



TAX ALERT

CIRCULAR 48/2019 ON MAKING PROVISION

On 08 August 2019, the Ministry of Finance issued Circular No. 48/2019/TT-BTC (“Circular 48”) replacing Circular No. 228/2009/TT-BTC and other related regulations providing guidance on treatment of provisions for inventory devaluation, losses from investment, doubtful debts, and warranty of products, goods, services, and constructions.

We would like to summarize some salient points as follows:

Some general points

- ▶ Circular 48 guides the provisioning as a basis for determining deductible expenses when determining the CIT taxable income, confirming the time of making and reversing the provisions is to be upon preparing year-end financial statements, instead of the end of the annual accounting period or the last day of the fiscal year (under the previous regulations).
- ▶ Credit organizations and banks must follow the regulations on making and managing provision under this Circular, unless clearly regulated in other specific laws.
- ▶ Enterprises under some other specific respect such as insurance, debt trading, etc also apply the Circular 48/2019 and some specific guidance from the Ministry of Finance (if any) on making provision.

Provision for devaluation of inventories

- ▶ Circular 48/2019 remove the clause on provision for inventories that are deteriorated, degraded, old-fashioned, technically obsolete, slowly moving goods, etc. and work in progress of products and services. Goods belonging to this category would be disposed of, or directly liquidated, without going through provision-making process;
- ▶ Partial regulation removal: prohibition of provision for raw materials of which the net realizable value is lower than the historical costs, but the sales price of the goods manufactured from such raw materials is not reduced.
- ▶ Supplementation of subjects permitted for provision such as goods out of warehouse, goods in transit, goods on consignment, goods in tax-suspension warehouses;

Provision for loss from investments

- ▶ Circular 48/2019 re-categorize the subjects of provision for loss from investments, including (i) securities investments and (ii) other investments (*previously known as long-term financial investments*), which explicitly regulates as follows:

Securities are those, at the time of making provision, being issued by domestic business organizations, listed or registered for trading and available for buying and selling on the domestic stock market;

Other investments are the investments into domestic business organizations that exclude securities investments above.

- ▶ Circular 48/2019 removes the prohibition of provision for the projected losses in accordance with business plans prior to investments due to the necessity of making provision for potential capital loss, even in cases of projected losses;
- ▶ Under the Circular 48/2019, enterprises are entitled to making provision based on the latest quarterly financial statements of the invested-business organizations in case such business organizations are permitted to prepare annual financial statements at other year-end than those of the investors.

- ▶ However, Circular 48/2019 does not allow enterprises to make provision for offshore investment losses. In addition, the balance of the provision for loss of offshore investments that enterprises have made (if any) is required to be reversed, recorded as a decrease in expenses at the time of making financial statement 2019.

Provision for doubtful debts

- ▶ Regarding the requirement of documents to prove bad debts, enterprises may choose to use a written request for debt confirmation or a written debt claim (with post-mark or confirmation of the delivery company) in case the debt reconciliation or the contract liquidation is not available.
- ▶ Supplementation for the case in which an enterprise incurs both payable and receivable debts with the same organization, then the enterprise is permitted to make provision based on the net receivable balance, upon offsetting with the payable amounts;

- ▶ Supplementation of the provision for doubtful debts for telecommunications service enterprises and goods retailing enterprises, receivable debts of telecommunications services, information technology, post-paid television and the debt receivable due from retail sales of goods in the form of deferred/ installment payment of individual debtors that are overdue.

Provision for warranty of products, goods, services, constructions

- ▶ Supplementation of the form "Building construction services" to the subjects of provision, and at the same time more clearly define the warranty subjects, specifically: "products, goods, services, construction works which are sold/ supplied/ handed over to the buyer within the warranty period and the enterprise is still liable for continuing the warranty under the contract or commitment with the customer;
- ▶ Changes to the treatment of provision for warranty of constructions in cases that the amount of provision is lower than the outstanding balance of provision: enterprises record expense reduction in the same period (previously to be recorded in other incomes).

Effects

Circular 48/2019/TT-BTC takes effect from 10 October 2019 and applies from the financial year 2019.

Our comments

- ▶ Circular 48/2019 supplements appropriate updates and changes while remaining consistent with the principles of tax administration in accordance with current legal documents.
- ▶ The Ministry of Finance is increasingly facilitating businesses in the direction of simplifying and diversifying legal basis for making provisions.
- ▶ New points of the Circular 48 have contributed to improving the rights of enterprises in expense record, directly affecting the calculation of deductible expenses when determining CIT in the annual reporting period to offset losses which may occur in the following year, ensuring that enterprises reflect the value of inventories, investments not higher than market prices and the value of receivable debts not higher than the recoverable value upon preparing the annual financial statements.

Should Esteemed Enterprises need more information or any support on tax and accounting, please contact us.

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