

Vietnam NewsBrief

An update on Corporate Income Tax (“CIT”) finalisation for 2011

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CIT FINALISATION FOR 2011 FOR BANKS– DEDUCTIBILITY OF PROVISION FOR LOAN LOSSES

New regulations

Circular 228/2009/TT-BTC of the Ministry of Finance (“MoF”) provides guidance on making provisions for both accounting and tax purposes. Circular 228/2009, however, allows banks to follow the State Bank of Vietnam (“SBV”)’s guidance in making provisions for accounting and tax purposes. However, on 14 March 2011, the MoF issued Circular 34/2011 which abolished this specific exemption for banks and required them to also follow Circular 228/2009. Circular 34/2011 shall be applicable from financial year 2011 onward.

Potential impact

Pending further guidance from the MoF, we would like to highlight potential impacts on banks as follows:

- For accounting purposes, it remains unclear whether banks should apply the SBV’s guidance or the MoF’s guidance, i.e. Circular 228/2009;
- For tax purposes, banks are required to follow Circular 228/2009, and the major impact shall be on provisions for loan losses. The following are some of the major initial key differences between Circular 228/2009 and the SBV’s guidance (set out in Decision 493/2005 and Decision 18/2007):
 - ✓ The level of provisioning under Circular 228/2009 is much lower compared with the SBV’s regulations
 - ✓ Under SBV’s regulations, when a customer has an overdue loan, all the loans of that customer shall be treated as overdue and corresponding provisions shall be made on a customer basis whereas under Circular 228/2009, provisions are made on a loan by loan basis.
 - ✓ Circular 228/2009 is silent on provisions for off balance sheet commitments, e.g. letters of credit, guarantees, etc.

The above could result in a major change to the way that banks provide for loan losses, particularly for tax purposes. as the provisions required under the MoF’s guidance are lower than under the existing SBV guidance (which is currently used to determine the allowable provision levels for tax purposes), the application of the MoF’s rules would result in substantial increases in taxable profits due to the decreases of the allowable provisions.

More guidance is expected on this issue and we will keep you informed of developments.

Please contact us if you would like to discuss further.
