

THE MINISTRY OF FINANCE
GENERAL DEPARTMENT OF
TAXATION

SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom - Happiness

No. 3677/TCT-CS
Regarding CIT policy

Ha Noi, August 29, 2014

Respectfully to: - **The Department of Taxation of Vinh Phuc province;**
- **Vinh Phuc Infrastructure Development Joint Stock Company.**
(Address: Khai Quang Industrial Zone, Vinh Yen City, Vinh Phuc province)

To reply to dispatch No. 40/14/VPID dated May 19, 2014 and dispatch No. 48/14/VPID dated June 16, 2014 of Vinh Phuc Infrastructure Development Joint Stock Company asking about tax policies. After obtaining opinions of the Ministry of Finance's leader, the General Department of Taxation has the followings comments:

- Clause 1e, Article 37 of the Law on Tax Management regulate the tax determination towards those paying tax by the declaration method in case they commit violations against tax laws: "e) Buy, sell, exchange, and account the value of goods and service without the compliance with normal value on the market".

- At Clause 4, Article 3, Part A of Circular No. 66/2010/TT-BTC dated April 22, 2010 of the Ministry of Finance guiding the determination of market value in the business transaction between parties having associated relations:

4. *"Parties shall be considered parties having associated relations (below referred to as associated parties) in any of the following cases:*

4.1. *One party directly or indirectly participates in the management or control of the capital contribution to, or investment in any form, in the other party"*

d) *One enterprise which is the biggest shareholder regarding investment capital of the owner of other enterprise, directly or indirectly holds at least 10% of the investment capital of the owner of the other enterprise;*

e) *One enterprise guarantees or provides loans for the other enterprise in any form on the condition that such loans account for at least 20% of investment capital of the owner of the borrowing enterprise and account for over 50% of the total value of medium-term and long-term loans of the borrowing enterprise".*

According to the aforesaid provisions:

In case Vinh Phuc Infrastructure Development Joint Stock Company (the parent company) transfers money to VPID Ha Noi one-member limited liability company and VPID Ha Nam one-member limited liability company (subsidiary companies) for the investment and business (apart from the charter capital sufficiently contributed to the subsidiary companies), if the transactions between Vinh Phuc Infrastructure Development Joint Stock Company and its subsidiary companies are determined as

the associated transactions, loan interests must be calculated and declared in other incomes.

Suggesting that the Department of Taxation of Vinh Phuc province examine the actual situation of the subsidiary companies, in case having capital borrowing contracts between the companies without the interest rate calculation, if the subsidiary companies do not subtract the expenses for the loan interests and tax rates applied to the companies are the same, ensuring that there is no tax fraud, then do not fix the loan interests to calculate the taxable incomes towards the parent company.

The General Department of Taxation would like reply to the Department of Taxation of Vinh Phuc province and Vinh Phuc Infrastructure Development Joint Stock Company for information.

**PP. DIRECTOR GENERAL
DEPUTY DIRECTOR GENERAL**

(Signed)

Mr. Cao Anh Tuan