sales are recognised

- a) *For goods*: when the ownership of goods is passed from the seller to the buyer
- b) *For services* (construction and installation): when the work or task of work is completed, confirmed, or transferred)
- c) Regardless of whether payments are received or not

VAT Update



CIRCULAR No. 32 DATED 9 APRIL 2007

3. **Exported services entitled to 0% VAT**

- a) To be consumed outside Vietnam
- b) To be evidenced by a written contract (in accordance with the Commercial Law)
- c) To be paid by the buyer to the service provider in Vietnam

VAT Update



CIRCULAR No. 32 DATED 9 APRIL 2007

4. **VAT Filing and VAT Payment With Respect to Dependent Branches of a Company**

- Provisional VAT payment of 1% (for 5% VAT goods) or 2% (for 10% goods) to be made to the local tax office where the branch is located
- Official payment is made at the tax office where the head office is based after deducting the VAT provisional payment made by the branch

VAT Update



CIRCULAR No. 32 DATED 9 APRIL 2007

- 5. VAT Filing and Payment With Respect to construction teams of a construction company**
 - Provisional VAT payment of 2% to be made to the local tax office where the construction teams are carrying out their construction (installation) work
 - Official payment is made at the tax office where the head office is based after deducting the provisional VAT payments made by its construction teams

VAT Update



CIRCULAR No. 32 DATED 9 APRIL 2007

5. Invoicing Requirements:

- a) For assets contributed to a company's capital by a non-tax registered individual/ organisation:
 - Minutes of asset contribution, Minutes of asset transfer, or
 - Purchasing invoice (in case of brand new assets) including VAT input as cost (no VAT input deduction for these assets)

VAT Update



CIRCULAR No. 32 DATED 9 APRIL 2007

6. Invoicing Requirements:

- b) For assets contributed to a company's capital by a business organisation:
 - Minutes of asset contribution
 - Joint venture contract/ Co-operation contract
 - Minutes of asset valuation of the company's board/
Valuation document of an asset appraisal organisation

CIT Update



DRAFT CIT CIRCULAR TO BE ISSUED

- ⊕ The MOF will issue a new CIT Circular within next week to replace old CIT Circular No.128
- ⊕ Providing detailed guidance on the implementation of Decree No. 24 dated 14 February 2007 replacing Decree No. 164
- ⊕ Effective from the tax year 2007
- ⊕ Key changes are as follows:

CIT Update



DRAFT CIT CIRCULAR TO BE ISSUED

1. Sales revenues subject to CIT – In principle

- a) The total sales of goods or provisions of services + all surcharges, regardless of whether payments are received or not
- b) Time of recognition:
 - ✓ ***For goods***: when the ownership of goods is passed from the seller to the buyer/ or invoices are issued
 - ✓ ***For services***: when the service is completed or invoices are issued

CIT Update



DRAFT CIT CIRCULAR TO BE ISSUED

2. Sales revenues subject to CIT – Specials cases

- a) The tax authority will have the right to apply the anti-transfer pricing methods to determine the selling price if evidence shows that the selling price is understated
- b) For interest income (including interest from loans, accounts receivable, bank accounts, bonds, ...: is income earned for a tax period (accrual basis)

CIT Update



DRAFT CIT CIRCULAR TO BE ISSUED

3. Deductible expenses

a) *Depreciation of fixed assets*

- Assets used for employees benefit (dormitory, canteen, bus, parking lot, dispensary, training center)
- Buildings on land leased or in the process of transferring ownership – documents required
- Assets contributed to a company – documents required

CIT Update



DRAFT CIT CIRCULAR TO BE ISSUED

4. Deductible expenses

b) Raw materials, fuel, energy, ...

- The determination of the quantity of raw materials used for production is at the company' discretion
- However, if it is not reasonable, the tax authority has the right to re-determine
- Raw materials purchased from non-tax registered individuals can be claimed by filling in form 01A/TNDN
- Raw material loss, damage is deductible

CIT Update



DRAFT CIT CIRCULAR TO BE ISSUED

4. Deductible expenses

c) *Expenses supporting educational institutes*

- School sponsor
- Scholarship
- Educational tools

CIT Update



DRAFT CIT CIRCULAR TO BE ISSUED

4. **Deductible expenses**

d) Expenses for internal healthcare

- Medical equipment
- Curative medicine
- Medical check up once a year for employees

CIT Update



DRAFT CIT CIRCULAR TO BE ISSUED

4. Deductible expenses

e) *A & P Expenses*

- Still capped at 10% of the total deductible expenses
- Unlike previous regulations, some below expenses are now no longer included in A & P:
 - Market research
 - Exhibition, Fair, Showroom, Samples
 - Transportation to showroom, display, etc.

