



NEWS-LETTER ON CIRCULAR 40/2021/TT-BTC

On 01 June 2021, the Ministry of Finance issued Circular No. 40/2021/TT-BTC ('Circular 40') guiding value-added tax ("VAT"), personal income tax ("PIT"), and tax administration for business households and individuals.

This Circular takes effect from 01 August 2021 to partially replace Circular 92/2015/TT-BTC. Circular 40 has the following highlights:

1. Add a number of subjects of application within the scope of tax administration for business households and individuals

Subjects of application will include individuals engaged in e-commerce transactions as well as those earning income from the supply of digital goods, digital services, and content in compliance with Vietnam e-commerce regulations.

Compared with the prevailing Circular 92/2015/TT-BTC, Circular 40 establishes and details the obligation of organizations who are required to declare and pay tax on behalf of individuals.

2. Circular 40 provides definitions to subjects of application

Circular 40 provides the definition for "Business households", "large-scale business households and individuals", "Business households and individuals applying declaration method", "Business individuals applying per payment occurrence method", "Business households and individuals applying presumptive taxation method" and "Organizations engaging in business cooperation with individuals".

3. Circular 40 keeps the same in tax declaration method

- Business households and individuals applying the declaration method: must follow the accounting regime. However, exemption from this requirement is available to those running a business in fields or sectors to determine revenue as certified by competent authorities
- Business individuals applying transaction-based methods: do not have a fixed business location, or their business is not frequent
- Business households and individuals applying deemed revenue method: do not fall into the two above groups. If they use invoices issued or sold by the tax authority, the invoiced revenues must be declared and paid tax separately under the transaction-based method



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4. Circular 40 specifies organizations and individuals who are obliged to declare and pay tax on behalf of individuals. There are notable cases as follows:

- *Organizations engaging in business cooperation with individuals*
- *Organizations paying business households who are applied the deemed revenue method bonuses, sales support, promotion, trade discounts, payment discounts, cash or non-cash support, compensations for breach of contracts, and other compensation:* The paying organizations are required to declare and pay on behalf of the households tax amount which is calculated based on the actual payments made in the tax year, regardless of their income level
- *Organizations have a partnership with an overseas digital platform provider (with no permanent establishment in Vietnam) and paying individuals income for digital goods, digital services, and content according to the agreement with such provider:* Circular 40 does not clarify this requirement shall be applied to any specific organizations in Vietnam
- *Owners of e-commerce trading platforms:* E-commerce platform owners are now legally obligated to provide information related to individuals' business activities on their platforms at the tax authority's request and declare and pay tax on behalf of the individuals following the tax authority's roadmap for the implementation

5. The individual property lessors declare and pay the tax directly to the tax authority

Individual property lessors shall declare tax for each contract or many contracts if the leased properties are within the managed area of a tax authority. Tax declaration can be made on a transaction-based or annually. For individuals leasing property under lease terms that do not coincide with or less than a full calendar year, the actual taxable revenue used to determine the tax payable in the year is the revenue prorated for the months that the property actually occupied.



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