

MINISTRY OF FINANCE

No: 23TC/TCT

SOCIALISM REPUBLIC OF VIETNAM

Independent – Freedom – Happiness

Hanoi, April 26th, 1996

CIRCULAR

On Instruction of tax exemption's procedures for production or business establishments exclusively reserved for disabled persons

Pursuant to the Tax Laws, the current Ordinance on Taxes and the Decree No. 81/CP dated November 23rd, 1995 of the Government providing details for implementation of a number of Articles of the Labor Code on Disabled Persons, the Ministry of Finance hereby instructs the tax exemption's procedures for the production or business establishments for disabled persons as following:

1. Objects and scope of application

a. The production or business establishments reserved exclusively for disabled persons (included war invalid and diseased soldiers) are State-owned enterprises, private enterprises, limited liability companies, joint-stock companies, cooperatives and production groups which were established by the law shall be entitled to tax exemption as regulated in Article 10 Decree No. 81/CP dated November 23, 1995 if they satisfy the following conditions:

- Being certificate by Provincial/City People's Committee as a production or business establishment reserved exclusively for disabled persons;
- Strictly complying the opening accounting books, using invoices for sales and purchases of goods and services supplying in accordance with the current regulations;
- Having a business license issued by the State competent authorities;
- Having at least 10 workers, of whom 51% are disabled with the certification provided by a competent medical agency. For the production or business establishments, which are private enterprises, limited liability companies, joint-stock companies, cooperatives and production groups, apart from their disabled

workers, the rest of their labor force should mainly be their relatives or shareholders and managerial, professional and science-technical staff;

- Having rules and regulations suited to disabled persons and the managers of the production or business establishments should mainly be disabled;
- Having registered for tax payment at the tax agency.

b. This Circular is not applied for the following cases:

- The business establishments of disabled persons do not satisfy above conditions stated in point a section 1 of this Circular.
- The business establishments of disabled persons act as an wholesale unit.
- The fixed production or business establishments reserved exclusively for disabled persons, which purchase materials or goods or transport their products for sale or exchange and do not comply regulations on invoices and source documents applied to goods circulating in the market, shall have to pay tax for acting as an wholesale unit.

2. Types of tax shall be considered for exemption

In its business performance, the production or business establishment exclusively reserved for disabled persons (herein called production or business establishment), which satisfy all the above conditions stated in point 1, shall be exempted from the following taxes:

- Turnover tax
- Income tax
- Land tax
- Tax of cultivate land use

3. Procedures and jurisdiction of consideration of tax exemption

a. Procedure and jurisdiction of consideration of turnover and income tax exemption

Turnover and income tax exemption for the production or business establishment reserved exclusively for disabled persons is yearly carried on. The production or business establishment is subjected to tax exemption only for business actions written on its business license. Other business actions should pay tax in accordance with Tax Laws and current Tax Ordinance. After a business year, the production or business establishment must set up a dossier requesting for tax exemption and submit to the competent agencies for consideration. Dossier for tax exemption included:

- An application form for tax exemption confirmed by the tax agency directly in charge of tax collection;
- Its business license;
- Having registered for tax payment;
- An decision of Provincial/Centrally-run City People's Committee certified it as a production or business establishment exclusively reserved for disabled persons;
- A protocol on checking tax finalisation of the tax agency directly in charge;
- Its yearly accounting report.

Between 30 days from the date of dossier's receiving, the competent tax agency have to issue a decision on tax exemption or announce reasons why the matter has not been settled or shall not be settled to the establishment. The decision on tax exemption must clearly state an amount of tax subjected to be exempted for each type of taxes and the total exemption for the whole year of the production or business establishment.

To ensure tax collection for the State Budget timely and prevent difficulties for the production or business establishments, the tax agency directly in charge of tax collection shall have responsibility to check accounting books and an actual production and business performance of the establishment and then compare them with the tax exemption conditions stipulated in section 1 of this Circular to provisionally stop collecting tax for business actions written on its business' license and carry out tax collection on other business actions.