CIT Update



DRAFT CIT CIRCULAR TO BE ISSUED

4. Deductible expenses

f) A & P Expenses

- However, other expenses are now included in the Circular, such as:
 - Marketing support
 - Expense support
 - Cash discount
 - Rebate (in accordance with agreements)

CIT Update



DRAFT CIT CIRCULAR TO BE ISSUED

5. **Capital gain tax**

- Also called Capital assignment profit tax
- Subject to 28%
- Unlike previous regulations, original cost of capital contribution is now included retained profits/ accumulated losses

CIT Update



DRAFT CIT CIRCULAR TO BE ISSUED

6. Tax incentives

- Changes are to ensure consistency with Decree 108 on Investment Law:
 - **Appendix 1:** List of **sectors** (industries) specially encouraged and encouraged
 - **Appendix 2:** List of **localities** (provinces) where social-economic situation are specially difficult and difficult
 - Incentives related to export oriented activities (using local materials, meeting localisation ratio): removed

CIT Update



DRAFT CIT CIRCULAR TO BE ISSUED

7. Tax rate applicable to commission

- 5% CIT rate will apply to agent commissions like:
 - **Pharmaceutical agents**
 - **Cosmetic agents**
 - **Lottory agents**
 - **Post-office agents**
 - **Insurance agents**

CIT Update



DRAFT CIT CIRCULAR TO BE ISSUED

8. **Tax on income from transfer of land use rights**

- The principles of taxation remain unchanged
- However, detailed calculation as how to arrive at “income” is now provided

CIT Update



DRAFT CIT CIRCULAR TO BE ISSUED

9. Loss carried forward

- Still only carried forward (no backward is allowed)
- Still no more than 5 years from the year of loss
- Still registration required
- Standard form provided by Appendix 1 in the Circular must be used for registration

PIT Update



OFFICIAL LETTER 1867 DATED 15 MAY 2007

- ✧ Dealing with shares awarded to employees
- ✧ Share awards are considered a bonus-in-kind, subject to PIT as “regular income”
- ✧ Taxable value of share awards are determined by:
 - Actual price paid by the company for shares purchased
 - Face value of shares issued by the company
- ✧ PIT must be withheld by the company



Tax Administration Update

LAW ON TAX ADMINISTRATION NO. 78

- ⌘ Passed on 12 December 2006
- ⌘ Effective from 1 July 2007
- ⌘ This Law deals with the following issues:
 - ⇒ Tax registration, filing, payment and deemed assessment
 - ⇒ Tax audit and inspection
 - ⇒ Handling of tax offenses
 - ⇒ Complaints and resolutions



Tax Administration Update



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Tax Administration Update



LAW ON TAX ADMINISTRATION

- ✧ To implement the Law on Tax Administration, the Government issued following documents:
 - **Decree 85 dated 25/5/07** providing guidance on tax administration (registration, filing, payment, finalisation)
 - **Decree 97 dated 7/6/07** providing guidance on administrative penalties for violations against customs regulations
 - **Decree 98 dated 7/6/07** providing guidance on administrative penalties for violations against tax regulations

Tax Administration Update



LAW ON TAX ADMINISTRATION

✧ Key points to be noted:

- **Tax self-assessment** will be applied across the country, and taxpayers are required to compute their own ability and make payments to the local tax office
- **Tax assistance** will be provided by local tax offices to help taxpayers to file their tax returns
- **Tax audit & inspection** will be conducted after examination of taxpayers' returns under one of the following: office audit, field audit, and inspection

Tax Administration Update



LAW ON TAX ADMINISTRATION

- ✧ Key points to be noted:
 - **Tax penalties** will be imposed on taxpayers who violates tax registration, filing, payment, finalisation, etc.
 - **Detailed penalties** are provided in Decree 97, Decree 98 and Circular 61 dated 14/6/07, replacing old Circular 41 and Decree 100
 - Vietnamese citizens and foreigners may be stopped by immigration police to clear their tax liabilities as requested by the tax authorities before leaving the country