



LEGAL NEWS

Tax – Fee – Charge

What is the whole tax? How is it applied to each type of incomes?

What is the whole tax?

Similar to the partially progressive tax tariff, the whole progressive tax tariff is popularly applied in the legal documents on personal income tax without any specific definition of the whole tax.

The whole tax can be defined based on the calculation of personal income tax for incomes in the whole progressive tax tariff as follows:



The whole tax or the whole progressive tax tariff is the calculation of personal income tax within which the payable personal income tax equals personal income tax (x) multiplied by a consistent tax rate irrespective of more or fewer incomes.

Therefore, it can be seen that the whole tax tariff (whole tax) is totally different from the partially progressive tax tariff, accordingly, personal income tax which is applied with the whole tax tariff has only one tax rate, on the contrary, the tax calculation of partially progressive tax tariff includes different tax levels and tax rates.

Which type of income applies to the whole tax tariff?

** Taxed incomes in accordance with the whole tax tariff and tax rate*

Pursuant to Clause 1, Article 23, Law on Personal Income Tax 2007 and sub-point b.3, Point b, Clause 1, Article 25, Circular No. 111/2013/TT-BTC, the whole income tax tariff is as follows:



* **Personal income tax under the whole tax tariff**

The tax calculation method for taxed incomes under the whole tariff is defined as follows:

$$\text{Payable personal income tax amount} = \text{Taxed income} \times \text{Tax rate (As above tariff)}$$

Within that, the taxed income for each income has a different definition, in particular:

- Incomes from transfer of real estate:

Taxed income includes Incomes from the transfer of rights to use land and assets attached to land; Incomes from the transfer of right to own or use residential houses; Incomes from the transfer of right to lease land or water surface; Other incomes earned from the transfer of a real estate in any form.

The payable tax is defined in accordance with the formula as follows:

$$\text{Personal Income Tax} = 2\% \times \text{Transfer price}$$

- Incomes from prize-winning

Pursuant to Article 15, Circular No. 111/2013/TT-BTC, taxed incomes from prize-winning include: Lottery winnings; Sales promotion winnings; Betting winnings; Winnings in prized games and contests, and other forms of winning.

The payable tax is defined in accordance with the formula as follows:

$$\text{Personal Income Tax} = 10\% \times (\text{Exceeding prize value} - 10 \text{ million})$$

- Incomes from inheritances:

Article 16, Circular 111/2013/TT-BTC prescribes the taxed incomes from inheritances for incomes from inheritances that are securities, capital holdings in economic organizations or business establishments, real estate, and other assets subject to ownership or user registration.

The payable tax is defined in accordance with the formula as follows:

$$\text{Personal Income Tax} = 10\% \times (\text{Exceeding inheritance value} - 10 \text{ million})$$

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What is the basic wage? What are the differences between basic wage and region-based minimum wage?

1. What is the basic wage? What are the subjects of basic wages?



Basic wage is mentioned in many legal documents on public servants and cadres, social insurance regime, social insurance allowance...However, there is no specific definition of what is the basic wage.

Although there is no specific definition of what is the basic wage, the

Government issues the Decree prescribing the basic wage. Accordingly, Clause 1, Article 3, Decree No. 38/2019/ND-CP prescribed the basic wage as follows:

- a) Calculating wage levels in salary tables and allowance levels and implementing other regimes in accordance with the law applicable to the subjects defined in Article 2 of this Decree;*
- b) Calculating levels of operation cost and cost-of-living allowance in accordance with law;*
- c) Calculating deductions and benefits that are based on the base salary.*

Therefore, the basic wage is the minimum wage for wage calculation for the subjects as follows:

- Cadres and civil servants from the central echelon to the district level
- Public employees working in the public service provider.
- Contract employees who are paid as prescribed in Government's Decree No. 204/2004/ND-CP.
- Persons in the payroll of state budget-funded associations specified in the Government's Decree No. 45/2010/ND-CP.

Officers, professional military personnel, non-commissioned officers, soldiers, defense workers and public employees, contractual employees in the Vietnam People's Army force;



- Part-timers in communes, villages, and residential quarters.

Besides, the basic wage is the base for the charges of activities, extraction amounts, and other regimes such as social insurance, social insurance, or allowances for people with meritorious services to the revolution...

