

## More guidance on Personal Income Tax (PIT)

On 27 March 2009, the Ministry of Finance (MOF) issued new Circular 62/2009/TT-BTC providing further guidance and clarification for the application of Circular 84/2008/TT-BTC dated 30 September 2008 (Circular 84). The newly-issued Circular 62 covers the following key issues:

### 1. Extended definition of non-taxable employment income

- One-off relocation allowance for expatriates coming to reside in Vietnam is not taxable. The amount is determined based on the labour contract.
- School fees for children of expatriate employees up to high school level are not taxable based on provisions of labour contract.
- Airfares for one round trip home leave for expatriates is non-taxable with the condition that the airfare provision is mentioned in the labour contract and the ticket indicates the country where the expatriate resides or where his family resides.
- Housing allowance paid by the employer on behalf of the employees is taxable based on the actual expenses but not exceeding 15% of total taxable income.
- Provision of a motor vehicle for collective use is not taxable. However, the benefit is taxable if the use of the motor vehicle is for a specific individual.
- For other benefits such as club memberships, recreational services, PIT will apply only if the payment for membership or for the service is for specific individuals, i.e. the benefit is not taxable if the payment is for the collective use of a number of employees.
- Training expenses for knowledge and improvement of skills of employees consistent with their profession, or in accordance with the company's plan of labour utilisation, is non-taxable.
- Midshift meal is not taxable if the employer directly organises meals for the employees. In case the employer directly pays midshift meal allowance in cash to the employees in excess of the amount stipulated by the Ministry of Labour, War Invalids and Social Welfare, the exceeding amount shall be included in the taxable income.
- Per diem expenses for stationery, utilities, travelling will not be taxable if the expenses are in accordance with the current regulations of the State.

## 2. Additional guidance of relief and deduction

- Circular 62 provides required conditions to apply independent relief in cases where the dependent is of working age and if they are over working age. According to the guidance, a dependent within working age must meet two conditions (i) be handicapped and unable to work; and (ii) has no income or has average income lower than VND500,000 per month. For dependents past the working age, only the second condition will apply. In respect of dependents who are grandparents, uncles, aunts, brothers, sisters, nephews and nieces, other than the above conditions, the taxpayer claiming relief must be the person who is directly nursing them.
- Circular 62 also provides further detailed guidance on required documents to prove the dependent status and procedures to apply in various different circumstances.
- Circular 62 verifies that compulsory insurance contributions are deductible when calculating taxable income, interestingly including insurance for professional responsibilities.

## 3. Guidance on PIT withholding and declaration for non-employment income

- Circular 62 provides guidance for withholding and declaration of various types of non-employment income.
- For OTC securities trading income, the selling price of securities is the price stated in the sale agreement. If the sale agreement does not indicate the selling price, the price for withholding PIT will be the price declared by the seller, and the seller shall be responsible for the price they declare.
- When paying sales commission, wages, salary, or other payments to individuals who perform various services with a total value of VND500,000 or above, the payer shall apply consistently the withholding rate 10% (regardless of whether the recipient has a PIT code or not), except for circumstances subject to specific guidance of the MOF (e.g. insurance agent fee, lottery ticket sales agent)



- Individuals who are sales agents having only one source of income and who anticipate that their income after deduction of applicable relief will not be subject to PIT, are allowed to submit a commitment to the payer for temporary exemption from PIT withholding. The payer shall temporarily not withhold PIT and the individuals become responsible for the commitment.
- Individuals receiving dividends in the form of shares or share bonuses shall not pay PIT when receiving the shares, but they will be required to pay PIT when they transfer the shares on the basis that this is income from securities transfer and income from capital investment. The taxable amount as income from capital investment shall be the number of shares received times the par value. The taxable amount as income from securities transfer shall be based on the actual transfer price, and the taxpayer will elect the method of tax calculation, using the deemed taxable method or apply 20% on net income that is the difference between the actual transfer price and the par value.

## 4. Other guidance on tax administration procedures

Circular 62 also provides further guidance of tax administration for inheritance income, gifts, and property transfer

## 5. Effective application

Circular 62 will become effective 45 days from the signing date and applies for income arising from 1 January 2009. By issuing Circular 62, the MOF cancels any provisions and guidance in Circular 84 and in any other guidance of the MOF inconsistent with provisions of Circular 62.



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