In cases, goods or materials are sold at other place (outside the province or centrally-run cities) to an unknown buyer, the production or business establishment must issue warehouse's vouchers, delivery invoices and a certificate of the tax agency directly in charge for quantity, types of materials or goods. The production or business establishment must show all above-mentioned supporting documents to the tax agency directly in charge at the selling place. The production or business establishment is responsible to issue invoices to the buyer and set up a dossier requesting for tax exemption to the tax agency directly in charge at the selling place. Dossier for tax exemption included:

- An application form for tax exemption with a confirmation of the tax agency directly in charge of tax collection stated that the production or business establishment is subjected to tax exemption and its selling goods and materials are in accordance with business actions written in the its business license;
- Its business license (one notarized copy);

- A decision of Provincial/Centrally-run City People's Committee on certifying as a production or business establishment reserved exclusively for disabled persons (one notarized copy);

The tax agency directly in charge at selling place is responsible to provide goods selling invoices, manage tax collection and settle tax exemption for the production or business establishments within 15 days from the day receiving their application form for tax exemption.

The production or business establishments only shall be subjected to tax exemption for an actual quantity of goods and materials, which have been certified by the tax agency directly in charge. In cases, goods and materials for selling are not in accordance with items written in the business license or exceed the quantity controlled by the tax agency directly in charge, the production or business establishments have to declare in details and pay fully tax to the tax agency at the selling place as stipulated by laws.

The tax agency has right to offer tax exemption on turnover and income tax for the production or business establishments reserved exclusively for disabled persons as follows:

- The Director of the Tax Department shall consider and make a decision on tax exemption for the production or business establishments managed by local governments with an average amount of turnover tax exemption of up to 5 million VND per month and a amount of income tax exemption of up to 50 million VND per year.
- The General Director of the General Tax Department shall consider and make a decision on tax exemption for the production or business establishments managed by central and local governments with an average amount of turnover tax exemption from over 5 million VND to 50 million VND per month and a amount of income tax exemption from over 50 million VND to 100 million VND per year.
- The Minister of Finance shall consider and make a decision on tax exemption for all the production or business establishments with an average amount of turnover tax exemption of over 50 million VND per month and a amount of income tax exemption of over 100 million VND per year.

b. Procedure and jurisdiction of consideration of exemption on land tax and tax of cultivate land use are implemented in accordance with present regulations of the fields.

4. Implementation organizing

In its business year, if there is a change in conditions that result the production or business establishment not being entitled to tax exemption as instructed in section 1 of this Circular, this production or business establishment has to announce to the tax agency directly in charge of tax collection for a tax exemption's termination within at least 5 days from the day of a such change and then the production or business establishments must carry on tax declaration in accordance with current regulations.

Production or business establishments, which have fraud acts in proving conditions for getting tax exemption, shall not be entitled to tax exemption for the whole year and shall be punished for the administrative violence of taxes or investigated for the criminal responsibilities as regulated by the Law, depending upon the seriousness of the breach.

Tax cadres, other individuals abusing their position and authority to intentionally screen the true or collude the production or business establishments to get tax exemption as instructed in this Circular which cause a damage to the State Budget, depending upon the seriousness of the breach, shall be disciplined, punished for the administrative violence of taxes or investigated for the criminal responsibilities as regulated by the Law.

The tax agency directly in charge of tax collection to the production or business establishment reserved exclusively for disabled persons has to open a tracking book and adequately record all information concerning tax exemption. Provincial/Centrally-run Tax Departments have to annually sum up the total actual amount of tax exemption for production or business establishments in their locality and send a final report to the General Tax Department by the end of the first of the next year.

This Circular shall be effected from the date of its signing. Cancellation is imposed to Point 2 section II of the Inter-ministerial Circular No. 09-TT/LB of the Ministry of Labor, Invalid and Social Affairs, the Ministry of Finance and the State Planning Committee guiding implementation of the Decision No. 15-TTG on October 20th, 1992 of the Prime Minister on policies for the production or business establishment reserved exclusively for disabled persons.

Any problems arising from the implementation of this Circular shall be reported to the Ministry of Finance for review and amendment.

Minister of Finance

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(signed & sealed)