2. How much does the basic wage?

Clause 2, Article 3, Decree No. 38/2019/ND-CP points out clearly that:

2. From July 01, 2019, the basic wage is VND 1,490,000/month.

Therefore, the basic wage level of VND is 1.49 million/month from July 01, 2019, to this moment. Normally, the basic wage shall be adjusted to increase in order to support and create favorable conditions for cadres, and public servants to feel assured to work.

However, the increase in basic wage is canceled for the effect of Covid-19 in 2020 and 2021. The Government decided to increase the basic wage to VND 1.6 million/month but finally canceled the plan for the great impacts of Covid-19.

When Covid-19 is controlled, on the meeting session of the National Assembly on November 11, 2022, delegates discussed and agreed to increase the basic wage from VND 1.49 million/month to VND1.8 million/month from July 01, 2023 (Increased by VND 310,000/month)

3. What is the difference between basic wage and region-based minimum wage?

In general, the Government considers the basic wage the general minimum wage.

However, the Government has replaced the general minimum wage with the basic wage as prescribed in Clause 2, Article 5, Decree No. 66/2013/ND-CP:

2. The basic wage level specified in this Decree shall be applicable from July 01, 2013, and replaces the general minimum wage specified in documents on wage regimes and other regimes involving the wage of competent agencies.

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LEGAL UPDATES

Administrative violations

Defining illicit profits earned from trading in counterfeit or banned goods

On November 02, 2022, the Ministry of Finance issues Circular No. 65/2022/TT-BTC detailing Clause 2, Article 91, Decree No. 98/2020/ND-CP.

This Circular details provisions of Clause 2 Article 91 of Decree 98/2020/ND-CP, regarding illicit profits earned through the commission of administrative violations being taken the remedial measure, trading in counterfeit or banned goods, and protection of consumer rights, for the latter to remit into the state budget.

Illicit monetary profits: The money amount through the commission of administrative violations shall be equal to (\equiv) the number of goods, the volume of services that have been transferred or consumed, multiply by (\times) the unit price minus ($-$) costs directly constituting the goods or services.

Earned illicit profit amounts that are valuable papers mean the whole valuable papers that an organization or individual earned through the commission of administrative violations.

Illicit profits earned through the commission of administrative violations, which are other assets and objects, are other assets as prescribed by the Civil Code.

In case material evidence or means of administrative violations have been illegally sold, dispersed, or destroyed, the violator must refund the amount of money equivalent to the value of material evidence or means of administrative violations that have been illegally sold, dispersed, or destroyed.

This Circular takes effect on January 01, 2023.

Finance - Banking

Supplement 05 cases which are not applicable to procurement under Circular No. 58/2016/TT-BTC

On November 11, 2022, the Ministry of Finance promulgates Circular No. 68/2022/TT-BTC on amending and supplementing a number of articles of Circular No. 58/2016/TT-BTC.



Accordingly, the Ministry of Finance supplements 05 cases that are not applicable to procurement under Circular No. 58/2016/TT-BTC including:

The procurement of medicines shall comply with the Law No. 105/2016/QH13 on Pharmacy dated April 06, 2016, and its guiding documents;

Other regulations on procurement of medical devices are defined in the Government's Decree No. 98/2021/ND-CP;

The procurement of properties, goods, and services under projects funded by the official development assistance (ODA) that arises from treaties or international agreements shall comply with the Law on Bidding, Decree No. 63/2014/ND-CP, and their guiding documents...

For bidding packages for procurement of properties, goods, and services subject to the approval of Chairpersons of provincial-level People's Committees, the Chairperson of the provincial-level People's Committee shall direct the provincial-level Department of Finance or a specialized agency under the People's Committee to assume the prime responsibility for appraising contractor selection plans; particularly for bidding packages for procurement of medical supplies subject to the competence of Chairpersons of provincial-level People's Committees, the provincial-level Department of Health shall assume the prime responsibility for appraising contractor selection plans in accordance with Clause 3 Article 104 of Decree No. 63/2014/ND-CP.

Besides, the responsibility of appraising the contractor selection plans applicable to bidding packages for procurement of properties, goods, and services subject to the approval of Chairpersons of district-level People's Committees shall comply with Clause 5 Article 104 of Decree No. 63/2014/ND-CP.

For the fields with specialized law regulations on the responsibility of appraising contractor selection plans applicable to bidding packages for procurement of properties, goods, and services, such specialized law regulations shall be applied.

