

GUIDANCE ON THE USE OF THE SCIENCE AND TECHNOLOGY DEVELOPMENT FUND OF ENTERPRISES

HAI LINH

To remove some obstacles and difficulties for enterprises in using the Science and Technology (S&T) Development Fund, the Ministry of Science and Technology has issued Circular 05/2022/TT-BKHCN guiding the use of the Science and Technology Development Fund of enterprises (**Circular 05**). Circular 05 takes effect from June 1, 2022, replacing and abrogating several regulations set forth in Joint Circular 12/2016/TTLT-BKHCN-BTC guiding the allocation and management of S&T Development Fund of enterprises (**Joint Circular 12**) and shall apply to the use of S&T Development Fund from the corporate income tax period of 2022. Some new highlights of Circular 05 include:

Firstly, specifying the scope of fund payment to perform S&T tasks of enterprises. Accordingly, based on the S&T Regulations of enterprises, S&T tasks of enterprises shall be performed by the method of selection, direct assignment or other manners as prescribed in Clause 2, Article 28 of the Law on S&T such as consideration of state-funded sponsorship in the field of S&T. Previously, Joint Circular 12 only stipulates that S&T tasks of enterprises are carried out according to the S&T Regulations of enterprises without any specific guidance on implementation methods.

Secondly, supplementing regulations on fund payment to support S&T development of enterprises. Specifically, Circular 05 supplements regulations on price determination, payment methods and the expenses incurred directly related to the purchase of ownership and use rights. Accordingly, the price determination and payment methods when purchasing use rights and ownership rights related to technology transfer shall comply with Article 4, Decree 76/2018/ND-CP, and the expenses incurred directly related to the purchase of ownership and use rights of subjects specified in Circular 05 shall be included in the value of use rights and ownership

of such subjects.

Thirdly, supplementing regulations on fund allocation for technology transfer activities. Circular 05 provides more specific regulations on expenses for technology transfer, including: (i) Expenses for implementation of projects in sectors and industries eligible for investment incentives, and areas eligible for investment incentives to receive technology transfer from S&T organizations; (ii) Investment expenditure, reciprocal investment capital for innovative start-ups; technological innovation, technology incubation, investment in physical and technical facilities for technology decoding activities, etc.; (iii) Expenses for procurement and import of samples for technology decoding activities, expenses for hiring experts to conduct technical consulting, searching and supporting technology, technical labor for technology decoding activities, etc.; (iv) Support for S&T organizations of enterprises that have activities associated with local technology application and transfer organizations; (v) Training to improve the ability to absorb and master technology, etc. Meanwhile, the contents of payment for on technology transfer activities previously specified in Joint Circular 12 are not yet clear, which only includes: (i) Purchase of machinery and equipment accompanying with technology transfer subjects; (ii) S&T cooperation activities in the form of technology transfer under technology transfer contracts.



Comments and recommendations

According to the feedback of several enterprises, in nearly 6 years since Joint Circular 12 took effect, many enterprises cannot disburse the finance extracted for S&T Funds due to difficulties in practical implementation of Joint Circular 12. The promulgation of Circular 05 has overcome the obstacles in the use and management of S&T Fund of enterprises, thereby improving the development and application of S&T activities in enterprises. Circular 05 has abrogated and/or replaced 10 articles out of 18 articles of Joint Circular 12, thus a few basic provisions of this Joint Circular remain relative to the financing and financial management of S&T Fund, report on the extract for establishment, transfer, and use of S&T Fund, etc. Enterprises should update and study the provisions of Circular 05 as well as review the expired regulations of Joint Circular 12 to use and manage S&T Fund in accordance with the regulations of laws.