

# Tax Alert

November 2022

## **Circular 67/2022/TT-BTC providing guidance on tax obligations for enterprises creating and using a Science and Technology Development Fund**

On 7 November 2022, the Ministry of Finance issued Circular 67/2022/TT-BTC (“Circular 67”) providing detailed guidance on Corporate Income Tax (“CIT”) obligations for enterprises that create and use a Science and Technology Development Fund (an “STD Fund”).

Below are some key take-aways of the newly issued Circular 67:

### **1. Regulations on creating an STD Fund**

Enterprises are allowed to create an STD Fund at a certain rate (%) of the taxable income determined in an enterprise’s CIT calculation. Similar to the provision under Circular 12/2016/TTLT-BKHCN-BTC, the applicable rate to apply in creating an STD Fund for a state-owned-enterprise ranges from 3% to 10%, while other enterprises may apply a rate not exceeding 10%.

The STD Fund amount is determined on a tax year basis and deductible for CIT calculation purposes.

### **2. CIT claw-back for non-qualified utilization of the transferred STD Fund**

If an entity transfers an STD Fund to another related enterprise that enjoys a CIT incentive and then the recipient either: uses it for improper purposes; or does not use it; or utilizes less than 70% it, the claw-back of the CIT amount on the transferred STD Fund will be determined as follows:

- As at the date of fund transfer, if the transferring entity is not entitled to CIT incentives, the claw-back CIT amount on a non-qualified transferred fund shall be calculated at the standard CIT rate.
- As at the date of fund transfer, if the transferring entity is entitled to CIT incentives, the claw-back CIT amount on the non-qualified transferred fund shall be calculated based on the incentivized CIT scheme of the transferring entity.

Previously, pursuant to Circular 12/2016, the standard CIT rate was applied to all cases of such fund transfers.

### **3. Management of fixed assets purchased through the use of an STD Fund**

- Circular 67 supplemented the case of fixed assets (“FAs”) (being machinery and equipment) purchased using an STD Fund for the purposes of: technological innovation and directly serving production and business activities of the enterprise for the years of 2022 and 2023, according to the socio-economic recovery and development program under Resolution 43/2022/QH15.
- In case the FAs are used both for scientific and technological research activities and for production and business activities, enterprises will not include the depreciation expenses of those FAs into deductible expenses for CIT calculation purposes.
- For FAs initially being used for production and business activities but then switched to scientific and technological research activities, the net book value of those FAs will be determined at the cost sourced from the STD Fund.

Circular 67 supersedes a number of articles of Circular 12/2016/TTLT-BKHCN-BTC. Circular 67 takes effect from 23 December 2022 and applies from the tax year 2022 onwards.

Please contact KPMG for further consultation on the impact of Circular 67 to your business.

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