

## NEWSFLASH

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## “Your Trust, Our Success”

On 20 October 2009, Ministry of Finance (“MOF”) issued Circular No. 203/2009/TT-BTC (hereinafter referred to as Circular 203) providing guidance on Regime of Management, Utilization and Depreciation of Fixed Assets. Circular 203 shall be effective from 1 January 2010 and shall supersede Decision No. 206/2003/QĐ-BTC dated 12 December 2003 (hereinafter referred to as Decision 206).

In comparison with Decision 206, Circular 203 provides some notable changes as follows:

1. Regarding a determination of fixed assets original cost
  - 1.1. Tangible fixed assets
    - With respect to purchasing of houses, architecture objects attached to land use rights: The value of land use rights must be determined separately and recognized as intangible fixed assets. The original cost of houses, architecture objects shall be the actually-paid price plus expenses directly incurred for bringing the fixed assets into use.
    - With respect to fixed assets constructed by the enterprise itself or formed by tendering method: Original cost shall be the finalized cost at the time putting into operation. In case fixed assets were put into operation but its value has not been finalized yet, the original cost shall be the provisional price and then adjusted upon finalization.
    - Regarding tangible fixed assets formed by donation, gift and discovery of excess: The original

cost shall be the value assessed by the Council of Delivery or professional valuation organizations.

- Regarding tangible fixed assets created by capital contribution and return of contributed capital: The original cost shall be the value agreed by founding members, shareholders; or agreed by enterprises and contributors; or valued by professional valuation organization and agreed by founding members and shareholders.
- In respect of tangible fixed assets obtained by the way of re-allocation: The original cost shall be the net book value of such assets recorded in accounting books of allocating entities or the value assessed by professional valuation organization plus relevant direct expenses paid by the receiver to put such fixed assets into the state of ready for operation.

#### 1.2. Intangible fixed assets

- With respect to rental land:
  - If rental fee is paid once for the whole term, this rental shall be amortized over the term.
  - If rental fee is paid annually, it shall be recorded as expense in the corresponding period.

*Circular 203 has neither mentioned the determining original cost of trademarks nor the point of time to record an increase or decrease in fixed asset original cost.*

#### 2. Regarding the principles of managing fixed assets

*Circular 203 has abolished the provisions required an enterprise to conduct an inspection of its fixed assets and take necessary measures to address any excess or shortage of fixed assets.*

#### 3. In respect of upgrades and repairs of fixed assets

With respect to the accruals of periodic and budgeted costs for repairs and annual expenses, enterprise shall not be required to (i)

be profitable after booking accruals and (ii) prepare a plan for accruals of fixed assets repair costs to notify tax authority.

#### 4. With respect to a lease, pledge, mortgage, sale and disposal of fixed assets

For a lease of assets, if the lease contracts (including operation lease and financial lease) stipulate that the lessees shall have responsibility to repair fixed assets during the lease term, such cost for repair shall be recorded as expenses or be allocated to expenses over a period but not exceeding 3 years.

*This Circular has abolished the provisions which require the establishment of the Council of Delivery, Council of Liquidation and Council of Sale of fixed assets... in an enterprise.*

#### 5. Regarding the principles of depreciation of fixed assets

Circular 203 provides detailed guidelines for some circumstances as follows:

- Enterprise shall be allowed to depreciate fixed assets used for employees benefits (such as canteens, changing rooms...) and related to business activities.
- With respect to not fully depreciated fixed assets which are lost or unrepairably damaged, the residual value after eliminating compensations, realizable value and the amount compensated by financial reserves, shall be considered deductible expenses.
- The fully depreciated fixed assets used for capital contribution or re-allocation shall be valued by a professional valuation organization (not less than 20% of its original cost), the depreciation period shall be from 3 to 5 years and registered with the tax authority.
- Depreciation expenses, which are stipulated in Point 2.2, Item IV, Part C, Circular No. 130/2008/TT-BTC dated 26 December 2008 of the MOF, shall not be deductible when calculating corporate income tax.

- Enterprises shall be allowed to change useful life only once for each fixed asset. The extension of useful life shall not exceed technical life of the fixed asset and bring no changes to net income before tax, from profitable to loss-making or vice versa, of the year of changes.

6. With respect to change in depreciation method

Circular 203 allows enterprises to change depreciation method applicable to each fixed assets in case the change brings in benefits for enterprises or considerably change the method to estimate economic returns of the enterprises. Depreciation method can only be changed no more than twice for each fixed asset during its useful life. Changes on depreciation method shall have to be approved in writing by the tax authority directly managing enterprise.

7. Regarding time frame for fixed assets useful life

In comparison with Decision 206, there is no change on the time frame for utilization of new tangible fixed assets. However, Circular 203 has supplemented time frame for utilization of some fixed assets such as: machineries and equipments used in oil refinery; machineries and equipments used in petroleum exploring and exploitation; construction machineries and equipments; cranes; canteens, toilets, changing rooms, garages, etc...

This Circular shall take effect from 01 January 2010. *In case individuals doing business and having fixed assets fully observed regulations on management of fixed assets provided for under this Circular, they shall be allowed to depreciate fixed assets in order to determine deductible expenses when calculating personal income tax.*

This News Letter is for general information only. Action should not be taken, or refrained from, without obtaining specific advice.