

Circular 92 – New Guidance on Personal Income Tax

Following Decree No. 12/2015/ND-CP dated 12 February 2015 by the Government, the Ministry of Finance issued Circular No. 92/2015/TT-BTC ("Circular 92") on 15 June 2015 providing guidance on Personal Income Tax ("PIT"). Circular 92 takes effect on 30 July 2015 and applies to 2015 tax year onward.

Notable points of Circular 92 are as below:

1. PIT for individuals with income from salaries and wages

- The taxable housing benefit in kind will now include electricity, water, and other charges associated with the housing rental.
- The taxable housing benefit in kind is calculated at the lower of the actual housing benefit in kind and 15% of the total assessable income earned at the workplace (exclusive of the housing rental), irrespective of where the income is paid.
- Non-compulsory insurance policies without an accumulated premium are not subject to PIT provided. They are purchased by the employer from an insurance company incorporated in Vietnam or is permitted to sell insurance policies in Vietnam. Non-compulsory insurance policies are not subject to PIT include health insurance, death insurance (without accumulated premium), etc.
- Individual employees' car rental benefit in kind is no longer subject to PIT.
- Payments to employees for weddings or funerals for themselves or their family members paid in accordance with the employer's policy and in line with the Law on Corporate Income Tax are not subject to PIT.
- On the exchange rates used to convert foreign currency denominated assessable income into Vietnamese Dong equivalent:
 - Income received in a foreign currency must be converted into Vietnamese Dong using the buying foreign exchange rate of the individual taxpayer's bank at the time the income is earned.
 - If the taxpayer has no bank account in Vietnam, the Vietcombank buying foreign exchange rate must be used.
 - If the payment is in a foreign currency with no Vietnamese Dong exchange rate, an intermediate currency with a Vietnamese Dong exchange rate should be used.
- The hypothetical tax and housing normalisation are deductible from assessable income.
- Voluntary pension contributions for those products stipulated by the Ministry of Finance are deductible up to a maximum of VND1 million per month, including both the employer's and employee's contributions.
- Profit paid out by private companies and one-member limited liability companies owned by an individual is not subject to PIT.

2. PIT calculation method for individuals with business income

- Deemed PIT calculation method: individuals should self-assess the revenue or tax authorities can impose a deemed revenue level for the PIT calculation.
- PIT calculation as per transaction: this method is applied to resident individuals with business income derived from outside Vietnam, individuals doing irregular business without a fixed place of business, individuals cooperating with organizations in which revenue of the individuals can be determined.
- Individuals leasing assets (e.g. house, store, workshop, machinery, etc.) should declare PIT directly with the tax authorities or the companies/organizations renting the assets should withhold, declare, and pay PIT on behalf of the individual if the leasing contract stipulate the lessee is responsible for the PIT.
- In the case where individuals are engaged as lottery agents, insurance agents, or multi-level marketing agents, the respective lottery company, insurance company, and multi-level marketing company are responsible for withholding, declaring, and paying PIT for the individual.
- Individuals with business income equal to or less than VND100 million per year are not subject to PIT.

3. PIT administrative regulations

- For income from salaries, wages:
 - Foreign individuals being tax residents in Vietnam, when terminating their employment contract are required to finalize their PIT with the tax authority before leaving Vietnam. If an individual does not finalize his/her PIT before leaving he/she may authorize the employer or other organizations/individuals to finalize the PIT within 45 days from the departure date.
 - To support the tax withheld or tax paid overseas, a certificate of tax payment issued by the foreign tax authorities is required. If the foreign tax authorities do not have a regime to issue such a certificate, the taxpayer could use (i) certificate of tax withheld issued by the income paying organization or (ii) a self-certified copy of the bank transfer showing the tax paid overseas.
- Provisions on tax administration related to Value Added Tax and PIT of tax residents with business income under Circular 156/2013/TT-BTC are superseded and replaced by the new provisions under Circular 92.
- PIT declaration forms and relevant statutory forms stipulated under Circular 156/2013/TT-BTC are replaced or amended by the new forms stipulated under Circular 92.

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