Medical - Health

Amend and supplement the document GMP principles and standards

Accordingly, the document GMP principles and standards prescribed in Clause 4, Article 3 is amended and supplemented as follows: In the case where the World Health Organization amends and supplements the principles or standards for good practices of manufacturing drugs or drug materials, within 03 months from the date on which the updated documents are publicized on the World Health Organization's portal, the Drug Administration of Vietnam or the Traditional Medicine Administration shall, within the



state management, organize to translate and publicize such amendments and supplementations on the Ministry of Health's portal and its website, for search, update and application.....

Besides, If the drug or drug material manufacturing establishment has one of the changes prescribed at Points dd, e or g Clause 2, Article 11 of Circular No. 35/2018/TT-BYT, it is required to submit a report on its changes, accompanied by relevant technical documents, to the receiving agency. Besides, the manufacturer must maintain its operations in compliance with GMP standards and principles.

Additionally, manufacturers granted a GMP certificate with the scope of manufacturing drugs from medicinal materials that remains valid before the effective date of this Circular are entitled to manufacture traditional drugs.

This Circular takes effect on January 05, 2023.

Organizational structure

New regulations on tasks and organizational structure of the Voice of Vietnam

Decree No. 92/2022/ND-CP prescribes that the Voice of Vietnam is the governmental-attached agency, the Vietnamese national radio broadcaster, a key multimedia agency tasked with propagating the policies of the Party and state laws and policies.

In accordance with law provisions, the organizational structure of the Voice of Vietnam has some changes as follows. In particular, the Department of Planning and Finance includes 02 divisions, the Office includes 05 divisions (in previous regulations:07 divisions). Besides, there is no more the Department of Inspectorate and supplement one more division of content production, that program is the Voice of Vietnam Television Channel (VOVTV).

The Voice of Vietnam implements the financial autonomy mechanism in accordance with the law; in the special case, the VOV shall propose and cooperate with relevant ministries and agencies in developing regulations on the specific financial autonomy mechanism of the VOV and submitting them to competent authorities for promulgation thereof.

The VOV has a General Manager and no more than 04 Deputy General Managers. The General Manager and Deputy General Managers are appointed or dismissed by the Prime Minister in accordance with the law provisions. Additionally, the General Manager shall be responsible before the Government, the Prime Minister, and the law for the entire operations of the VOV; Deputy General Managers shall assist the General Manager and be responsible before the General Manager and law provisions.

LIST OF UPDATED LEGAL NORMATIVE DOCUMENTS

Finance - Banking		
1	Circular No. 68/2022/TT-BTC dated November 11, 2022 of the Ministry of Finance amending and supplementing a number of articles of the Circular No. 58/2016/TT-BTC dated March 29, 2016 detailing regulations on use of State capital for the procurement for the purpose of maintaining routine operations of State agencies, units affiliated to People's armed force, public non-business units, political organizations, socio-political organizations...	<p>Issuing date: 11/11/2022</p> <p>Effective date: 14/11/2022</p> <p>Effect status: In force</p>
Tax – Fee – Charge		
2	Circular No. 67/2022/TT-BTC dated November 07, 2022 of the Ministry of Finance guiding tax liabilities applicable to enterprises setting up and using Science and Technology Development Funds	<p>Issuing date: 07/11/2022</p> <p>Effective date: 23/12/2022</p> <p>Effect status: Not yet applied</p>
Medical - Health		
3	Circular No. 12/2022/TT-BYT dated November 21, 2022 of the Ministry of Health amending and supplementing a number of articles of the Minister of Health's Circular No. 35/2018/TT-BYT dated November 22, 2018, on good practices of manufacturing drugs or drug materials	<p>Issuing date: 08/11/2022</p> <p>Effective date: 28/12/2022</p> <p>Effect status: Not yet applied</p>
Administrative violations		
4	Circular No. 65/2022/TT-BTC dated November 02, 2022 of the Ministry of Finance detailing provisions of Clause 2 Article 91 of the Government's Decree No. 98/2020/ND-CP dated August 26, 2020, on providing the penalties on administrative violations in commercial activities, production of, trading in counterfeit or banned goods and protection of consumer rights	<p>Issuing date: 02/11/2022</p> <p>Effective date: 01/01/2023</p> <p>Effect status: Not yet applied</p>

Thank you for your reading!

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